

City Council Introduction: **Monday**, April 1, 2002
Public Hearing: **Monday**, April 8, 2002, at **1:30 p.m.**

Bill No. 02R-69

FACTSHEET

TITLE: **WAIVER OF DESIGN STANDARDS NO. 02001**, requested by Engineering Design Consultants on behalf of Gary and Carolyn Christensen, to waive street paving, sidewalks, storm sewer and street trees on South Coddington Avenue south of West "M" Street.

STAFF RECOMMENDATION: **DENIAL**

ASSOCIATED REQUESTS: None.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 02/06/02, 02/20/02 and 03/06/02
Administrative Action: 03/06/02 and 03/20/02

RECOMMENDATION: Approval of the waiver of street trees only (9-0: Carlson, Duvall, Krieser, Larson, Newman, Schwinn, Steward, Bills-Strand and Taylor voting 'yes').

FINDINGS OF FACT:

1. The staff recommendation to **deny** the waiver requests is based upon the "Analysis" as set forth on p.3.
2. The applicant's testimony is found on p.4, 5, 6 and 7-8.
3. There was no testimony in opposition.
4. The Planning Commission discussion with staff is found on p.4-5, 7, and 9.
5. On March 6, 2002, a motion to waive only the street tree requirement failed 4-2 (Steward, Carlson, Taylor and Newman voting 'yes'; Bills-Strand and Schwinn voting 'no'; Duvall and Krieser absent). See Minutes, p.8.
6. Also on March 6, 2002, a motion to deny all waiver requests failed 4-2 (Steward, Carlson, Taylor and Newman voting 'yes'; Bills-Strand and Schwinn voting 'no'; Krieser and Duvall absent). See Minutes, p.8.
7. On March 20, 2002, the Planning Commission voted 9-0 to waive only the requirement for street trees. The remaining waiver requests were not approved. See Minutes, p.9.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: March 25, 2002

REVIEWED BY: _____

DATE: March 25, 2002

REFERENCE NUMBER: FS\CC\2002\WDS.02001

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

P.A.S.: Waiver of Design Standards # 02001 **DATE:** January 22, 2002

PROPOSAL: Waive street paving, sidewalks, storm sewer and street trees on South Coddington Avenue south of West "M" Street.

CONCLUSION: The requested waivers are a result of a proposed Administrative Final Plat. There are no unusual circumstances that would warrant the approval of the waivers. South Coddington Avenue should be brought up to urban standards to plan for future development in this area. There is potential development to the west of the subject property.

<u>RECOMMENDATION:</u>	Denial
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GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 96 IT located in the NW 1/4 of Section 28, Township 10 North, Range 6 East, Lancaster County, Nebraska

LOCATION: West "M" Street and South Coddington Avenue

APPLICANT: Engineering Design Consultants
630 North Cotner Blvd. Suite 105
Lincoln, NE 68505

OWNER: Gary and Carolyn Christensen

CONTACT: Engineering Design Consultants
630 North Cotner Blvd. Suite 105
Lincoln, NE 68505

EXISTING ZONING: I-1, Industrial

EXISTING LAND USE: Industrial

SURROUNDING LAND USE AND ZONING:

North:	H-3, Highway Commercial	Mini-storage and commercial
South:	I-1, Industrial;	Burlington Northern Railroad yard.
East:	I-1, Industrial;	Storage sheds
West:	I-1, Industrial;	Vacant ground. Homestead Expressway is located approximately 200 feet to the west.

HISTORY: This area was changed from "K" Light Industry to I-1 Industrial in the 1979 zoning update.

Manchester Heights subdivision abutting this property to the north was platted in April, 1891.

COMPREHENSIVE PLAN SPECIFICATIONS: The Comprehensive Plan specifies this area as Industrial.

UTILITIES: A public water main exists on South Coddington.
No sanitary sewer exists to serve this lot.

TRAFFIC ANALYSIS: South Coddington is a local street.
West "M" Street is a platted street that has not been developed.

ANALYSIS:

1. The requested waivers are associated with an Administrative Final Plat. The proposed plat would subdivide Lot 96 IT into two lots.
2. This request is to waive the Subdivision requirements for sidewalks (Sec. 26.23.095), street paving and storm sewer (Sec. 26.23.100), and street trees (Sec. 26.27.090) on South Coddington Avenue.
3. S.W.20th Street, one block to the east, has curb and gutter and storm sewer, but no sidewalks or street trees.
4. Public Works objects to the waivers.
5. Immediately to the west of Lot 96 IT is Lot 125 IT which is now vacant. If Lot 125 IT was to develop in the future, access would possibly come from West "M" Street or West "N" Street off of South Coddington Avenue. The possibility of increase traffic necessitates bringing South Coddington up to urban standards.
6. The city plat map shows South Coddington Avenue south of West "M" Street to have 66 feet right-of-way. The 66-foot right-of-way will not present a problem to construct storm sewer, sidewalks and street trees.

Prepared by:

Tom Cajka
Planner

WAIVER OF DESIGN STANDARDS NO. 02001

PUBLIC HEARING BEFORE PLANNING COMMISSION:

February 6, 2002

Members present: Taylor, Carlson, Bills, Steward, Krieser, Duvall and Newman; Hunter and Schwinn absent.

Staff recommendation: Denial

Proponents

1. **Terry Barber** appeared on behalf of the applicants, who have requested waivers from certain design standards that were made conditions of the subdivision of the parcel of land. The staff indicates that there are no unusual circumstances to justify the waivers. Barber suggested that without these waivers, the conditions for the subdivision will create an island's worth of improvements several blocks off of "O" Street, which will not be connected to "O" Street, will not be needed for anything related to the current use of the property, and will create unjustifiable expense. The subdivision was requested in order to straighten out title issues with the parcel. The desire is to divide the property appropriately. Barber acknowledged that if there is development in this area at some time in the future, the improvements that have been made conditions might make sense. But at this point in time, Barber believes that it makes more sense to grant the waivers now and wait until such improvements do make sense in this area.

There was no testimony in opposition.

Staff questions

Duvall noted that the property seems to be an industrial island. Tom Cajka of Planning staff clarified that the property is at the end of South Coddington. Public Works has made stipulation that there has been some talk about developing the area to the west, and as that area develops there could be potential for some redevelopment along Coddington Avenue. With increased traffic and density and being in an industrial area, staff believes that South Coddington should be brought to urban standards. Cajka further pointed out that S.W. 20th Street, just one block away, is paved with curb and gutter and storm sewer all the way from "O" Street to the railroad tracks. For future planning purposes, the staff believes there is a need to start here. The area does not have sidewalks or streets.

Dennis Bartels of Public Works does not disagree that there are problems for getting the pavement there. The logical thing to do is to pave all the way from "O" Street south to the limits of this plat. It is difficult to build the sidewalks and install the street trees until you've got the curb and gutter street section. There is also a pending plat immediately south of "O" Street adjacent to "N" Street. The Planning Commission considered a street vacation about a year ago which is on pending subject to some conditions and getting a plat. They would have the same issues with substandard paving for that subdivision.

Steward inquired whether there would be any possibility that this could be designated as a paving district. That was what Bartels was trying to say--Public Works would not object to it but there might be problems getting enough interest from property owners to force the paving in. The City Council could force part of it in by gap paving, but sometimes they are reluctant to do it. Bartels is not willing to eliminate the pavement without at least an effort of trying to go through the process.

Steward sought clarification that there is no storm sewer service in this area. Bartels explained that the present drainage is just open drainage in the roadside ditches. This is lower than West "O" Street. The drainage from the street and/or the site will probably drain to the south to a ditch towards Middle Creek.

Carlson asked what would happen with curb and cutter. Bartels indicated that it will discharge at some location in the same direction.

Referring to the properties that do not have the streets, sidewalks, etc., Carlson inquired whether they received waivers. Bartels explained that the subdivisions that exist are old subdivisions where there were no requirements at that point in time.

Duvall inquired about the time line for Coddington in the CIP. Bartels stated that it is not in the CIP. At this point, it is just a local street. We would expect property owners to initiate the action to get it improved. The city would subsidize a district to do it. We do not program local streets for paving in the CIP.

Response by the Applicant

Barber reemphasized that the staff comments indicate they are looking somewhat into the future in standing by the conditions on the subdivision. Again, the applicants and other persons in this neighborhood are not going to argue the point that in the future, as the area develops, there is probably going to be a time to bring this up to urban standards, but this just isn't the time. We've done an informal canvas of the neighbors as far as creating a district with zero interest at this point in time. It doesn't make sense to force these conditions. It is only sensible to waive these conditions.

Steward confirmed with staff that if the Commission waives the design standards today, they are waived for good and not just delayed. Rick Peo of the City Law Department concurred that if the requirements are waived, the construction of improvements are gone. The only option would be to defer the timing of construction of the improvements, but if they are waived we don't have a second chance to come back in and ask for them. They would have to come in through a district by property owner petition.

Carlson moved to defer for two weeks, seconded by Newman. Carlson is offering a deferral because he is not prepared to create a time line. At this point, he is not inclined to vote in favor of waivers. He is hopeful that a time line might be constructed by the staff that might be more satisfactory.

Newman is not comfortable waiving the improvements.

Steward believes there may be opportunity to solve this situation that does not harm the property owner, i.e. to put some time characteristics to it, leaving the city with the option of ultimate improvement

to standards.

Motion to defer with continued public hearing and administrative action scheduled for February 20, 2002, carried 6-1: Carlson, Bills, Steward, Krieser, Duvall and Newman voted 'yes'; Taylor voting 'no'; Hunter and Schwinn absent.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: February 20, 2002

Members present: Newman, Hunter, Steward, Krieser, Taylor, Carlson and Schwinn; Bills and Duvall absent.

The Clerk submitted a written request from the applicant for an additional two-week deferral.

Carlson moved to defer, with continued public hearing and administrative action scheduled for March 6, 2002, seconded by Newman and carried 7-0: Newman, Hunter, Steward, Krieser, Taylor, Carlson and Schwinn voting 'yes'; Bills and Duvall absent.

There was no public testimony.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: March 6, 2002

Members present: Steward, Carlson, Bills-Strand, Taylor, Newman and Schwinn; Duvall and Krieser absent.

Proponents

1. Rick Onnen of Engineering Design Consultants presented the application. Since the last meeting, the applicant met with staff and discussed some options on how to deal with this. However, Onnen renewed the request to waive these minimum improvements, or at least address them separately.

Onnen reminded the Commission that Coddington Avenue currently dead-ends at the railroad yard. There was some talk at the last meeting about comparing that to S.W. 20th, which is one block to the east. S.W. 20th extends into the rail yard and that is a paved street, but it does continue on. The right-of-way for S.W. 20th also extends through the rail yard on the plat but Coddington Avenue does not. This is a dead-end street and is not going to go anywhere in the foreseeable future. The street is a 22' wide concrete rural section with ditches and very adequate for the traffic that it sees. Onnen does not foresee a lot more traffic based on what they are trying to do with this administrative final plat. S.W. 20th is 33' wide paving. There are no sidewalks and no street trees. There are a couple of residences that front on this street as well.

Onnen explained that the property is currently one I.T. lot and the applicant is looking to subdivide it into four lots. The south portion contains some storage units and the owner has a purchase agreement to sell that portion of the property and wants to retain the rest. The conditions of that subdivision require these improvements. The property is all under one zoning district.

There was no testimony in opposition.

Staff questions

Tom Cajka of Planning staff explained that the staff did meet with the applicant. This application comes forward as the result of an administrative final plat whereby the subdivision requirements go into effect. The subdivider is asking to waive those minimum improvements. The City has suggested that the subdivider could post the bonds now and still continue with their request for the waivers. In issuing the surety amounts for paving, we looked at doing half of Coddington instead of requiring them to pave the entire width. We anticipate potential future development in the vacant area to the west, thus the staff would recommend that this area should be improved and the waivers should not be granted. The paving and storm sewer are not required to be constructed for two years, and the sidewalks and street trees are not required to be installed for four years. Thus, the bonds could be posted now, and if the district has not been created after the time period lapsed, we could reconsider the waiver at that time. Cajka also suggested that the city may require paving only to the entrance of the last lot on the south, and possibly could reevaluate it if that entrance was moved to the north without any other entrances.

Steward clarified that the staff continues to recommend denial of all of the waivers. Cajka concurred.

Bills-Strand inquired as to the rationale for the need for sidewalks and street trees. Cajka stated that it is a subdivision requirement and just because it is zoned industrial does not mean there would be no pedestrians. We do not want to require the pedestrians to walk in the street.

Taylor noted that the applicant mentioned another similar type area that was paved without sidewalks and he wondered whether that zoning was the same as this property. Cajka indicated that the zoning is the same. S.W. 20th is one block to the east. Taylor inquired as to why we would require sidewalks on one street and not on the other. Cajka did not know the history of how S.W. 20th was developed. In researching this application, he did not come across any subdivision that required that to be put in. Dennis Bartels of Public Works believes that the lots on S.W. 20th Street predate the requirement of the subdivision ordinance for sidewalks. We typically don't build the sidewalks with the paving district. Taylor asked Bartels about the reason or logic for the sidewalk. Bartels stated that it is a requirement of the subdivision ordinance and they could develop any use allowed by I-1 zoning.

Response by the Applicant

Onnen advised that Coddington Avenue between O and the railroad yard is a rural section the entire distance. The frontage that this applicant has only constitutes half of that on one side. If we wanted to improve Coddington on the south end to an urban section, we've got rural ditches draining into an urban street. The logical way to treat that would be to treat the entire piece from O to the railroad yard as a single district. The adjacent property owners do not support improving that roadway. In order to handle drainage it really needs to be taken care of as a package and not by just addressing the frontage along this piece of property.

Steward believes that the applicant is proposing to increase the intensity of the use of the property over what it is now through development. This subdivider also owns all of the westernmost piece of the property and it would seem that this street becomes important to the potential uses both of the smaller piece and potentially the larger piece. Steward believes the city is perfectly within its right to ask for these improvements under that increased intensity of use. Onnen understands, but the subdivider still does not control the area along Coddington between their property and "O" Street. But, Steward believes those properties may also be influenced by what this applicant is capable of doing. The potential change of use is real to the north because of what this applicant may or may not do. Onnen understood, but they would still have to be assessed in order to complete the district. That's the hurdle we're dealing with.

Steward asked whether the applicant would have a better circumstance if they did not have to do street trees and sidewalks, except on one side. Onnen agreed that would be an improvement but they would still like all of the waivers. There are other cost implications such as an overhead power line that would have to be relocated adding to the cost of the project.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 6, 2002

Steward moved to waive street trees and sidewalks on one side, keeping all other improvements in place, seconded by Newman. Cajka clarified that the subdivision ordinance only requires sidewalks and street trees on their side of Coddington. After further discussion, Steward amended his motion to waive only the street trees because he is interested in seeing the sidewalk on one side of the street. Newman, who had seconded the original motion accepted the amendment.

Schwinn inquired of staff as to how long it is before the bond is released if the city chooses not to pave the street. Cajka stated that they have two years to do the improvements. Bartels clarified that he is not in favor of paving the 300' of street in front of this applicant's property if it is not paved on to "O" Street. The bond that Public Works is requesting is for their half of the street. The standard subdivision requirement is 2 years. Bartels assumes that if a district was pursued in those two years and nothing happened, that would give reason to ask for it to be waived but they could come back and ask for a waiver at that time and get their bond released at the end of the 2 year period.

Motion to approve the waiver of street trees failed 4-2: Steward, Carlson, Taylor and Newman voting 'yes'; Bills-Strand and Schwinn voting 'no'; Duvall and Krieser absent.

Carlson moved to deny, seconded by Steward.

Carlson believes that if they are going to subdivide the property, they need to meet the standards. Motion to deny failed 4-2: Steward, Carlson, Taylor and Newman voting 'yes'; Bills-Strand and Schwinn voting 'no'; Krieser and Duvall absent.

This application is held over for administrative action on March 20, 2002. Public hearing has been closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

March 20, 2002

Members present: Newman, Taylor, Carlson, Steward, Duvall, Bills-Strand, Larson, Krieser and Schwinn.

Staff questions

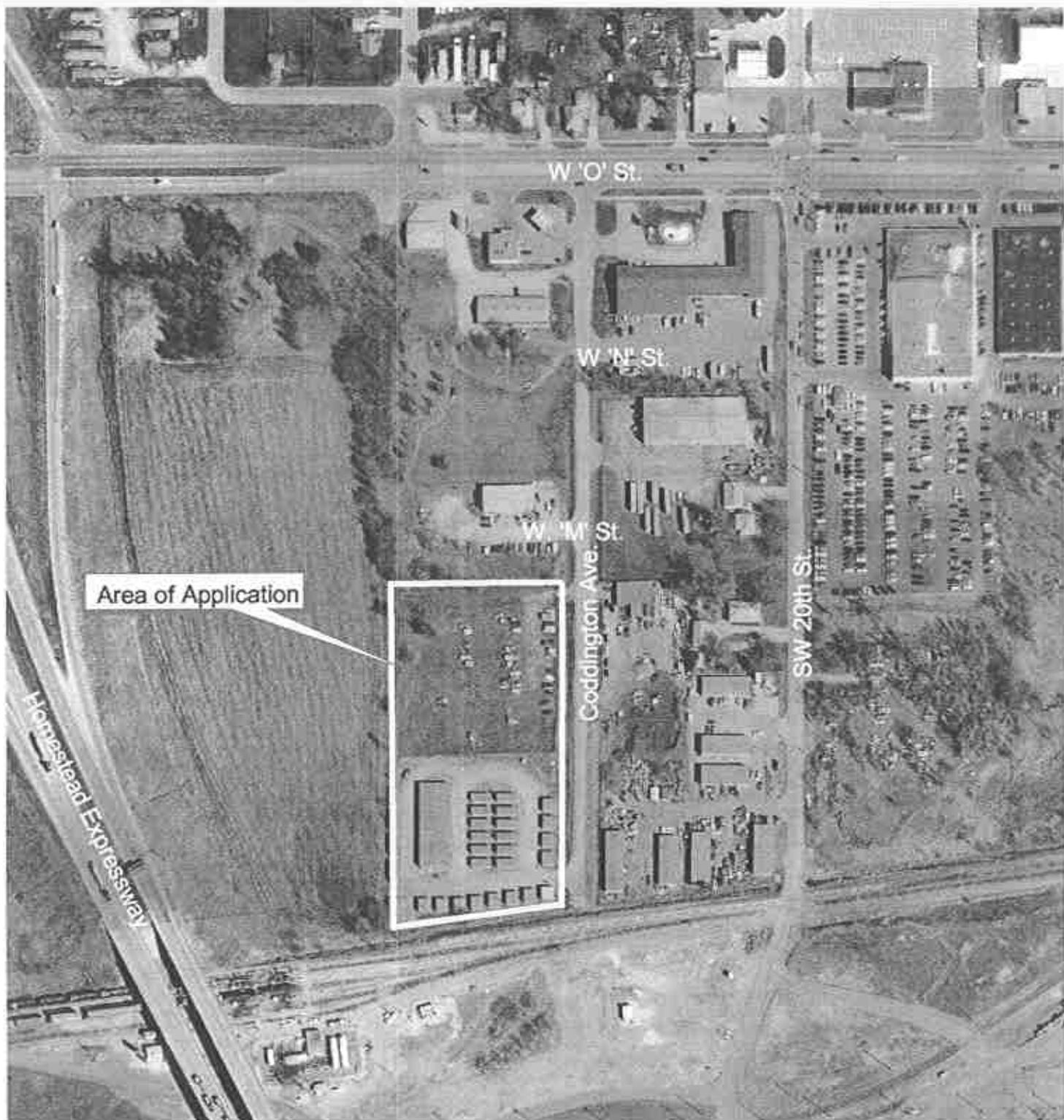
Bills-Strand wondered whether a waiver of the sidewalks and street trees at this time would negate the opportunity to do a special assessment district later when other improvements have taken place in this area when it makes more sense. Tom Cajka of Planning staff stated that there would only be an opportunity to require the improvements at a later date if the owner came back later and wanted to replat to smaller lots. Dennis Bartels of Public Works explained that there is a procedure for establishing sidewalk districts whereby we could include this property in a district and require the sidewalks to be built. If street trees are waived now, there is no mechanism to come back unless the owner resubdivides again.

Bills-Strand suggested that if land closer to Homestead Expressway is developed, possibly these improvements could be required at that time. Bartels stated that this would not be possible unless this same property is included in that future plat.

Bills-Strand thought that an agreement had been reached whereby this owner would only have to pay for paving half of the street and be responsible for only half of the sewer, with the city picking up other half. Bartels indicated that this had been discussed in terms of the bond amount, which represents half the cost of street paving. There was no agreement on the sanitary sewer.

Steward made a motion to waive street trees only, seconded by Carlson. Steward clarified that he understands from the discussion last time, that the sidewalks would be required only on one side of the street in any event. Denial of the sidewalk waiver does not force the owner to construct sidewalks on both sides of the street. This motion only waives the requirement for street trees.

Motion carried 9-0: Newman, Taylor, Carlson, Steward, Duvall, Bills-Strand, Larson, Krieser and Schwinn voting 'yes'.



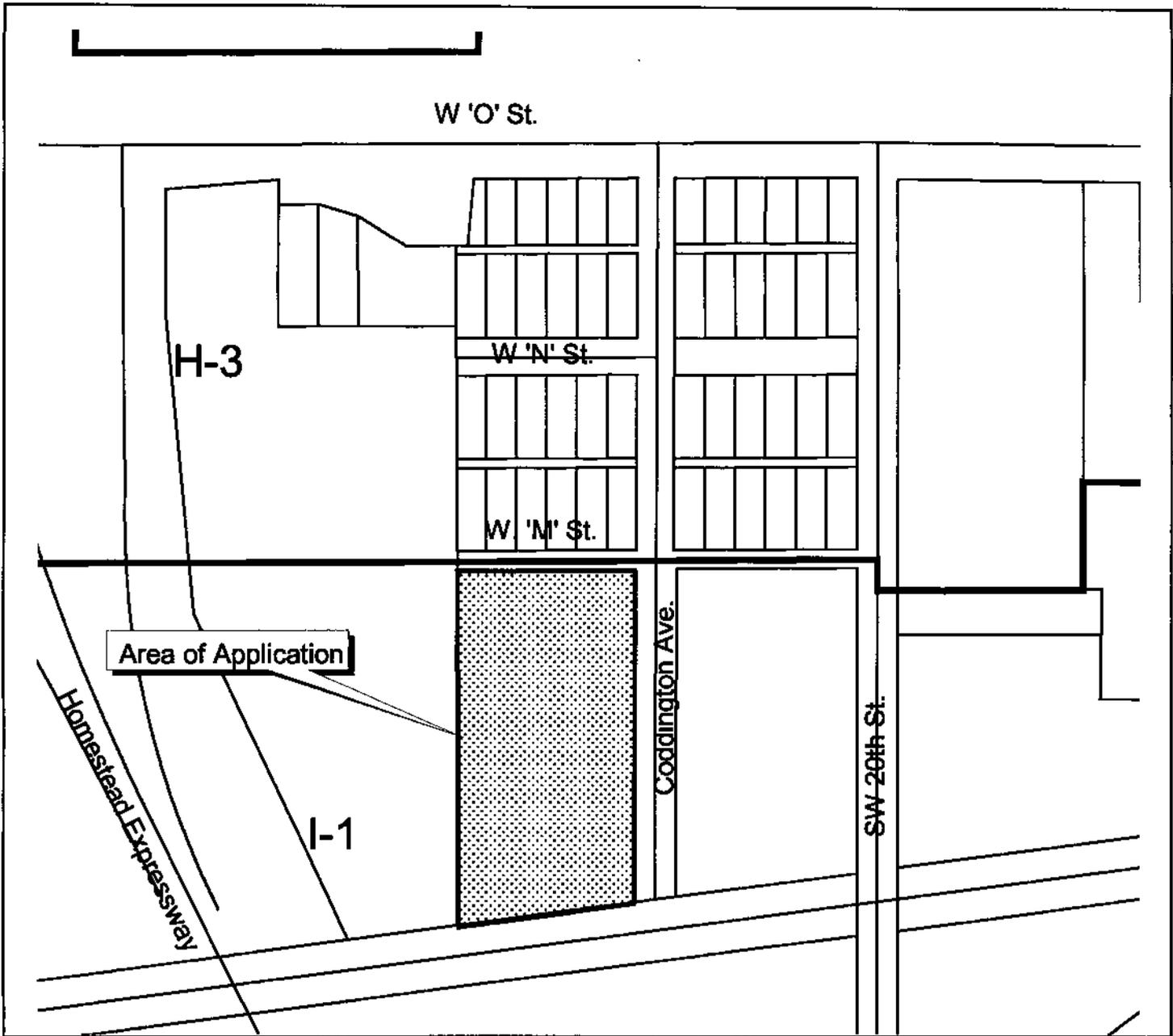
**Waiver of Design Standards #02001
S. Coddington Ave and W 'M' St.**



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Photograph Date: 1997

Lincoln City - Lancaster County Planning Dept.

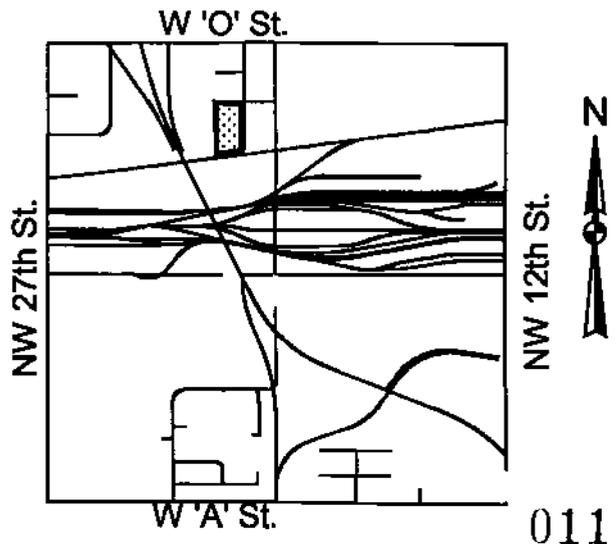
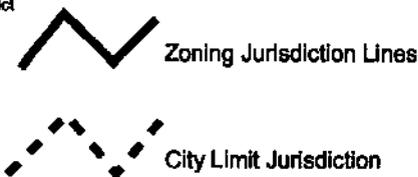


**Waiver of Design Standards #02001
S. Coddington Ave and W 'M' St.**

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. 28 T10N R6E



011

M e m o r a n d u m

JAN 15 2002

To: Tom Cajka, Planning
From: Dennis Bartels, Engineering Services
Subject: Ford Van Lanes Addition Administrative Plat
Date: January 11, 2002
cc: Roger Figard
Nicole Fleck-Tooze

Engineering Services has reviewed the administrative final plat for Ford Van Lanes Addition located west of Coddington south of "M" Street and has the following comments:

1. Water - A public water main exists in Coddington to serve the lots within this plat.
2. Sanitary Sewer - No sanitary sewer exists to serve this plat. A plan should be required to show how sanitary sewer will be provided.
3. Streets - The plan shows dedication of an additional 33' of right-of-way for West "M" Street. A grading plan and street profile is required to determine the required surety to pave West "M" Street.
4. Requested Waivers - Coddington Avenue is currently a 22' wide rural section roadway. This is substandard per the subdivision ordinance and design standards for an industrially zoned lot. A potential subdivision has been discussed for property to the west of this subdivision. This property must also take access to Coddington Avenue. The required 33' wide urban paving in 66' of right-of-way is standard and will not present a problem to construct storm sewer, sidewalks and trees per subdivision requirements. Provisions need to be made to pave Coddington from this plat north to West "O" Street. This will solve the storm sewer, drainage, and utility conflicts outlined in the letter. If this area is to develop the required urban improvements, it should be made in conjunction with development. Public Works objects to the requested waivers.



630 North Cotner Blvd., Suite 105
Lincoln, Nebraska 68505

January 3, 2002

Kathleen Sellman, Director
Lincoln City-Lancaster County Planning Department
555 South 10 Street
Lincoln, NE 68508

JAN - 3 2002

RE: Ford Van Lines Addition
Administrative Final Plat No. 98027
EDC Project No. 01-053

Dear Ms. Sellman:

On behalf of the developers, Gary and Carolyn Christensen, waivers of subdivision design standards are requested for the above referenced Administrative Final Plat. The design standards for which waivers are requested were addressed in staff comments dated April 30, 1998 and are as follows:

- Completion of street paving of South Coddington Avenue
- Installation of sidewalks along the west side of South Coddington Avenue
- Installation of storm sewer in Coddington Avenue
- Planting of street trees along Coddington Avenue

Coddington Avenue from O Street south to the Burlington Northern Railroad yard is currently a rural section roadway with 22 feet wide concrete pavement extending for this entire length. The connection to O Street serves as the only access to this area. Because the street dead ends into the railroad yard, it is unlikely that it will ever extend any further south beyond this point. Therefore, traffic carried by this street will only serve local business. The existing pavement cross-section serves adequately for the business currently located in the area.

Improving Coddington Avenue to an urban section would dictate the installation of storm sewer to convey storm water runoff rather than the existing roadside ditches. Construction of storm sewer for this section of street is impractical since the upstream section of the street is also a rural section roadway. Installation of storm sewer in Coddington Avenue will require removal of the existing pavement. Adequate right-of-way does not exist beyond existing pavement along the west side of the street to accommodate construction of sanitary and storm sewer while maintaining required pipe separation. Similarly, right-of-way beyond the existing pavement on the east side of the street is not adequate to accommodate construction of storm sewer and maintain required separation from the existing water main.

The nature of the land use in this area does not generate high volumes of pedestrian traffic; and, the rural cross section of Coddington Avenue does not provide an effective location for installation of sidewalks. Sidewalk located between the pavement and the ditch create a potential hazard by placing pedestrians close to vehicular traffic with no physical barrier between them. It also causes difficulties in regards to snow removal. Placement of the sidewalk behind the ditch requires substantially reducing the size of the ditch, or acquiring a pedestrian easement outside of the city right-of-way. Setbacks in the existing I-3 zoning are not conducive to pedestrian easements. Many of the existing business located along this section of street have fences locate on or near the right-of-way.

This section of Coddington Avenue does not currently have street trees. As with sidewalks, the rural section roadway does not provide proper space for planting of trees. Trees would have to be located in the ditch, which impedes the flow of storm water and increases the potential for disease or damage to the trees.

Please schedule these waiver requests for consideration at the next possible Planning Commission meeting.

If you have any questions or require additional information, please contact me.

Regards,



Rick Onnen, E.I.T.

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