

FACTSHEET

TITLE: WAIVER OF DESIGN STANDARDS NO. 02020, requested by Olsson Associates on behalf of Carl J. Sjulín and West Gate Bank, to waive the requirement for a turnaround on dead-end streets, pursuant to § 26.23.080 of the Land Subdivision Ordinance, on property generally located at Old Cheney Road and Nebraska Highway 2.

STAFF RECOMMENDATION: Denial.

ASSOCIATED REQUESTS: Street Vacation No. 01024(02-164); Change of Zone No. 3375 (02-170); and Use Permit No. 146 (02R-277).

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 10/16/02
Administrative Action: 10/16/02

RECOMMENDATION: Approval (5-4: Bills-Strand, Krieser, Larson, Duvall and Schwinn voting 'yes'; Steward, Carlson, Newman and Taylor voting 'no').

FINDINGS OF FACT:

1. This waiver of design standards is associated with Street Vacation No. 01024, Change of Zone No. 3375 and Use Permit No. 146. The street vacation and waiver of design standards had public hearing before the Planning Commission on October 16, 2002. The change of zone and use permit had public hearing before the Planning Commission on September 18 and October 2, 2002.
2. The staff recommendation to **deny** this waiver request is based on the "Analysis" as set forth on p.3-4, concluding that this waiver request is a result of a street vacation and administrative final plat. The intent was for Wagon Lane to continue to the west when that area developed, but due to the street vacation and final plat, this is no longer a viable option. Since the developer, West Gate Bank, is creating the need for a cul-de-sac, the cul-de-sac should be required as part of the street vacation and final plat. The Public Works Department does not support this waiver.
3. The applicant's testimony is found on p.5-6.
4. There was no testimony in opposition.
5. The Planning Commission discussion with staff is found on p.6-7.
6. On October 16, 2002, a motion to deny this waiver request failed 4-5 (Steward, Carlson, Newman and Taylor voting 'yes'; Bills-Strand, Krieser, Larson, Duvall and Schwinn voting 'no').
7. On October 16, 2002, the Planning Commission voted 5-4 to approve this waiver request (Steward, Carlson, Newman and Taylor dissenting). See Minutes, p.7.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: October 29, 2002

REVIEWED BY: _____

DATE: October 29, 2002

REFERENCE NUMBER: FS\CC\2002\WDS.02020

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

P.A.S.: Waiver of Design Standards #02020

DATE: October 1, 2002

SCHEDULED PLANNING COMMISSION

October 16, 2002

PROPOSAL: Waive the requirement for a turnaround on dead-end streets (Sec. 26.23.080) associated with Street and Alley Vacation #01024 and Administrative Final Plat #02053.

CONCLUSION: This waiver request is a result of a street vacation and administrative final plat. The intent was for Wagon Lane to continue to the west when that area developed, but due to the street vacation and final plat this is no longer a viable option. Since the developers, West Gate Bank, are creating the need for a cul-de-sac, the cul-de-sac should be required as part of street vacation and final plat.

Public Works Department does not support the waiver.

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

LEGAL DESCRIPTION: See attached

LOCATION: Old Cheney Rd. and NE Highway 2.

APPLICANT: Carl J. Sjulín
1204 West "O" St.
Lincoln, NE 68528

OWNER: Carl J. Sjulín, David H. Sjulín, Kathryn Sjulín Lonowski
c/o West Gate Bank
1204 West "O" St.
Lincoln, NE 68528

CONTACT: Steve Miller
Olsson Associates
1111 Lincoln Mall
Lincoln, NE 68508

EXISTING ZONING: AGR- Agriculture Residential

EXISTING LAND USE: Single family residential

SURROUNDING LAND USE AND ZONING:

North:	AGR Agricultural Residential	vacant
	R-1 Residential	vacant
South:	AGR Agricultural Residential	vacant
East:	AGR Agricultural Residential	Acreage development
West:	AGR Agricultural Residential	vacant

HISTORY:

October 1, 2002 West Gate Bank requested that Street & Alley Vacation #01024 be returned to Planning Commission for reconsideration.

August 8, 2002 Administrative Final Plat #02053, West Gate Bank Addition was submitted. The plat combines Lots 157 I.T., 130 I.T., 46 I.T., Outlot B and Outlot C into one lot.

January 23, 2002 Street & Alley Vacation #01024 vacating a portion of Wagon Lane was approved with conditions by Planning Commission.

December 14, 1970 City Council approved the Frontier Acres final plat.

TRAFFIC ANALYSIS: Wagon Lane Rd is classified as a local street

ANALYSIS:

1. This request is to waive the requirement for a turn-around on dead-end streets. (Sec. 26.23.080)
2. Street & Alley Vacation #01024 was approved by Planning Commission on January 23, 2002 with a condition that a final plat be submitted and all requirements of a final plat be completed before the street vacation could be scheduled for City Council, which requires a permanent turn-around.
3. The final plat of Frontier Acres shows Wagon Lane terminating as a dead-end street with no turn-around. The intent was to extend Wagon Lane to the west into the adjoining property.
4. Ordinance #10087 relating to Frontier Acres final plat states, "That the owners agree that the property abutting Wagon Lane to the west of S. 62nd Street not be resubdivided until Wagon lane is extended to the west or terminated in a temporary cul-de-sac."
5. Public Works Department states that the termination of Wagon Lane as a dead-end street with no turn-around is unsatisfactory.

6. Although Wagon Lane is not constructed, it is a dedicated public street and the subdivision ordinance requires that a turn-around be constructed on dead-end streets. The requested street vacation and final plat is creating this dead-end street.
7. If this waiver is approved, the cost of constructing a cul-de-sac in the future for Wagon Lane would be imposed on the property owners to the east.
8. An alternative to the waiver request, would be to vacate Wagon Lane to S. 62nd Street. This would negate the need for a turn-around and the waiver request. This option has been presented to the applicant by the Planning Department.

Prepared by:

Tom Cajka
Planner

**WAIVER OF DESIGN STANDARDS NO. 02020
and
STREET VACATION NO. 01024**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 16, 2002

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

Staff recommendation: Denial of Waiver of Design Standards No. 02020, and a finding of conformance with the Comprehensive Plan on Street Vacation No. 01024, with conditions of approval.

Proponents

1. Steve Miller of Olsson Associates presented the applications, which is tied to the proposed West Gate Bank headquarters building which the Planning Commission recommended for approval at the last meeting. The street vacation is needed to complete the final plat to put all the property together and proceed on to the City Council.

Miller believes the waiver of the turnaround requirement is justified due to the existing conditions in the area. The existing conditions are that Wagon Lane has not yet been constructed even though designated as a right-of-way, and it has been in this condition for over 20 years. So. 62nd Street provides the only street connection to Wagon Lane and is a gravel driveway which serves two residential properties. So. 62nd Street is also gated on the south end and does not proceed any further south. Miller indicated that he had spoken with Kay Olson who lives on the south lot, 6101 Wagon Lane, and she has indicated that the property owners are responsible for maintaining So. 62nd Street, providing their own snow removal and the rock and gravel when that street is needed to be upgraded.

Miller acknowledged that the staff did offer one alternative; that is, to request the vacation of the entire Wagon Lane up to 62nd Street. This alternative was raised by staff on the condition that the applicant approach the property owners to discuss the vacation. West Gate Bank declined to do so. However, Miller did speak with Mrs. Olson and she indicated she would not be in favor because her address is off of Wagon Lane and it would be an inconvenience. She has lived in that house for over 20 years.

Miller respectfully requested approval of the waiver so that West Gate Bank can proceed with this signature building and development at this site.

Steward recalled the previous hearings on this issue and believes that at that time the indication was that West Gate Bank should work out something with the property owners. Did West Gate Bank decline to approach the property owners? Miller indicated that he was instructed by West Gate Bank

not to approach the property owners; however, he did talk with Mrs. Olson, who has indicated she is not interested in that vacation. Only one of the property owners was contacted. There was no testimony in opposition.

Staff questions

Steward confirmed with staff that the properties east of 62nd Street are acreages. Tom Cajka of Planning staff concurred. Steward further commented that this is one of the areas where there has been considerable discussion about urbanizing and the build-through conditions. Ray Hill of Planning staff indicated that the Hawkswood Estates subdivision is located several hundred feet to the east where there were several acreage owners that went together to lay out a street pattern and lot arrangements to subdivide their larger lots down to a more urban size project, but it did not include this land nor the land immediately east of 62nd Street.

Steward inquired whether there is an impact to this particular street in question (Wagon Lane) and 62nd Street? Is there potential future traffic relationships that we should take into account? Dennis Bartels of Public Works stated that the reason he made the recommendation that the turnaround should be addressed now is because the existing right-of-way extends into this West Gate Bank project. If it would have stayed as a residential use, the street would have been required to be extended into West Gate Bank and a cul-de-sac created. When it comes to subdivision of this property, the responsibility for meeting the subdivision standards and dedicating the right-of-way will fall on the two residential properties on Wagon Lane. They could vacate the whole street if both parties were willing, or it could be shortened with a cul-de-sac built half-way between the two. If one side wants to subdivide and the other does not, then the requirement could fall on one property owner. He did not believe it was fair to place the responsibility on the two east property owners because they were not parties to this vacation.

Bartels also clarified that 62nd Street and Wagon Lane are in the city limits now and could be served with sewer and water today, so he does not believe the build-through requirements being discussed really apply to this area.

Carlson sought confirmation that the staff recommendation seeks to avoid shifting the Bank's burden onto the two property owners. The question is: Do we know if the two property owners care? He is concerned that the bank has not talked with both of them. Cajka indicated that they would have received notice of this public hearing from the Planning Department. But Carlson does not believe the staff report indicates that those two property owners have any responsibility.

Bartels further clarified that Wagon Lane is not improved. He is not necessarily asking that a turnaround be constructed with this project. His concern is that the right-of-way issue be taken care of. He is not in favor of a dead-end street with no provisions for turnaround because it can be subdivided.

Bills-Strand referred to the map on p.75 of the agenda. If subdivision were to occur off Wagon Lane with a cul-de-sac, wouldn't the smartest way be to move the cul-de-sac more to the east to have lots

off the west side of the cul-de-sac? Bartels agreed. If both property owners were subdividing at the same time, that would be the smartest thing to do. But if they do not both want to subdivide, then the one property owner may be forced to put in the cul-de-sac, dedicating the right-of-way off his side and dedicating the entire length. Bills suggested that even if West Gate Bank was there and was participating, and the property owner to the north did not want to subdivide, that is still going to be the case and the majority of the cul-de-sac would come off the south property line. Bartels suggested that the entire cul-de-sac could have been dedicated on the West Gate Bank property. By vacating, it shifts the responsibility to those two property owners and there are ways that it could be taken care of, but he has not heard that those property owners have been contacted.

Public hearing was closed.

WAIVER OF DESIGN STANDARDS NO. 02020

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 16, 2002

Steward moved to deny, seconded by Taylor.

Steward thinks this is an action created by a developer without due regard to the city's requirements or the appreciation of the difficult position in which it puts the other two property owners. He believes there is more than one solution. If design proximity of a potential on-bank property is a consideration, they could purchase the right-of-way from the other two property owners and settle it in another way. It is being created by the Bank's action and he believes they need to solve it.

Schwinn will vote against the motion. He believes this would be an exercise in futility to make any efforts to decide now what the two property owners want to do in the future. If they cared, they would be here to say something.

Motion to deny failed 4-5: Steward, Carlson, Newman and Taylor voting 'yes'; Bills-Strand, Krieser, Larson, Duvall and Schwinn voting 'no'.

Duvall moved approval, seconded by Larson and carried 5-4: Bills-Strand, Krieser, Larson, Duvall and Schwinn voting 'yes'; Steward, Carlson, Newman and Taylor voting 'no'.

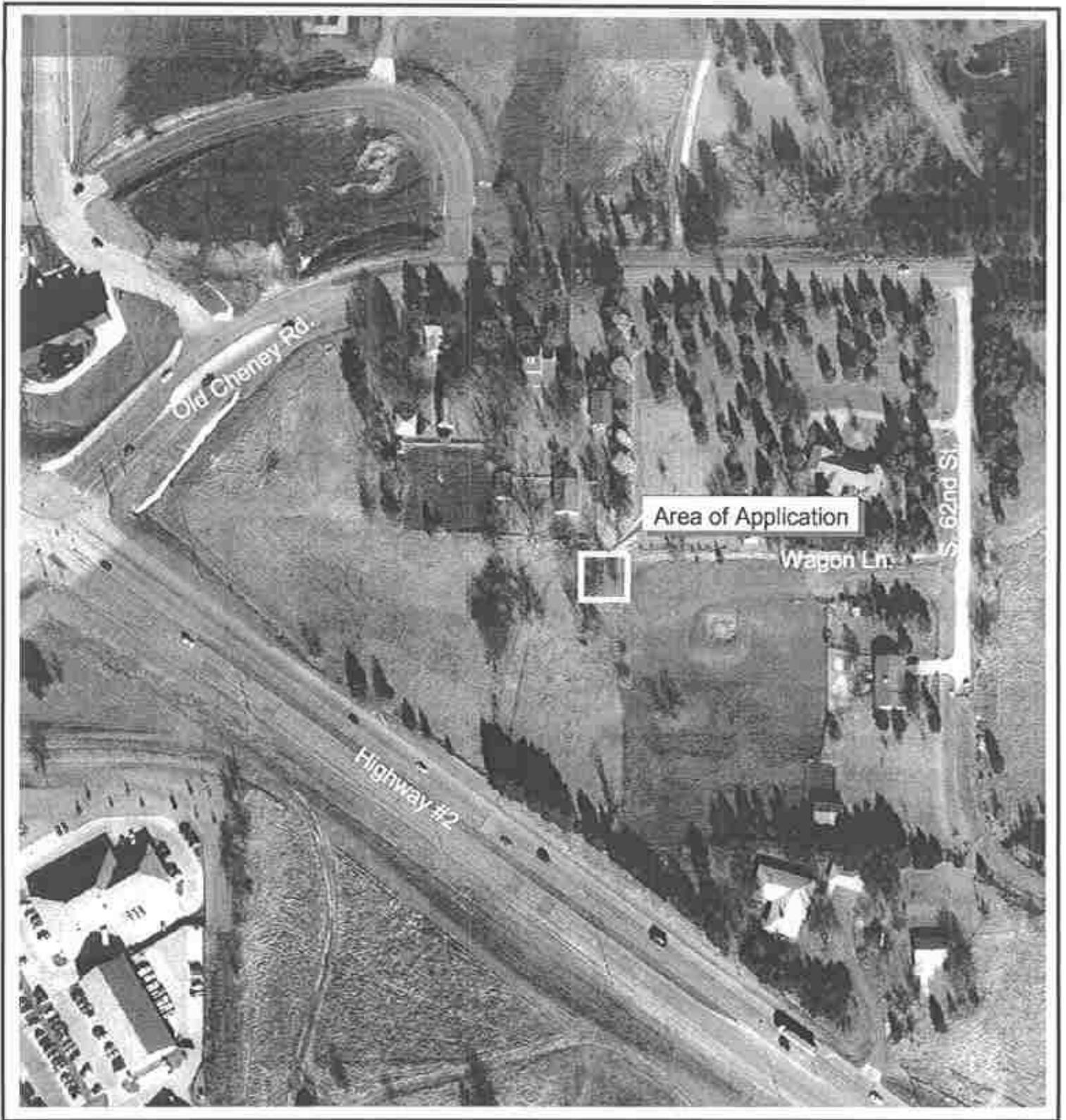
STREET VACATION NO. 01024

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

October 16, 2002

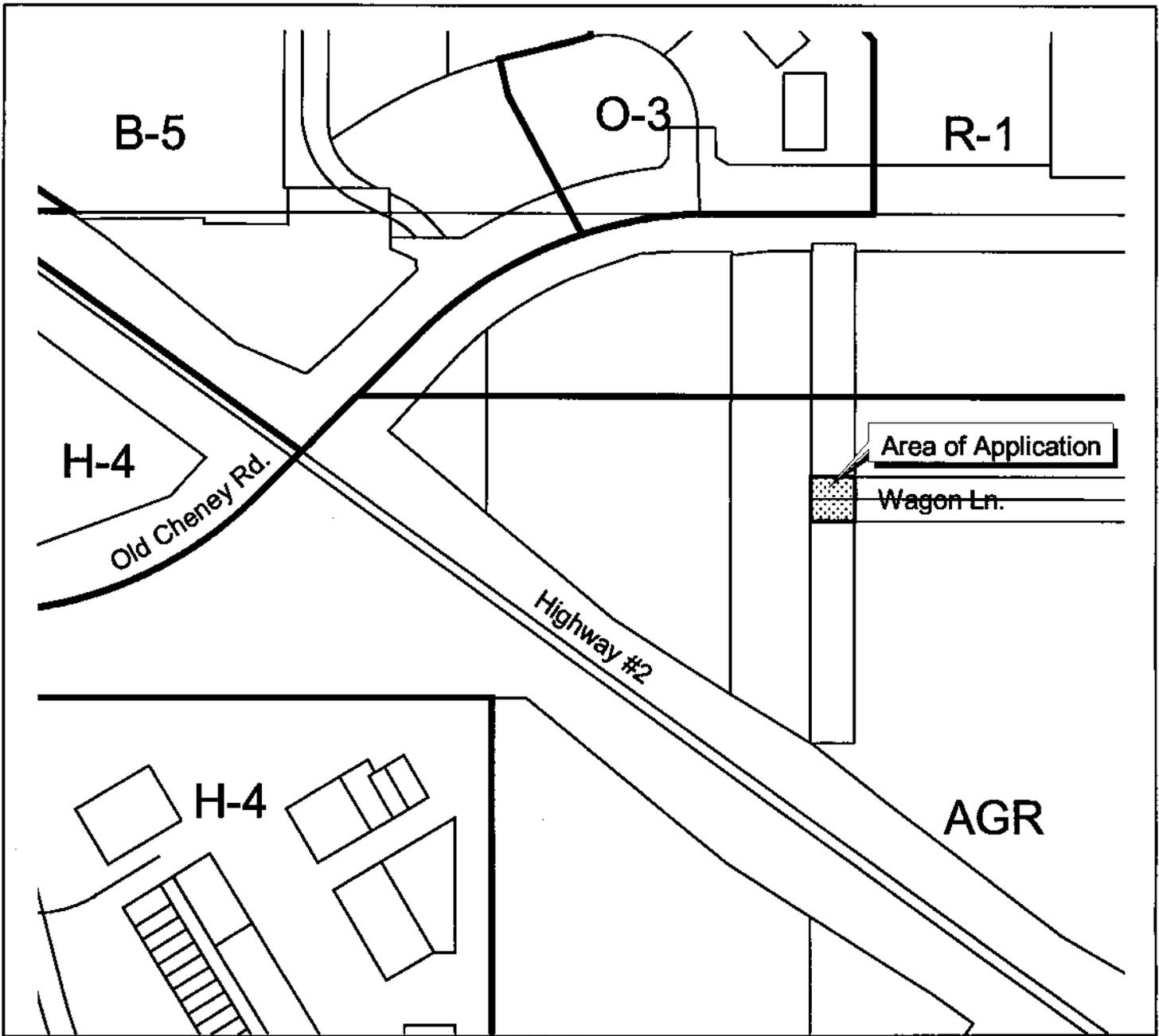
Tom Cajka of Planning staff advised that approval of Waiver of Design Standards No. 02020 would change the conditions of approval on this street vacation. Condition #1.2 should be deleted and Condition #1.3 should be amended to add language that all conditions of the final plat must be met except for the turnaround on a dead-end street.

Duvall moved a finding of conformance with the Comprehensive Plan, with amendments to the conditions as set forth above, seconded by Larson and carried 5-4: Bills-Strand, Krieser, Larson, Duvall and Schwinn voting 'yes'; Steward, Carlson, Newman and Taylor voting 'no'.



**Waiver of Design Standards #02020
S. 61st & Old Cheney Rd.
West Gate Bank**



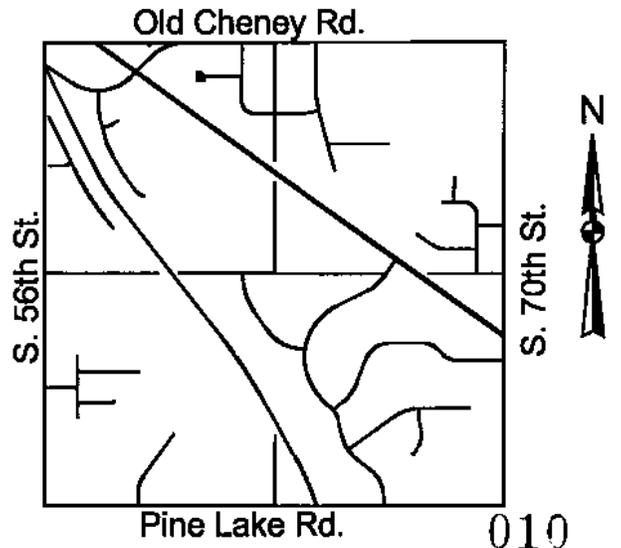
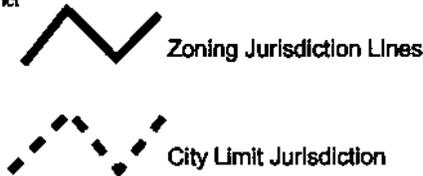


Waiver of Design Standards #02020
S. 61st & Old Cheney Rd.
West Gate Bank

Zoning:

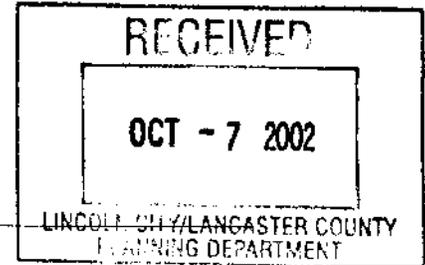
- R-1 to R-8 Residential District
- A0 Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned 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. 16 T9N R7E



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M e m o r a n d u m



To: Tom Cajka, Planning

From: Dennis Bartels, Public Works and Utilities

Subject: Waiver of Subdivision Requirements, West Gate Bank

Date: October 2, 2002

cc: Randy Hoskins
Nicole Fleck-Tooze

Engineering Services has reviewed the request to waive the subdivision requirement for waiver of the turn-around at the west end of Wagon Train Lane with the West Gate Bank center plat at Old Cheney and Highway 2 and has the following comments:

1. Waiving the requirement to provide a turn-around with this plat will force the property owners to the east to dedicate their property to accommodate the turn-around. These 2 property owners are not party to this plat and are likely not aware of this potential liability.
2. Dead-ending Wagon Train Lane and extending it into the West Gate Bank plat is not desirable given the proposed zoning and land use. Public Works however objects to this waiver if the liability for dedication of the requirement turn-around is imposed upon the abutting property owners without their consent and with no liability from this plat.



OLSSON ASSOCIATES
ENGINEERS • PLANNERS • SCIENTISTS • SURVEYORS

September 16, 2002

Marvin Krout
Planning Director
City-County Planning Department
555 South 10th Street
Lincoln, NE 68508

RE: West Gate Bank, Application for Waiver of Design Standards,
OA Project No. 2002.0690

Dear Mr. Krout,

Enclosed please find the following documents for the above referenced project:

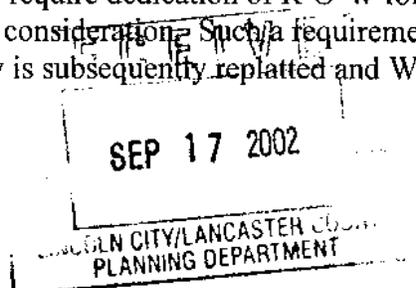
1. City of Lincoln Zoning Application; "Waiver of Design Standards"
2. Filing fee for "Waiver of Design Standards"; \$100
3. Certificate of Ownership
4. Legal Description-Use Permit Exhibit; 21 copies
5. Staff Memorandum dated August 28, 2002

On behalf of the Owners, Carl J. Sjulín, David H. Sjulín, and Kathryn Sjulín Lonowski, we are requesting a "Waiver of Design Standards" requiring a standard turn-around, as required by Public Works, as a condition of our request to vacate the Wagon Lane Right-Of-Way (R-O-W). Currently, the R-O-W for Wagon Lane terminates at the east edge of the site under consideration and Wagon Lane has not been built. The Wagon Lane R-O-W is located on two occupied, acreage lots with existing access to South 62nd Street.

We request the "Waiver of Design Standards" based on the following rationale:

1. Wagon Lane is not built
2. Wagon Lane R-O-W terminates at the west on the site under consideration for the proposed West Gate Bank building and, as a result, will not be constructed unless the land abutting it is replatted, and
3. The property abutting the Wagon Lane R-O-W has existing access onto South 62nd Street.

We offer that an alternative solution may be to require dedication of R-O-W for a turn-around on the land to the east of the site under consideration. Such a requirement would ensure an adequate turn-around if this property is subsequently replatted and Wagon Lane is constructed.

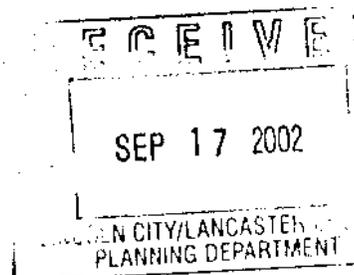


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Thank you for your careful consideration of this request. Please contact me if you have any questions or need additional information.

Sincerely,

Steve Miller
Steve Miller, AICP
Olsson Associates



**LEGAL DESCRIPTION
USE PERMIT**

A LEGAL DESCRIPTION FOR A TRACT OF LAND COMPOSED OF A PORTION OF WAGON LANE RIGHT-OF-WAY TO BE VACATED, OUTLOT "C" FRONTIER ACRES, THE REMAINING PORTION OF OUTLOT "B" FRONTIER ACRES, THE REMAINING PORTION OF LOT 46 I.T., AND LOTS 130 I.T., AND 157 I.T., ALL LOCATED IN THE NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6TH P.M., CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE REMAINING PORTION OF OUTLOT "B" FRONTIER ACRES, SAID POINT BEING 50.00 FEET SOUTH OF THE NORTH LINE OF SAID THE NORTHWEST QUARTER OF SECTION 16, SAID POINT BEING **THE TRUE POINT OF BEGINNING**, THENCE ON AN ASSUMED BEARING OF SOUTH 00 DEGREES 04 MINUTES 08 SECONDS WEST ALONG THE EAST LINE OF THE REMAINING PORTION OF SAID OUTLOT OUTLOT "B", THE EAST LINE OF A PORTION OF WAGON LANE RIGHT-OF-WAY TO BE VACATED, AND THE EAST LINE OF OUTLOT "C" FRONTIER ACRES, A DISTANCE OF 673.89 FEET TO THE SOUTHEAST CORNER OF SAID OUTLOT "C", THENCE SOUTH 89 DEGREES 55 MINUTES 26 SECONDS WEST ALONG THE SOUTH LINE OF SAID OUTLOT "C", A DISTANCE OF 60.20 FEET TO THE SOUTHWEST CORNER OF SAID OUTLOT "C", SAID POINT BEING THE SOUTHEAST CORNER OF THE REMAINING PORTION OF LOT 46 I.T., THENCE NORTH 59 DEGREES 00 MINUTES 59 SECONDS WEST ALONG THE SOUTH LINE OF SAID REMAINING PORTION OF LOT 46 I.T., SAID LINE BEING THE NORTH LINE OF NEBRASKA HIGHWAY NUMBER 2 RIGHT-OF-WAY, A DISTANCE OF 128.34 FEET TO THE SOUTHWEST CORNER OF SAID REMAINING PORTION OF LOT 46 I.T., SAID POINT BEING THE SOUTHEAST CORNER OF LOT 130 I.T., THENCE NORTH 55 DEGREES 52 MINUTES 26 SECONDS WEST ALONG A SOUTH LINE OF SAID LOT 130 I.T., SAID LINE BEING THE NORTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 192.25 FEET TO A SOUTH CORNER OF SAID LOT 130 I.T., THENCE NORTH 48 DEGREES 51 MINUTES 49 SECONDS WEST ALONG A SOUTH LINE OF SAID LOT 130 I.T., AND THE SOUTH LINE OF LOT 157 I.T., SAID LINE BEING THE NORTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 401.95 FEET TO THE WEST CORNER OF SAID LOT 157 I.T., THENCE NORTH 38 DEGREES 25 MINUTES 22 SECONDS EAST ALONG A NORTHWEST LINE OF SAID LOT 157 I.T., SAID LINE BEING A SOUTHEAST LINE OF OLD CHENEY ROAD RIGHT-OF-WAY, A DISTANCE OF 108.15 FEET TO A NORTHWEST CORNER OF SAID LOT 157 I.T., THENCE ALONG A CURVE IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 522.96 FEET, ARC LENGTH OF 216.38 FEET, DELTA ANGLE OF 23 DEGREES 42 MINUTES 24 SECONDS, A CHORD BEARING OF NORTH 57 DEGREES 11 MINUTES 58 SECONDS EAST ALONG A NORTHWEST LINE OF SAID LOT 157 I.T., AND

AUG 22 2002

CITY OF LANCASTER, NEBRASKA
PLANNING DEPARTMENT

A NORTHWEST LINE OF LOT 130 I.T., SAID LINE BEING A SOUTHEAST LINE OF SAID RIGHT-OF-WAY, AND A CHORD LENGTH OF 214.84 FEET TO A NORTH CORNER OF SAID LOT 130 I.T., THENCE NORTH 75 DEGREES 43 MINUTES 38 SECONDS EAST ALONG A NORTH LINE OF SAID LOT 130 I.T., SAID LINE BEING A SOUTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 41.11 FEET TO A NORTH CORNER OF SAID LOT 130 I.T., THENCE NORTH 75 DEGREES 40 MINUTES 13 SECONDS EAST ALONG A NORTH LINE OF SAID LOT 130 I.T., SAID LINE BEING A SOUTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 35.42 FEET TO A NORTH CORNER OF SAID LOT 130 I.T., THENCE NORTH 70 DEGREES 30 MINUTES 00 SECONDS EAST ALONG A NORTH LINE OF SAID LOT 130 I.T., SAID LINE BEING A SOUTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 16.05 FEET TO A NORTH CORNER OF SAID LOT 130 I.T., THENCE NORTH 85 DEGREES 27 MINUTES 00 SECONDS EAST ALONG A NORTH LINE OF SAID LOT 130 I.T., SAID LINE BEING A SOUTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 45.03 FEET TO A NORTH CORNER OF SAID LOT 130 I.T., THENCE NORTH 89 DEGREES 31 MINUTES 04 SECONDS EAST ALONG A NORTH LINE OF SAID LOT 130 I.T., SAID LINE BEING A SOUTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 80.36 FEET TO THE NORTHEAST CORNER OF SAID LOT 130 I.T., SAID POINT BEING THE NORTHWEST CORNER OF THE REMAINING PORTION OF LOT 46 I.T., THENCE NORTH 83 DEGREES 13 MINUTES 39 SECONDS EAST ALONG A NORTH LINE OF SAID REMAINING PORTION OF LOT 46 I.T., SAID LINE BEING A SOUTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 50.85 FEET TO A NORTH CORNER OF SAID REMAINING PORTION OF LOT 46 I.T., THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE NORTH LINE OF SAID REMAINING PORTION OF LOT 46 I.T., AND THE NORTH LINE OF THE REMAINING PORTION OF OUTLOT "B" FRONTIER ACRES, SAID LINE BEING THE SOUTH LINE OF SAID RIGHT-OF-WAY, SAID LINE ALSO BEING 50.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 120.07 FEET TO THE POINT OF BEGINNING, SAID TRACT CONTAINS A CALCULATED AREA OF 279,651.45 SQUARE FEET OR 6.42 ACRES, MORE OR LESS.

JUNE 25, 2002 (4:24PM)

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JUN 27 2002
COUNTY ENGINEER
PLANNING DEPARTMENT