

## ACTION FORM BRYAN CITY COUNCIL

<b>DATE OF COUNCIL MEETING:</b> July 9, 2013		<b>DATE SUBMITTED:</b> June 18, 2013	
<b>DEPARTMENT OF ORIGIN:</b> Development Services		<b>SUBMITTED BY:</b> Maggie Dalton	
<b>MEETING TYPE:</b>	<b>CLASSIFICATION:</b>	<b>ORDINANCE:</b>	<b>STRATEGIC INITIATIVE:</b>
<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
<b>AGENDA ITEM DESCRIPTION:</b> Consideration of a request to abandon a 34-foot wide and 250-foot long portion of East 26 <sup>th</sup> Street right-of-way between South Texas and South Houston Avenues adjacent to Lots 6-10 in Block 40 of the Bryan Original Townsite.			
<b>SUMMARY STATEMENT:</b> This 8,500 square foot right-of way portion is located in Block 40 of the Bryan Original Townsite on the south side of East 26 <sup>th</sup> Street between South Texas and South Houston Avenues. The applicant, Mr. Robertson Neal, owns land adjoining the east portion of the subject right-of-way abandonment. The right-of way has been improved with a sidewalk extending along the entirety of the block, as well as angled on-street parking spaces. Most of the requested right-of-way has been functionally integrated with the adjacent properties for many years.			
An overhead electrical line crosses the northern 22 feet of the subject right-of-way and a public sidewalk extends across the entirety of the block. The request is being made that if the subject right-of-way be formally abandoned, a 22-foot by 250-foot public utility and public access easement be reserved. Such easements will ensure continued public use of the sidewalk and access for repairing and/or replacing utilities.			
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.			
<b>STAFF ANALYSIS AND RECOMMENDATION:</b> Staff recommends approving the request to abandon this right-of-way portion, <u>subject to the condition</u> that a 22-foot wide and 250-foot long public utility and public access easement be reserved. 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 June 6, 2013, the Planning and Zoning Commission concurred with staff and unanimously recommended approving this request to abandon this right-of-way portion.			
<b>OPTIONS (In Suggested Order of Staff Preference):</b>			
1. approve the requested right-of-way abandonment, subject to the recommended condition;			
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, 6-18-13; Hugh R. Walker, 06/24/2013

**APPROVED FOR SUBMITTAL: CITY MANAGER** Kean Register, 06-25-2013

**APPROVED FOR SUBMITTAL: CITY ATTORNEY** Janis K. Hampton , 07-02-2013

Revised 04/2013

**LOCATION MAP:**



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

**AN ORDINANCE PROVIDING FOR THE ABANDONMENT OF THE FOLLOWING PUBLIC RIGHT-OF-WAY, TO WIT: A 34-FOOT WIDE AND 250-FOOT LONG PORTION OF PUBLIC STREET RIGHT-OF-WAY FOR EAST 26<sup>TH</sup> STREET BETWEEN SOUTH TEXAS AND SOUTH HOUSTON AVENUES, BEING 0.1951 ACRES IN SIZE AND ADJOINING LOTS 6-10 IN BLOCK 40 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 40 in the Bryan Original Townsite have requested the abandonment of 0.1951 acre section of public street right-of-way for East 26<sup>th</sup> Street located adjacent to Lots 6 through 10 in Block 40 of the Bryan Original Townsite; and

**WHEREAS**, during its regular meeting on June 6, 2013, the Bryan Planning and Zoning Commission recommended approving the request to abandon and close said portion of public street 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 34-foot wide and 250-foot long portion of public street right-of-way for East 26<sup>th</sup> Street between South Texas and South Houston Avenues, being 0.1951 acres in size and adjoining Lots 6-10 in Block 40 of Bryan Original Townsite in Bryan, 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 a formal replat encompassing all property which the applicants owns and/or will own after abandonment of this right-of-way. Said replat shall specifically reserve a 22-foot wide and 250-foot long public utility and public access easement over the abandoned right-of-way, as shown on attached Exhibit "B".

6.

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

PRESENTED AND GIVEN first reading the 9<sup>th</sup> day of July, 2013 at a regular meeting of the City Council of the City of Bryan, Texas; and given second reading, PASSED AND APPROVED on the 23<sup>rd</sup> day of July, 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 8500 SQUARE FOOT TRACT  
PORTION OF E. 26<sup>TH</sup> STREET RIGHT-OF-WAY  
BRYAN ORIGINAL TOWNSITE  
BRYAN, BRAZOS COUNTY, TEXAS**

METES AND BOUNDS DESCRIPTION OF ALL THAT CERTAIN TRACT OR PARCEL OF LAND LYING AND BEING SITUATED IN BRYAN, BRAZOS COUNTY, TEXAS. SAID TRACT BEING 34.00 FOOT WIDE STRIP OF THE EXISTING 100.00 FOOT WIDE RIGHT-OF-WAY OF E. 26<sup>TH</sup> STREET ADJOINING LOTS 6-10, BLOCK 40, 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:

**BEGINNING** AT A ½ INCH IRON ROD FOUND ON THE SOUTH LINE OF E. 26<sup>TH</sup> STREET AND THE WEST LINE OF HOUSTON STREET (80' R.O.W.) MARKING THE NORTHWEST CORNER OF SAID LOT 10, BLOCK 40;

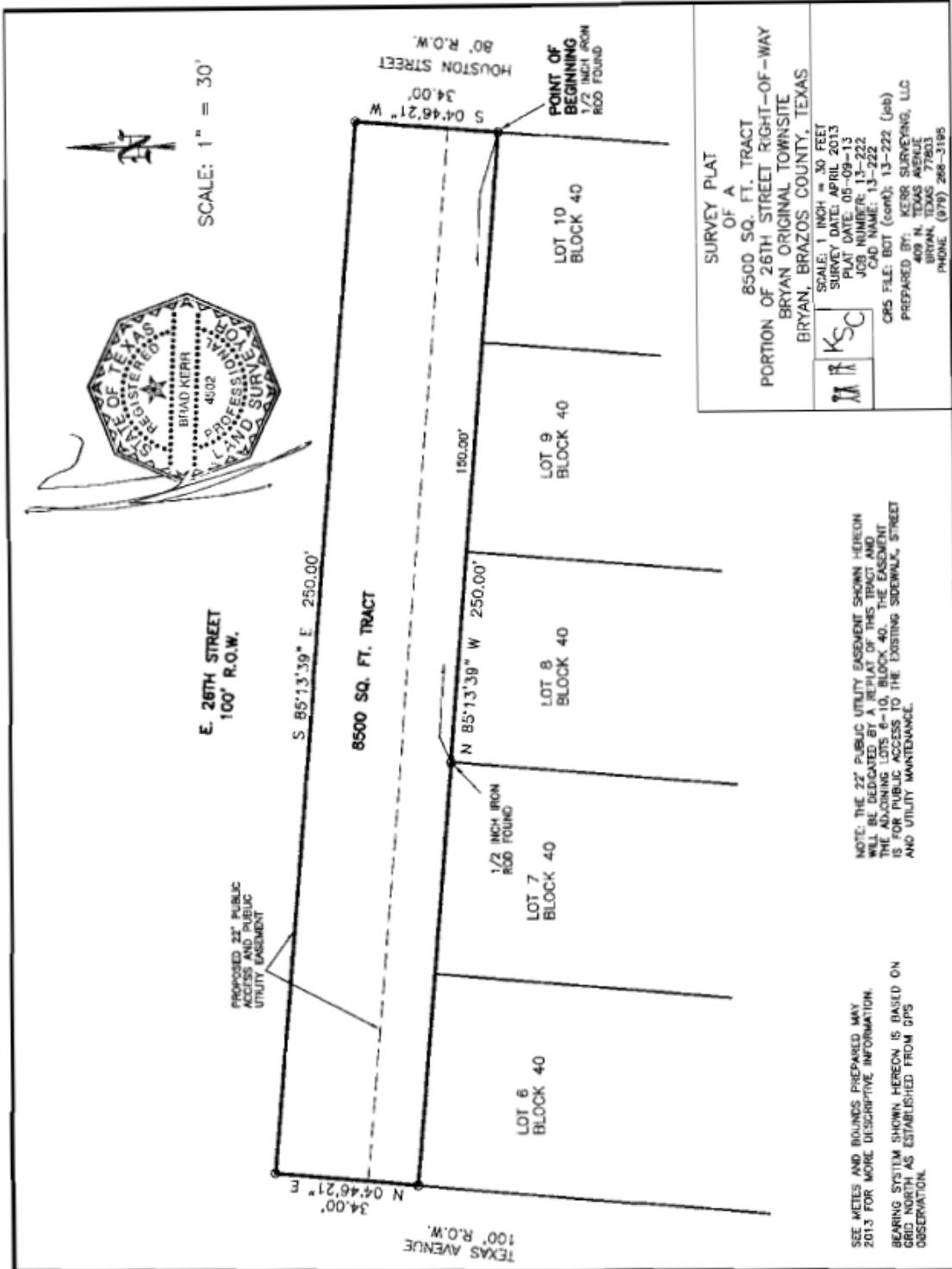
**THENCE:** N 85° 13' 39" W ALONG THE SOUTH LINE OF E. 26<sup>TH</sup> STREET, AT 150.00 FEET PASS A ½ INCH ROD FOUND MARKING THE COMMON CORNER OF SAID LOTS 7 AND 8, CONTINUE ON FOR A TOTAL DISTANCE OF 250.00 FEET TO THE EAST LINE OF TEXAS AVENUE (100' R.O.W.) AND THE NORTHWEST CORNER OF SAID LOT 6;

**THENCE:** N 04° 46' 21" E THROUGH SAID RIGHT-OF-WAY AND ALONG THE EXTENSION OF THE WEST LINE OF TEXAS AVENUE FOR A DISTANCE OF 34.00 FEET TO THE NORTHWEST CORNER OF THIS HEREIN DESCRIBED TRACT;

**THENCE:** S 85° 13' 39" E CONTINUING THROUGH SAID RIGHT-OF-WAY, 34.00 FEET FROM AND PARALLEL TO THE SOUTH LINE OF E. 26<sup>TH</sup> STREET, FOR A DISTANCE OF 250.00 FEET TO THE EXTENSION OF THE WEST LINE OF HOUSTON STREET;

**THENCE:** S 04° 46' 21" W CONTINUING THROUGH SAID RIGHT-OF-WAY AND ALONG THE EXTENSION OF THE WEST LINE OF HOUSTON STREET FOR A DISTANCE OF 34.00 FEET TO THE **POINT OF BEGINNING** CONTAINING 8500 SQUARE FEET OF LAND, MORE OR LESS, AS SURVEYED ON THE GROUND APRIL, 2013. BEARING SYSTEM SHOWN HEREIN IS BASED ON GRID NORTH AS ESTABLISHED FROM GPS OBSERVATION. SEE PLAT PREPARED MAY 2013 FOR MORE DESCRIPTIVE INFORMATION.

**Exhibit "B":**



**EXCERPT FROM PLANNING AND ZONING COMMISSION MEETING MINUTE RECORD  
OF JUNE 6, 2013:**

**4. CONSENT AGENDA.**

**A. Approval of minutes from the joint workshop meeting with the City of College Station Planning and Zoning Commission on May 6, 2013 and the minutes from the workshop and regular meetings on May 16, 2013.**

**B. Right-of-Way Abandonment RA13-05: 400 Block of East 26<sup>th</sup> Street** **M. Dalton**  
*A request to abandon a 34-foot wide and 250-foot long portion of East 26<sup>th</sup> Street right-of-way between South Texas and South Houston Avenues adjacent to Lots 6-10 in Block 40 of the Bryan Original Townsite in Bryan, Brazos County, Texas.*

**C. Final Plat FP13-03: The Traditions Subdivision – Phase 20B** **R. Haynes**  
*Proposed Final Plat of The Traditions Subdivision – Phase 20B, being 8.940 acres of land out of the Thomas J. Wooten League, A-59 and generally located southeast of the 3000 block of West Villa Maria Road in Bryan, Brazos County, Texas.*

**Commissioner Jones moved to approve the Consent Agenda. Commissioner Hickle seconded the motion. The motion passed unanimously.**

**PLANNING AND ZONING COMMISSION  
STAFF REPORT**



**June 6, 2013**

**Right-of-way Abandonment case no. RA13-05: 400 Block of East 26<sup>th</sup> Street**

**LOCATION:** a request to abandon a 34-foot wide and 250-foot long portion of East 26<sup>th</sup> Street right-of-way between South Texas and South Houston Avenues adjacent to Lots 6-10 in Block 40 of the Bryan Original Townsite

**APPLICANT(S):** Robertson Neal

**AGENT:** Kerr Surveying, Inc.

**STAFF CONTACT:** Maggie Dalton, Staff Planner



## **BACKGROUND AND ANALYSIS:**

This 34-foot wide and 250-foot long portion (8,500sf) of public right-of-way adjacent to Block 40 of the Bryan Original Townsite was originally platted in 1898 and has been improved with a sidewalk and parking spaces. Most of the right-of-way requested to be abandoned has been functionally integrated with adjacent properties. Mr. Robertson Neal and Mr. John Boegner own Lots 6 thru 10 in Block 40 adjoining the southern boundary of the right-of-way requested to be abandoned. The request was made to integrate this land with their ownership of adjoining land.

A replat showing these 8,500 square feet to be combined with current lots 6 thru 10 in Block 40 is also scheduled for consideration by the Planning and Zoning Commission during its meeting on June 6, 2013 (case no. RP13-12).

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:**

The 400 block of East 26<sup>th</sup> Street has a 90-foot wide right of way and currently 30 feet of pavement. This portion of East 26<sup>th</sup> Street is classified as a local street. City of Bryan design guidelines require only 50 feet of right-of-way for local streets and 27 feet of pavement. There is no reason to believe that the street will need to be widened for use as a driving surface in the near future (if ever). Abandoning the subject right-of-way, therefore, will not substantially interfere with the smooth circulation of vehicular and pedestrian traffic.

An overhead electric line crosses the northern 22 feet of the subject right-of-way. If this right-of-way is abandoned, then suitable easements over existing utilities as well as existing public sidewalks will need to be reserved. Such easements will ensure continued public use of existing sidewalks and access for repairing and replacing utilities and help prevent the construction of new buildings which interfere with access to these utilities.

## **RECOMMENDATION:**

The Site Development Review Committee and staff recommend **approving** this request to abandon a portion of East 26<sup>th</sup> Street right-of-way, **subject to the condition that a 22-foot wide and 250-foot long public access and public utility easement be reserved.**

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.