

LOCATION MAP:



ORDINANCE NO. _____

AN ORDINANCE PROVIDING FOR THE ABANDONMENT OF THE FOLLOWING PUBLIC RIGHT-OF-WAY, TO WIT: 26-FOOT WIDE, UNNAMED AND UNDEVELOPED PUBLIC RIGHT-OF-WAY IN THE MARTIN'S ADDITION, BEING APPROXIMATELY 0.196 ACRES (8,537 SQUARE FEET) IN SIZE AND EXTENDING NORTHEAST FROM THE EAST SIDE OF SOUTH COLLEGE AVENUE, APPROXIMATELY 325 FEET SOUTH OF ITS INTERSECTION WITH SULPHUR SPRINGS ROAD 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 owner of Lots 5 through 10 in Block 7 of Martin's Addition has requested the abandonment of approximately 8,537 square-feet of public rights-of-way located adjacent to said lots; and

WHEREAS, during its regular meeting on April 7, 2016, the Bryan Planning and Zoning Commission recommended approving the request to abandon and close said public right-of-way, subject to the conditions 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, and that a 25-foot wide private shared access easement be dedicated with the replat covering the portion of right-of-way being abandoned to allow access to the neighboring property (case no. RA16-01); 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 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:

a 26-foot wide, unnamed and undeveloped public right-of-way in the Martin's Addition, being approximately 0.196 acres (8,537 square feet) in size and extending northeast from

the east side of South College Avenue, approximately 325 feet south of its intersection with Sulphur Springs Road, said tract being described more particularly 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 and that any such replat shall dedicate a 25-foot wide private shared access easement covering the portion of right-of-way being abandoned, to allow access to the neighboring property

6.

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

PRESENTED AND GIVEN first reading the 10th day of May, 2016 at a regular meeting of the City Council of the City of Bryan, Texas; and given second reading, PASSED AND APPROVED on the 24th day of May, 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":

26-foot Wide Unnamed Right-of-Way in Martin's Addition

**Field Notes
Of A
0.196 Acre Tract
Being out of the
J.E. Scott League, A-50
The City of Bryan
Brazos County, Texas
December 22, 2015**

Being all of that certain lot, tract, or parcel of land containing 0.196 acres, lying and being situated in the J. E. Scott League, A-50, in The City of Bryan, Brazos County, Texas and being the same tract described as a 25 foot wide strip of roadway noted as "Drive", in the Martin's Addition, an addition to the City of Bryan, Brazos County, Texas, according to the plat recorded in Volume 106 Page 277 of the Deed Records of Brazos County, Texas. Said 0.196 acre tract of land being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron rod found at a point along the northeast right of way line of South College Avenue, a city street, and also being the south corner of Lot 6 of the said Martin's Addition, and being the **Point of Beginning** of the herein described 0.196 tract of land.

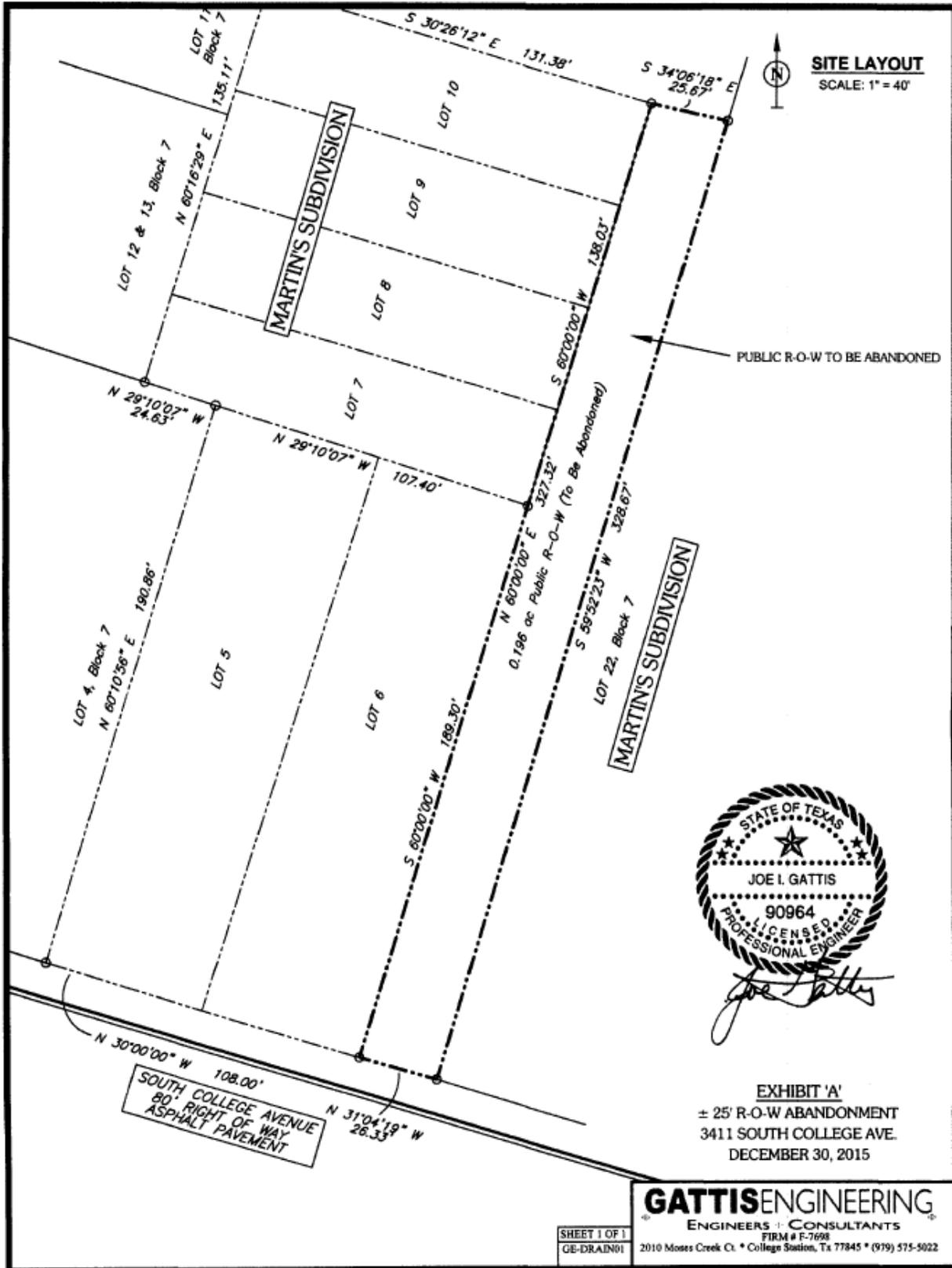
THENCE departing the northeast right of way line of South College Avenue, N 60°00'00" E, passing on line at 189.30 feet a point at the common corner of Lot 6 and Lot 7, then continue along the south lines of Lots 7, 8, 9 and 10 of said Martin's Addition, a total a distance of 327.32 feet to a 1/2" iron rod found. Point being along the southwest line of a 0.50 acre tract of land described in a deed to Robert Monroe Interests, LLC recorded in Volume 12010 Page 102.

THENCE along the southwest line of the Monroe Interests 0.50 acre tract, S 34°06'18" E a distance of 25.67 feet to a 1/2" iron rod found at a point along the northwest line of a 1.260 acre tract of land described in a deed to 329, LLC, recorded in Volume 12782 Page 144 and being the northeast corner of the herein described 0.196 acre tract of land.

THENCE along the common line between the 329, LLC tract and the herein described 0.196 acre tract, S 59°52'23" W, a distance of 328.67 feet to a 1/2" iron rod found at a point along the northeast right of way line of South College Avenue, and being the west corner of the said 329, LLC tract and also being the south corner of the herein described 0.196 acre tract of land.

THENCE N 31°04'19" W along the northeast right of way line of South College Avenue, a distance of 26.33 feet to **THE POINT OF BEGINNING** and containing 0.196 acres of land according to a survey performed on December 22, 2015 on the ground, under the supervision of Paul Williams, Registered Professional Land Surveyor No. 5743, in The State of Texas.

EXHIBIT "B":



**EXCERPT FROM PLANNING AND ZONING COMMISSION REGULAR MEETING
MINUTES OF APRIL 7TH, 2016:**

5. CONSENT AGENDA

f. Right-of-way Abandonment RA16-02: East Dodge Street and East 33rd Street

A request to abandon approximately 2.81 acres of undeveloped public street rights-of-way for East Dodge Street and East 33rd Street, between East 32nd Street and East Pease Street as well as South Ennis Street and South Coulter Drive, respectively, in Bryan, Brazos County, Texas. (S. Doland)

Commissioner Krolczyk moved to remove agenda item 5.e., case no. RA16-01, from the Consent Agenda for separate consideration. Commissioner Madison seconded the motion.

Mr. Matthew Hilgemeier presented the updated staff report (on file in the Development Service Department). Staff recommends approval of the request with the following conditions:

1. that a 25-ft wide private shared access easement be dedicated with the replat covering the portion of right-of-way being abandoned to allow access to the neighboring property; and
2. that a formal replat encompassing all property which the applicant owns or will own after abandonment of this right-of-way is filed with the City for recording.

In response to questions from the Commission, Mr. Hilgemeier and Mr. Zimmermann stated the following:

- the access easement width would still be adequate for deliveries;
- the access easement could be used for a driveway and parking;
- that no fencing would be allowed to obstruct the access easement;
- the abandonment would not take effect until a replat is recorded so access to the adjacent property is always guaranteed.

Commissioner Madison moved to recommend approval of Right-of-way Abandonment RA16-01 subject to the two conditions recommended by staff. Commissioner Conlee seconded the motion and the motion passed by a vote of 8 in favor to 1 in opposition, with Commissioner Krolczyk casting the vote in opposition.

**PLANNING AND ZONING COMMISSION
STAFF REPORT**



April 7, 2016

**Right-of-way Abandonment case no. RA16-01:
26-foot wide unnamed Right-of-way in Martin's Addition**

SIZE AND LOCATION: a 26-foot wide, unnamed and undeveloped public right-of-way in the Martin's Addition, being approximately 0.196 acres (8,537 square feet) in size and extending northeast from the east side of South College Avenue, approximately 325 feet south of its intersection with Sulphur Springs Road

APPLICANT(S): JC Wall

STAFF CONTACT: Matthew Hilgemeier, AICP, Staff Planner

SUMMARY RECOMMENDATION: Staff recommends **approving** the requested right-of-way abandonment, **subject to conditions** (see page 3).



RIGHT-OF-WAY REQUESTED TO BE ABANDONED:

The applicant, Mr. JC Wall, is requesting the official abandonment of a 328-foot long by 26-foot wide unnamed and undeveloped public right-of-way in the Martin's Addition. The right-of-way in question was originally dedicated with the Martin's Addition plat that was recorded at the Brazos County Court House in 1941. It is assumed that at that time, this right-of-way was dedicated to the City of Bryan with the understanding that when the adjacent properties to the south were platted, additional right-of-way would be dedicated so that a new public street would be created. The neighboring property was never formally platted and, therefore, additional right-of-way was never granted. In 1954, the Smith Subdivision was platted to the northeast of this strip of land, creating residential lots fronting Sandra Drive. This made the need for another public street at this location obsolete.

Mr. Wall, who owns the adjacent property to the north wishes to develop that adjoining tract and is requesting that unnamed public right-of-way be formally abandoned so that this land may be integrate with his ownership of adjoining land.

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.

RECOMMENDATION:

The Site Development Review Committee and staff recommend **approving** the request to abandon this public right-of-way, **subject to the following conditions:**

- 1. that a formal replat encompassing all property which the applicant owns or will own after abandonment of this right-of-way is filed with the City for recording; and**
- 2. that a 25-ft wide private shared access easement be dedicated with the replat covering the portion of right-of-way being abandoned to allow access to the neighboring property.**

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 never been improved with a driving surface and is proposed to 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 and pedestrian traffic.

Abandoning the subject right-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.