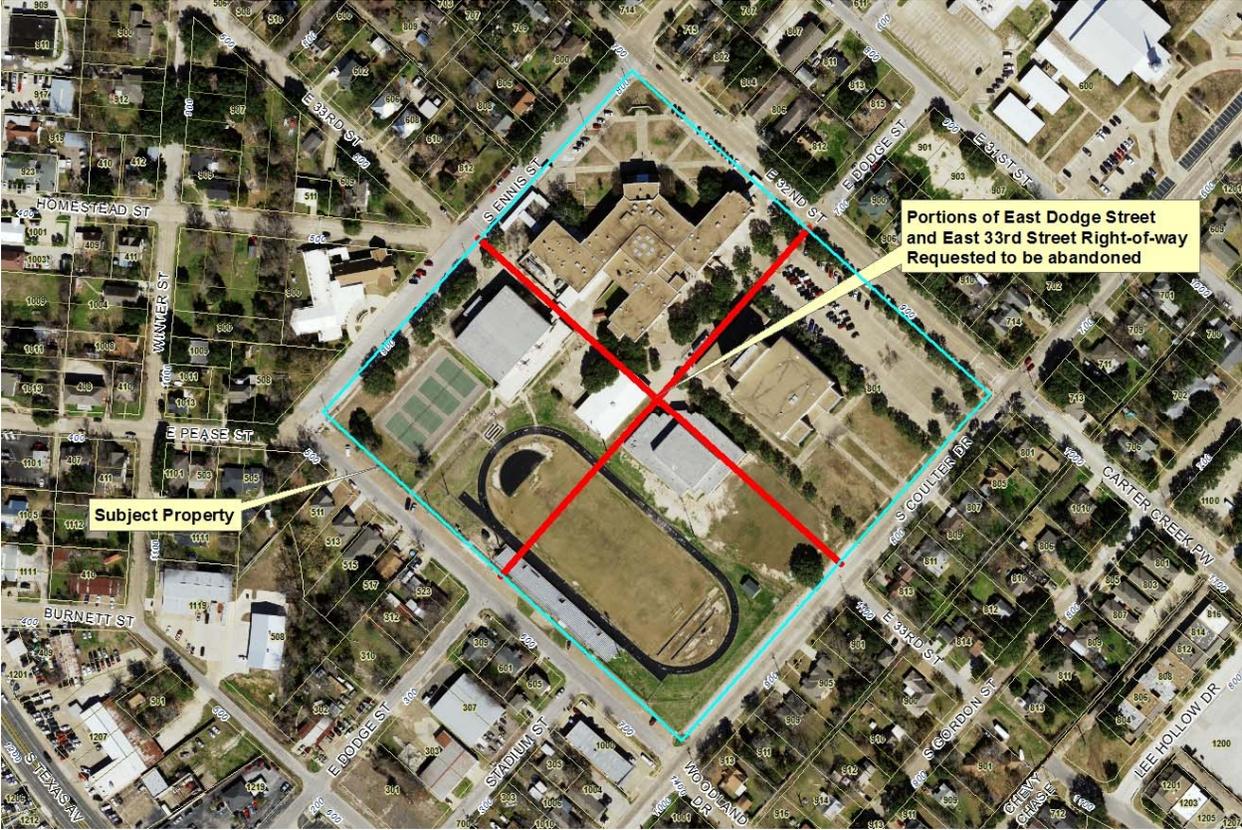


**LOCATION MAP:**



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

**AN ORDINANCE PROVIDING FOR THE ABANDONMENT OF THE FOLLOWING PUBLIC RIGHT-OF-WAY, TO WIT: 2.81 ACRES OF UNDEVELOPED PUBLIC STREET RIGHTS-OF-WAY FOR EAST DODGE STREET AND EAST 33<sup>RD</sup> STREET, BETWEEN EAST 32<sup>ND</sup> STREET AND EAST PEASE STREET AS WELL AS SOUTH ENNIS STREET AND SOUTH COULTER DRIVE, RESPECTIVELY, LYING ADJACENT TO BLOCKS 30 THROUGH 33 OF THE PHILIPS ADDITION 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 Blocks 30 through 33 of the Philips Addition have requested the abandonment of approximately 2.81 acres of public rights-of-way for East Dodge and East 33<sup>rd</sup> Streets located adjacent to said blocks; 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 portions of public 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 (case no. RA16-02); 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:

a 2.81 acre portion of undeveloped public street rights-of-way for East Dodge Street and East 33<sup>rd</sup> Street, between East 32<sup>nd</sup> Street and East Pease Street as well as South Ennis Street and South Coulter Drive, respectively, both lying adjacent to Blocks 30 through 33 of the Philips Addition, said tracts being described more particularly on attached Exhibit "A" and depicted on 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 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 10<sup>th</sup> 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 24<sup>th</sup> 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":

**STREET ABANDONMENT**

ALL THAT CERTAIN 2.181 ACRE TRACT OF LAND, LYING AND BEING SITUATED IN THE ZENO PHILLIPS LEAGUE, A-45, BRAZOS COUNTY, TEXAS, BEING BETWEEN BLOCKS 30, 31, 32, AND 33 OF PHILLIPS ADDITION, RECORDED IN VOLUME M, PAGE 253, DEED RECORDS OF BRAZOS COUNTY, TEXAS (DRBCT), AND BEING A PORTION OF E. DODGE STREET BETWEEN E. 33RD STREET AND E. PEASE STREET AND ALSO THE PORTION OF EAST 33RD STREET (FORMERLY KNOWN AS JONES STREET) BETWEEN S. ENNIS STREET AND S. COULTER DRIVE, BEING THE SAME TRACT OF LAND, DESCRIBED IN A RESOLUTION TO THE CITY OF BRYAN, RECORDED IN VOLUME 505, PAGE 536, (DRBCT), BEING A PORTION OF THE SAME PROPERTY DESCRIBED IN A DEED FROM FRED L. CAVITT, ETHEL CAVITT, ESTHER CAVITT AND EDITH CAVITT TO THE CITY OF BYRAN, TEXAS, RECORDED IN VOLUME 94, PAGE 1, (DRBCT), TO WHICH REFERENCE IS HEREBY MADE TO, FOR ANY AND ALL PURPOSES, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A POINT FOR CORNER, IN THE NORTHEAST RIGHT-OF-WAY OF E. PEASE STREET AND THE NORTHWEST RIGHT-OF-WAY OF E. DODGE STREET, BEING THE SOUTH CORNER OF LOT 1, BLOCK 33, OF SAID PHILLIPS ADDITION. FOR REFERENCE, A 5/8-INCH IRON ROD FOUND IN THE NORTHWEST RIGHT-OF-WAY OF S. COULTER DRIVE, FOR THE SOUTH CORNER OF LOT 1, BLOCK 32, OF SAID PHILLIPS ADDITION, BEARS SOUTH 48 DEGREES 30 MINUTES 40 SECONDS EAST, 472.13 FEET;

THENCE NORTH 41 DEGREES 28 MINUTES 31 SECONDS EAST, WITH THE NORTHWEST LINE OF SAID E. DODGE STREET AND THE SOUTHEAST LINE OF BLOCK 33, PHILLIPS ADDITION, 407.57 FEET, TO A POINT FOR THE EAST CORNER OF LOT 4, BLOCK 33, PHILLIPS ADDITION, BEING IN SOUTHWEST RIGHT OF WAY OF E. 33RD STREET AND BEING AN INTERIOR ELL CORNER HEREIN DESCRIBED TRACT;

THENCE NORTH 48 DEGREES 31 MINUTES 29 SECONDS WEST, WITH THE NORTHEAST LINE OF SAID BLOCK 33 AND THE SOUTHWEST RIGHT OF WAY OF E. 33RD STREET, 416.39 FEET TO A POINT FOR THE NORTH CORNER OF LOT 3, BLOCK 33, PHILLIPS ADDITION, IN THE SOUTHEAST RIGHT OF WAY OF S. ENNIS STREET;

THENCE NORTH 41 DEGREES 48 MINUTES 33 SECONDS EAST 55.56 FEET, CROSSING SAID E. 33RD STREET TO A POINT IN THE NORTHEAST RIGHT OF WAY OF SAID E. 33RD STREET FOR THE WEST CORNER OF LOT 2, BLOCK 30, OF SAID PHILLIPS ADDITION;

THENCE SOUTH 48 DEGREES 31 MINUTES 29 SECONDS EAST, WITH THE SOUTHWEST LINE OF SAID BLOCK 30 AND THE NORTHEAST RIGHT OF WAY OF E. 33RD STREET, 416.06 FEET, TO A POINT FOR THE SOUTH CORNER OF LOT 1, BLOCK 30, PHILLIPS ADDITION, IN THE NORTHWEST RIGHT OF WAY OF E. DODGE STREET BEING AN INTERIOR ELL CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE NORTH 41 DEGREES 28 MINUTES 31 SECONDS EAST, WITH THE SOUTHEAST LINE OF SAID BLOCK 30 AND THE NORTHWEST RIGHT OF WAY OF E. DODGE STREET, 414.26 FEET, TO A POINT FOR THE EAST CORNER OF LOT 4, BLOCK 30, PHILLIPS ADDITION, LYING IN THE SOUTHWEST RIGHT OF WAY OF E. 32ND STREET;

THENCE SOUTH 48 DEGREES 06 MINUTES 52 SECONDS EAST 55.56 FEET, CROSSING SAID E. DODGE STREET TO A POINT IN THE SOUTHWEST RIGHT OF WAY OF SAID E. 32ND STREET FOR THE NORTH CORNER OF LOT 3, BLOCK 31, OF SAID PHILLIPS ADDITION;

THENCE SOUTH 41 DEGREES 28 MINUTES 31 SECONDS WEST, WITH THE NORTHWEST LINE OF SAID BLOCK 33 AND THE SOUTHEAST RIGHT OF WAY OF E. DODGE STREET, 413.86 FEET TO A POINT FOR THE WEST CORNER OF LOT 2, BLOCK 31, PHILLIPS ADDITION, LYING IN THE NORTHEAST RIGHT OF WAY OF E. 33RD STREET, BEING AN INTERIOR ELL CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE SOUTH 48 DEGREES 31 MINUTES 29 SECONDS EAST, WITH THE SOUTHWEST LINE OF SAID BLOCK 31 AND THE NORTHEAST RIGHT OF WAY OF E. 33RD STREET, 416.71 FEET TO A POINT FOR SOUTH CORNER OF LOT 1, BLOCK 31, OF SAID PHILLIPS ADDITION, LYING IN THE NORTHWEST RIGHT OF WAY OF S. COULTER DRIVE;

THENCE SOUTH 41 DEGREES 30 MINUTES 28 SECONDS WEST 55.56 FEET, CROSSING SAID E. 33RD STREET TO A POINT IN THE NORTHWEST RIGHT OF WAY OF SAID S. COULTER STREET FOR THE EAST CORNER OF LOT 4, BLOCK 32, OF SAID PHILLIPS ADDITION;

THENCE NORTH 48 DEGREES 31 MINUTES 29 SECONDS WEST, WITH THE NORTHEAST LINE OF SAID BLOCK 32 AND THE SOUTHWEST RIGHT OF WAY OF E. 33RD STREET, 416.68 FEET TO A POINT FOR THE NORTH CORNER OF LOT 3, BLOCK 32, PHILLIPS ADDITION, LYING IN THE SOUTHEAST RIGHT OF WAY OF E. DODGE STREET;

THENCE SOUTH 41 DEGREES 28 MINUTES 31 SECONDS WEST, WITH THE NORTHWEST LINE OF SAID BLOCK 32 AND THE SOUTHEAST RIGHT OF WAY OF E. DODGE STREET, 407.58 FEET TO A POINT FOR THE WEST CORNER OF LOT 2, BLOCK 32, PHILLIPS ADDITION, LYING IN THE NORTHEAST RIGHT OF WAY OF E. PEASE STREET;

THENCE CROSSING E. DODGE STREET, NORTH 48 DEGREES 30 MINUTES 40 SECONDS WEST, 55.56 FEET TO THE POINT OF BEGINNING, AND CONTAINING 2.81 ACRES OF LAND, MORE OR LESS.



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

**5. CONSENT AGENDA.**

**i. Right-of-way Abandonment RA16-02: East Dodge Street and East 33<sup>rd</sup> Street**

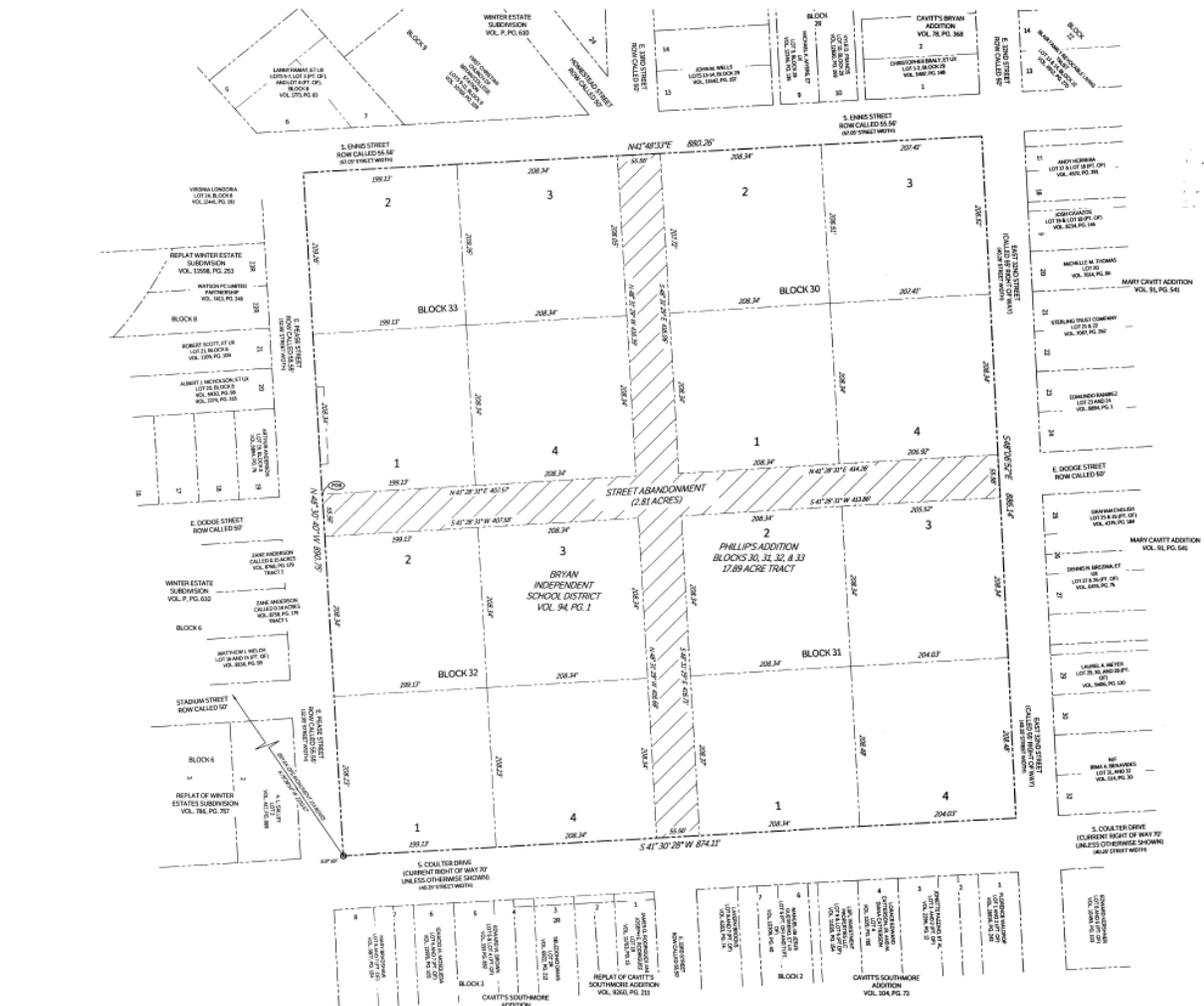
*A request to abandon approximately 2.81 acres of undeveloped public street rights-of-way for East Dodge Street and East 33<sup>rd</sup> Street, between East 32<sup>nd</sup> Street and East Pease Street as well as South Ennis Street and South Coulter Drive, respectively, in Bryan, Brazos County, Texas.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

**Commissioner Gonzalez moved to approve the remaining items on the Consent Agenda. Commissioner Krolczyk seconded the motion, and the motion passed unanimously.**



**DETAIL OF PROPOSED REPLAT DRAWING (case no. RP16-03) SHOWING THE AREA OF RIGHTS-OF-WAY REQUESTED TO BE ABANDONED:**



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

The applicant, Jeff Windsor on behalf Bryan ISD, is requesting the official abandonment of portions of public street rights-of-way for East Dodge Street and East 33<sup>rd</sup> Street. East Dodge Street is proposed to be abandoned between East 32<sup>nd</sup> Street and East Pease Street and East 33<sup>rd</sup> Street (formerly Jones Street) is proposed to be abandoned between South Ennis Street and South Coulter Drive. The rights-of-way requested to be abandoned comprise 2.81 acres of land that have never been improved as part of the adjoining roadway network, but, rather, are currently developed with facilities as part of the Stephen F. Austin Middle School campus.

The applicant has also submitted proposed replat which combines these two right-of-way segments and 4 adjacent City blocks in the Philips Addition into one new city block of about 17 acres. That replat (case no. RP16-03) is also scheduled for consideration by the Planning and Zoning Commission during its meeting on April 7, 2016. The proposed replat cannot be approved unless the Bryan City Council approves the proposed right-of-way abandonment.

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 have never been improved with a driving surface and have long been functionally integrated with adjacent land as part of the Stephen F. Austin Middle School campus. Abandoning the subject rights-of-way will not interfere with the smooth circulation of vehicular and pedestrian traffic or otherwise negatively affect the adjoining transportation network.

The Site Development Review Committee and staff recommend **approving** the request to abandon these portions of East Dodge Street and East 33<sup>rd</sup> Street, 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.** Abandoning the subject rights-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.