

City Council Introduction: **Monday**, September 13, 2004
Public Hearing: **Monday**, September 20, 2004, at **1:30** p.m.

Bill No. 04-168

FACTSHEET

TITLE: STREET VACATION NO. 03017, requested by Brighton Construction Company and Billie J. and Claire Munyon, to vacate the west 20' of 24th Street between U Street and Vine Street, and the north 15' of U Street from 23rd to 24th Streets in association with the redevelopment of the majority of the abutting block.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 06/23/04
Administrative Action: 06/23/04

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

RECOMMENDATION: A finding of conformance with the Comprehensive Plan (7-2: Carroll, Marvin, Krieser, Larson, Sunderman, Carlson and Bills-Strand voting 'yes'; Pearson and Taylor voting 'no').

ASSOCIATED REQUESTS: Special Permit No. 04025, Liberty Village Community Unit Plan (04R-243).

FINDINGS OF FACT:

1. This street vacation request and the associated Liberty Village Community Unit Plan were heard at the same time before the Planning Commission.
2. The petitioners are requesting this vacation in order to accommodate the proposed site plan for the Liberty Village Community Unit Plan (Special Permit No. 04025). The vacation along U Street is requested to compensate for the loss of site width due to the Vine Street project. The vacation along 24th Street is requested to provide greater site area for the project. The petitioners are requesting to vacate this area without cost in exchange for the right-of-way taken along Vine Street.
3. The staff recommendation finding the proposed street vacation to be in conformance with the Comprehensive Plan is based upon the "Analysis" as set forth on p.3, and the proposed conditions of approval are found on p.4. The staff concludes that the vacation is generally in conformance with the Comprehensive Plan, provided easements are retained or utilities relocated.
4. The testimony of the petitioner, Fernando Pages, is found on p.5-6, and testimony on behalf of the petitioner by Mark Hunzeker is found on p.6-7.
5. Testimony in opposition is found on p.8-9, and the record consists of one e-mail in opposition (p.20). The issues of the opposition include parking and traffic congestion.
7. On June 23, 2004, the majority of the Planning Commission agreed with the staff recommendation and voted 7-2 to find the proposed street vacation to be in conformance with the Comprehensive Plan (Pearson and Taylor dissenting).
8. The appraisal by the City Real Estate Division is found on p.18-19, recommending a payment of \$1,300.00, representing 35% of the land value as opposed to a 100% exchange. This amount will be paid by the petitioners to the City Clerk prior to City Council hearing.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: September 7, 2004

REVIEWED BY: _____

DATE: September 7, 2004

REFERENCE NUMBER: FS\CC\2004\SAV.03017

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for June 23, 2004 PLANNING COMMISSION MEETING

P.A.S.: Street and Alley Vacation #03017

PROPOSAL: Vacate the west 20' of 24th Street between "U" and Vine Streets, and vacate the north 15' of "U" Street from 23rd to 24th Streets in association with the redevelopment of the majority of the abutting block. Petitioner's request is to vacate this area without cost in exchange for the right-of-way being taken along Vine Street.

LOCATION: 24th and "U" Streets.

LAND AREA: 7,595 square feet, more or less.

CONCLUSION: This vacation is generally conforms to the Comprehensive Plan provided easements are retained or utilities relocated.

<u>RECOMMENDATION:</u>	Conforms to the Comprehensive Plan
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GENERAL INFORMATION:

LEGAL DESCRIPTION: The west 20' of 24th Street between "U" and Vine Streets, and the north 15' of "U" Street from 23rd to 24th Streets, located in the SW 1/4 of Section 24 T10N R6E, Lancaster County, Nebraska.

SURROUNDING LAND USE AND ZONING:

North:	Vacant	R-6 Residential
South:	Single- and multiple-family dwellings	R-6 Residential
East:	Single- and multiple-family dwellings	R-6 Residential
West:	Vacant	R-6 Residential

ASSOCIATED APPLICATIONS: Special Permit #04025 Liberty Village CUP

COMPREHENSIVE PLAN SPECIFICATIONS: The Land Use Plan identifies this area as Urban Residential. (F 25)

The associated application, Special Permit #04025 Liberty Village CUP, is based on multiple Comprehensive Plan goals and objectives. The vacation of this right-of-way will enable the CUP to meet these goals and policies.

UTILITIES: Alltel, Aquila, and the Public Works and Utilities Department all have facilities within this area. A permanent utility easement should be retained for existing and future facilities. However, an

easement over the entire vacated area will result in portions of the CUP being unbuildable.

TRAFFIC ANALYSIS: There is an existing turnaround in 24th Street. Because of the existing grade along 24th Street, the turnaround must be reconstructed. A bond should be required to guarantee the work.

ANALYSIS:

1. This is a request to vacate the west 20' of 24th Street between "U" and Vine Streets, and vacate the north 15' of "U" Street from 23rd to 24th Streets in association with the redevelopment of the majority of the block.
2. The character of this area is somewhat defined by variation. Setbacks are not consistent, rights-of-way have been vacated in some areas but not in others, and building orientation on corner lots changes from block to block.
3. The existing right-of-way width in "U" Street is 90 feet, while 24th Street has 100 feet of right-of-way. The typical right-of-way for a residential street is 60 feet, or 30 feet from centerline. If this vacation is approved, the half widths of "U" and 24th Street rights-of-way abutting the project site would be 30 feet.
4. Petitioner Brighton is requesting this vacation in order to accommodate the proposed site plan for the Liberty Village CUP. The vacation along "U" Street is requested to compensate for the loss of site width due to the Vine Street project. The vacation along 24th Street is requested to provide greater site area for the project.
5. Petitioners have both requested to vacate this area without cost in exchange for the right-of-way taken along Vine Street. The Urban Development Department Real Estate Division has the responsibility to set the value for the right-of-way in each case. They are willing to credit the value of right-of-way dedicated to the City towards the purchase price for the area vacated.
6. The vacation of a portion of the 24th Street right-of-way causes conflict with an existing turnaround and sidewalk. A new sidewalk alignment and easement must be provided, along with reconstruction of the turnaround, as requested by the Public Works Department.
7. Aquila, Alltel, and Public Works have existing public utilities located within these rights-of-way. Easements should be retained for the existing and future facilities. However, easements over the entire area would conflict with the proposed redevelopment of the site. Petitioners may work with the utilities to establish acceptable easement locations that minimize impact upon the proposed site plan. Alternatively, Petitioners have the option of relocating the facilities at their own cost.
8. This vacation will not create lots without frontage or access to a public street.
9. Lincoln Municipal Code Chapter 14.20 requires the City to establish the proper price to be paid for the right-of-way, as well as any amounts necessary to guarantee required construction within the right-of-way. These values must be established and deposited with the City Clerk prior to scheduling the vacation request with the City Council.

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

- 1.1 Satisfy the provisions of Chapter 14.20 of the Lincoln Municipal Code.
- 1.2 Provide a bond in the amount of \$2,500 to guarantee the reconstruction of the existing turnaround, and a bond in the amount of \$2,500 to guarantee the construction of sidewalk along the west side of 24th Street.
- 1.3 Provide a sidewalk alignment and easement along North 24th Street to the satisfaction of the Director of Public Works and Utilities.
- 1.4 Provide permanent easements for existing and future utilities over the entire vacated area, or provide easements to the satisfaction of Alltel, Aquila, and the Director of Public Works. Alternatively, Petitioners may work with the utilities to relocate the existing facilities at Petitioners' cost.

Prepared by:

Greg Czaplewski
441.7620, gczaplewski@ci.lincoln.ne.us

Date: June 8, 2004

Applicants and Owners: Brighton Construction Company
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Lincoln, NE 68505
434.2456

Billie J. And Claire Munyon
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Lincoln, NE 68528
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**SPECIAL PERMIT NO. 04025,
LIBERTY VILLAGE COMMUNITY UNIT PLAN,
and
STREET & ALLEY VACATION NO. 03017**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

June 23, 2004

Members present: Pearson, Carroll, Marvin, Taylor, Krieser, Larson, Sunderman, Carlson and Bills-Strand.

Staff recommendation: Deferral until July 21, 2004.

Ex Parte Communications. None.

Greg Czaplewski of Planning staff submitted an email in opposition from one of the neighbors.

Proponents

1. Fernando Pages, owner of the property and developer/builder of the project, presented the application. This project has several unique ingredients, including compatibility, affordability, architectural character, multi-cultural component and ecology. The project, although small (about 1 acre), has been in the planning process for more than a year and has incorporated the input of a number of people within the city and the architectural community.

As part of the development, Pages stated that he reviewed and considered the objectives of the Antelope Valley development. He viewed it as “one community fit” in terms of the architecture and in terms of the demographics of the neighborhood. Affordability is important in the housing element.

Antelope Valley is a watershed/flood control project. Early on, Pages engaged an architectural firm and consulted with Ed Zimmer, historical planner for the city. He hopes to achieve something whereby this block will be the kind of place where people will want to walk and a place the city can use as a milestone for future Antelope Valley development. He believes this would be the first residential project in the Antelope Valley area and will set a good milestone in architectural sensitivity and approach to development.

One unique aspect is the floor planning. The area has a lot of immigrant and refugee population and Pages has taken into account the architectural preferences of various cultural groups in developing the floor plans.

Pages believes that the most important element of the project is affordability. These homes will sell for about \$120,000, with targeted NIFA funds with low interest rates and downpayment assistance. This is an attempt to get an economic mix in the neighborhood. The homeowners association will include a clause that the homes must be owner occupied in perpetuity.

Pages pointed out that the parking and the access all runs along a private alley behind the homes so that there are no curbcuts onto U Street, Vine Street or the surrounding area.

Larson inquired whether the alley be paved. Pages indicated that it would be paved, hopefully with a permeable asphalt (one of the elements in watershed management) so that the water runoff will be dealt with on-site. There will not be any parking on Vine Street.

Carroll asked whether the alley will go completely through. Pages stated that it would. It will not be completed during the first stage, but in the final stage the alley will go through. The applicant does not own the property on 23rd Street at this time; however, he is in negotiations.

2. Mark Hunzeker appeared on behalf of **Brighton Construction**, the owner and developer. There has been a fairly long process of getting this project brought forward in meeting with city staff and numerous contacts and meetings with the neighbors in the area. Some of the neighbors have not responded to invitations to meet, but all of those who have attended have expressed no objection. The objection to the street and alley vacation received today was the result of a misunderstanding--the person believing that there would not be rear access to the homes.

Hunzeker advised that the alternative use for this site as currently zoned would include a 38-unit apartment building with attendant parking. He thinks that would be less compatible with the neighborhood and less innovative. This is going to be the first of the Antelope Valley redevelopment projects and the developer hopes to set a standard that is one to which to aspire as opposed to one to avoid.

With regard to the conditions of approval in the staff report, Hunzeker indicated that he has met with staff and believes the staff is substantially in agreement with his proposed amendments:

- Delete Condition #1.1.4, which requires relocating sidewalks on 24th Street to be in a standard location of 3' from the property line. Hunzeker believes that everyone is in agreement that that is not a good location for the sidewalks.
- Revise Condition #1.1.8 by changing "same" to "identical". This condition requires that no two adjacent structures have the "same" architectural design. Hunzeker believes that "same" is less precise than "identical". There will not be huge variations in architectural design but the applicant will be willing and able to work with Ed Zimmer so that they will not be "identical" side by side.
- Add new condition #1.1.9: Add a note showing a common access easement for all lots within the 34' area between building envelopes, and a public access easement over the driveway. The private access easement may be released at such time as the property to the west of the CUP is incorporated into the CUP.
- Change "40" to "34" in Condition #1.2.3, which has to do with the width of the sewer and water easement for the sewer and water lines that run down the private roadway. The standard is that you have to have both of those lines 15' away from abutting structures. Generally speaking, this would then require a 40' easement to accommodate the design standards. The applicant is asking that the 40' easement be reduced to 34'. This is a waiver of design standards and will require re-advertising so Hunzeker requested a two-

week delay.

- Amend Condition #1.3 to read: Revise the grading plan to the satisfaction of the Public Works Department. This has to do with how to drain the subdivision prior to incorporating the west part of the block. One of the lots may be designated nonbuildable so that a swale can be created across it in the interim, or some other alternative.
- Delete Condition #1.3.1 and #1.3.2 (which related to Condition #1.3).
- Delete “the east side of 23rd Street” in Condition #1.6.2 and #1.6.5. Both conditions have to do with sidewalks along the east side of 23rd Street in an area which this developer does not control. That sidewalk will be incorporated in the future as the redevelopment plan progresses.
- Delete Condition #1.6.6: “...complete any other public or private improvement or facility required by Chapter 26.23....in a timely manner which inadvertently may have been omitted from the above list of required improvements.” Hunzeker stated that this is the first time he has seen this requirement. This is the kinda “gotcha” that Hunzeker hates to see. He believes it is incumbent on both sides to be thorough. If there is going to be fairness and due process in this arena, it seems that there should be fair notice of what is required given at the time when there is a chance to ask for a change or modification. He believes this is an onerous requirement that is unfair to the developer.

Pearson referred to Condition #1.1.4 and asked where Hunzeker would suggest the sidewalk be located. Hunzeker pointed to Condition #1.1.3 which requires a sidewalk connection from U to Vine along 24th Street. There is a project in Vine Street right now that does show a sidewalk connection and they will work with Public Works to arrive at an acceptable location for a sidewalk in 24th Street for that block. If the sidewalk were placed in the standard location, it would place it so close to the two houses that it would be uncomfortable for the people inside and even for the people walking by. The applicant is asking for some flexibility on the placement of the sidewalk.

Carlson asked Hunzeker to explain the amendment to Condition #1.1.9 regarding the access easement. Hunzeker explained that there is 34' between the building envelopes on the back side where the access road is located, along with the sewer and water lines. The common access easement is for the purpose of allowing people to enter that private drive and have an easement to turn around on those driveways in order to get back out. It is a way of dealing with the issue of a temporary dead-end without having to build a cul-de-sac and waste the money that goes with that.

Hunzeker also advised that the developer is working with Urban Development on the piece of property which this developer does not own. It will be included in the redevelopment plan, but it is his understanding that Urban Development definitely wants that property included. Urban Development does not own the property at this time.

Opposition

1. Ed Patterson, Malone Neighborhood Association, and a homeowner immediately across the street from this project, testified in opposition. The suggestion that everybody in the neighborhood is either for this project or doesn't care is not true. There are three single family homes across 24th Street that are opposed. Ross Scott and two other property owners on Vine Street are opposed. All of the individuals who are familiar with the area are in opposition to the idea of vacating 15-20 feet of cityland to be able to push the faces of these units essentially out into the street. The family across U Street is in opposition. All of the owner occupants adjacent are in opposition.

Patterson clarified that the Malone Neighborhood Association, which is an area of one square mile, is officially against this project. Last year, Peggy Struwe wrote a letter on behalf of the Hawley Historic Preservation District in opposition.

Patterson pointed out that the area involved was three 50' wide lots of three single family homes. This proposal talks about 16 or 17 units, so the developer is trying to cram 17 single family homes on what was either 3 or 5 houses.

Patterson urged that the promise of owner-occupant in perpetuity is tough to enforce and he is not sure it is even legal.

With regard to parking, there will be two stalls for three bedrooms. What we have seen in Malone Village is that the three bedrooms end up being three adults with their own cars and the rest of the cars are out on the street.

Larson inquired as to the basis of Mr. Patterson's opposition. Patterson responded that we essentially have single family construction being compressed on the land that would normally support either three or five single family homes. They talk about apartment houses as being bad, but some of the best and most desirable places in the world can be apartment houses. No matter what goes there, it should not be projecting out into the street. The whole character of the rest of that part of the neighborhood is single family homes or apartment houses that are landscaped and have complied with the front yard requirements. "We're putting kids right in the street."

Pearson clarified that Patterson is not opposed to the density but the encroachment into the street. Patterson stated that he will not make a blanket statement that the density is either good or bad. In Lincoln, we have this notion that multi-family is bad. It is how you do it. It is not simply the category of good or bad.

With regard to the parking issue, Patterson believes the developer is going toward one car for every bedroom. But when you take a single family home with three bedrooms and you only have two off-street parking stalls, that means one goes on the street. In addition, he does not believe the home ownership concept can be enforced. Bills-Strand believes the financing mechanisms will require owner occupants. Patterson stated that that same type of financing was used for the housing in Malone Village, but a lot of those homes are now rentals.

2. Ross Scott, new property owner in this neighborhood at 720 North 24th Street, testified in opposition. He did not receive written notification of this pending action nor has he seen signs on the property. He heard about it from his neighbors. His main concern will be congestion. He does not have access to the alley. He must rely on street parking. Sixteen homes on approximately five lots will create a lot of congestion. He likes green area. He would like to see how the storm drainage is going to be controlled. Where are the children going to play?

3. Betty Levitov, 710 North 24th Street, adjacent to Mr. Scott, testified that she has no objection to the design of the units but she is opposed to the amount of space being utilized by this project. It seems that the design is in direct violation of the objectives stated by the builders because you've got two violations in safety and aesthetics. She has lived in the neighborhood for 32 years and she has been pleased with the Malone Village and the beautification of the neighborhood, but now she sees this as a move in the opposite direction. Where are the kids going to play? You've got houses far too close to the street. We need places for gardens, landscaping and for kids to play.

Rick Peo of the City Law Department referred to Condition #1.6.6 which was requested to be deleted. This is a requirement that Law Department has asked be put in all subdivision agreements primarily because Chapter 26.23 requires minimum development standards for approval of a final plat unless specifically waived through former waiver procedure. The Planning Department sends out a letter to the developer advising of the conditions. Not listing the requirement in the letter is not considered a waiver. This condition has been put in all subdivision agreements just to show that unless you ask for a waiver of the minimum development standards, you do not get it waived if for some reason it was not listed in the conditions of approval of the plat. There are development standards that have to be met and if you do not want to comply you have to request a formal waiver.

Greg Czaplewski of Planning staff offered comments by Urban Development as Wynn Hjermsstad had to leave for a meeting in the Mayor's Office. Urban Development is in support because of the home ownership opportunities to stabilize existing neighborhoods. This has been incorporated into the enhancement of Vine Street. This is the first redevelopment project in the Antelope Valley area so Urban Development has been involved and they feel that it has received quite a bit of scrutiny from the city. They are satisfied that the city requirements are being met. The CUP allows a greater level of design control and some of the conditions limit their design features and character, more so than we could do through regular zoning. Under the existing zoning, they could do twice the number of units in a multi-family format. They have chosen single family to encourage home ownership.

Carlson asked for a staff response to the proposed amendments. Czaplewski advised that staff is in agreement with all of the amendments, except the deletion of Condition #1.6.6, which has been addressed by Rick Peo. Condition #1.2.3 will require a waiver and the staff agrees to a two-week deferral.

Carlson confirmed that the sidewalks and street trees required in Conditions #1.6.2 and #1.6.5 will subsequently become part of this project. Czaplewski concurred. They will be required as part of the final platting process.

In response to an inquiry by Pearson, Czaplewski confirmed that the standard side yard setback for R-6 is five feet. This application is requesting four feet.

Pearson asked staff to respond to the concern about where the children are going to play. Czaplewski agreed that it is a tight site plan. The Planning Department often receives requests to waive the open space requirements in CUP's and it is not uncommon to waive that requirement if there are neighborhood parks nearby, as is the case here.

Bills-Strand inquired whether a 38-unit apartment building would have an open space requirement. Czaplewski advised that if they did the apartment building as a CUP, there would be an open space and recreational facility requirement. If they did a multi-family under straight zoning, there would not be an open space or recreational facility requirement.

Response by the Applicant

Pages advised that he bought the property thinking about building an apartment building. But, in conversation with the seller and later on in conversation with Urban Development and Police Chief Casady, he decided that it was not the best thing to do, given the Antelope Valley area and the Police Chief's desire to convert to home ownership. It is an extremely good location for rental, but he deferred to the wishes of the seller (church) and the conversations with the Police Chief and Urban Development. When he began the project, he did contact every single one of the neighbors, although he may not have contacted Mr. Scott as a new owner. He did send letters and placed phone calls to Ed Patterson and Barb Morley and received absolutely no reply. He did meet with Hawley Neighborhood and had one meeting with the board. In response to that meeting, he agreed to involve Ed Zimmer as oversight from the city and agreed to involve Neighborhoods, Inc. Neighborhoods, Inc. is actually a partner in the project at this point. The City has a tremendous amount of oversight and control in the architecture.

Pages also clarified that the property owner across the street was confused about the vacation of the alley and he is no longer in opposition to the project.

Pages clarified that there are zoning signs posted on the property.

Pages indicated that he is surprised by the comments by Mr. Patterson because he has made himself available and has met with many of the neighbors. In fact, he has made modifications to the project in response to some of the neighbors' concerns.

Page also suggested that Mr. Patterson's representation that the houses are on the street is disingenuous. Although there is a request for street vacation, U Street has an extremely wide right-of-way and the houses will be 22' away from the curb. The larger units have flat roofs on the garage with an access to the garage so that the people have a large balcony area over the garage. They do have some back yard and there are a lot of landscaping improvements.

Hunzeker reminded the Commission that the R-6 zoning district would allow 38 units on this property with 1.75 parking stalls per unit, or a total of 67 stalls for 38 units. In addition, it would require a total of 3,085 sq. ft. of unobstructed open space. That could be met by a 30' x 100' strip between the

building and the parking lot, or in some other fashion, that would be less usable in terms of children playing than what is being provided.

Hunzeker believes that the suggestion that this is sufficient room for 5 houses is misleading. The property is zoned for multi-family and he believes this is a much more compatible use and a project that should be approved.

Marvin believes the neighborhood might accept 5-6 units. Pages responded that the result would be five \$300,000 houses and this is not the right area for that type of house.

Hunzeker also pointed out that every single family house in every community unit plan in town provides 2 parking stalls per unit. The homes in Wilderness Ridge have two parking stalls per unit. These are 100' rights-of-way. This is not encroaching into the actual street area. Most residential subdivisions have 60' wide rights-of-way. Hunzeker believes that taking 10-15 feet to accommodate this project makes a lot of sense, particularly when the city is in the process of taking 12' along the Vine Street frontage. By vacating U Street, we are getting back what the city is taking from this project on the Vine Street side in order to accommodate the streetscape improvements. In order to meet minimum building code requirements, these homes could have been situated closer together, but Planning requested the developer move them apart, and that is where the vacation of 24th Street came in.

Pages reiterated that the homeowners association would be the mechanism to enforce the home ownership requirement.

Czaplewski confirmed that a sign was posted on the site. As far as the mailing notice, the property owned by Mr. Scott was listed as being owned by Bank One in the County Assessor records. Perhaps the change of ownership had not yet been recorded. The notices are mailed to the current property owner according to the County Assessor records.

Larson stated that he is concerned about the two lots on the end. What is the status? Wynn Hjermsstad of Urban Development arrived and responded that Urban Development is in the process of finalizing the Antelope Valley Redevelopment Plan, and this project is one of the key projects. The entire block is identified in that Redevelopment Plan. There is also language that will authorize the city to acquire those last two houses.

Carlson moved two week deferral on both the special permit and the street vacation, seconded by Sunderman. Upon discussion, the motion was withdrawn.

Carlson moved to defer Special Permit No. 04025, with continued public hearing and administrative action on July 7, 2004, to accommodate the advertising of the additional waiver request, seconded by Taylor and carried 9-0: Pearson, Carroll, Marvin, Taylor, Krieser, Larson, Sunderman, Carlson and Bills-Strand voting 'yes'.

STREET VACATION NO. 03017

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

June 23, 2004

Larson moved to find the vacation to be in conformance with the Comprehensive Plan, seconded by Sunderman.

Pearson indicated that she is nervous about voting for this. She is impressed with the elevations and impressed with the development, but she is concerned about putting eight houses with a potential duplex at the end. She has real reservations. She would rather also defer the vote on the street vacation as she is really torn and wants to drive back out and take a look at it.

Carroll was concerned about approving the street vacation. What if the CUP is denied in two weeks? Czaplowski noted that there are several conditions that must be satisfied prior to scheduling the street vacation on the City Council agenda. The Council could still vacate the right-of-way if the CUP is denied. They could possibly reach City Council at the same time, but there is no guarantee.

Motion to find the street vacation in conformance carried 7-2: Carroll, Marvin, Krieser, Larson, Sunderman, Carlson and Bills-Strand voting 'yes'; Pearson and Taylor voting 'no'. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 04025,

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 7, 2004

Members present: Sunderman, Larson, Krieser, Taylor, Marvin, Pearson, Carroll and Carlson; Bills-Strand absent.

Staff recommendation: Conditional Approval, as revised.

Ex Parte Communications: None.

Proponents

1. Mark Hunzeker appeared on behalf of the applicant but did not have anything to add to his previous testimony.

2. Terry Uland, Director of **Neighborhoods, Inc.**, 4210 S. 37th, testified in support. Neighborhoods, Inc. works with families to buy houses and strengthen older neighborhoods. The Neighborhoods, Inc. board has not voted on this proposal and typically they do not take a position; however, he believes the board would agree. This type of development is consistent with what is envisioned to come out of the Antelope Valley redevelopment. It creates additional home ownership economically, and creates home ownership between Malone Village and the Shalimar Project which are the townhouses between 24th and 25th Streets, "U" and "T" Streets. It is affordable and provides good value to the buyers. The role of Neighborhoods, Inc. is to help with marketing, home buyer training and downpayment assistance. Neighborhoods, Inc. has applied to NDEQ for Nebraska Housing Trust funds for downpayment assistance. It is anticipated that the range of buyers would be minimum income of around \$25,000 up to maximum income for a family of three of \$63,000. It is anticipated that the average buyer will have an income of about \$39,000-\$40,000 with payments of around \$800/month.

Uland went on to state that when Neighborhoods, Inc. first looked at the project, they were concerned about the density, but in analyzing the mortgage financing and the subsidies, they do not see any reason why the buyers will be any different than those at Shalimar and Malone Village. There is also very quick access to Trego Park.

3. Geoff Childs, the architect, testified that he has been working with the city and with Ed Zimmer to do buildings that will create a neighborhood with unity and variety. There are two plans - one facing Vine Street and one facing U Street. They will do four different elevations and by altering the colors, brick and shingle colors they get variety. They will also develop four different types of porches on the houses. Childs advised that they will be adding one more elevation after today in response to a meeting with Ed Zimmer. There is defensible space for the residents.

Carroll asked whether consideration had been given to connecting the units together as row houses versus the four to eight foot separation. Childs responded that the issue became affordability and the idea of the single family house. Ownership seemed to be more important than to be able to have a row of houses. They were trying to address the idea of home ownership and they believe that home ownership connects individuals and families to the neighborhoods.

Pearson requested a graphic showing eight of the houses so that she could envision the streetscape. She is trying to imagine eight of these homes with eight feet between them. **Fernando Pages**, the applicant, suggested that normal neighborhoods have five feet to the lot line. The eight foot separation is a little higher density than the normal ten foot separation between homes, but he believes they have addressed that through creative architecture and the aesthetics of the neighborhood. Hunzeker suggested that Pearson could visualize it by driving through the Near South where there are some five foot setbacks, and where the houses are a lot bigger. He believes these homes will be very comparable in scale.

Childs pointed out that these houses are on 40' lots, so by deleting one house you would only gain two feet on each one of the lots.

Carroll suggested that, with the anticipation of purchasing the west lots, why not stretch these out instead of packing them into the land that you are using – not use the two west lots for duplexes but use them for townhouses. Pages pointed out that the proposal is well within the normal setback requirements that would be dictated by fire as opposed to the zoning ordinance. They were actually expanded to the four feet. The balance in terms of the dollars taken to purchase the properties had to be offset by creating four lots as opposed to two lots. Hunzeker pointed out that the standard setback as a matter of right in the R-6 district would require a 5' setback, but by the same token, as a matter of right, they could build something like 36 apartments. This is a project that is substantially less dense than is allowed as a matter of right in the R-6 district. We are attempting to do single family detached housing where all the new construction has been multi-family. We are trying to set a standard for the Antelope Valley redevelopment area that will encourage more of this type of development as opposed to the multi-family large box construction that has occurred in the past.

Pages also noted that there is quite a bit of expense involved in this approach. There is a level of design here that requires that we be able to get another two units out of the project as a whole in order to produce this type of development. Minus two units is a very substantial number and it affects how much the homes will cost. We are trying to offset the slightly higher density by improving the design process very, very substantially. The decision to include the two townhouses was arrived at with Urban Development and Planning—it was not his decision. The two additional units would provide housing for someone with some handicap or disability. The townhouse approach was used to be able to reduce the price of those additional lots.

Carroll noted that the staff report talks about the sanitary sewer and basement depth. Are you going to put injectors in the basements? Pages indicated that he would not be putting bathrooms in the basements. It would, however, require an ejector if the owner chose to put a bathroom in the basement.

There was no testimony in opposition.

Staff questions

Greg Czaplewski of Planning staff pointed out that this report is a revised report which incorporates all of the changes which the applicant requested except the deletion of Condition #1.6.6.

Carroll asked for an explanation of the waiver of detention. Bartels stated that the drainage problems were referenced based on the alley grade that they had proposed. The plan reviewed by Public Works did not show development of the two end units and expanding the alley all the way to the end. The alley grade as submitted trapped water. There are several ways it can be addressed which have been suggested. The detention requirements were agreed to be waived because it was previously developed as parking lots, churches, etc. There was not a lot of benefit to detention. It was determined that due to the size of the project, the amount of detention that would have been required to make up the minor increase in stormwater runoff justified the waiver.

Pearson stated that her only other concern is the dead-ending of the access in the middle of the site. Has Fire or anybody looked at that? She assumes they would have to come all the way down and back up. Bartels responded that the presumption is that fire and rescue would use the street system. Until they could get the project extended to the west street, they could put an easement over the entire driveway between the houses for the public to use the driveway space to legally turn around.

Carlson asked staff to again respond to the applicant's request to delete Condition #1.6.6. Rick Peo of City Law Department stated that Chapter 26.23 of the subdivision ordinance provides that there are certain minimum improvements that have to be constructed unless waived through the specific waiver process. The clause in Condition #1.6.6 is just to avoid potential litigation and argument in the event that staff fails to mention one of the required improvements. It is not then deemed to be a waiver because the applicant did not ask for a waiver. This is just stating the law that the applicant must comply with the subdivision ordinance and it avoids the argument in the future if there is some question about something being omitted and being considered a waiver. He does not believe it is very probable that this condition will cause a problem.

Response by the Applicant

Hunzeker suggested that the Commission consider putting a period after the word "subdivision ordinance" in Condition #1.6.6. That would be more acceptable to the applicant.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 7, 2004

Pearson moved to approve the staff recommendation of conditional approval, as revised, seconded by Marvin.

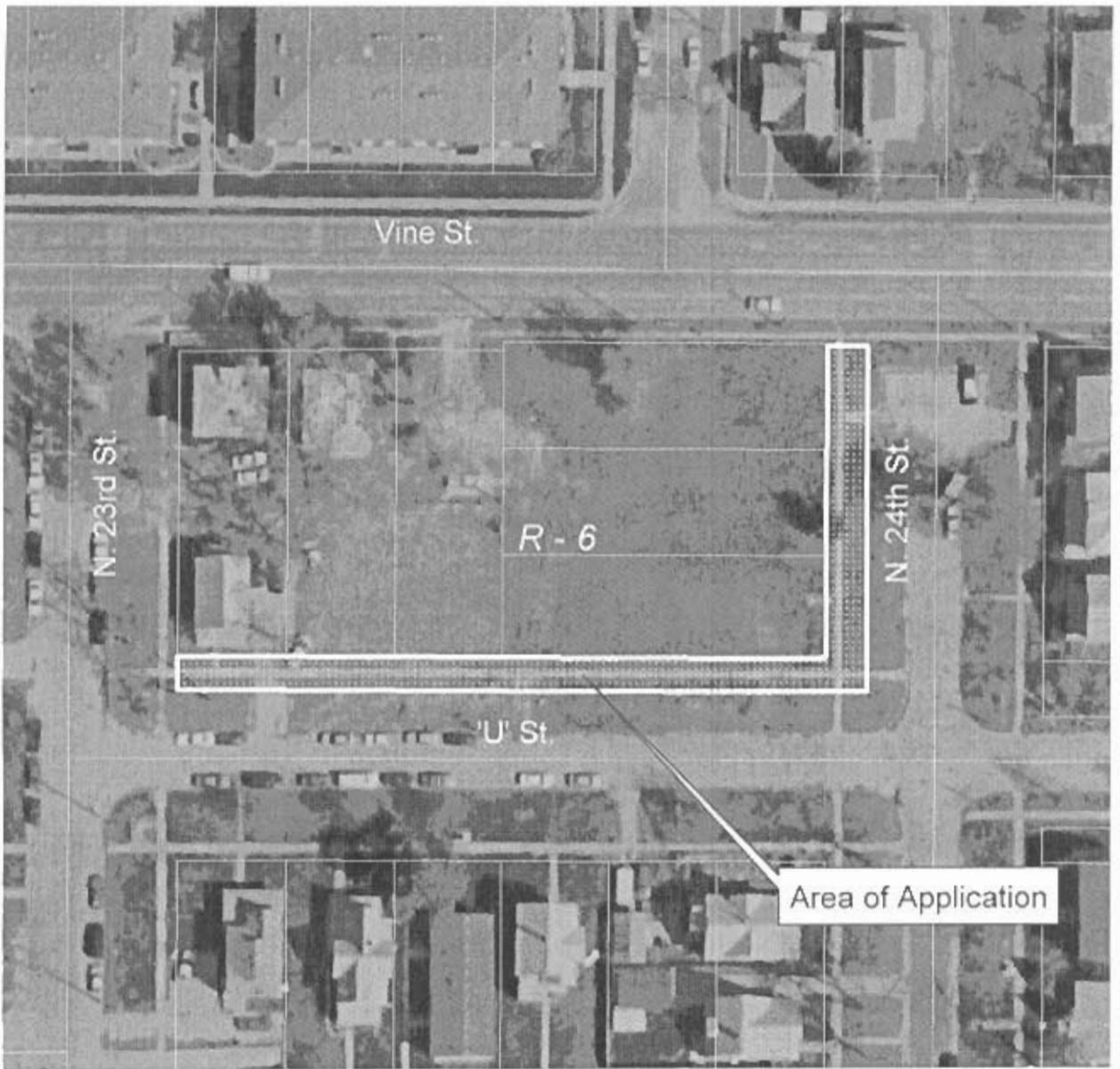
Marvin stated that he likes this project. It is realistic to understand that there are going to be places where we are going to have to rehab certain areas. If this sells out and it works, it could be allowed elsewhere.

Pearson stated that she will support the project. She believes the amount of care that has been done with the design is wonderful. She would rather that it not be so dense, but she understands the economics of it.

Carlson commented that the Commission has had a lot of discussion in the last four years about the importance of design standards and we have taken some steps in older neighborhoods. He believes this project goes far and above that. It is important that we continue to encourage developers when they come forward with creative and improved design.

Taylor thinks it's a good idea.

Motion for conditional approval, as revised, carried 8-0: Sunderman, Larson, Krieser, Taylor, Marvin, Pearson, Carroll and Carlson voting 'yes'; Bills-Strand absent. The Planning Commission action does not delete Condition #1.6.6 as requested by the applicant. This is a recommendation to the City Council.



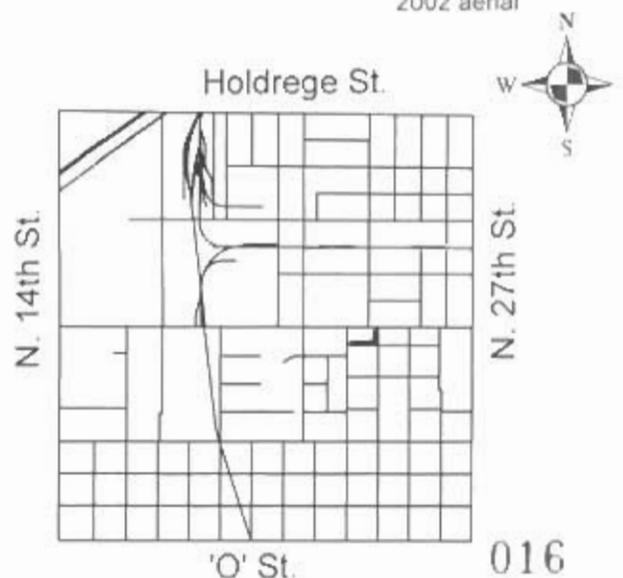
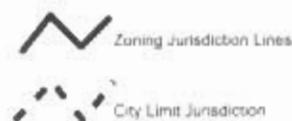
Street and Alley Vacation #03017
N. 24th between 'U' and Vine St.

2002 aerial

Zoning:

One Square Mile
 Sec. 24 T10N R6E

- R-1 to R-8 Residential District
- AD 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

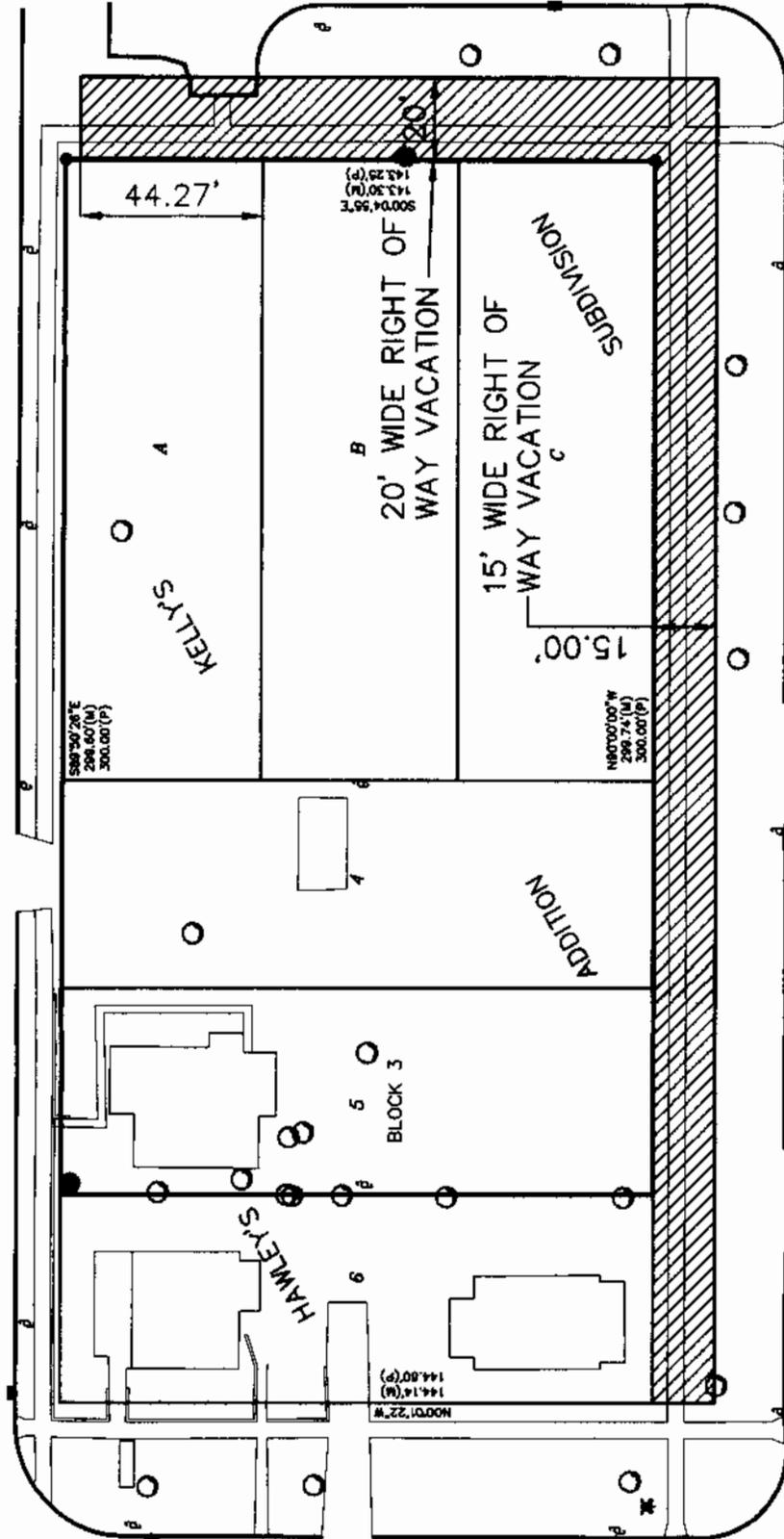


VINE STREET

N. 24TH STREET

N. 29RD STREET

U STREET



RECEIVED

AUG - 4 2004

WISCONSIN CITY/LANCASTER COUNTY
PLANNING DEPARTMENT

INTEROFFICE MEMORANDUM

TO: Mayor Seng
& City Council Members

FROM: Clinton W. Thomas

DEPARTMENT: City Council Office

DEPARTMENT: Real Estate Division

ATTENTION:

DATE: August 3, 2004

COPIES TO: Joan Ross
Marvin Krout
Dana Roper
Byron Blum

SUBJECT: Street & Alley Vacation No.03017
West 20 feet of 24th Street; U Street
to Vine Street; and the North 15 feet
of U Street; 23rd to 24th Street

A request had been made to vacate a portion of U and 24th Streets running northerly and westerly from the intersection of 24th and U Streets. The Planning staff report has indicated Public Works and Alltel have requested easements be retained over the entire area to be vacated for existing and future utilities. This writer's conversations with those entities indicated easements may not be necessary over that portion of U Street being vacated west of the existing 24th Street right-of-way line. As such, the value of the area to be vacated is estimated on the basis of easements being retained over that portion of 24th Street to be vacated, but no easements being retained over the U Street portion of the vacation west of the existing westerly right-of-way line of 24th Street.

Recent appraisals of the adjoining property for the City's Vine Street Widening Project indicated the value of the abutting properties to be \$5.00 per square foot. It is estimated easements retained along the 24th Street right-of-way would diminish that value by 50% of the underlying fee value. The petitioners have asked the right-of-way to be vacated be traded for right-of-way needed for the Vine Street Widening Project. It is recommended this be done for all the area being vacated with the exception of the west 50 feet of the portion of U Street being vacated. The property abutting this portion was not affected by the Vine Street Widening Project so it is believed they should pay for the right-of-way to be vacated at the values shown below

Since the zoning in this area is designed for high-density, residential use, we must also consider the value of additional units that could be built once the vacated street right-of-way is assembled into the larger parcels. In the case of the property abutting 24th Street, there would be a net gain of approximately 6 units over that which could have been built prior to the Vine Street Widening Project. The value of these additional units is considered to offset the difference in value between the vacated street right-of-way and the estimate of damages as appraised for the Vine Street Widening Project.

It is recommended, if the area be vacated, that portion of U Street and vacated 24th Street adjacent to Lots 4 and 5, Block 3, Hawley's Addition, and Lots A, B, and C, Kelly's Subdivision, be exchanged for the right-of-way needed for the Vine Street Widening Project.

While the lot adjacent to the westerly 50 feet of U Street will not gain any additional units of density, it will have the benefit of increasing the area of the lot to exceed the minimum lot size to be a legal lot. Therefore, it is also recommended, if the area be vacated, the westerly 50 feet of the portion of U Street to be vacated be sold to the abutting property owner.

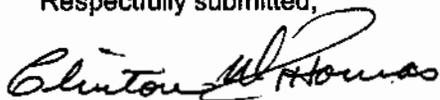
It would be expected that an abutting owner would not pay full value for a small parcel such as this that would not add any density to the site, but would be willing to pay 30% - 35% of the value of the abutting land. In this case, 35% of the abutting land value would be \$1.75 per square foot. The calculations are as follows:

750 sq. ft. X \$1.75/sq. ft. = \$1,312.50 called \$1,300

Street & Alley Vacation No.03017
page 2

It is further suggested that easements only be retained over the 24th Street portion of the area to be vacated. If additional easements are to be retained, the value should be re-estimated.

Respectfully submitted,

A handwritten signature in cursive script that reads "Clinton W. Thomas".

Clinton W. Thomas
Certified General Appraiser #990023

dge



"Bess Scott"
<besscott@dlodecom
.net>

06/23/2004 09:56 AM

To: plan@ci.lincoln.ne.us
cc:
Subject: street and alley vacation No. 03017 and special permit No. 04025

This e-mail is to document our concerns and non-support for the street and alley vacation No. 03017 and special permit No. 04025 at North 24th between U and Vine.

We purchased 720 North 24th on May 28, 2004. The permit action requested is directly across the street from us. As you know there is already limited parking because 24th street dead ends at this intersection.

We purchased in this neighborhood because we like its location close to downtown and the university. We feel we see improvements in single family dwellings in the neighborhood. We feel the neighborhood is working hard to increase the value of their properties by improving their homes and yards. We do not believe a 16 family dwelling will add to the improvement of the neighborhood.

This neighborhood is already densely populated and lacks adequate parking and "green spaces." It is our understanding that the proposal consists of 16 family units that will take away the normal set back from the curb distance thus eliminating more "green spaces" and changing the appearance of the neighborhood. The amount of parking and traffic that a 16 family dwelling will cause is more than the existing street and neighborhood can handle. We believe that this proposal is an excessive development of an already overcrowded neighborhood.

We believe the addition of the a 16 family dwelling would be a mistake for this neighborhood. The addition of more single family dwellings would be welcomed.

If you have any questions about my concerns, please do not hesitate to contact me at this e-mail address or by phone (202-1512).

Bess Scott