

RESOLUTION NO _____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE THE RELEASE OF THE FOLLOWING PUBLIC UTILITY EASEMENT SEGMENTS, TO WIT: TWO SEGMENTS OF A 15-FOOT WIDE PUBLIC UTILITY EASEMENT THAT EXTENDS GENERALLY NORTHEAST FROM THORNBERRY DRIVE, NORTHWEST FROM ITS INTERSECTION WITH AMBROSE COURT ALONG THE REAR (NORTH) PROPERTY LINES OF LOTS 1 – 2 AND 4 – 5 IN BLOCK 1 OF AUSTIN’S COLONY SUBDIVISION - PHASE 12A, BRYAN, BRAZOS COUNTY, TEXAS, SAID EASEMENT SECTIONS BEING 130.55 FEET LONG AND 0.045 ACRES IN SIZE AND 233.11 FEET LONG AND 0.079 ACRES IN SIZE, RESPECTIVELY; AND PROVIDING FOR AN EFFECTIVE DATE;

WHEREAS, the City of Bryan is a home rule city with the specific and general powers of such under the Constitution and laws of the State of Texas; and

WHEREAS, the City of Bryan is the owner of a public utility easement depicted on the subdivision plat of Austin’s Colony Subdivision – Phase 12A, recoded in Volume 10515, Page 291 of the Official Records of Brazos County; and

WHEREAS, said public utility easement extends along the rear (north) property lines of Lots 1 through 5 in Block 1 of Austin’s Colony Subdivision - Phase 12A; and

WHEREAS, the owners of Lots 1 – 2 and 4 – 5 in Block 1 of Austin’s Colony Subdivision - Phase 12A, have requested the release of the aforementioned public utility easement as it extends across their properties; and

WHEREAS, the City of Bryan does neither currently use or anticipate using said public utility easement for the purpose of constructing and maintaining public utilities;

WHEREAS, the City of Bryan Planning and Zoning Commission recommended releasing said public utility easement where it extends across Lots 1 – 2 and 4 – 5 in Block 1 of Austin’s Colony Subdivision - Phase 12A during its regular meeting on September 1, 2016; and

WHEREAS, the City of Bryan deems it in the best interest of its citizens to release, vacate, and abandon said public utility easement segments;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS:

1.

That the Mayor is hereby authorized to execute the instrument attached hereto as Exhibit “A” releasing the following public utility easement segments, to wit:

two segments of a 15-foot wide public utility easement that extends generally northeast from Thornberry Drive, northwest from its intersection with Ambrose Court along the rear (north) property lines of Lots 1 – 2 and 4 – 5 in Block 1 of Austin’s Colony Subdivision - Phase 12A, Bryan, Brazos County, Texas, said easement sections being 130.55 feet long and 0.045 acres in size and 233.11 feet long and 0.079 acres in size, respectively, said easement being depicted on the

subdivision plat of Austin's Colony Subdivision – Phase 12A, recoded in Volume 10515, Page 291 of the Official Records of Brazos County, the easement segments to be released being described and depicted more particularly on attached Exhibit "A-1".

2.

It is hereby found and determined that the meeting at which this resolution was adopted was open to the public as required by law and notice of time, place, and purpose of said meeting was given required by Chapter 551, Texas Government Code.

3.

That this resolution shall take effect immediately upon its adoption.

PRESENTED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS,
at a regular meeting on the 27th day of September, 2016.

ATTEST:

CITY OF BRYAN:

Mary Lynne Stratta, City Secretary

Jason P. Bienski, Mayor

APPROVED AS TO FORM:

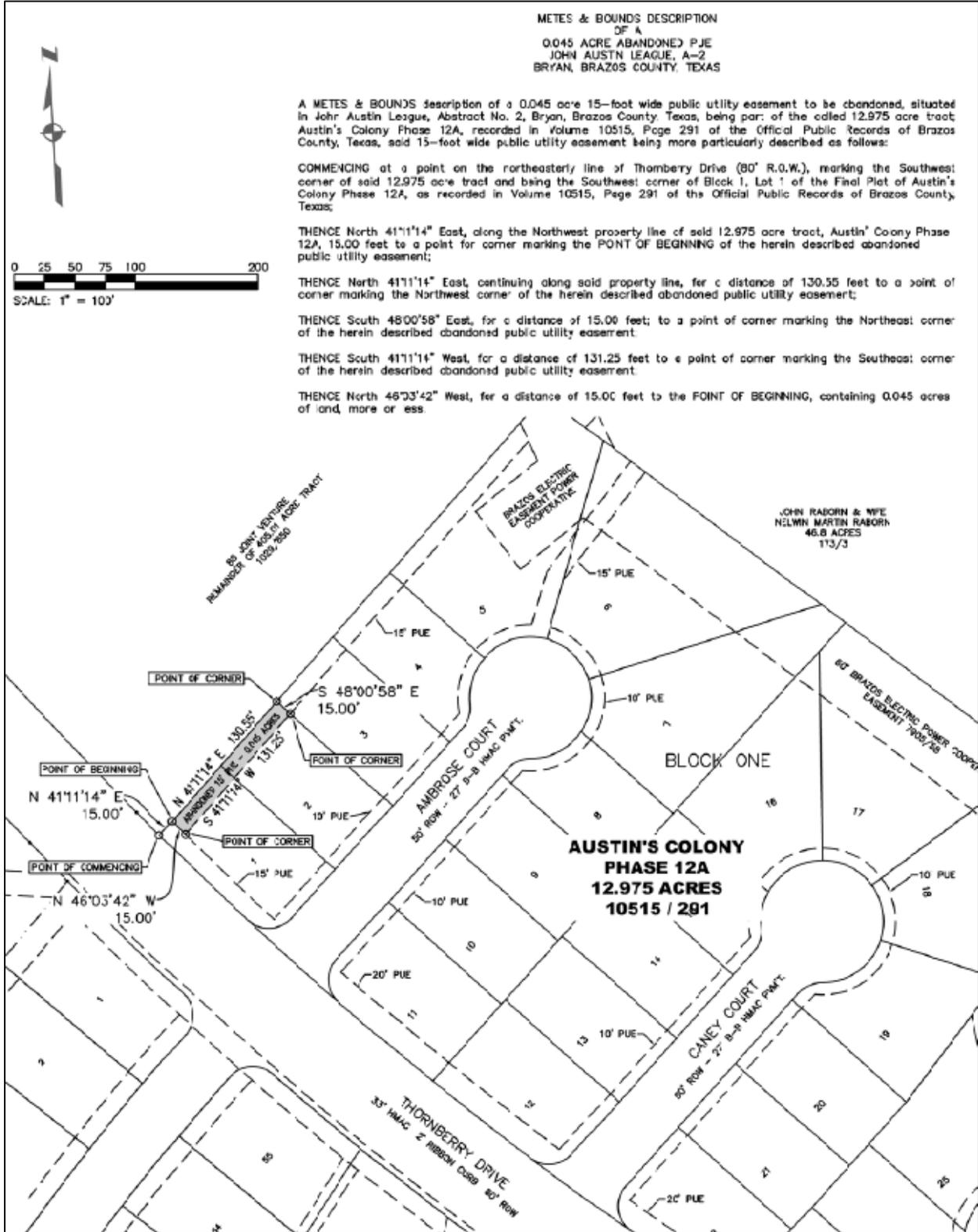
Janis K. Hampton, City Attorney

THE STATE OF TEXAS §
COUNTY OF BRAZOS §

This instrument was acknowledged before me on this the _____ day of _____, 2016, by Jason P. Bienski, Mayor of the City of Bryan, Texas, a municipal corporation, on behalf of said Municipal Corporation.

Notary Public, State of Texas

Exhibit "A-1"



**METES & BOUNDS DESCRIPTION
OF A
0.079 ACRE ABANDONED PUE
JOHN AUSTIN LEAGUE, A-2
BRYAN, BRAZOS COUNTY, TEXAS**

A METES & BOUNDS description of a 0.079 acre 15-foot wide public utility easement to be abandoned, situated in John Austin League, Abstract No. 2, Bryan, Brazos County, Texas, being part of the called 12.975 acre tract; Austin's Colony Phase 12A, recorded in Volume 10515, Page 291 of the Official Public Records of Brazos County, Texas, said 15-foot wide public utility easement being more particularly described as follows:

COMMENCING at a point on the northeasterly line of Thornberry Drive (80' R.O.W), marking the Southwest corner of said 12.975 acre tract and being the Southwest corner of Block 1, Lot 1 of the Final Plat of Austin's Colony Phase 12A, as recorded in Volume 10515, Page 291 of the Official Public Records of Brazos County, Texas;

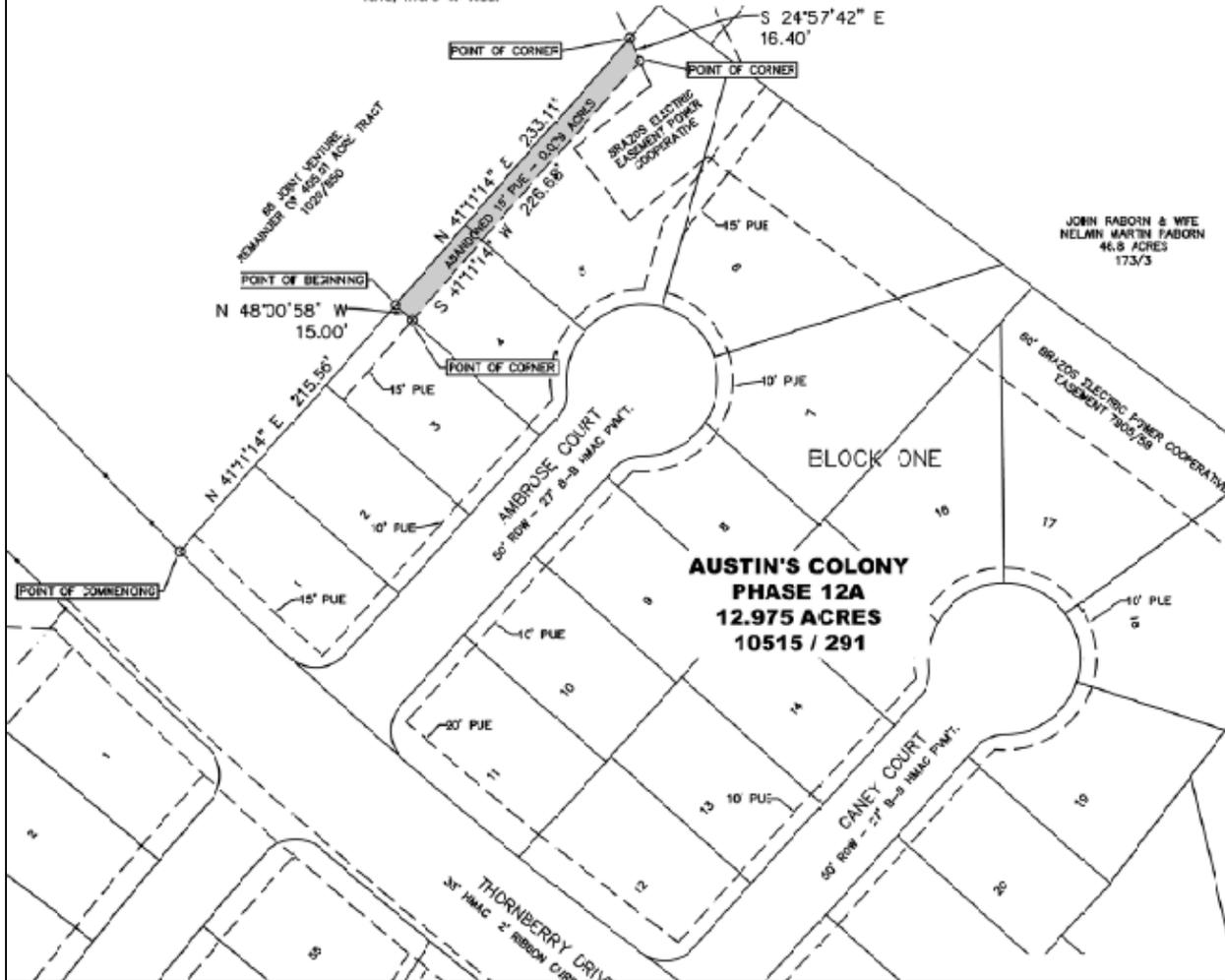
THENCE North 41°11'14" East, along the Northwest property line of said 12.975 acre tract, Austin's Colony Phase 12A, 215.56 feet to a point for corner marking the POINT OF BEGINNING of the herein described abandoned public utility easement;

THENCE North 41°11'14" East, continuing along said property line, for a distance of 233.11 feet to a point of corner marking the Northwest corner of the herein described abandoned public utility easement;

THENCE South 24°57'42" East, for a distance of 16.40 feet; to a point of corner marking the Northeast corner of the herein described abandoned public utility easement;

THENCE South 41°11'14" West, for a distance of 226.68 feet to a point of corner marking the Southeast corner of the herein described abandoned public utility easement;

THENCE North 48°00'58" West, for a distance of 15.00 feet to the POINT OF BEGINNING, containing 0.079 acres of land, more or less.



**EXCERPT FROM PLANNING AND ZONING COMMISSION REGULAR MEETING MINUTES
OF SEPTEMBER 1, 2016:**

5. CONSENT AGENDA.

b. Easement Release ER16-02: Austin's Colony Subdivision – Phase 12A

A request to release two segments of a 15-foot wide public utility easement that extends generally northeast from Thornberry Drive, northwest from its intersection with Ambrose Court, and specifically along the rear (north) property lines of Lots 1 – 2 and 4- 5 in Block 1 of Austin's Colony Subdivision - Phase 12A in Bryan, Brazos County, Texas. (M. Zimmermann)

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

**PLANNING AND ZONING COMMISSION
STAFF REPORT**

September 1, 2016



Easement Release case no. 16-02: Block 1 - Austin's Colony Subdivision – Phase 12A

CASE DESCRIPTION: a request to release two segments of a 15-foot wide public utility easement that extends generally northeast from Thornberry Drive, northwest from its intersection with Ambrose Court

SIZE AND LOCATION: 15-foot wide public utility easement that extends along the rear (north) property lines of Lots 1 – 2 and 4 – 5 in Block 1 of Austin's Colony Subdivision - Phase 12A, being two segments of 0.045 acres and 0.079 acres in size, respectively

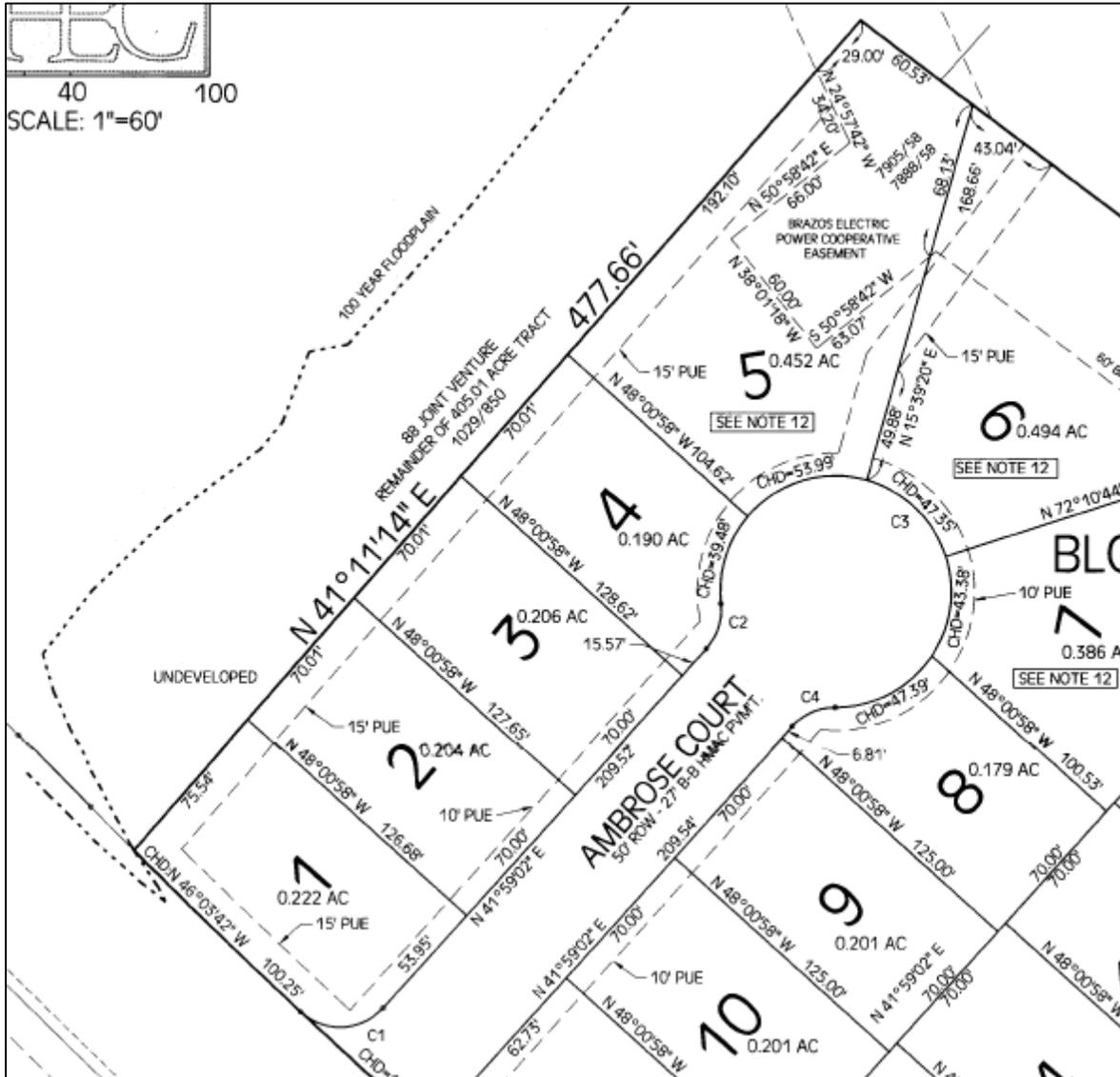
APPLICANT(S): Rose Yawn – Lot 1; Brian Berg – Lot 2; Michael LaPaglia – Lot 4; and Walton Cavitt – Lot 5

STAFF CONTACT: Martin Zimmermann, AICP, Planning Manager

SUMMARY RECOMMENDATION: Staff recommends **approving** the release of these two public utility easement segments, as requested.



EXCERPT FROM FINAL PLAT OF AUSTIN'S COLONY- PHASE 12A (RECORDED ON FEBRUARY 12, 2012):



BACKGROUND:

With the recording of the Final Plat of Austin's Colony - Phase 12A, a 15-foot wide public utility easement (PUE) was created that extends along the rear (northwest) property line of Lots 1 through 5 in Block 1 of this subdivision. All five lots front Ambrose Court, northeast from its intersection with Thornberry Drive.

No public or franchised utility facilities are currently located within this easement. The owners of 4 of these 5 lots across which this easement extends have petitioned the City of Bryan to release said easement. No buildings or structures may currently be built within the easement area. Release of the easement would allow the installation of additional buildings and structures in the approximately 5,400 square feet of land now encompassed by easement area, subject to adopted minimum building setback standards. The owner

of Lot 3 in Block 1 was originally part of but later rescinded his participation in the petition. Therefore, that portion of this 15-foot wide PUE which extends across Lot 3 is not part of this request.

ANALYSIS AND RECOMMENDATION:

Bryan's City Council can authorize the release of easements intended for public use. The Planning and Zoning Commission is asked to make a recommendation to the City Council regarding all easement release requests.

The request was reviewed by the City's Site Development Review Committee on July 26, 2016. No public utilities are currently located in the easement area. None of the franchised utility services has indicated a need or desire for possible future use of the easement under consideration.

The Site Development Review Committee and staff recommend **approving** the release of these two segments of this public utility easement, as requested. City staff does not foresee a need for possible future use of this easement portion for any public purposes.