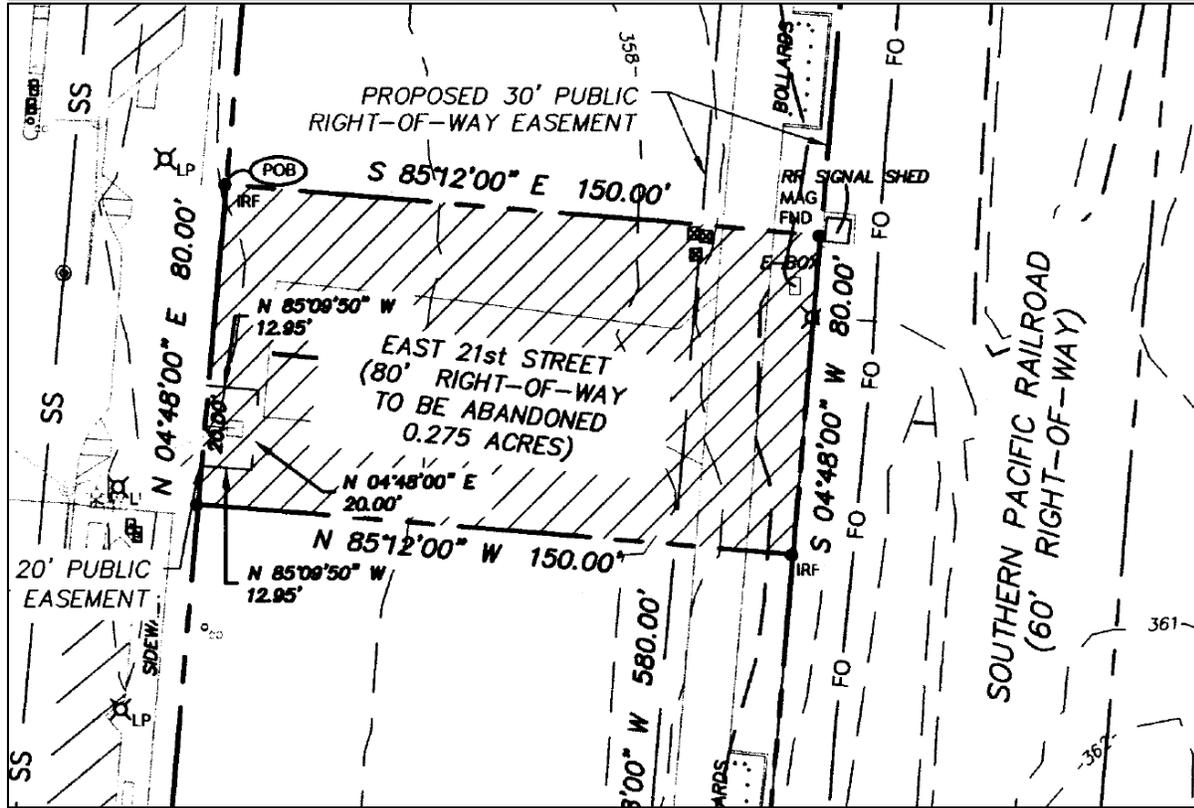


**LOCATION MAP:**



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

**AN ORDINANCE PROVIDING FOR THE ABANDONMENT OF THE FOLLOWING PUBLIC RIGHT-OF-WAY, TO WIT: APPROXIMATELY 0.275 ACRES (12,000 SQUARE FEET) OF PUBLIC STREET RIGHT-OF-WAY FOR EAST 21<sup>ST</sup> STREET, ADJOINING THE NORTH AND SOUTH SIDES, RESPECTIVELY, OF BLOCKS 264 AND 265 IN THE BRYAN ORIGINAL TOWNSITE, EAST OF THE INTERSECTION OF EAST 21<sup>ST</sup> STREET AND NORTH MAIN 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 Block 264 and 265 of the Bryan Original Townsite have requested the abandonment of approximately 0.275 acres of public rights-of-way located adjacent to said lots; and

**WHEREAS**, during its regular meeting on December 3, 2015, the Bryan Planning and Zoning Commission recommended approving the request to abandon and close said portion of public right-of-way, subject to the condition that a formal replat encompassing all property which the applicants own or will own after abandonment of this right-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; and

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

0.275 acres (12,000 square feet) of public street right-of-way for East 21<sup>st</sup> Street adjoining the north and south sides, respectively, of Blocks 264 and 265 in the Bryan Original Townsite, east of the intersection of East 21<sup>st</sup> Street and North Main Street in Bryan, Brazos County, Texas Brazos County, Texas, 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 applicants own 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 7<sup>th</sup> day of January, 2016 at a regular meeting of the City Council of the City of Bryan, Texas; and given second reading, **PASSED AND APPROVED** on the 12<sup>th</sup> day of January, 2016 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":**

Property Description of a 0.2758 Acre Tract  
Stephen F. Austin League, No. 9 Abstract-62  
Brazos County, Texas

All that certain 0.275 acre tract of land, lying and being a portion of East 21<sup>st</sup> Street (called 80' Right of Way) lying between Block 264, City of Bryan, Original Townsite, according to the plat recorded in Volume 3858, Page 130, Official Records of Brazos County, Texas (O.R.B.C.T.), situated in the Stephen F. Austin League, No. 9, Abstract No. 62, Brazos County, Texas, same tract being described as Tract One, in a deed to Bryan Commerce & Development, Incorporated, a Texas local government corporation, recorded in Volume 8541, Page 279, (O.R.B.C.T.), and Block 265, City of Bryan, Original Townsite, according to the plat recorded in Volume 3858, Page 130, (O.R.B.C.T.) same being a tract of land described as Lots One (1), Two (2), and Three (3), Block 265, described in a deed to Bryan Commerce & Development, Incorporated, a Texas local government corporation, recorded in Volume 8381, Page 271, and being Lots Four (4) and Five (5), Block 265, described in a deed to Bryan Commerce & Development, Incorporated, a Texas local government corporation, recorded in Volume 8381, Page 273, (O.R.B.C.T.) to which reference is hereby made to, for any and all purposes, and being more particularly described as follows:

BEGINNING at a 1/2-inch iron rod found for the northwestern corner of the herein described tract, at the intersection of East 21<sup>st</sup> Street (80' right-of-way) and Main Street (100' right-of-way). For reference, a 1/2-inch iron rod found, for the northwestern corner of Block 265, City of Bryan, Original Townsite, according to the plat recorded in Volume 3858, Page 130, Deed Records of Brazos County, Texas (O.R.B.C.T.), bears North 04 degrees 48 minutes 00 seconds East, 250.00 feet;

THENCE South 85 degrees 12 minutes 00 seconds East, with the north line of East 21<sup>st</sup> Street, 150.00 feet, to a Magnail found for the northeastern corner of the herein described tract, at the intersection of East 21<sup>st</sup> Street (80' right-of-way) and the west margin of the Southern Pacific Railroad (60' right-of-way);

THENCE South 04 degrees 48 minutes 00 seconds West, with the west line of said Railroad, 80.00 feet, to a 1/2-inch iron rod found, for the southeastern corner of the herein described tract, in the western line of the Southern Pacific Railroad (60' right-of-way).

THENCE North 85 degrees 12 minutes 00 seconds West, with south line of 21<sup>st</sup> Street, 150.00 feet, to a 1/2-inch iron rod set, capped "Gessner", for the southwestern corner of the herein described tract, in the south right-of-way line of East 21<sup>st</sup> Street (80' right-of-way);

THENCE, North 04 degrees 48 minutes 00 seconds East, 80.00 feet, crossing said right-of-way of East 21<sup>st</sup> Street, to the POINT OF BEGINNING, and containing 0.275 acres of land, more or less.

Reference is hereby made to a separate survey plat bearing even date herewith.

Bearings are based NAD 83 Texas State Plane Coordinate System, Central Zone (4203) as obtained by GPS observations.



**EXCERPT FROM PLANNING AND ZONING COMMISSION REGULAR MEETING MINUTES  
OF DECEMBER 3, 2015:**

**5. CONSENT AGENDA.**

**a. Approval of minutes from the workshop and regular meetings on November 19, 2015.**

**b. Approval of regular meeting dates and deadlines for submitting applications in 2016.**

**c. Right-of-way Abandonment RA15-04: Bryan Original Townsite Blocks 264 and 265**

*A request to abandon approximately 0.275 acres (12,000 square feet) of public street right-of-way for East 21<sup>st</sup> Street adjoining the north and south sides, respectively, of Blocks 264 and 265 in the Bryan Original Townsite, east of the intersection of East 21<sup>st</sup> Street and North Main Street in Bryan, Brazos County, Texas Brazos County, Texas. (R. Haynes)*

**Commissioner Hickle moved to approve the Consent Agenda with the exception of the minutes from the workshop and regular meetings on November 19, 2015. Commissioner Incardona seconded the motion, and the motion passed unanimously.**

**Commissioner Hickle moved to approve the amended minutes from the workshop and regular meetings on November 19, 2015. Commissioner Gutierrez seconded the motion, and the motion passed unanimously.**

PLANNING AND ZONING COMMISSION  
STAFF REPORT

December 3, 2015



**Right-of-way Abandonment case no. RA15-04: a portion of East 21<sup>st</sup> Street**

**SIZE AND LOCATION:** approximately 0.275 acres (12,000 square feet) of public street right-of-way for East 21st Street adjoining the north and south sides, respectively, of Block 265 and 264 in the Bryan Original Townsite, east of the intersection of East 21st Street and North Main Street

**APPLICANT(S):** Bryan Commerce & Development

**STAFF CONTACT:** Randy Haynes, Senior Planner

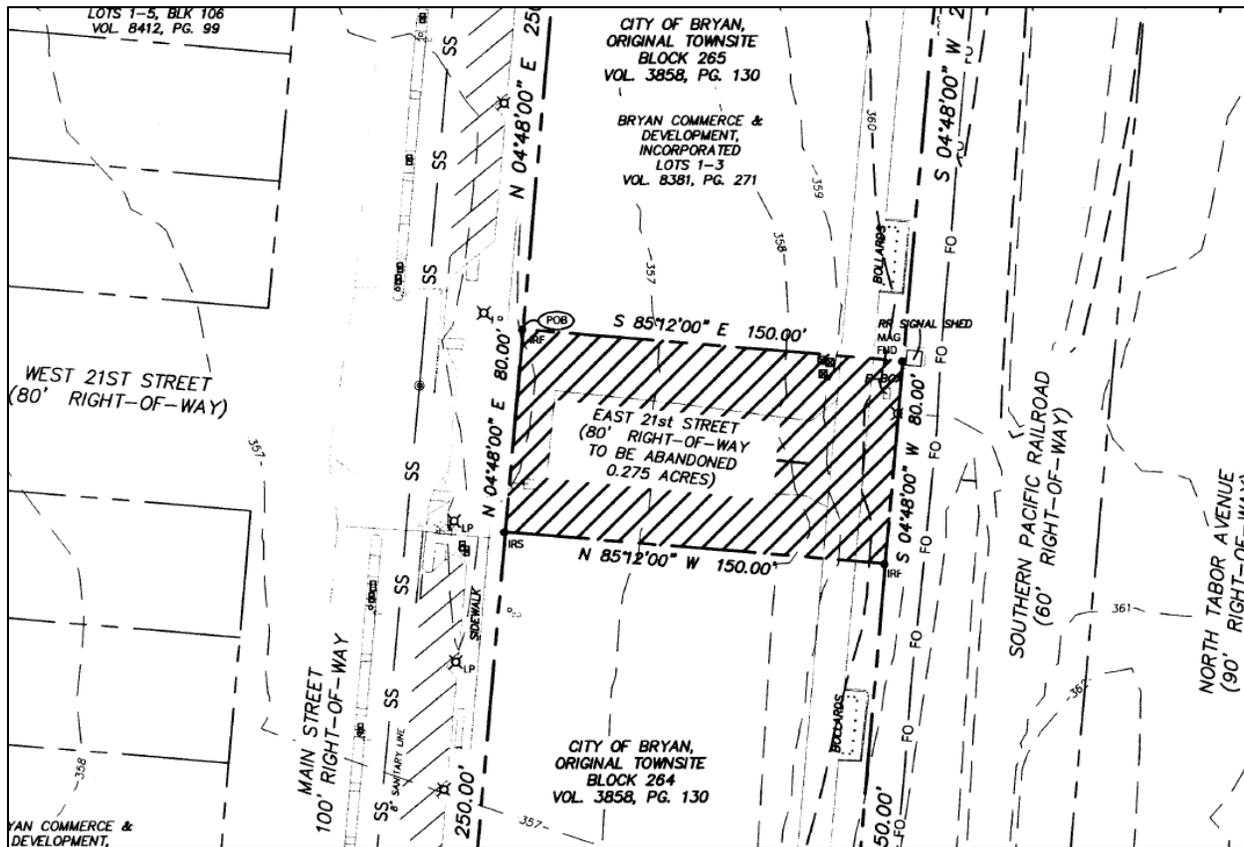
**SUMMARY RECOMMENDATION:** Staff recommends **conditionally approving** the requested right-of-way abandonment.



**AERIAL, 2015:**



**DETAIL OF REPLAT DRAWING (RP15-35) SHOWING THE AREA OF RIGHT-OF-WAY REQUESTED TO BE ABANDONED:**



## **RIGHT-OF-WAY REQUESTED TO BE ABANDONED:**

The applicant, Bryan Commerce & Development (BCD), is requesting the official abandonment of a portion of public street right-of-way for East 21<sup>st</sup> Street adjoining the north and south sides, respectively, of Block 265 and 264 in the Bryan Original Townsite, east of the intersection of East 21st Street and North Main Street. It is the intent of the applicant to formally integrate the subject tract with their ownership of the adjoining land.

The right-of-way requested to be abandoned is 0.275 acres in area, and until 2004, was improved with a driving surface and in public use. In October 2004, at the request of the Texas Department of Transportation and the Union Pacific Railroad, citing safety concerns; the City Council approved an ordinance permanently closing the East 21<sup>st</sup> Street crossing of the Union Pacific tracks. In 2008, the applicant, BCD began assembling real estate in the north end of downtown for the purpose of facilitating the redevelopment of that area. It was at this time that property abutting the north and south sides of the subject tract were acquired. Due to the lack of a vehicle crossing at the location, renovation of the driving surface on the subject tract was deleted from the third phase of the Downtown infrastructure replacement project completed in 2011.

In order to facilitate redevelopment of the property to the north and south of the subject tract, (Blocks 264 and 265), a replat request has been filed to consolidate these downtown blocks along with the subject portion of public right-of-way into one lot. The replat request, (RP15-35) scheduled for consideration on the December 3<sup>rd</sup> P&Z regular meeting agenda, is contingent upon prior approval by the City Council of this right-of-way abandonment request.

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 right-of-way requested to be abandoned will be functionally integrated with adjacent land and made available for development. Abandoning the subject right-of-way, will not interfere with the smooth circulation of vehicular or pedestrian traffic.

The Site Development Review Committee and staff recommend **approving** the request to abandon this portion 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.