

FACTSHEET

TITLE: **STREET VACATION NO. 03013**, requested by the Nebraska Conference Association of Seventh Day Adventists, to vacate South 49th Street between Prescott Avenue and Lowell Avenue, and the west 50' of the alley east of South 49th Street between Prescott Avenue and Lowell Avenue.

STAFF RECOMMENDATION: A finding of conformance with the Comprehensive Plan.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 10/29/03
Administrative Action: 10/29/03

RECOMMENDATION: A finding of conformance with the Comprehensive Plan (7-0: Krieser, Taylor, Marvin, Duvall, Carlson, Larson and Steward voting 'yes'; Bills-Strand absent).

FINDINGS OF FACT:

1. This is a request to vacate South 49th Street between Prescott and Lowell Avenues, and the west 50' of the alley east of South 49th Street between Prescott and Lowell Avenues for the purpose of possible building and parking lot expansion.
2. The staff recommendation to find the proposed street vacation to be in conformance with the Comprehensive Plan is based upon the "Analysis" as set forth on p.3-4, concluding that the vacation of the street and alley conform to the zoning ordinance and the Comprehensive Plan, provided the necessary public easements are retained.
3. The applicant's testimony is found on p.5, indicating that the purpose of the vacation is to expand the College View church facility and increase on-site parking.
4. Testimony in opposition by the owner of the five-plex at 4919 Prescott is found on p.6. She is opposed to closing the access from 49th Street as it would cause unnecessary hardship for her tenants. It was explained by staff that Condition #1.2 requires that the applicant provide a public access easement so that the use of the west end of the alley would remain unchanged.
5. On October 29, 2003, the Planning Commission agreed with the staff recommendation and voted 7-0 to find the proposed street and alley vacation to be in conformance with the Comprehensive Plan.
6. The City Real Estate Division has assessed a total value for the area to be vacated at \$42,000.00, as set forth on p.10.
7. The City Clerk has determined that the provisions of Chapter 14.20 of the Lincoln Municipal Code have been satisfied.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: July 1, 2004

REVIEWED BY: _____

DATE: July 1, 2004

REFERENCE NUMBER: FS\CC\2004\SAV.03013

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for October 29, 2003 PLANNING COMMISSION MEETING

- P.A.S.:** Street and Alley Vacation #03013
- PROPOSAL:** Vacate South 49th Street between Prescott and Lowell Avenues, and the west 50' of the alley east of South 49th Street between Prescott and Lowell Avenues.
- LOCATION:** South 49th Street, between Prescott and Lowell Avenues.
- LAND AREA:** 21,275 square feet, or 0.49 acres, more or less.
- CONCLUSION:** The vacation of this street and alley conform to the Comprehensive Plan and Zoning Ordinance provided necessary public easements are retained.

RECOMMENDATION:	Conforms to the Comprehensive Plan
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GENERAL INFORMATION:

LEGAL DESCRIPTION:

South 49th Street from the north right-of-way line of Lowell Avenue to the south right-of-way line of Prescott Avenue, and the west 50' of the east-west alley between Prescott and Lowell Avenues, from South 49th to South 51st Streets, located in the southeast 1/4 of Section 5 T9N R7E, Lancaster County, Nebraska.

SURROUNDING LAND USE AND ZONING:

North:	Union College campus	R-6 Residential
South:	Single-family dwellings	R-4 Residential
East:	Single-family dwellings	R-4 Residential
West:	College View Seventh-Day Adventist Church	R-4 Residential, & B-3 Commercial

HISTORY:

Sept 1998 Special Permit #1742 was approved by the Planning Commission granting Seventh-Day Adventist Church (Applicant) authority to construct a 48-stall parking lot in the R-4 Residential zoning district and located across South 49th Street from the church.

COMPREHENSIVE PLAN SPECIFICATIONS:

The 2025 Land Use Plan shows the entire area of this vacation as Urban Residential. (F 25)

TRAFFIC ANALYSIS:

The Comprehensive Plan shows South 49th Street, and Prescott and Lowell Avenues are Local

Streets, both now and in the future. (E49, F103) All three of these streets provide access to the adjacent neighborhood and to South 48th Street, which is a Minor Arterial. Based upon the attached aerial photograph, this one-block portion of South 49th provides access to and on-street parking for the church. South 49th Street dead ends at Prescott Avenue.

ALTERNATIVE USES:

The area within this vacation could be divided into two lots, one fronting on Prescott Avenue and one on Lowell Avenue. The lot facing Lowell Avenue is zoned R-4 Residential and meets the minimum lot area for a single-family dwelling. The lot facing Prescott Avenue is zoned B-3 Commercial on the west half, and R-6 Residential on the east. This lot, if zoned entirely one way or the other, meets the minimum lot area for a commercial use in the B-3 district, as well as a single-family, two-family, or multiple-family, or townhouse in the R-6 district.

ANALYSIS:

1. This is a request to vacate South 49th Street between Prescott and Lowell Avenues, and the west 50' of the alley east of South 49th Street between Prescott and Lowell Avenues.
2. Applicant intends to purchase this property if vacated, and use it for possible building and parking lot expansion.
3. The vacation of this street and alley will not create lots without frontage or access to a public street, nor will it create a block length that exceeds 1000'.
4. The vacation of the alley portion will eliminate existing alley access to one residential property, and will create a dead-end alley. A dead-end alley should be avoided. Applicant should provide a public access easement from the west end of the remaining alley north to Prescott Avenue or south to Lowell Avenue.
5. There are five mature street trees in the 49th Street right-of-way that would be lost if this vacation is approved. Also, it appears 49th Street will be closed between Lowell and Prescott Avenues. If so, the Parks and Recreation Department will require street trees to be installed along Lowell and Prescott Avenues pursuant to City Design Standards. Applicant should post a bond to guarantee the installation of the trees. At this time, a bond amount has not been determined by the Parks and Recreation Department, but should be established prior to the October 29 meeting.
6. If this property is vacated and purchased by the church, their parcel size would increase and include the lot on which they have a special permit for a parking lot. Since their parking areas would then be located within the limits of their parcel, the special permit would no longer be needed. Special Permit #1742 should be rescinded.
7. If this property is vacated, it could be subdivided and used as allowed in the R-4, R-6, and B-3 zoning districts. The value of this property should reflect this.
8. Alltel and LES have existing facilities within the area of this vacation, and have requested easements for these facilities.

9. LES must be contacted if this right-of-way is vacated so they can remove one street light. Also, any relocation of existing facilities will be at owner's expense.
10. Upon approval of this request, Applicants should be required to remove the existing street returns at both 9th and 10th Streets, at an estimated cost of \$9,000. Applicant should post a bond to guarantee this work.

**BEFORE THE VACATION REQUEST IS SCHEDULED ON THE CITY COUNCIL AGENDA
THE FOLLOWING MUST BE COMPLETED:**

- 1.1 The provisions of Chapter 14.20 of the Lincoln Municipal Code are met.
- 1.2 Provide a public access easement to maintain the use of the alley for pedestrian and vehicular traffic.
- 1.3 Provide permanent easements to the satisfaction of Alltel and LES for existing and future public facilities.
- 1.4 Post a bond, in an amount to be determined by the Parks and Recreation Department, to guarantee the installation of street trees along Lowell and Prescott Avenues.
- 1.5 Post a bond in the amount of \$9,000 to guarantee the removal of the street returns at Lowell and Prescott Avenues.
- 1.6 Contact LES to schedule removal of the street light.
- 1.7 Submit a request to rescind Special Permit #1742 to the Planning Department.

Prepared by:

Greg Czaplewski
Planner

Date: October 10, 2003

Applicant: Nebraska Conference Association of Seventh Day Adventists
4015 South 49th Street
Lincoln, NE 68506

Owner: Same as Applicant

Contact: Nebraska Conference Association of Seventh Day Adventists
Jim Hoehn
4015 South 49th Street
Lincoln, NE 68506

STREET & ALLEY VACATION NO. 03013

PUBLIC HEARING BEFORE PLANNING COMMISSION:

October 29, 2003

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

Staff recommendation: A finding of conformance.

Ex Parte Communications: None.

This application was removed from the Consent Agenda and had public hearing.

Proponents:

1. Terry Bock, 5751 Saltillo Road, Pastor of the College View Seventh Day Adventist Church, presented the application, and discussed the church's master plan. The new parking lot on 49th & Lowell was constructed with one driveway out onto Lowell Avenue. There is a large tree where a second driveway was going to be located. When the church was constructed in 1977-78, they were able to use a fair amount of parking on the Union College campus to offset some of the lack of on-site parking for the church. Over the years, the attendance at the church and the college has increased, thus the parking availability from Union College campus has decreased, prompting the church to add a parking lot on the west side along 48th Street, with diagonal offset parking on one side of Prescott, on both sides of 49th and on the church side of Lowell Avenue. Four years ago, the church constructed the parking lot at 49th & Lowell. The neighborhood still absorbs quite a bit of on-street parking, especially on Saturdays. The program needs have increased at the church and additional facilities are needed. In addition to a youth room and new young adult program space, the third highest ranking need at the church was more parking. That has resulted in this proposal to vacate So. 49th Street and the associated alley to allow the College View Church to expand its facility and a significant increase in on-site parking.

Pastor Bock showed the potential master plan proposal. It allows for facility expansion and increases on-site parking by about 77 spaces, hoping to relieve some of the congestion in the community on Saturdays. In addition to vacating 49th Street, they would take down two rental properties, and would acquire a couple more properties along Prescott, which the Church is in the process of doing.

Pastor Bock stated that the only objection they have anticipated is an inconvenience to get to Prescott to go south on 48th. People can go south to Pioneers and over to 48th. There was also concern about a dead-end alley. There is already an existing driveway onto Lowell Avenue and with this proposal there would be a driveway on the north end of the alley as well.

Opposition

1. **Georgian Barber**, 2301 So. 62nd, testified in opposition. She owns the five-plex at 4919 Prescott, with parking accessed from the alley from 49th to 51st Streets. Her tenants come in from 49th Street driving 100' on a paved road, or they can enter from 51st Street, driving 250' on dirt and gravel. The alley is not maintained and there is no snow removal. A fire truck or rescue vehicle would only have access from 51st, and if entering the alley they would also have to back out of the alley. Closing the access from 49th would cause unnecessary hardship for her tenants. It would be an inconvenience for the tenants to have to drive two blocks the other direction.

Steward clarified with Barber that there is no access for these tenants from Prescott. The alley runs all the way from 49th to 51st Street. The parking for the five-plex is on the alley.

Staff questions

Steward commented that this seems like an unusual circumstance with the alley being the only access for the apartment units. Is it detached or attached to the main structure? Greg Czaplewski of Planning staff believes the aerial photograph shows a detached garage. It is one unit with five apartments, originally built as a seven-plex. Czaplewski acknowledged that the staff did consider the effect of dead-ending the alley, and the applicant is being required to provide a public access easement over their parking lot so that the use of the west end of the alley would remain unchanged, and the applicant has agreed to do so (Condition #1.2). The tenants will still be able to enter the parking lot from either Lowell or Prescott and access that property from the west.

Carlson inquired about the portion of the alley that is paved. Pastor Bock advised that the alley was dirt until the Church constructed the parking lot at 49th & Lowell. At that time, the Church was required to pave 150' of the alley.

Response by the Applicant

Pastor Bock pointed out Condition #1.2, which requires a public access easement so that there is not a dead-end alley. He assumes a fire truck could get in and out from the west through that parking lot.

Taylor inquired about the access for emergency vehicles. Czaplewski believes that it would be sufficient. Dennis Bartels of Public Works advised that the city does not have a specific design. The alley is 16' now and the easement would be equivalent. The Public Works Department would assure that any easement design would be equivalent to the access they have today. However, fire trucks do not typically use an alley, but Bartels believes they could get in there if they had to.

Marvin inquired whether there are any plans to do anything on 51st Street. Bartels suggested that the only way 51st Street will be improved is if the property owners will request it and it would be assessed to the property owners. Public Works has no plans to improve 51st Street and it would be against the Public Works policy to pave the local streets.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

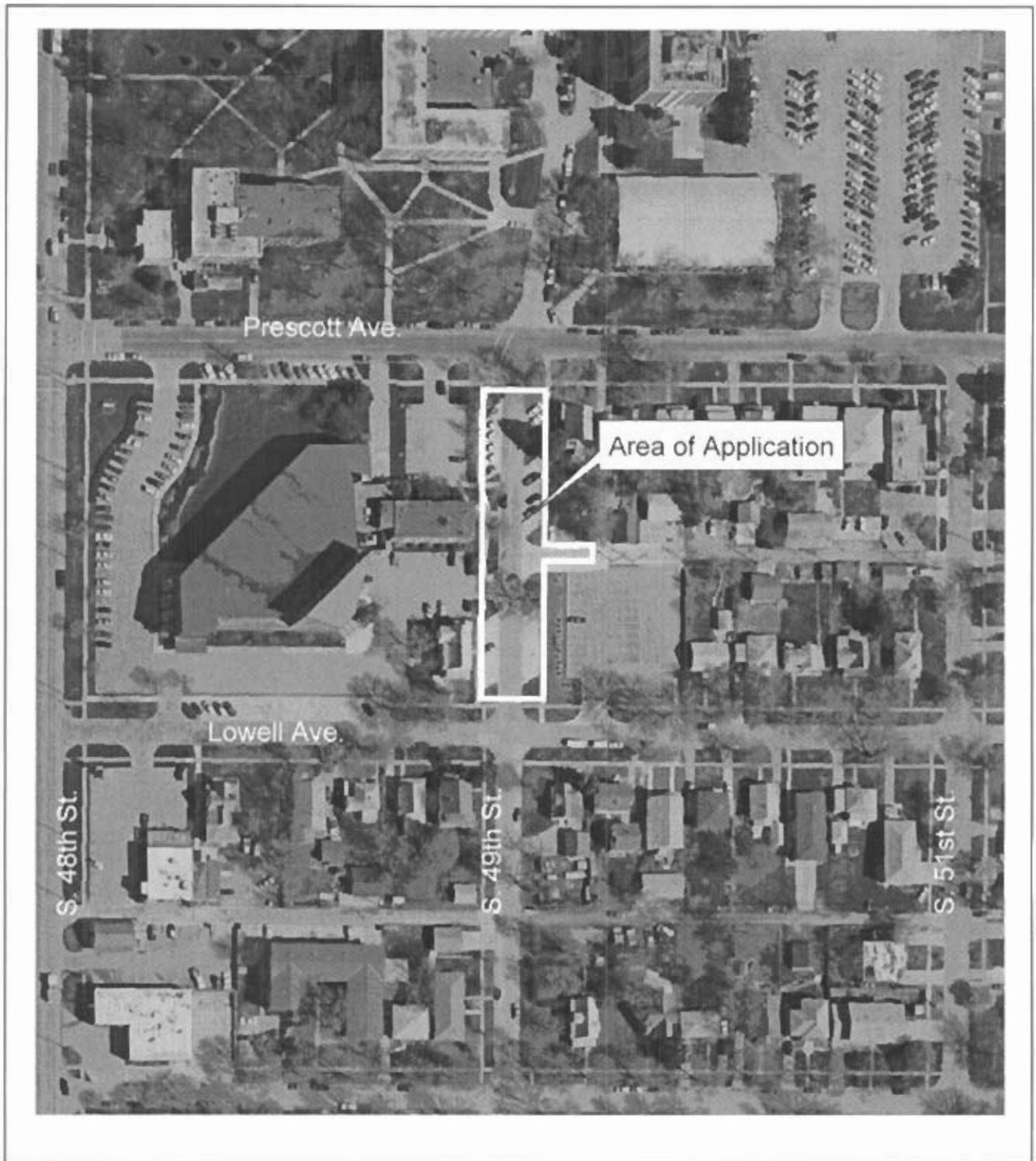
October 29, 2003

Taylor moved a finding of conformance with the Comprehensive Plan, seconded by Larson.

Marvin stated that as long as he is convinced that the tenants for the five-plex will have access with the easement, he is satisfied to go ahead. 49th dead-ends at Prescott anyway. It is not like it's creating an island.

Steward believes the condition for the easement assures access.

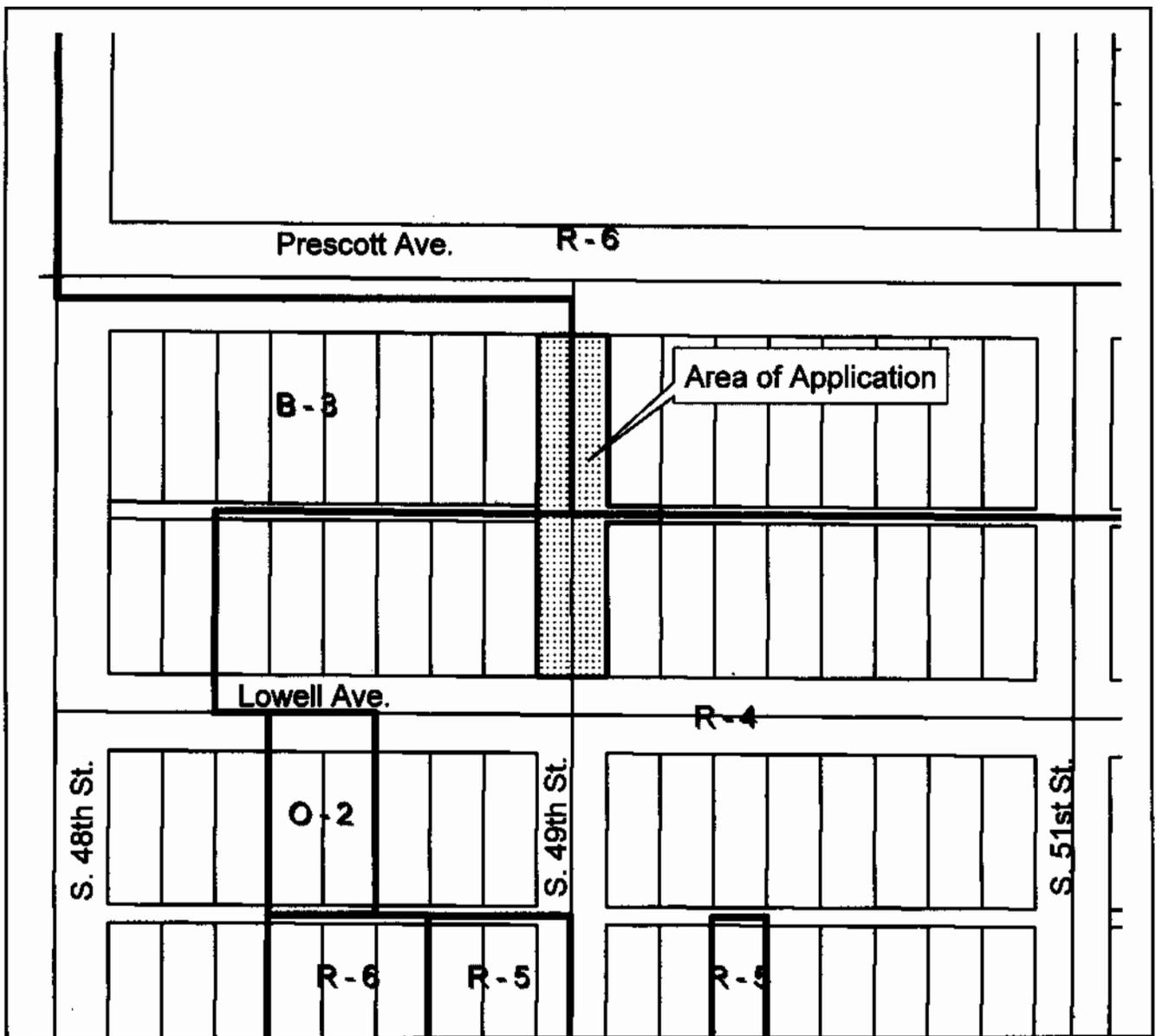
Motion for a finding of conformance carried 7-0: Krieser, Taylor, Marvin, Duvall, Carlson, Larson and Steward voting 'yes'; Bills-Strand absent.



**Street and Alley Vacation #03013
S. 49th from Prescott to Lowell &
W 50' of E/W alley south of S. 49th**



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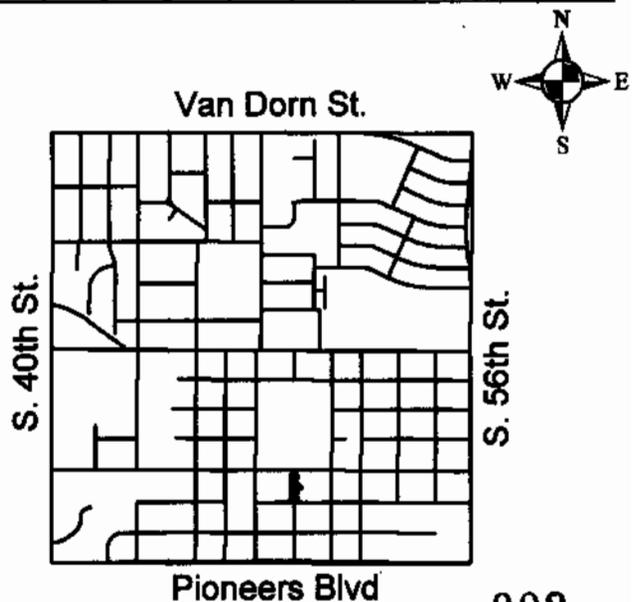
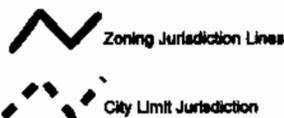


**Street and Alley Vacation #03013
S. 49th from Prescott to Lowell &
W 50' of E/W alley south of S. 49th**

Zoning:

One Square Mile
Sec. 5 T9N R7E

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conversion 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-6 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



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SAV.03013

INTEROFFICE MEMORANDUM

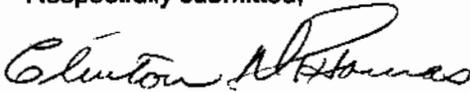
TO: Mayor Seng & City Council Members FROM: Clinton W. Thomas
DEPARTMENT: City Council Office DEPARTMENT: Real Estate Division
ATTENTION: DATE: June 22, 2004
COPIES TO: Joan Ross SUBJECT: Vacation of South 49th Street; Prescott to Lowell
Marvin Krout
Dana Roper
Byron Blum

This is an update to my June 4th letter regarding this same subject. At the time that letter was written, I overlooked the fact the petitioner would be required to post a bond in the amount of \$9,000 for the removal of street returns at Lowell and Prescott Avenues. There is also a requirement for the installation of street trees along Lowell and Prescott Avenues. These amount should be deducted from the estimated value of the street and alley right-of-way. The new calculations are as follows:

Area encumbered by utility easements	
1,170 sq. ft. X \$1.15/ sq. ft. = \$12,730.50 called	\$12,700.00
Unencumbered area	\$40,000.00
Less removal and replace of street and alley returns	(\$9,000.00)
Less installation of street trees	<u>(\$1,700.00)</u>
TOTAL	<u>\$42,000.00</u>

Therefore, it is recommended, if the area be vacated, it be sold to the abutting property owner for \$42,000.

Respectfully submitted,



Clinton W. Thomas
Certified General Appraiser #990023

dge

