

## ACTION FORM BRYAN CITY COUNCIL

|   |   |   |   |
|---|---|---|---|
| <b>DATE OF COUNCIL MEETING:</b> November 18, 2013   |   | <b>DATE SUBMITTED:</b> October 22, 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 checked="" 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 0.0826-acre (3,598 square-foot) portion of public right-of-way located at the southeast corner of North Washington Avenue and East 23 <sup>rd</sup> Street and adjacent to Lots 6 and 7 in Block 28 of the Bryan Original Townsite  |   |   |   |
| <b>SUMMARY STATEMENT:</b> For more than 50 years, part of this 15-foot wide portion (3,598sf) of public right-of-way adjacent to Block 28 of the Bryan Original Townsite has been improved with parking spaces in use by the adjacent commercial building. In practical terms, the right-of-way requested to be abandoned has been functionally integrated with the property for many years. Mr. Brent Hairston owns Lots 6 and 7 in Block 28 adjoining the right-of-way requested to be abandoned. The request was made to formally integrate this land with his ownership of adjoining land.  |   |   |   |
| A replat showing these 3,598 square feet to be combined with current lots 6 and 7 in Block 28 was conditionally approved by the Planning and Zoning Commission during its meeting on October 17, 2013 (case no. RP13-15).   |   |   |   |
| 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> The 300 block of North Washington Avenue has a 100-foot wide right-of-way and currently 25 feet of pavement. The adjacent 300 block of East 23 <sup>rd</sup> Street has an 80-foot wide right-of-way and also has 25 feet of pavement. Even if the requested abandonment of this right-of-way was approved by the City Council, there would still be sufficient right-of-way remaining for possible widening of both streets to modern local street standards in the future. Abandoning the subject rights-of-way, therefore, should not substantially interfere with the smooth circulation of vehicular and pedestrian traffic in this vicinity. No public or franchised utilities are currently located in the right-of-way requested to be abandoned. |   |   |   |
| The Site Development Review Committee and staff recommended <b>approving</b> the request to abandon this 0.0826 acre portion of public right-of-way. 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 long 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.   |   |   |   |
| During its meeting on October 17, 2013, the Planning and Zoning Commission concurred with staff and unanimously recommended approving this request to abandon this right-of-way portion.  |   |   |   |

**OPTIONS (In Suggested Order of Staff Preference):**

1. approve the requested right-of-way abandonment;
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:** Kevin Russell, 10-23-13, Joey Dunn, 10-23-13; Hugh R. Walker, 10/29/2013

**APPROVED FOR SUBMITTAL: CITY MANAGER** Kean Register, 10/28/2013

**APPROVED FOR SUBMITTAL: CITY ATTORNEY** Janis K. Hampton, 11/04/2013

Revised 04/2013

**LOCATION MAP:**



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

**AN ORDINANCE PROVIDING FOR THE ABANDONMENT OF THE FOLLOWING PUBLIC RIGHT-OF-WAY, TO WIT: A 0.0826-ACRE (3,598 SQUARE-FOOT) PORTION OF PUBLIC RIGHT-OF-WAY LOCATED AT THE SOUTHEAST CORNER OF NORTH WASHINGTON AVENUE AND EAST 23<sup>RD</sup> STREET AND ADJACENT TO LOTS 6 AND 7 IN BLOCK 28 OF THE BRYAN ORIGINAL TOWNSITE; 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 6 and 7 in Block 28 in the Bryan Original Townsite has requested the abandonment of 0.0826 acre section of public street right-of-way located adjacent to said lots; and

**WHEREAS**, during its regular meeting on October 17, 2013, the Bryan Planning and Zoning Commission recommended approving the request to abandon and close said portion of public 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 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 0.0826-acre (3,598 square-foot) portion of public right-of-way located at the southeast corner of North Washington Avenue and East 23<sup>rd</sup> Street and adjacent to Lots 6 and 7 in Block 28 of the Bryan Original Townsite, said tract being depicted on attached Exhibit "A".

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.

6.

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

**PRESENTED AND GIVEN** first reading the 12<sup>th</sup> day of November, 2013 at a regular meeting of the City Council of the City of Bryan, Texas; and given second reading, **PASSED AND APPROVED** on the 18<sup>th</sup> day of November, 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:

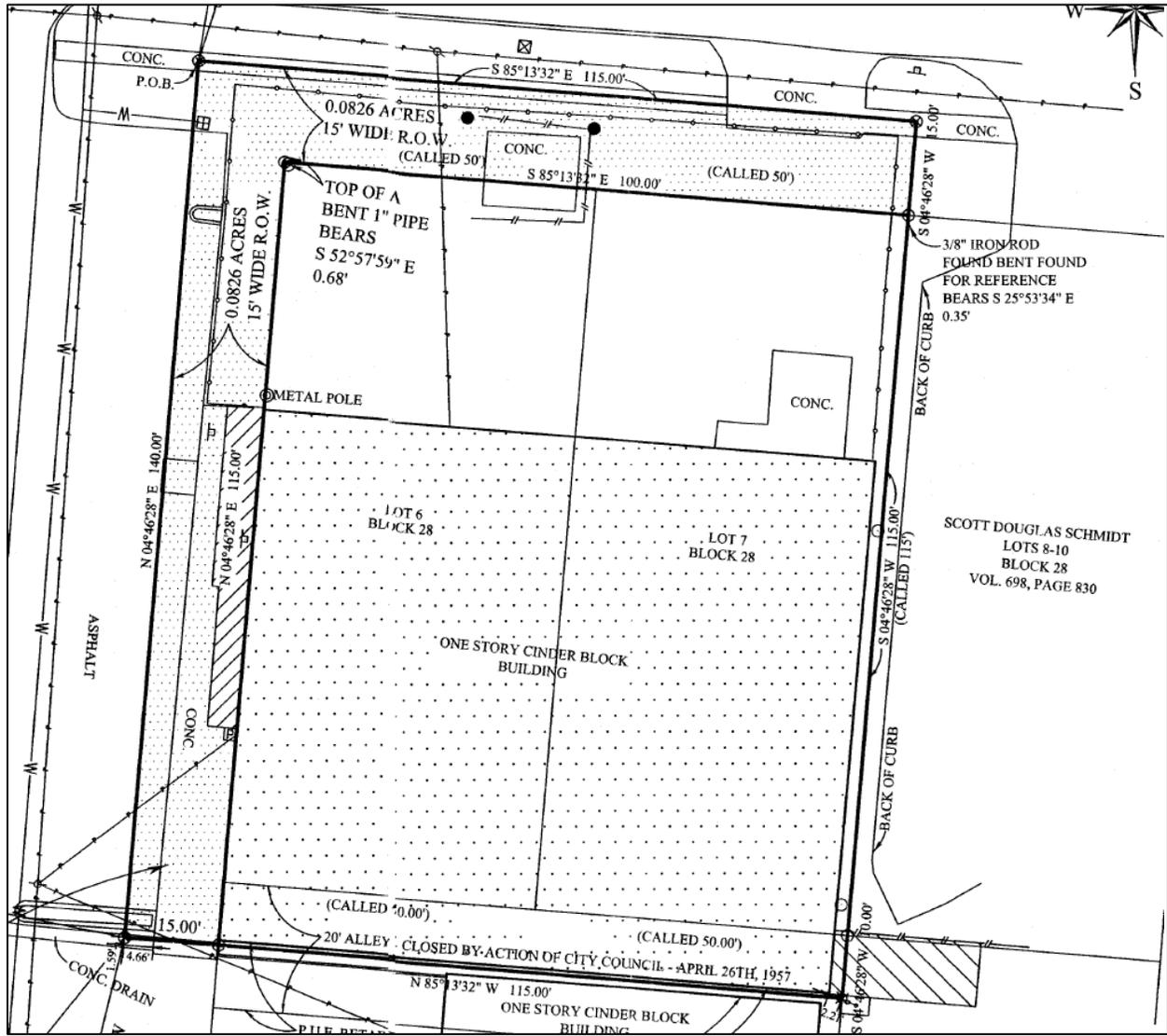
\_\_\_\_\_  
Mary Lynne Stratta, City Secretary

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

APPROVED AS TO FORM:

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

**EXHIBIT "A":**



**EXCERPT FROM PLANNING AND ZONING COMMISSION REGULAR MEETING  
MINUTES OF OCTOBER 17, 2013:**

**4. CONSENT AGENDA** – *This Consent Agenda consists of items that are considered routine by the Planning and Zoning Commission and will be enacted by one motion. All items approved by Consent are approved with any and all staff recommendations. There will not be separate discussion of these items. If the Commission desires to discuss an item on the Consent Agenda it will be moved (at the request of two Commissioners) to the Regular Agenda for further consideration.*

**a. Right-of-Way Abandonment RA13-06: North Washington Avenue at East 23<sup>rd</sup> Street**

*A request to abandon a 0.0826-acre portion of public right-of-way located at the southeast corner of North Washington Avenue and East 23<sup>rd</sup> Street and adjacent to Lots 6 and 7 in Block 28 of the Bryan Original Townsite in Bryan, Brazos County, Texas. (R. Haynes)*

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

**PLANNING AND ZONING COMMISSION  
STAFF REPORT**

**October 17, 2013**



**Right-of-way Abandonment case no. RA13-06: North Washington Avenue at East 23<sup>rd</sup> Street**

**LOCATION:** a request to abandon a 0.0826-acre (3,598 square-foot) portion of public right-of-way located at the southeast corner of North Washington Avenue and East 23<sup>rd</sup> Street and adjacent to Lots 6 and 7 in Block 28 of the Bryan Original Townsite

**APPLICANT(S):** Brent Hairston

**AGENT:** ATM Surveying

**STAFF CONTACT:** Randy Haynes, Project Planner



## **BACKGROUND:**

For more than 50 years, part of this 15-foot wide portion (3,598sf) of public right-of-way adjacent to Block 28 of the Bryan Original Townsite has been improved with parking spaces in use by the adjacent commercial building. In practical terms, the right-of-way requested to be abandoned has been functionally integrated with the property for many years. Mr. Brent Hairston owns Lots 6 and 7 in Block 28 adjoining the right-of-way requested to be abandoned. The request was made to formally integrate this land with his ownership of adjoining land.

A replat showing these 3,598 square feet to be combined with current lots 6 and 7 in Block 28 is also scheduled for consideration by the Planning and Zoning Commission during its meeting on October 17, 2013 (case no. RP13-15).

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:**

The 300 block of North Washington Avenue has a 100-foot wide right-of-way and currently 25 feet of pavement. The adjacent 300 block of East 23<sup>rd</sup> Street has an 80-foot wide right-of-way and also has 25 feet of pavement. Even if the requested abandonment of this right-of-way was approved by the City Council, there would still be sufficient right-of-way remaining for possible widening of both streets to modern local street standards in the future. Abandoning the subject rights-of-way, therefore, should not substantially interfere with the smooth circulation of vehicular and pedestrian traffic in this vicinity. No public or franchised utilities are currently located in the right-of-way requested to be abandoned.

The Site Development Review Committee and staff recommend **approving** this request to abandon this 0.0826 acre portion of public right-of-way. 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.