

City Council Introduction: **Monday**, December 11, 2000  
Public Hearing: **Monday**, December 18, 2000, at **1:30 p.m.**

Bill No. 00-219

## **FACTSHEET**

**TITLE:** **STREET VACATION NO. 00021**, requested by the State of Nebraska, Lancaster County and Jerry Coniglio, to vacate Dairy Drive from the west line of South 14<sup>th</sup> Street to a point approximately 1,328 feet west, generally located off South 14<sup>th</sup> Street south of Centerpark Road.

**STAFF RECOMMENDATION:** Conditional Approval.

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: Consent Agenda, 11/29/00  
Administrative Action: 11/29/00

**RECOMMENDATION:** Conditional Approval (9-0: Carlson, Steward, Newman, Duvall, Hunter, Schwinn, Krieser, Taylor and Bayer voting 'yes').

### **FINDINGS OF FACT:**

1. The Planning staff recommendation of conditional approval is based upon the "Analysis" as set forth on p.3.
2. This application was placed on the Consent Agenda of the Planning Commission on November 29, 2000, and opened for public hearing. No one came forward to speak.
3. The Planning Commission agreed with the staff recommendation of conditional approval. The conditions of approval are found on p.4.
4. Due to the Christmas and New Years holiday, the applicant requests 2<sup>nd</sup> and 3<sup>rd</sup> readings on December 18, 2000.

**FACTSHEET PREPARED BY:** Jean L. Walker

**DATE:** December 4, 2000

**REVIEWED BY:** \_\_\_\_\_

**DATE:** December 4, 2000

**REFERENCE NUMBER:** FS\CC\FSV00021

## LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

**P.A.S.:**        **STREET VACATION NO. 00021**  
**Dairy Drive west from S. 14<sup>th</sup> St.**

**DATE: November 9, 2000**

**PROPOSAL:** The State of Nebraska, Lancaster County, and Jerry Coniglio have requested the vacation of Dairy Drive from the west line of S. 14<sup>th</sup> St. to a point approximately 1,328 feet west, generally located off S. 14<sup>th</sup> St. south of Centerpark Rd.

### **GENERAL INFORMATION:**

**APPLICANT:** State of Nebraska

Dept. of Correctional Services  
PO Box 94661  
Lincoln, NE 68509

Lancaster County Board of Commissioners  
Kathy Campbell, Chair

Jerry Coniglio  
Lincoln Mattress Factory  
4815 S. 14<sup>th</sup> St.  
Lincoln, NE 68512

**LEGAL DESCRIPTION:** The Dairy Drive right-of-way from the west right-of-way line of S. 14<sup>th</sup> St. west approximately 1,328.4 feet, abutting Lots 1-6, Leavitts Subdivision, and abutting Lot 7, Ryans Subdivision, located in the NE1/4 of Section 11, Township 9 North, Range 6 East of the 6<sup>th</sup> P.M., Lincoln, Lancaster County, Nebraska.

**EXISTING ZONING:** AG Agricultural (Lots 1-4, Leavitts Subdivision)  
P Public Use (Lots 5-6, Leavitts Subdivision)  
H-3 Highway Commercial (Lot 7, Ryans Subdivision)

**EXISTING LAND USE:** Vacant land

**SURROUNDING ZONING AND LAND USE:** The land to the north and west is owned by the State of Nebraska and is zoned AG Agricultural. The Lincoln Mattress Factory lies to the south of Dairy Drive and is zoned H-3 Highway Commercial. The western portion of Dairy Drive lies north of the P Public Use zoned County Detention Center site.

**COMPREHENSIVE PLAN SPECIFICATIONS:** In conformance. The land to the north and west of the proposed vacation is State land and is shown as Public and Semi-Public; the County land south of the western portion of Dairy Drive is shown as Industrial; and the Mattress Factory is shown as Commercial on the Comprehensive Plan Land Use Map.

Although the County land is shown as Industrial, the 1994 Comprehensive Plan states: "Only the largest and most significant public facilities are shown on the land use plan. Dependent on their compatibility with the surrounding area, small scale public and semi-public land uses may be allowed within all land use categories." The land use map in the updated Comprehensive Plan should reflect this public use and ownership.

Dairy Drive is not shown on the Existing or Future Functional Street and Road Classification Maps.

**ANALYSIS:**

1. This is a request to vacate the Dairy Drive right-of-way, from the west side of S. 14<sup>th</sup> St. to its western terminus.
2. This street vacation, if granted, would cause Lots 2-5 of Leavitts Subdivision to lose their access to a public street. While the State currently owns all of the lots and has access via S. 14<sup>th</sup> St., it is possible that the State could surplus and sell the landlocked lots individually at some future time.
3. The petitioners submitted the Lancaster Addition Final Plat to the Planning Department on August 17, 2000. This plat would have combined the State owned lots into one lot with access to S. 14<sup>th</sup> St. However the Final Plat would have required the completion of the standard minimum improvements listed in the Land Subdivision Ordinance.
4. The access problem may be solved if the owner of Lots 1, 2, 3 and 4 and the owner of Lots 5 and 6, Leavitts Subdivision were to place a deed restriction upon the land which prohibited the sale of the lots individually.
5. The Lancaster Addition Final Plat proposed the dedication of an additional 30' of right-of-way north of Radcliff St., which would increase its total right-of-way to 60'. This could be accomplished if the owners of Lot 7 Ryans Subdivision were to deed the south 30' of their Lot to the public in exchange for the south 30' of the Dairy Drive right-of-way. The State of Nebraska waived its right to purchase any of the ground. This waiver will allow the County and the owner of Lot 7 Ryans Subdivision to acquire all of the vacated right-of-way.
6. The Public Works & Utilities Department's report notes the following:
  - 6.1 There are no existing utilities in the right-of-way. Easements were to be requested as part of the Lancaster Addition Final Plat.
  - 6.2 The Department of Public Works recommends approval of this vacation, subject to the approval of Lancaster Addition. This vacation contains an area of 84,354.6 square feet, more or less
7. The potential for lost access and the need for utility easements must be addressed before this vacation can be approved by the City Council.

**STAFF RECOMMENDATIONS:** Finding that the proposed vacation conforms with the 1994 Comprehensive Plan.

**Conditional approval**

**CONDITIONS:**

- A. 1. Petitioners grant permanent easements to the Public Works and Utilities Department, Lincoln Electric System, and ALLTEL through the entire area of the proposed vacation.

2. The owner of Lots 1-4 and the owner of Lots 5-6 Leavitts Subdivision place deed restrictions or similar legal instruments that prohibit the sale of individual lots and guarantee that each group of lots retains access to a public street.

**-or-**

B. 1. An Administrative Final Plat is ready for approval.

Prepared by:

Jason Reynolds  
Planning Department

# STREET VACATION NO. 00021

## CONSENT AGENDA

### PUBLIC HEARING & ADMINISTRATIVE ACTION

#### BEFORE PLANNING COMMISSION:

November 29, 2000

Members present: Bayer, Carlson, Duvall, Hunter, Krieser, Newman, Schwinn, Steward and Taylor

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 3291; FINAL PLAT NO. 00020, NORTHRIDGE HEIGHTS 9<sup>TH</sup> ADDITION; FINAL PLAT NO. 00033, FALLBROOK ADDITION; and STREET AND ALLEY VACATION NO. 00021.**

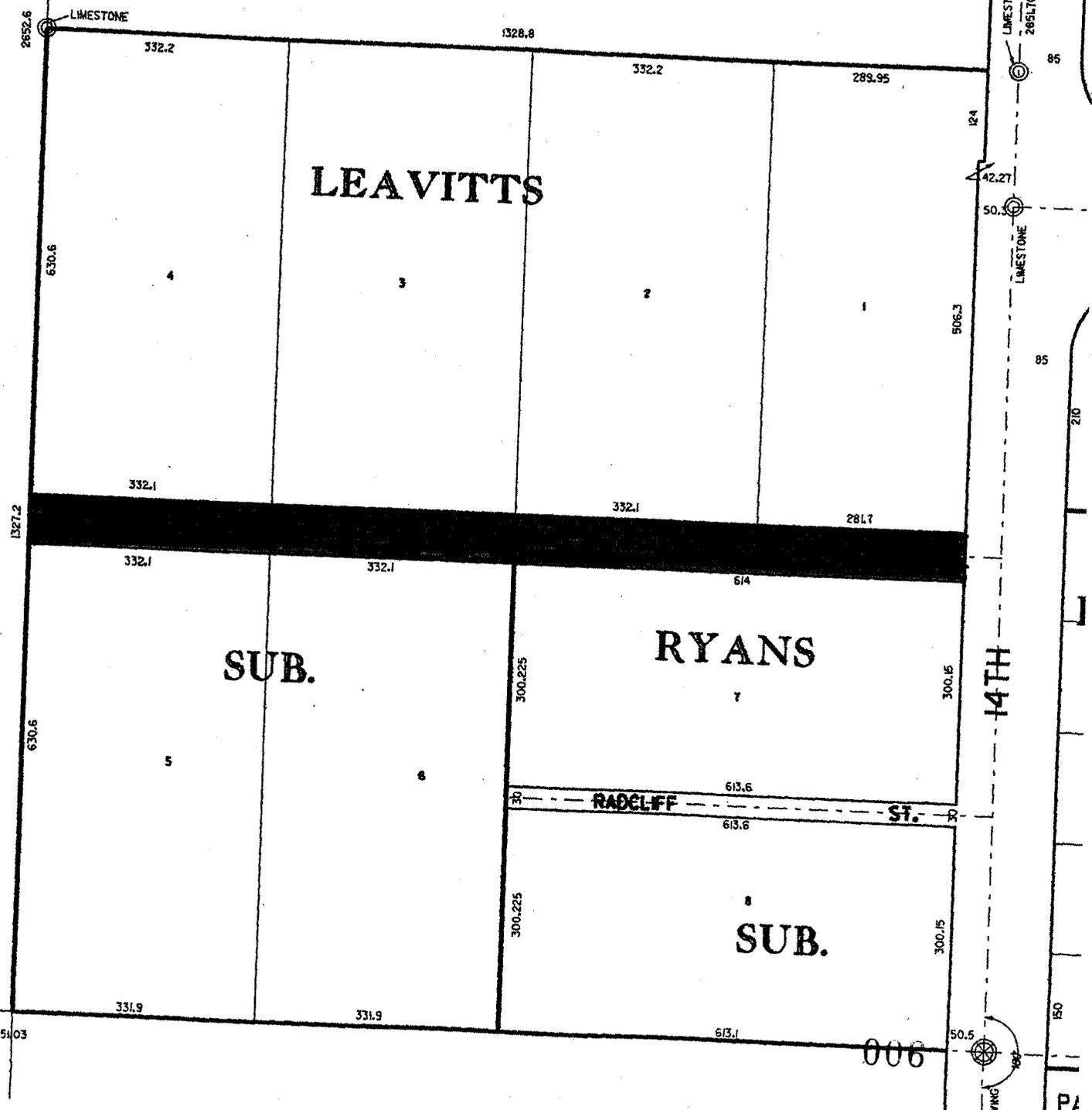
Steward moved to approve the Consent Agenda, seconded by Hunter and carried 9-0: Bayer, Carlson, Duvall, Hunter, Krieser, Newman, Schwinn, Steward and Taylor voting 'yes'.

SLOUGH

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NOV - 1 1966

LINCOLN CITY/LANCASTER COUNTY  
PLANNING DEPARTMENT



LEAVITTS

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14TH

RADCLIFF ST.

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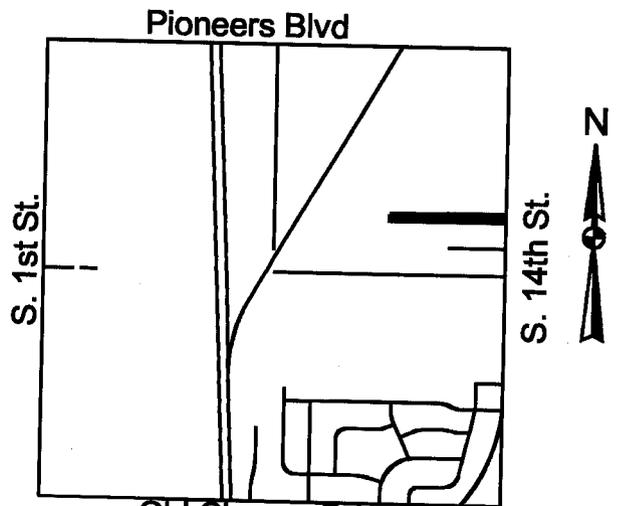
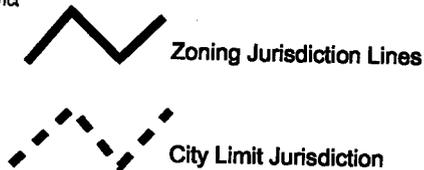


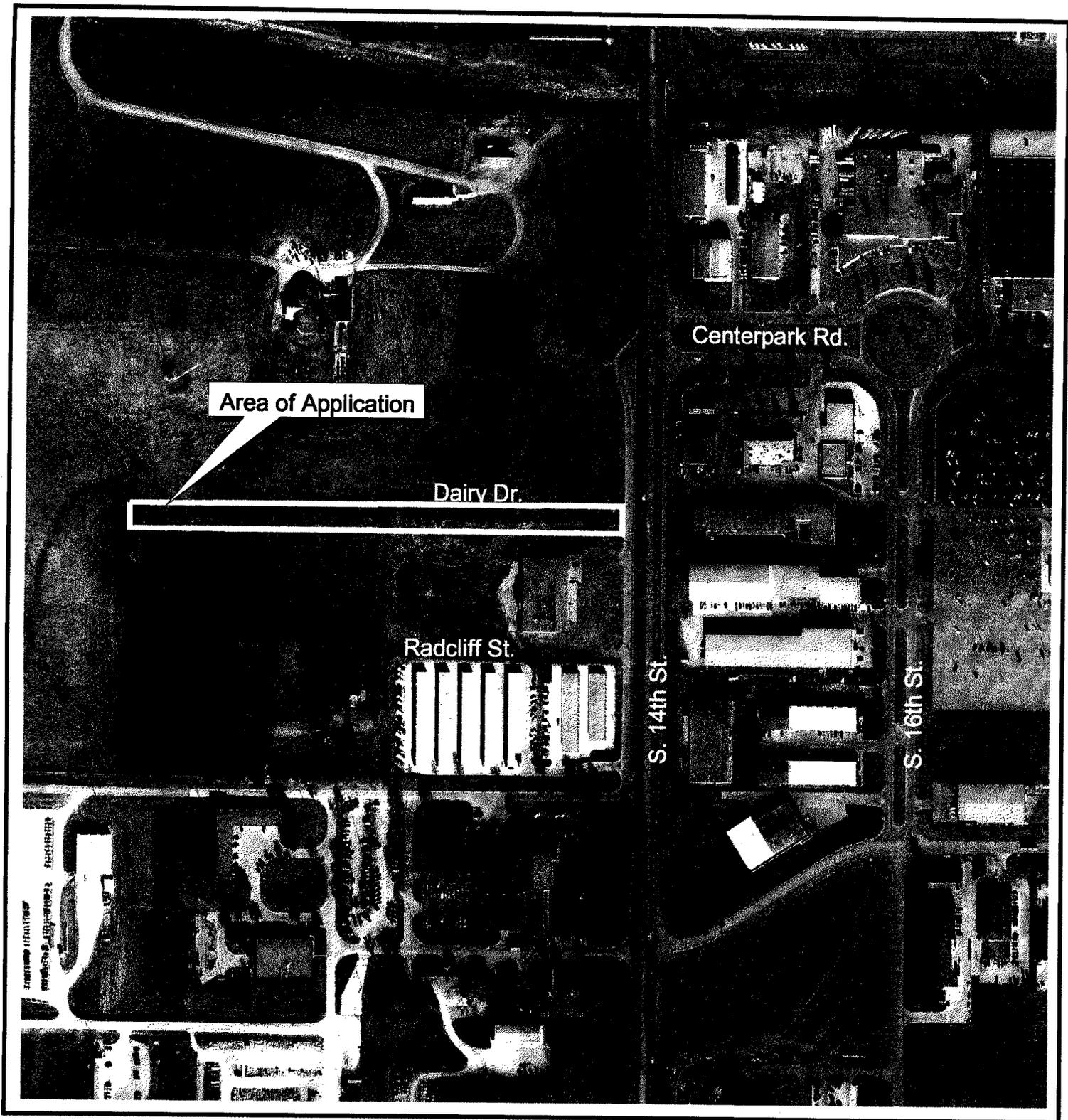
**Street & Alley Vacation #00021**  
**S. 14th St. & Dairy Dr.**

**Zoning:**

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District

One Square Mile  
 Sec. 11 T9N R6E





**Street & Alley Vacation #00021**  
**S. 14th St. & Dairy Dr.**



Sheet 2 of 2

Date: November 14, 2000

Photograph Date: 1997 008

Lincoln City - Lancaster County Planning Dept.

Lincoln



Nebraska's Capital City

October 31, 2000

RECEIVED

NOV 1 - 2000

LINCOLN CITY/LANCASTER COUNTY  
PLANNING DEPARTMENT

Lincoln City/Lancaster County  
Planning Commission  
555 South 10<sup>th</sup> Street, Room 213  
Lincoln, Nebraska 68508

*RE: Vacating Dairy Drive, AKA Marshall Street, from the west line of South 14th Street to the west line of Leavitts Subdivision.*

Dear Ladies and Gentlemen:

The Department of Public Works and Utilities has received sufficient and proper petitions from the State of Nebraska, owners of Lots 1,2,3 and 4, Leavitts Subdivision, Kathy Campbell, Chairperson of the Lancaster County Commissioners, owners of Lots 5 and 6, Leavitts Subdivision, Jerry Coniglio, owner of Lot 7, Ryans Subdivision, to vacate the above described public right-of-way. Petitioners are requesting this vacation to allow Lancaster County to replat this area.

There are no existing utilities in this right-of-way, however, easements will be requested as part of the proposed "Lancaster Addition" plat.

The Department of Public Works and Utilities recommends approval of this proposed vacation, subject to approval of Lancaster Addition. This vacation contains an area of 84,354.6 square feet, more or less.

Sincerely,

Byron Blum  
Engineering Services  
Department of Public Works

jaj DairyDrVac bbb

cc: A. Abbott  
A. Harrell  
K. Sellman  
R. Figard  
D. Roper  
C. Thomas  
J. Ross  
M. Wullschleger

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INFORMATION SHEET

An Information Sheet must be filled out completely by the owners of each parcel abutting the requested vacation. The attached Petition to Vacate Public Way must also be filled out completely according to the instructions contained in the Instruction Sheet.

1. Name of Petitioner (Current Titleholder/s): Lincoln Mattress Company

If more than one individual, indicate if you are:

           joint tenants with right of survivorship, OR            tenants in common

2. Petitioner's Address: 4815 South 14th Street, Lincoln, NE 68512

3. Petitioner's Telephone Number: (402) 423-2800

4. Social Security Number of each Petitioner or Federal Employer Identification No. if a corporation:

5. Name of street, alley, or other public way sought to be vacated: Marshall Street

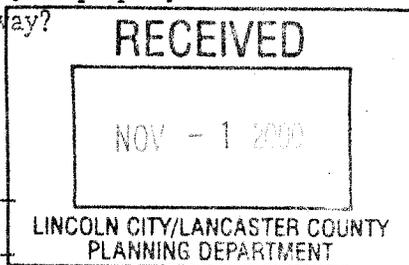
6. Why are you seeking to have this street, alley, or other public way vacated?  
BY VACATING DAIRY DRIVE TO THE NORTH, WE WILL HELP FACILITATE A 60' WIDE STREET TO THE SOUTH OF OUR LOT, ALSO BY DEDICATING 30' WITHIN OUR LOT.

7. What use or uses do you propose to make of the public way should it be vacated?  
IT WILL BECOME ADDITIONAL AREA TO OUR LOT.

8. Do you intend to purchase that portion of the vacated public way which abuts your property as described in the Petition to Vacate Public Way and/or other portions of the vacated public way?  
  X   YES        NO

11. Name and address of person to whom tax statement should be sent:

JERRY E. CONIGLIO  
4815 SOUTH 14TH STREET  
LINCOLN, NE 68512



Prior to third reading of the Vacation Ordinance before the City Council, the property will be appraised. The purchase price of the portion abutting your property must be paid to the City Clerk at that time, or the property will be sold to any other abutting owner willing to pay the purchase price. The Vacation Ordinance will not receive third reading until the full price of the entire public way proposed to be vacated has been paid.

\*\*\* IMPORTANT: BE SURE THAT THE PETITION TO VACATE PUBLIC WAY HAS BEEN PROPERLY EXECUTED BY ALL TITLEHOLDERS TO YOUR PROPERTY AND ATTACH IT TO THIS INFORMATION SHEET.

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An Information Sheet must be filled out completely by the owners of each parcel abutting the requested vacation. The attached Petition to Vacate Public Way must also be filled out completely according to the instructions contained in the Instruction Sheet.

1. Name of Petitioner (Current Titleholder/s): State of Nebraska - DEPT. OF CORRECTIONAL SERVICE  
If more than one individual, indicate if you are:  
\_\_\_\_\_ joint tenants with right of survivorship, OR \_\_\_\_\_ tenants in common

2. Petitioner's Address: P.O. Box 94661  
LINCOLN, NE 68509

3. Petitioner's Telephone Number: (402) 471-7654

4. Social Security Number of each Petitioner or Federal Employer Identification No. if a corporation:  
\_\_\_\_\_

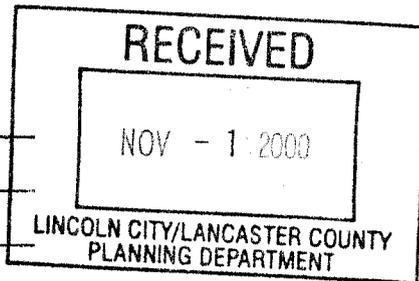
5. Name of street, alley, or other public way sought to be vacated: ~~Marshall Street~~ DAIRY DRIVE

6. Why are you seeking to have this street, alley, or other public way vacated?  
PER LANCASTER COUNTY'S REQUEST

7. What use or uses do you propose to make of the public way should it be vacated?  
NONE WE ARE WAIVING THE RIGHT TO PURCHASE THIS GROUND.

8. Do you intend to purchase that portion of the vacated public way which abuts your property as described in the Petition to Vacate Public Way and/or other portions of the vacated public way?  
       YES                        X   NO

11. Name and address of person to whom tax statement should be sent:  
LANCASTER COUNTY BOARD  
555 SOUTH 10TH STREET  
LINCOLN NE 68508



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1. Name of Petitioner (Current Titleholder/s): Lancaster County

If more than one individual, indicate if you are:

           joint tenants with right of survivorship, OR            tenants in common

2. Petitioner's Address: County-City Bldg  
555 So 10th Rm 110

3. Petitioner's Telephone Number: (402) 441-7447

4. Social Security Number of each Petitioner or Federal Employer Identification No. if a corporation:

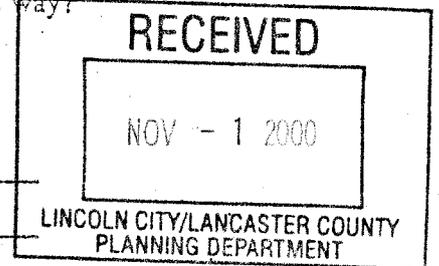
5. Name of street, alley, or other public way sought to be vacated: Marshall Street, aka,  
Dairy Dr

6. Why are you seeking to have this street, alley, or other public way vacated?  
Replat in conjunction with construction of  
juvenile detention facility

7. What use or uses do you propose to make of the public way should it be vacated?  
Additional set back for future expansion

8. Do you intend to purchase that portion of the vacated public way which abuts your property as described in the Petition to Vacate Public Way and/or other portions of the vacated public way?  
 YES  NO

11. Name and address of person to whom tax statement should be sent:  
Lancaster County Board  
555 So 10th Street  
Lincoln NE 68508



*Prior to third reading of the Vacation Ordinance before the City Council, the property will be appraised. The purchase price of the portion abutting your property must be paid to the City Clerk at that time, or the property will be sold to any other abutting owner willing to pay the purchase price. The Vacation Ordinance will not receive third reading until the full price of the entire public way proposed to be vacated has been paid.*

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