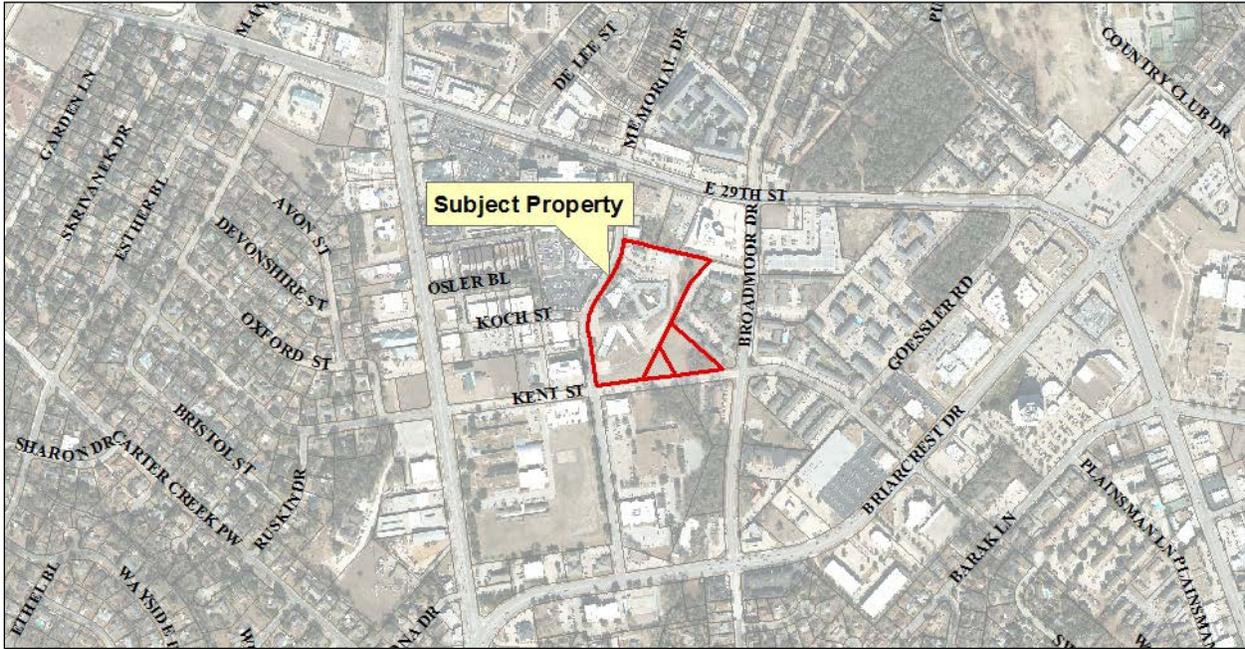


## ACTION FORM BRYAN CITY COUNCIL

<b>DATE OF COUNCIL MEETING:</b> September 10, 2013		<b>DATE SUBMITTED:</b> August 16, 2013	
<b>DEPARTMENT OF ORIGIN:</b> Development Services		<b>SUBMITTED BY:</b> Randy Haynes	
<b>MEETING TYPE:</b>	<b>CLASSIFICATION:</b>	<b>ORDINANCE:</b>	<b>STRATEGIC INITIATIVE:</b>
<input type="checkbox"/> BCD	<input type="checkbox"/> PUBLIC HEARING	<input 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 resolution authorizing the release of three 10-foot wide public drainage easements extending across Lot 1 in Block 1 of Sherwood #1 Subdivision and/or a portion of Bryan Hospital Tract, being 8.238 acres of land located at the northeast corner of Memorial Drive and Kent Street and currently addressed as 1401 Memorial Drive.			
<b>SUMMARY STATEMENT:</b> Only Bryan's City Council can authorize the release of easements intended for public use that were dedicated by a legal instrument other than a subdivision plat. In September 1964 and May 1969 three (3) 10-foot wide drainage easements were granted by W.T. Moore and J.C. Culpepper to the City of Bryan relating to the development of the Sherwood Nursing home at 1401 Memorial Drive. The subject property is proposed to be redeveloped, which will require storm water management in compliance with current regulations. No public drainage facilities are currently located within these easements and City staff does not foresee a future need for possible future use of these easements for public drainage purposes.			
<b>STAFF ANALYSIS AND RECOMMENDATION:</b> Staff recommends approving the request to release these easements, as requested. Retention of these specific easements will serve no future public purpose and will hinder redevelopment of the subject property. Releasing the subject easements, as recommended, will allow this land to be redeveloped.			
During its meeting on July 18, 2013, the Planning and Zoning Commission concurred with staff and unanimously recommended approving this request to release the three (3) subject easements.			
<b>OPTIONS (In Suggested Order of Staff Preference):</b>			
1. approve; or			
2. deny the requested easement releases.			
<b>ATTACHMENTS:</b>			
1. location map;			
2. draft ordinance and exhibits;			
3. excerpt from P&Z meeting minutes; and			
4. staff report to the Planning & Zoning Commission.			
<b>FUNDING SOURCE:</b> N/A			
<b>APPROVALS:</b> Kevin Russell, 8-22-13; Joey Dunn, 8-23-13; Hugh R. Walker, 08/28/2013			
<b>APPROVED FOR SUBMITTAL: CITY MANAGER</b> Kean Register, 08-26-2013			
<b>APPROVED FOR SUBMITTAL: CITY ATTORNEY</b> Janis K. Hampton, 09-02-2013			

**LOCATION MAP:**



**RESOLUTION NO \_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE THE RELEASE OF THE FOLLOWING DRAINAGE EASEMENTS, TO WIT: A DRAINAGE EASEMENT 10-FEET WIDE AND 455 FEET IN LENGTH RECORDED IN VOLUME 278, PAGE 286 OF THE OFFICIAL RECORDS OF BRAZOS COUNTY; AND A DRAINAGE EASEMENT 10-FEET WIDE AND 240 FEET IN LENGTH RECORDED IN VOLUME 240, PAGE 363 OF THE OFFICIAL RECORDS OF BRAZOS COUNTY; AND A DRAINAGE EASEMENT 10-FEET WIDE AND 280 FEET IN LENGTH RECORDED IN VOLUME 240, PAGE 367 OF THE OFFICIAL RECORDS OF BRAZOS COUNTY; ALL LOCATED WITHIN LOT 1 IN BLOCK 1 OF THE SHERWOOD #1 SUBDIVISION AND/OR A PORTION OF BRYAN HOSPITAL TRACT ON 8.238 ACRES OF LAND LOCATED AT THE NORTHEAST CORNER OF MEMORIAL DRIVE AND KENT STREET AND CURRENTLY ADDRESSED AS 1401 MEMORIAL DRIVE, IN BRYAN, BRAZOS COUNTY, TEXAS; 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 public drainage easements more specifically described in Volume 278, Page 286; Volume 240, Page 363; and Volume 240, Page 367 of the Official Records of Brazos County; and

**WHEREAS**, said public drainage easements are located within Lot 1 in Block 1 of the Sherwood #1 Subdivision and/or a portion of Bryan Hospital Tract; and

**WHEREAS**, the owners of said tract of land, Sherwood General Partnership, have requested the release of the aforementioned public drainage easements; and

**WHEREAS**, the City of Bryan does neither currently use or anticipate using said public drainage easements for the purpose of constructing and maintaining public drainage facilities; and

**WHEREAS**, the City of Bryan Planning and Zoning Commission recommended releasing said public drainage easements during their regular meeting on July 18, 2013; and

**WHEREAS**, The City of Bryan deems it in the best interest of its citizens to release, vacate, and abandon said easements;

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

1.

That the Mayor is hereby authorized to execute the instrument attached hereto as Exhibit "A" releasing the following drainage easements, to wit: a drainage easement 10-foot wide and 455 feet in length recorded in Volume 278, Page 286 of the Official Records of Brazos County; and a drainage easement 10-foot wide and 240 feet in length recorded in Volume 240, Page 363 of the Official Records of Brazos County; and a drainage easement 10-foot wide and 280 feet in length recorded in Volume 240, Page 367 of the Official Records of Brazos County. All located within Lot 1 in Block 1 of the Sherwood #1 Subdivision and/or a portion of Bryan Hospital Tract in Bryan, Brazos County, Texas.

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 10<sup>th</sup> day of September, 2013.

ATTEST:

CITY OF BRYAN:

\_\_\_\_\_  
Mary Lynne Stratta, City Secretary

\_\_\_\_\_  
Jason P. Bienski, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Janis K. Hampton, City Attorney

Exhibit "A":

**RELEASE OF THREE 10-FOOT WIDE PUBLIC DRAINAGE EASEMENTS EXTENDING  
ACROSS LOT 1 IN BLOCK 1 OF SHERWOOD #1 SUBDIVISION AND/OR A PORTION OF  
BRYAN HOSPITAL TRACT**

THE STATE OF TEXAS §

COUNTY OF BRAZOS § KNOWN ALL PERSONS BY THESE PRESENTS:

That the CITY OF BRYAN, TEXAS, a municipal corporation, existing by and under the laws of the STATE OF TEXAS, acting by and through its duly elected mayor, present legal and equitable owner of three drainage easements, granted to the City of Bryan, Texas, in instruments recorded individually in Volume 278, Page 286; Volume 240, Page 363; and, Volume 240, Page 367 of the Official Public Records of Brazos County, Texas, for a good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does by these presents RELEASE and ABANDON the following drainage easements:

a drainage easement 10-feet wide and 455 feet in length recorded in Volume 278, Page 286 of the Official Records of Brazos County; and a drainage easement 10-feet wide and 240 feet in length recorded in Volume 240, Page 363 of the Official Records of Brazos County; and a drainage easement 10-feet wide and 280 feet in length recorded in Volume 240, Page 367 of the Official Records of Brazos County; all located within Lot 1 in Block 1 of the Sherwood #1 Subdivision and/or a portion of Bryan Hospital Tract in Bryan, Brazos County, Texas.

This document in no way releases affects or abandons any other utility easement or other property interests of the City of Bryan dedicated by plat or by separate instruments, other than the easements hereby released.

This easement release is authorized by a resolution of the governing body for the City of Bryan, as approved and adopted on September 10, 2013.

EXECUTED this the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

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 \_\_\_\_\_, 2013, 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

**EXCERPT FROM PLANNING AND ZONING COMMISSION REGULAR MEETING  
MINUTES OF JULY 18, 2013:**

**4. CONSENT AGENDA**

- a. Approval of minutes from the workshop and regular meetings on June 20, 2013.**
- b. Final Plat FP13-05: Regency Gardens Subdivision**  
*Proposed Final Plat of Regency Gardens Subdivision, being 6.51 acres of vacant land adjoining the southeast side of West Villa Maria Road between Shirewood Drive and Traditions Boulevard in Bryan, Brazos County, Texas. (R. Haynes)*
- c. Easement Release ER13-01: Sherwood Healthcare, Inc.**  
*A request to release three 10-foot wide public drainage easements extending across Lot 1 in Block 1 of Sherwood #1 Subdivision and/or a portion of Bryan Hospital Tract at northeast corner of Memorial Drive and Kent Street in Bryan, Brazos County, Texas. (R. Haynes)*

**Commissioner Jones moved to approve the Consent Agenda. Commissioner Bienski seconded the motion and the motion passed unanimously.**

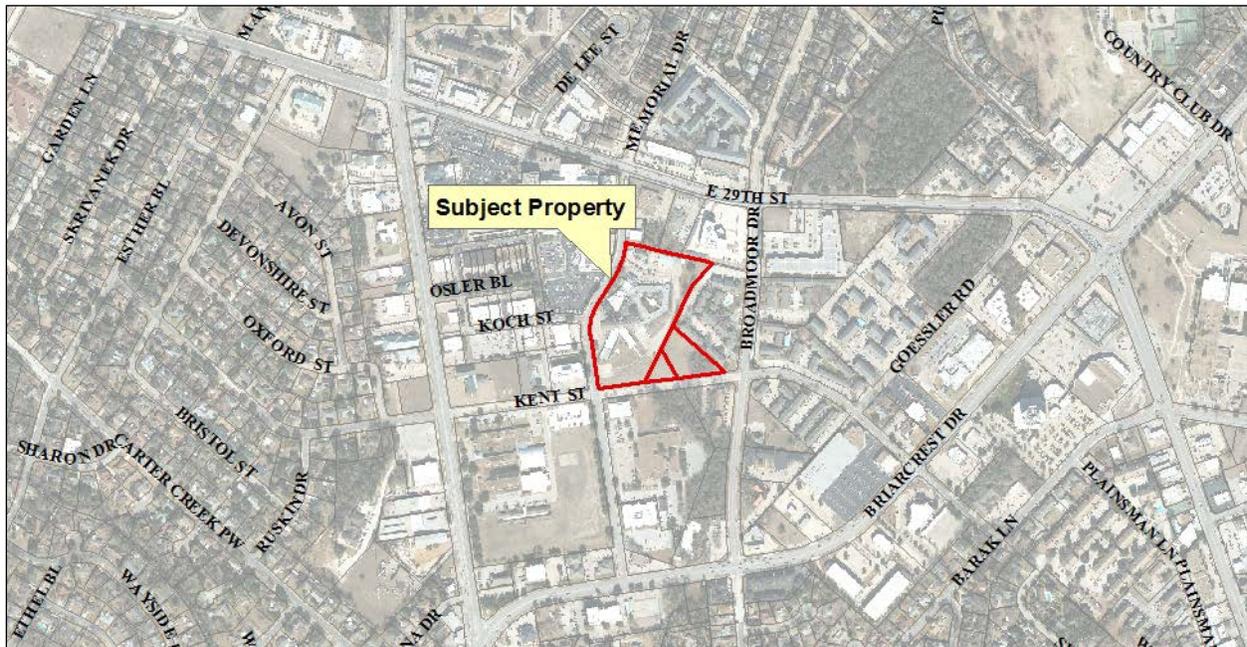
**PLANNING AND ZONING COMMISSION  
STAFF REPORT**

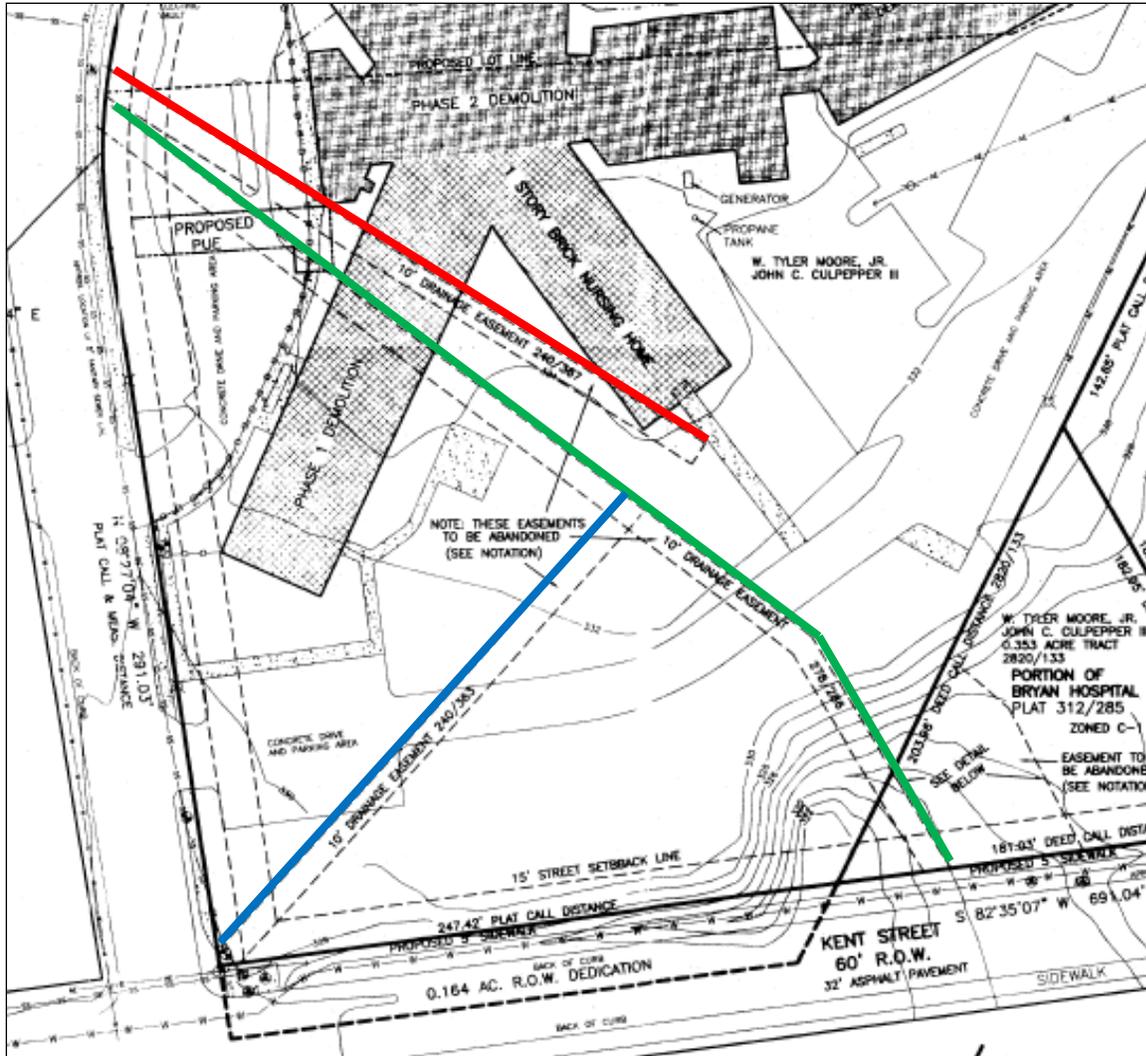
July 18, 2013



**Easement Release case no. ER13-01: Sherwood Healthcare, Inc.**

- CASE DESCRIPTION:** a request to release three 10-foot wide public drainage easements extending across Lot 1 in Block 1 of Sherwood #1 Subdivision and/or a portion of Bryan Hospital Tract
- LOCATION:** 8.238 acres of land located at the northeast corner of Memorial Drive and Kent Street and currently addressed as 1401 Memorial Drive
- APPLICANT(S):** Lawrence J. Haskins
- AGENT:** Kerr Surveying, LLC
- STAFF CONTACT:** Randy Haynes, Project Planner
- SUMMARY RECOMMENDATION:** Staff recommends **approving** the release of these public drainage easements, as requested.





**BACKGROUND:**

Only Bryan’s City Council can authorize the release of easements intended for public use that were dedicated by a legal instrument other than a subdivision plat. The Planning and Zoning Commission is asked to make a recommendation to the City Council regarding all easement release requests.

In September 1964 and May 1969 three 10-foot wide drainage easements were granted by W.T. Moore and J.C. Culpepper to the City of Bryan relating to the development of the Sherwood Nursing home at 1401 Memorial Drive. These three easements are depicted in the illustration above and are now proposed to be released; they are:

1. a drainage easement 10-feet wide and 455 feet in length recorded in Volume 278, Page 286 of the Official Records of Brazos County; and
2. a drainage easement 10-foot wide and 240 feet in length recorded in Volume 240, Page 363 of the Official Records of Brazos County; and
3. a drainage easement 10-foot wide and 280 feet in length recorded in Volume 240, Page 367 of the Official Records of Brazos County.

The applicants are proposing to redevelop the subject property which will require storm water management in compliance with current regulations. No public drainage facilities are currently located within these easements and City staff does not foresee a future need for possible future use of these easements for public drainage purposes.

The Site Development Review Committee and staff recommend **approving** the release of these three drainage easements, as requested.