



CITY COUNCIL MEMORANDUM

FROM: Public Works Department **DATE:** February 13, 2017

SUBJECT: Consider Ordinance No. 3447, correcting previous Ordinance No. 3413, Abandoning and Closing a Portion of Birchwood Drive

PRESENTER: Caroline Waggoner, City Engineer

SUMMARY:

Consider replacing the previous abandonment ordinance for a section of Birchwood Drive as part of the development of a RaceTrac retail gasoline convenience store at the Southeast corner of Davis Boulevard and Maplewood Avenue. The previous ordinance had the incorrect legal description for the property. Ordinance No. 3447 corrects this issue and updates the ordinance.

GENERAL DESCRIPTION:

On May 16, 2016, City Council approved Ordinance No. 3413, abandoning a portion of Birchwood Drive located within the proposed RaceTrac site on Davis Boulevard. The ordinance also provided five requirements for the conveyance of the abandoned right-of-way to Bomac Davis Investments, LLC, the owner at the time. The original ordinance incorrectly referred to the "Lot 1, Block A, Racetrac Addition". The correct legal description is "Lot 13, Block 21, Clearview Addition". The updated ordinance corrects the subdivision reference, updates ownership information to Pepperwood, Inc., and updates the conveyance requirements as two of them have been met.

The abandonment Ordinance No. 3413 called for the portion of Birchwood Drive be abandoned and conveyed to Bomac Davis Investments, LLC upon completion of the following actions, the first two of which have already been accomplished. The updated abandonment Ordinance No. 3447, refers only to the outstanding three items as requirements for conveyance.

- *Plat dedication of replacement easements for the relocated public and franchise utilities, including drainage. - Completed by plat approval 8/22/16*
- *Plat dedication of a public access easement within which the proposed vehicular turn-around will be constructed. – Completed by plat approval 8/22/16*
- Construction and final acceptance by the City of all public infrastructure needed to replace water, sanitary sewer, and drainage service to the remaining Birchwood Drive.



- Construction and final acceptance of the hammerhead public access easement at the terminus of Birchwood Drive as depicted on the plat.
- Provision of a maintenance agreement for the public access turnaround.

RECOMMENDATION:

Approve Ordinance No. 3447, abandoning and closing a Portion of Birchwood Drive.