CITY OF PLANO
COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY	
☐ Consent ☐ Regular ☐ Statutory	
Council Meeting Date:	5/13/13
Department:	Engineering
Department Head	Gerald Cosgrove
Agenda Coordinator (include phone #):	**Kathleen Schonne X-7198**

CAPTION

An Ordinance of the City of Plano, Texas, abandoning all right, title and interest of the City, in and to a portion of that certain 15-foot Drainage Easement recorded in Volume Q, Page 293 of the Plat Records of Collin County, Texas and being situated in the Daniel Rowlett Survey, Abstract No. 738, which is located within the city limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in such easement to the abutting property owner, CB Jeni – Chase Oaks Village II, LLC, to the extent of its interest; authorizing the City Manager or his authorized designee, to execute any documents deemed necessary; and providing an effective date.

FINANCIAL SUMMARY

☒ NOT APPLICABLE ☐ OPERATING EXPENSE ☐ REVENUE ☐ CIP

FISCAL YEAR: **2012-2013**	**Prior Year (CIP Only)**	**Current Year**	**Future Years**	**TOTALS**
Budget	0	0	0	**0**
Encumbered/Expended Amount	0	0	0	**0**
This Item	0	0	0	**0**
BALANCE	0	**0**	0	**0**

FUND(S): GENERAL FUND

COMMENTS: This item has no fiscal impact.

STRATEGIC PLAN GOAL: Abandoning all right, title and interest of the City to the easements relates to the City's Goal of Financially Strong City with Service Excellence.

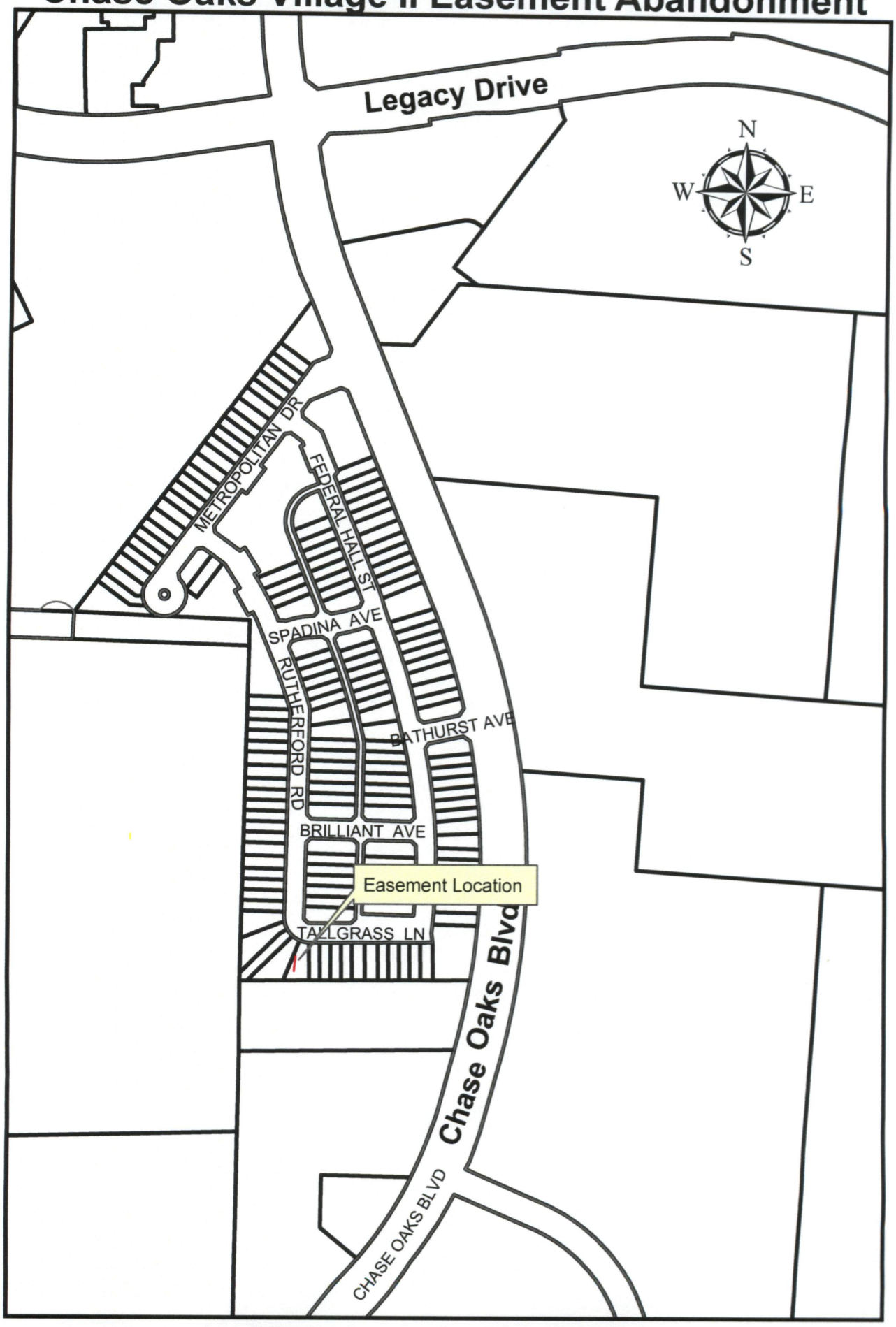
SUMMARY OF ITEM

The townhome building encroaches over an existing 15' wide drainage easement by 0.47'. The abandonment will not interfere with the use or maintenance of the existing 15' wide drainage easement.

List of Supporting Documents:	Other Departments, Boards, Commissions or Agencies
Location Map	N/A
Ordinance	

Chase Oaks (MAM/eva)

Chase Oaks Village II Easement Abandonment



Location Map

4/18/2013

An Ordinance of the City of Plano, Texas, abandoning all right, title and interest of the City, in and to a portion of that certain 15-foot Drainage Easement recorded in Volume Q, Page 293 of the Plat Records of Collin County, Texas and being situated in the Daniel Rowlett Survey, Abstract No. 738, which is located within the city limits of Plano, Collin County, Texas; quitclaiming all right, title and interest of the City in such easement to the abutting property owner, CB Jeni – Chase Oaks Village II, LLC, to the extent of its interest; authorizing the City Manager or his authorized designee, to execute any documents deemed necessary; and providing an effective date.

WHEREAS, the City Council of the City of Plano has been requested to abandon all right, title and interest of the City in and to a portion of that certain15-foot Drainage Easement recorded in Volume Q, Page 293 of the Plat Records of Collin County, Texas (hereinafter called "Easement") being situated in the Daniel Rowlett Survey, Abstract No. 738, which is located within the city limits of Plano, Collin County, Texas, and which is more particularly described in Exhibit "A-1" attached hereto and incorporated herein by reference; and

WHEREAS, the Property Owner has filed with the City a Petition for Abandonment, a copy of which is attached hereto as Exhibit "B" and made a part hereof by reference; and

WHEREAS, the Engineering Department has determined that there will be no detrimental effect on the City if the Easement is abandoned and quitclaimed to the abutting Property Owner; and has advised that the Easement should be abandoned;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. All the right, title and interest of the City of Plano, Texas, in and to the Easement is hereby abandoned, and all right, title and interest of the City in and to the Easement is hereby quitclaimed to the abutting Property Owner in accordance with its respective interest. A certified copy of this Ordinance may be recorded in the Collin County Land Records to reflect this abandonment and quitclaim. The City Manager or his authorized designee, is hereby authorized to execute on behalf of the City of Plano, Texas, any instruments necessary to complete the abandonment and quitclaim of the Easement by the City of Plano.

Section II. The abandonment and quitclaim is without prejudice to any and all improvements, facilities, equipment or lines of any public utility, municipal or otherwise, if any, which are presently located within any portion of the Easement. Any such utility shall have the continued right to locate, maintain, repair, reconstruct, preserve or relocate improvements, facilities, equipment or lines in such portion of the Easement.

Section III. The City Council hereby finds and determines that the abandonment of the Easement is in the public interest of the City of Plano, Texas, and its citizens, and will inure to the benefit of the public generally.

Section IV. This Ordinance shall become effective immediately upon its passage as set forth below.

DULY PASSED AND APPROVED this the 13th day of May, 2013.

_____
Phil Dyer, MAYOR

ATTEST:

_____
Diane Zucco, CITY SECRETARY

APPROVED AS TO FORM:

_____
Diane C. Wetherbee, CITY ATTORNEY

EXHIBIT "B"

PETITION FOR ABANDONMENT
[For Easement Abandonment]

We, the undersigned, (hereinafter "Owners"), being all of the owners of real property abutting **15' Drainage Easement** (hereinafter called "Easement"), more particularly described by metes and bounds in the field note description attached hereto and incorporated herein as **Exhibit "A-1"** do hereby request that the City of Plano, Texas (called "City") abandon the Easement.

1. The Owners are requesting the abandonment of the Easement for the following reasons:
To allow the construction of consistent buildings with the brick on the side elevation rather than changing to a cementuous siding.

2. The following public interest will be served as a result of the abandonment:
Consistent buildings with consistent building materials would greatly enhance the completion of this once broken community.

3. Unless the City determines that this abandonment is exempt from payment of fair market value, the Owners agree to pay to the City the fair market value of the Easement as determined by an appraisal obtained by the City (called "Price"). The appraisal shall be conclusive as to the fair market value. The Owners shall reimburse the City for the cost of the appraisal and other costs incident to the abandonment (called "Costs"). The Price and Costs shall be paid to the City prior to the abandonment. Should the Plano City Council decide not to abandon the Easement, the Price shall be returned to the Owners, but the Costs shall be retained by the City. Each Owner's share of the Price and Costs shall be in the same proportion as their abutting ownership as hereinafter defined.

4. If the Owners are providing a replacement easement for the Easement requested to be abandoned herein, Owners will attach a metes and bounds description or plat identifying the replacement easement and attach same to this Petition as **Exhibit "B-1"**. N/A

5. The Owners hereby represent and affirm to the City that no other property owner, lessee, tenant or easement or license holder uses the Easement to access or to serve their property.

6. **The Owners further agree to release, defend, indemnify and hold the City, its officers, agents and employees harmless from and against any and all claims, losses, demands, suits, judgments and costs, including reasonable and necessary attorney's fees and expenses, arising out of, related to or resulting from the abandonment of the Easement by City.**

7. The Owners understand and agree that the abandonment is in the sole discretion of the Plano City Council. The Owners also understand and agree that the Easement will be abandoned to them in proportion to their abutting ownership. The abutting ownership will be determined by the number of linear feet of frontage adjacent to the Easement owned by each property owner. Based on the foregoing, the Owners hereby represent and affirm that they have searched the public land records and determined that the abutting ownership is in the following proportions:

SOLELY OWNED BY: CB JENI HOMES - CHASE OAKS VILLAGE, LLC

8. Owners shall also prepare a map or drawing showing the Easement to be abandoned along with a designation of all abutting property owners. This map or drawing shall be attached hereto and incorporated herein as **Exhibit "C-1"**. N/A

9. Owners shall also prepare a separate field note description for each portion of the Easement to be released to each abutting property owner. This description shall be attached hereto and incorporated herein as **Exhibit "D-1"**. N/A

[Remainder of page blank]

10. The undersigned officers and/or agents of the Owners hereby represent and affirm that they have the necessary authority to execute this Petition for Abandonment on behalf of the Owners.

Bruno Pasquinelli
Typed Name of Owner

2805 North Dallas Parkway, Suite 690
Address

Plano, Texas 75093
City, State and Zip

Dated: 4/15/13

Signature of Owner

Contact Person for Property Owners:

Name: SCOT WHITWER

Phone No: 214-578-3103

FOR DEPARTMENTAL USE ONLY

The Easement to be abandoned is to one or more abutting property owners and is exempt from the requirement that fair market value be paid for the following reason(s):

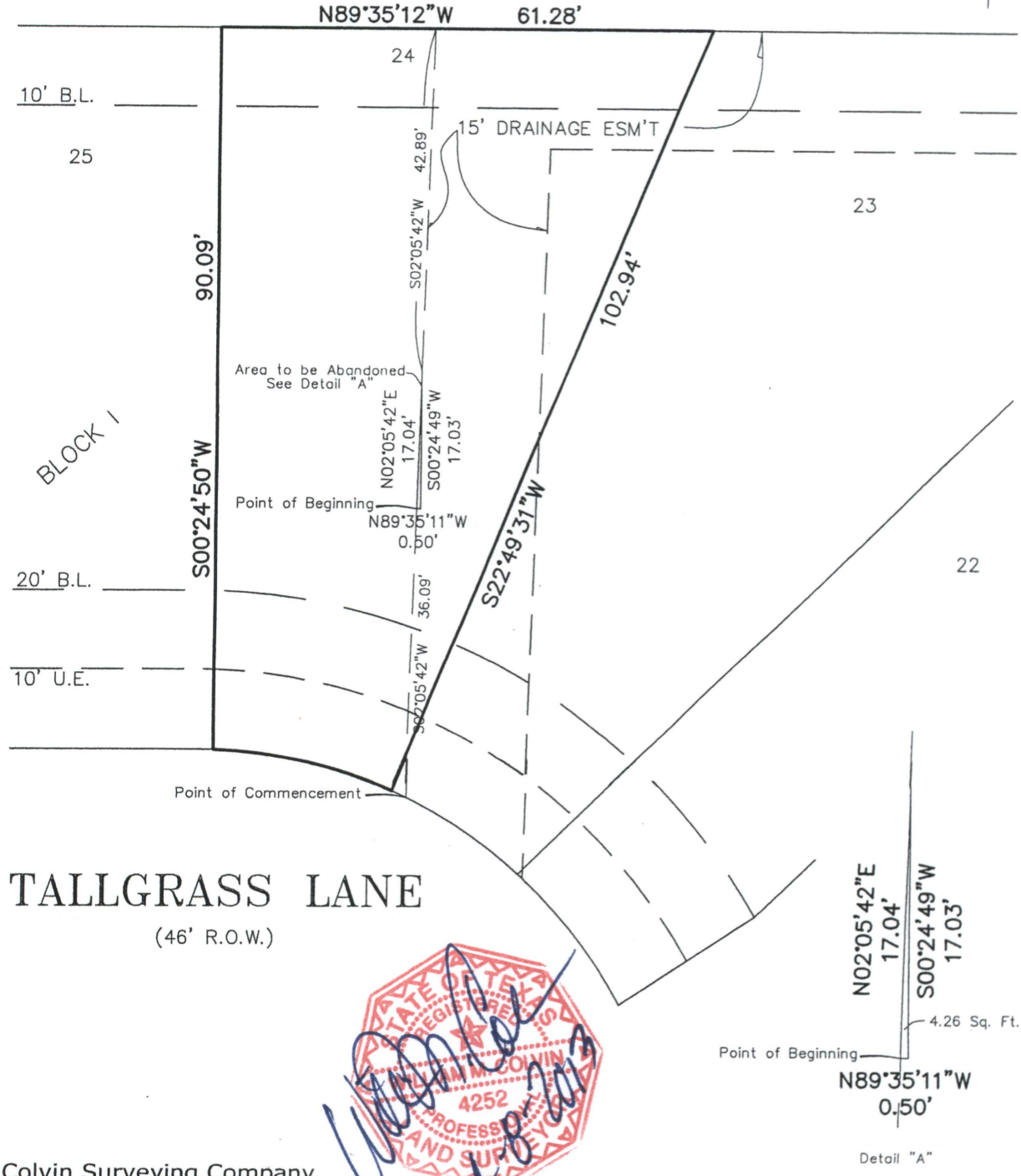
- ☒ The Easement consists of narrow strips of land, or land that because of its shape, lack of access to public roads, or small area cannot be used independently under its current zoning or under applicable subdivision or other development code ordinances;
- ☐ The Easement consists of streets or alleys, owned in fee or used by easement;
- ☐ The Easement consists of land or a real property interest originally acquired for streets, rights-of-way, or easements that the City of Plano has decided to exchange with Owner for other land to be dedicated and used for streets, rights of way, easements, or other public purposes, including transactions partly for cash;
- ☐ The Easement contains land that the City wants to have developed by an independent foundation;
- ☐ The Easement is located within a reinvestment zone designated by law that the City desires to have developed under a project plan adopted by the municipality for the zone.

Engineering Department
City of Plano, Texas

Exhibit "A-1"

STORM SEWER EASEMENT ABANDONMENT
PLAT OF CHASE OAKS VILLAGE
BLOCK I
LOT 24
344 TALLGRASS LANE
PLANO, TEXAS

BLOCK 1, LOT 1
CHASE OAKS COURT PHASE 1
CABINET J, SLIDE B41
M.R.C.C.T.



CSC
Colvin Surveying Company
Registered Professional Land Surveyors
3814 Cavalier Drive
Garland, Texas 75042
Ph. 972.272.9479 Fax. 972.272.7315

SCALE: 1" = 20'

Exhibit "A-1"

A tract of land being a part of a fifteen foot drainage easement situated on Lot 24, Block I of Chase Oaks Village, an addition to the City of Plano, Collin County, Texas according to the Final Plat recorded in Volume Q, Page 293, Plat Records, Collin County, Texas, recorded in Instrument Number 20100802000791210, Deed Records, Collin County, Texas being more particularly describe by metes and bounds as follows:

COMMENCING at the northeast corner of said fifteen foot drainage easement, said point being in the northerly line of Lot 23, Block I of said Chase Oaks Village addition and the southerly right-of-way line of Tallgrass Lane (46' right-of way), thence South 02 degrees 05 minutes 42 seconds West along the east line of said fifteen foot drainage easement a distance of 36.09 feet to the point of beginning;

THENCE departing said east line of said fifteen foot drainage easement on a bearing of North 89 degrees 35 minutes 11 seconds West a distance of 0.50 feet to a point for corner;

THENCE South 00 degrees 24 minutes 49 seconds West a distance of 17.03 feet to a point in said east line of said fifteen foot drainage easement;

THENCE North 02 degrees 05 minutes 42 seconds East along said east line of said fifteen foot drainage easement a distance of 17.04 feet to the point of beginning, said described tract of land containing 4.26 square feet more or less.