

## **FACTSHEET**

**TITLE: SPECIAL PERMIT NO. 04025, LIBERTY VILLAGE COMMUNITY UNIT PLAN**, requested by Brighton Construction Company, for 16 single family detached dwelling units and associated waiver requests, on property generally located at 24<sup>th</sup> and Vine Streets.

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 06/23/04 and 07/07/04  
Administrative Action: 07/07/04

**STAFF RECOMMENDATION:** Conditional Approval, as revised

**RECOMMENDATION:** Conditional Approval, as revised (8-0: Sunderman, Larson, Krieser, Taylor, Marvin, Pearson, Carroll and Carlson voting 'yes'; Bills-Strand absent).

**ASSOCIATED REQUESTS:** Street Vacation No. 03017 (04-168).

### **FINDINGS OF FACT:**

1. This community unit plan and the associated street vacation request were heard at the same time before the Planning Commission.
2. This is a request to develop 16 single-family detached units with the following waiver requests:
  - Preliminary Plat process
  - Front and side yard setbacks
  - Driveway depth
  - Perimeter landscape screening
  - Storm water detention
  - Minimum lot area
  - Average lot width
  - Recreation facilities and open space.
3. The staff recommendation of conditional approval, as revised, including approval of all waiver requests, is based upon the "Analysis" as set forth on 6-9, concluding that the project proposes development of small single-family homes on small lots, resulting in fewer total units than would otherwise be allowed under the current zoning. This proposal provides an opportunity to increase home ownership opportunities in this area with design controls that exceed the minimum requirements of the Neighborhood Design Standards. However, the trade-off in this case is waiving and reducing many requirements of the zoning and subdivision ordinances.
4. The applicant's testimony is found on p.14-16 and 21-23. The amendments to the conditions of approval requested by the applicant are incorporated in the revised staff report, except the request to delete Condition #1.6.6, which requires the developer "to complete any other public or private improvement or facility required by Chapter 26.23 (Development Standards of the Subdivision Ordinance) in a timely manner which inadvertently may have been omitted from the above list of required improvements." Rick Peo of the City Law Department urged that this condition not be deleted.
5. There was testimony in opposition by the Malone Neighborhood Association and two property owners in the area (p.17-18), and the record consists of one e-mail in opposition (p.34). The issues of the opposition include density, parking, congestion, waiver of the recreation facility, and lack of green space.
6. At the continued public hearing on July 7, 2004, there was also testimony in support on behalf of Neighborhoods, Inc. (p.21).
7. On July 7, 2004, the Planning Commission agreed with the revised staff recommendation and voted 8-0 to recommend conditional approval, as set forth in the revised staff report dated June 28, 2004. The Planning Commission did not delete Condition #1.6.6.
8. The Site Specific conditions of approval required to be completed prior to scheduling this application on the City Council agenda have been satisfied, and the revised site plans are attached (See p.28-33).

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

**DATE:** September 7, 2004

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

**DATE:** September 7, 2004

**REFERENCE NUMBER:** FS\CC\2004\SP.04025

# LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

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for June 23, 2004 PLANNING COMMISSION MEETING

This is a revised Staff Report

**P.A.S.:** Special Permit #04025  
Liberty Village CUP

**PROPOSAL:** 16-unit, single-family detached residential development with waivers.

**LOCATION:** 24<sup>th</sup> and Vine Streets

**WAIVER REQUEST:**

1. Preliminary plat process.
2. Front yard setback.
3. Side yard setback.
4. Driveway depth.
5. Perimeter landscape screening.
6. Storm water detention.
7. Minimum lot area.
8. Average lot width.
9. Recreation facilities.
10. Open space.
11. Required utility easement width.

**LAND AREA:** 0.83 acre, more or less, as is.  
0.97 acre, more or less, after proposed rights-of-way transfer.  
1.53 acres, more or less, measured to centerline of abutting streets.

**CONCLUSION:** This project proposes a development of small single-family homes on small lots. This results in fewer total units than would otherwise be allowed under the current zoning, the opportunity to increase home ownership opportunities in this area, and design controls that exceed the minimum requirements of the Neighborhood Design Standards. However, the trade-off in this case is waiving and reducing many requirements of the zoning and subdivision ordinances.

<b>RECOMMENDATION:</b>	Conditional Approval
Waivers:	
1. Eliminate the preliminary plat process	Approval
2. Front yard setback	Approval
3. Side yard setback	Approval
4. Driveway depth	Not Applicable
5. Perimeter landscape screening	Not Applicable
6. Storm water detention	Approval
7. Minimum lot area	Approval
8. Average lot width	Approval
9. Recreation facilities	Approval
10. Open space	Approval
11. Utility easement width	Approval

**GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** Lots 4 and 5, Block 3, Hawley's Addition; Lots A, B, and C, Kelly's Subdivision; the W 20' of existing S. 24<sup>th</sup> Street right-of-way and the N 15' of existing U Street right-of-way adjacent thereto, located in the SE 1/4 of Section 24 T10N R6E, Lancaster County, Nebraska.

**EXISTING ZONING:** R-6 Residential

**EXISTING LAND USE:** Vacant

**SURROUNDING LAND USE AND ZONING:**

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

**ASSOCIATED APPLICATIONS:** Street and Alley Vacation #03017

**HISTORY:**

May 1979 The 1979 zoning update changed this property from D Multiple Dwelling to R-6 Residential.

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

**Urban Residential:** Multi-family and single-family residential uses in areas with varying densities ranging from more than fifteen dwelling units per acre to less than one dwelling per acre. (F 27)

***Guiding Principles for the Urban Environment - Overall Form***

Maximize the community’s present infrastructure investment by planning for residential and commercial development in areas with available capacity. This can be accomplished in many ways including encouraging appropriate new development on unused land in older neighborhoods, and encouraging a greater amount of commercial space per acre and more dwelling units per acre in new neighborhoods. (F 17)

***Guiding Principles for the Urban Environment - Residential Neighborhoods***

Home ownership is the foundation upon which successful neighborhoods and communities are built. Citizens should be able to afford to buy a safe and decent home. The plan should recognize the impact of policies and programs on community housing costs. (F 18)

Affordable housing should be distributed throughout the region to be near job opportunities and to provide housing choices within every neighborhood. (F 18)

Encourage different housing types and choices, including affordable housing, throughout each neighborhood for an increasingly diverse population. (F 18)

Construction and renovation within the existing urban area should be compatible with the character of the surrounding neighborhood. (F 18)

Encourage mixed-use redevelopment, adaptive reuse, and in-fill development including residential, commercial and retail uses. These uses may develop along transit routes and provide residential opportunities for persons who do not want to or cannot drive an automobile. (F 18)

***Guiding Principles for the Urban Environment - Transportation***

Many activities of daily living should occur within walking distance. Neighborhoods should include homes, stores, workplaces, schools and places to recreate. Interconnected networks of streets, trails and sidewalks should be designed to encourage walking and bicycling, reduce the number and length of automobile trips, conserve energy and for the convenience of the residents. (F 18)

Transit, pedestrian, and bicycle networks should maximize access and mobility to provide alternatives and reduce dependence upon the automobile. (F 19)

***Overall Guiding Principles - Residential***

Affordable housing should be distributed throughout the region to be near job opportunities and to provide housing choices within every neighborhood. Preserve existing affordable housing and promote the creation of new affordable housing throughout the community. (F 65)

A safe residential dwelling should be available for each citizen: the efficiency apartment and the country estate, the small single family “starter” home and the large downtown apartment suite, the most affordable and the most expensive dwelling unit, completely independent living and living within the care of others. (F 65)

Provide different housing types and choices, including affordable housing, throughout each neighborhood for an increasingly diverse population. (F 66)

***Guiding Principles for Existing Neighborhoods***

Encourage a mix of compatible land uses in neighborhoods, but similar uses on the same block face. Similar housing types face each other: single family faces single family, change to different use at rear of lot. (F 69)

Encourage pedestrian orientation with parking at rear of residential and neighborhood commercial uses. (F 69)

Encourage a mix of housing types, including single family, duplex, attached single family units, apartments, and elderly housing all within one area. Encourage multi-family near commercial centers. (F 69)

***Strategies for New and Existing Urban Neighborhoods***

The key to both new and existing urban neighborhoods is diversity...For existing neighborhoods, the diversity is

often already in place, but efforts must focus on maintaining this balance and variety. The diversity of architecture, housing types and sizes are central to what makes older neighborhoods great places to live. New construction should continue the architectural variety, but in a manner that is sympathetic with the existing neighborhoods. Infill development also needs to respect the street pattern, block sizes and development standards of the area, such as having parking at the rear and front porches, windows and doors on the front street side. The diversity of land uses, including commercial and congregate living facilities is important to the diversity of an area, provided they fit within the character of the block and neighborhood. (F 71)

Single family homes, in particular, add opportunities for owner-occupants in older neighborhoods and should be preserved. The rich stock of existing, smaller homes found throughout established areas, provide an essential opportunity for many first-time home buyers. (F 72)

***Strategies for Existing Residential Areas***

In existing neighborhoods adjacent to the Downtown, retain existing predominately single family blocks in order to maintain the mix of housing types. The current mix within each neighborhood provides ample housing choices. These existing neighborhoods have significantly greater populations and residential densities than the rest of the community. Significant intensification could be detrimental to the neighborhoods and be beyond infrastructure capacities. (F 73)

Encourage a variety of housing types in the Downtown and Antelope valley area. (F 73)

**UTILITIES:** Applicant's letter states utilities will be public, however, the drawings indicate sanitary sewer will be private. In either case, the depth of the sanitary sewer will not allow the basements proposed for some units. If the sewer is private, it cannot be constructed within the required 30' water main easement. If the sewer is to be public, a shared 40' easement is required for the water and sewer mains together. Site limitations may require additional waivers not yet requested.

**TRAFFIC ANALYSIS:** The Comprehensive Plan identifies Vine Street as a Minor Arterial both now and in the future. (E49, F103) Vine Street is identified for improvement to a four lane plus turn lane cross section (F109), and the project is already underway. The site plan shows approximately 3 feet of right-of-way dedicated to the City for Vine Street, however, the correct right-of-way dedication along this block face is approximately 3.5 to 4.5 feet.

The site plan for this project shows rear access for each unit, with two parking spaces provided per unit. The spaces are provided in either a two garage stall or one garage stall and one outdoor stall configuration. The depth from the garage to the main driveway is 10'. This raises concerns over the location and proximity of guest parking, especially since Vine Street does not provide on-street parking. Since the driveway does not connect to 23<sup>rd</sup> Street, it should be noted trash collection, snow removal, moving and other maintenance type vehicles will need to back out the entire length of the driveway. Also, due to the proposed setback reductions, Lot 9 does not meet intersection sight distance requirements.

**AESTHETIC CONSIDERATIONS:** The site plan proposes 16 single-family detached units on narrow lots with minimal yard setbacks. Given the closeness of these single-family units to one another, multiple facade designs should be alternated to discourage a monotonous block face. Exterior building materials should also be alternated.

**ALTERNATIVE USES:** Under R-6 Residential zoning, this site, exclusive of any right-of-way transfers, could support up to 32 multiple-family units, provided parking requirements could also be met. Alternatively, each of the five existing lots could be developed with single-, two- or multiple-family dwellings or townhouses based upon each lot's total area. If the plan were changed to show single-family attached dwelling instead, the open space between buildings would be increased from 8 feet to 10 feet, and the front yard setback to 24<sup>th</sup> Street would increase from 1 foot to 27 feet, even with the proposed new right-of-way after vacating part of 24<sup>th</sup> Street. This would result in the side yard setbacks and the front yard setback to 24<sup>th</sup> Street meeting requirements.

**ENVIRONMENTAL CONCERNS:**

The proposed grading plan does not match existing grades on the west end creating drainage problems for the westernmost units. Also, the profile for the driveway creates a low point at the western end, but provides no outlet for storm drainage.

**ANALYSIS:**

1. This is a request for a Community Unit Plan for 16 single-family detached units. Ten waivers have been requested, including preliminary plat process, front and side yard setbacks, driveway depth, perimeter landscape screening, storm water detention, minimum lot area, average lot width, recreation facilities, and open space.
2. This project is supported by the Urban Development Department as a key residential redevelopment project, consistent with and furthering their goals of providing affordable housing and fitting in with the character of the neighborhood. Urban Development indicates "this project is consistent with the Antelope Valley community revitalization goals of providing alternative housing choices and attractive, higher density housing."
3. However, the redevelopment agreement with the Urban Development Department contemplated the redevelopment of this entire block. Here, the City is asked to review and approve only a portion of the entire anticipated development. Planning Staff suggests review of this proposal would be more beneficial if it included the entire block.
4. Under the existing R-6 zoning, the maximum density for this parcel would be achieved as an apartment, which allows 1 unit per 1,100 square feet. Assuming the proposed transfer of rights-of-way is approved, this site will cover 0.966 acres, or approximately 42,000 square feet, resulting in 38 units. The maximum density of a CUP is 48.4 dwelling units per acre, resulting in a maximum density of 46 units. Due to its small size, however, a required 20% reduction in units would reduce the CUP potential to 36 units.
5. Planning Staff does not support the request to waive the preliminary plat process until such time as Applicant has submitted all information required to conform to those regulations not waived. However, Planning Staff would recommend approval to the waiver if Applicant does not object to providing all requested information.
6. The front yard setback waiver changes the front yard setback from 20 feet to 5 feet along "U" Street, 10 feet along Vine Street, and 1 foot along 24<sup>th</sup> Street. However, the site plan indicates there will still be approximately 20 feet between the dwellings and the curb line

along “U” and Vine Streets, and 15 feet along 24<sup>th</sup> Street. The standard separation between the dwelling and curb line in R-6 is 42 feet, including a 25 foot front yard setback and 17 feet of right-of-way for sidewalk, utilities, and street trees.

7. The side yard setback is changed from 5 feet to 4 feet in most cases, with the westernmost units having a 7 foot setback in the west side yard. The zoning ordinance allows eaves to project 2 feet into a side yard, resulting in eaves only 4 feet apart. This separation still appears to meet building code requirements.
8. The rear yard setback is measured to the center of the driveway, and is shown as 17 feet, which exceeds the required setback of 14.8 feet. Although this would appear to offer some flexibility for increased front yards by decreasing the rear yard, the garages are only 10 feet off of the driveway, and the driveway is 14 feet wide. Reducing the rear yards to gain additional front yard setback would further congest the driveway area, and impact the easements for water and sewer.
9. The pattern of streets and orientation of buildings is varied throughout this area. Many of the surrounding homes appear to respect the generous right-of-way width and required setbacks. However, the blocks along Vine Street are particularly difficult due to their unique north/south dimension of less than 200 feet versus the more typical depth of 300 feet.
10. Applicant requested a waiver to the required depth of a driveway between a garage door and private driveway. The Public Works Department states this waiver is unnecessary in this case because the zoning ordinance only requires a 10 foot separation from the garage door to an alley.
11. Applicant requested a waiver to perimeter landscape screening for community unit plans. These landscape standards apply to CUPs that include multiple-family units. Since this CUP is entirely single-family, these standards do not apply.
12. The Public Works Department would support the waiver to storm water detention, stating that because this redevelopment project is similar in use to its surroundings, and is of a significantly small area, the benefits from providing detention would be negligible. However, until drainage problems identified on the proposed drainage plan are resolved, deferral to this waiver is recommended.
13. The waiver to minimum lot area reduces the area from 4,000 square feet to 2,200 square feet. The lots fronting “U” Street contain approximately 2,200 square feet, while the lots fronting Vine Street contain approximately 2,700 square feet. Planning Staff suggests this site plan could work better and would require less significant departures from regulations if it included the additional land to the west. The lot area in many of the neighboring blocks exceeds 5,200 square feet.
14. The waiver to lot width reduces the width from 50 feet to 30 feet, however, the building footprints are reduced significantly as well. Planning Staff suggests this site plan could work better and would require less significant departures from regulations if it included the additional land to the west.

15. The waiver to recreational facilities and open space are based on the proximity of existing public parks and proposed future public open space in the Antelope Valley project to this proposed development. The closest existing public parks are Trago, at 22<sup>nd</sup> and “U” Streets, Lintel at 21<sup>st</sup> and Holdrege Streets, and McWilliams at 25<sup>th</sup> and “T” Streets. However, this may change in the future as Antelope Valley redevelopment activities impact the location of existing park facilities.
16. The waiver requests for front yard setback, side yard setback, minimum lot area, average lot width, recreation facilities, and open space are all necessary in order for the developer to complete the project as proposed. However, some of these waivers may be unnecessary if the rest of the block were included in the proposal.
17. The waiver request to utility easement width is requested in order to accommodate the narrowness of this block and the proposed layout of the units. This waiver is acceptable provided Applicant maintains 10 feet of separation between the water and sewer mains.
18. Applicant’s submittal indicates some units will have full basements while others will not. However, the depth of the sanitary sewer will not allow basements for any units, unless injector pumps are used.
19. The Public Works Department states a private sanitary sewer line must be located outside of the 30’ public water main easement. However, if the sewer is public, it may be located within a shared 40’ sewer and water easement, with 10’ between the sewer and water mains, and 15’ between each utility line and proposed structures. The solution to these concerns may include additional waivers that will need to be advertised.
20. The Public Works Department notes there must be 15 feet of separation between the water main and any structure, or the water main must be installed in an encasement pipe approved by the Water Department.
21. The proposed grading does not appear to match the existing grades on the west boundary of the development. The proposed grades are shown to be approximately two feet lower than the existing grades, which will cause drainage problems for the westernmost units. Also, the proposed profile for the main driveway shows a low point at the western end with no outlet for storm drainage. The grading needs to be revised to match existing grades and provide adequate storm drainage for the development. One option would be to obtain an off-site drainage easement across the property to the west and drain storm water to 23<sup>rd</sup> Street.
22. The Public Works Department points out the private driveway off of 24<sup>th</sup> Street is not a public alley. Therefore, maintenance and snow removal costs will be the responsibility of the developer or a homeowner’s association. Also, since the driveway does not connect to 23<sup>rd</sup> Street at this time, trash collection, snow removal, moving and other maintenance type vehicles must back out the entire length of the driveway. Again, an option may be to obtain an off-site easement for a turnaround across the property to the west.



23. The 3' right-of-way dedication along Vine Street does not appear to be accurate. The approved street project shows 40' right-of-way from the Vine Street centerline, which would equate to approximately 3.5' to 4.5' of dedication along this block. The plans should be revised to show the correct right-of-way dedication.
24. A sidewalk connection from 24<sup>th</sup> Street to Vine Street must be shown on the site plan. The grading plan also needs to be revised to show the sidewalk connection. Also, the relocated sidewalks in "U" Street and 24<sup>th</sup> Street must be shown in the standard location of 3' from the new property line after the proposed right-of-way vacations.
25. Due to the proposed setback waivers, Lot 9 as proposed does not meet intersection sight distance requirements, and must be redesigned.
26. LES has requested easements.
27. The Parks and recreation Department has requested the revision of several tree species.
28. Due to the small scale and size of this development, architectural design will play an even more important role than usual. Applicant has offered several renderings of different facades and exterior treatments. These should be incorporated into the special permit. There should also be a condition stating no two adjacent units share the same or substantially similar facade design or exterior building material treatment. This proposal is located in an older, established part of town. It will be important for this development to respect and reflect the existing character of the neighborhood.
29. Applicant has also requested the vacation of rights-of-way along the "U" and 24<sup>th</sup> Streets frontages (see Staff Report for SAV #03017). The area gained from the vacation of those rights-of-way is essential to this project as proposed. Approval of this special permit should be conditioned upon the vacation of those rights-of-way.
30. The Comprehensive Plan speaks in many cases to increased diversity of housing choices, increased opportunity for owner-occupied housing, and increased opportunity for affordable housing. This project strives to meet these substantial goals on a small site, and as a result, requests many waivers. However, these goals should be met following standards established in the zoning and subdivision ordinances.
31. Applicant has indicated he is in the process of acquiring the adjacent land to the west, and intends to bring that property into the boundary of the CUP. Planning Staff recommends deferral of this application until such time as the entire block is brought within this project, and submitted for review.
32. Should the Planning Commission choose to recommend other than deferral, Planning Staff recommends approval to all waivers except preliminary plat process, unless Applicant provides all information required by a preliminary plat, and approval based upon the following conditions.

## **CONDITIONS:**

### Site Specific:

1. After the applicant completes the following instructions and submits the documents and plans to the Planning Department office and the plans are found to be acceptable, the application will be scheduled on the City Council's agenda:
  - 1.1 Revise the site plan to:
    - 1.1.1 Show the correct right-of-way dedication along Vine Street.
    - 1.1.2 Show a sidewalk connection from "U" Street to "Vine Street" along 24<sup>th</sup> Street.
    - 1.1.3 Revise the setbacks on Lot 9 to conform to intersection sight distance requirements.
    - 1.1.4 Show all required LES easements.
    - 1.1.5 Add a note stating architectural design elements shall be substantially similar to those included in the Neighborhood Design Standards and the Liberty Village project proposal. Such architectural design elements may be changed through an administrative amendment approved by the Planning Director.
    - 1.1.6 Add a note stating no two adjacent structures on the same block face can have the identical architectural design or exterior building material treatments.
    - 1.1.7 Add a note and revise the drawing to show a common access easement for all lots within the 34 foot 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.
  - 1.2 Revise the utility plan to the satisfaction of the Public Works Department.
  - 1.3 Revise the grading plan to the satisfaction of the Public Works Department.
  - 1.4 Revise the landscape plan to the satisfaction of the Parks and Recreation Department.
  - 1.5 Street and Alley Vacation #03017 must be approved by City Council.
  - 1.6 Applicant must sign a subdivision agreement agreeing:

- 1.6.1 to complete the reconstruction of the turnaround in 24<sup>th</sup> Street shown on the final plat within two (2) years following the approval of the final plat.
- 1.6.2 to complete the installation of sidewalks along the north side of “U” Street and the west side of 24<sup>th</sup> Street as shown on the final plat within four (4) years following the approval of the final plat.
- 1.6.3 to complete the public water distribution system to serve this plat within two (2) years following the approval of the final plat.
- 1.6.4 to complete the public wastewater collection system to serve this plat within two (2) years following the approval of the final plat.
- 1.6.5 to complete the planting of the street trees along the north side of “U” Street and the west side of 24<sup>th</sup> Street within this plat within four (4) years following the approval of the final plat.
- 1.6.6 to complete any other public or private improvement or facility required by Chapter 26.23 (Development Standards) of the Land Subdivision Ordinance in a timely manner which inadvertently may have been omitted from the above list of required improvements.
- 1.6.7 to submit to the Director of Public Works a plan showing proposed measures to control sedimentation and erosion and the proposed method to temporarily stabilize all graded land for approval.
- 1.6.8 to complete the public and private improvements shown on the Community Unit Plan.
- 1.6.9 to retain ownership of or the right of entry to the easements in order to maintain the easements and private improvements on a permanent and continuous basis. However, the subdivider may be relieved and discharged of this maintenance obligation upon creating, in writing, a permanent and continuous association of property owners who would be responsible for said permanent and continuous maintenance. The subdivider shall not be relieved of such maintenance obligation until the private improvements have been satisfactorily installed and the documents creating the association have been reviewed and approved by the City Attorney and filed of record with the Register of Deeds.
- 1.6.10 to submit to the lot buyers and home builders a copy of the soil analysis.
- 1.6.11 to pay all design, engineering, labor, material, inspection, and other improvement costs of the City.

- 1.6.12 to comply with the provisions of the Land Preparation and Grading requirements of the Land Subdivision Ordinance.
- 1.6.13 to properly and continuously maintain and supervise the private facilities which have common use or benefit, and to recognize that there may be additional maintenance issues or costs associated with providing for the proper functioning of storm water detention/retention facilities as they were designed and constructed within the development, and that these are the responsibility of the land owner.
- 1.6.14 to relinquish the right of direct vehicular access from all lots along Vine Street to Vine Street.
- 1.6.15 to timely complete the public and private improvements and facilities required by Chapter 26.23 of the Land Subdivision Ordinance which have not been waived including but not limited to the list of improvements described above.
- 1.6.16 to post the required security to guarantee completion of the required improvements if the improvements are not completed prior to approval of the final plat.

- 2. This approval permits 16 single-family detached dwelling units and waivers to the preliminary plat process, front yard setback, side yard setback, storm water detention, minimum lot area, average lot width, recreational facilities, open space, and utility easement width.
- 3. The waiver of the preliminary plat process shall only be effective for a period of ten (10) years from the date of the city's approval, and shall be of no force or effect thereafter. If any final plat on all or a portion of the approved community unit plan is submitted five (5) years or more after the approval of the community unit plan, the city may require that a new community unit plan be submitted, pursuant to all the provisions of section 26.31.015. A new community unit plan may be required if the subdivision ordinance, the design standards, or the required improvements have been amended by the city; and as a result, the community unit plan as originally approved does not comply with the amended rules and regulations.

General:

- 4. Before receiving building permits:
  - 4.1 The permittee shall have submitted a revised final plan including 8 copies and the plans are acceptable.
  - 4.2 The construction plans shall comply with the approved plans.
  - 4.3 Final Plats shall be approved by the City.

STANDARD CONDITIONS:

5. The following conditions are applicable to all requests:
- 5.1 Before occupying the dwelling units all development and construction shall have been completed in compliance with the approved plans.
  - 5.2 All privately-owned improvements shall be permanently maintained by the owner or an appropriately established homeowners association approved by the City Attorney.
  - 5.3 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
  - 5.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
  - 5.5 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.

Prepared by:

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

**Date:** June 28, 2004

**Applicant  
and  
Owner:** Brighton Construction Company  
938 North 70<sup>th</sup> Street, Suite 108  
Lincoln, NE 68505  
434.2456

**CONTACT:** Brian D. Carstens & Associates  
Brian Carstens  
601 Old Cheney Road, Suite C  
Lincoln, NE 68512  
434.2424

**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 23<sup>rd</sup> 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 24<sup>th</sup> 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 23<sup>rd</sup> Street” in Condition #1.6.2 and #1.6.5. Both conditions have to do with sidewalks along the east side of 23<sup>rd</sup> 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 24<sup>th</sup> 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 24<sup>th</sup> 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 24<sup>th</sup> 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 city land 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 24<sup>th</sup> 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 24<sup>th</sup> 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 Hjermstad 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 24<sup>th</sup> 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 Hjermstad 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? Czaplewski 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. 37<sup>th</sup>, 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 24<sup>th</sup> and 25<sup>th</sup> 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 Czaplowski 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.

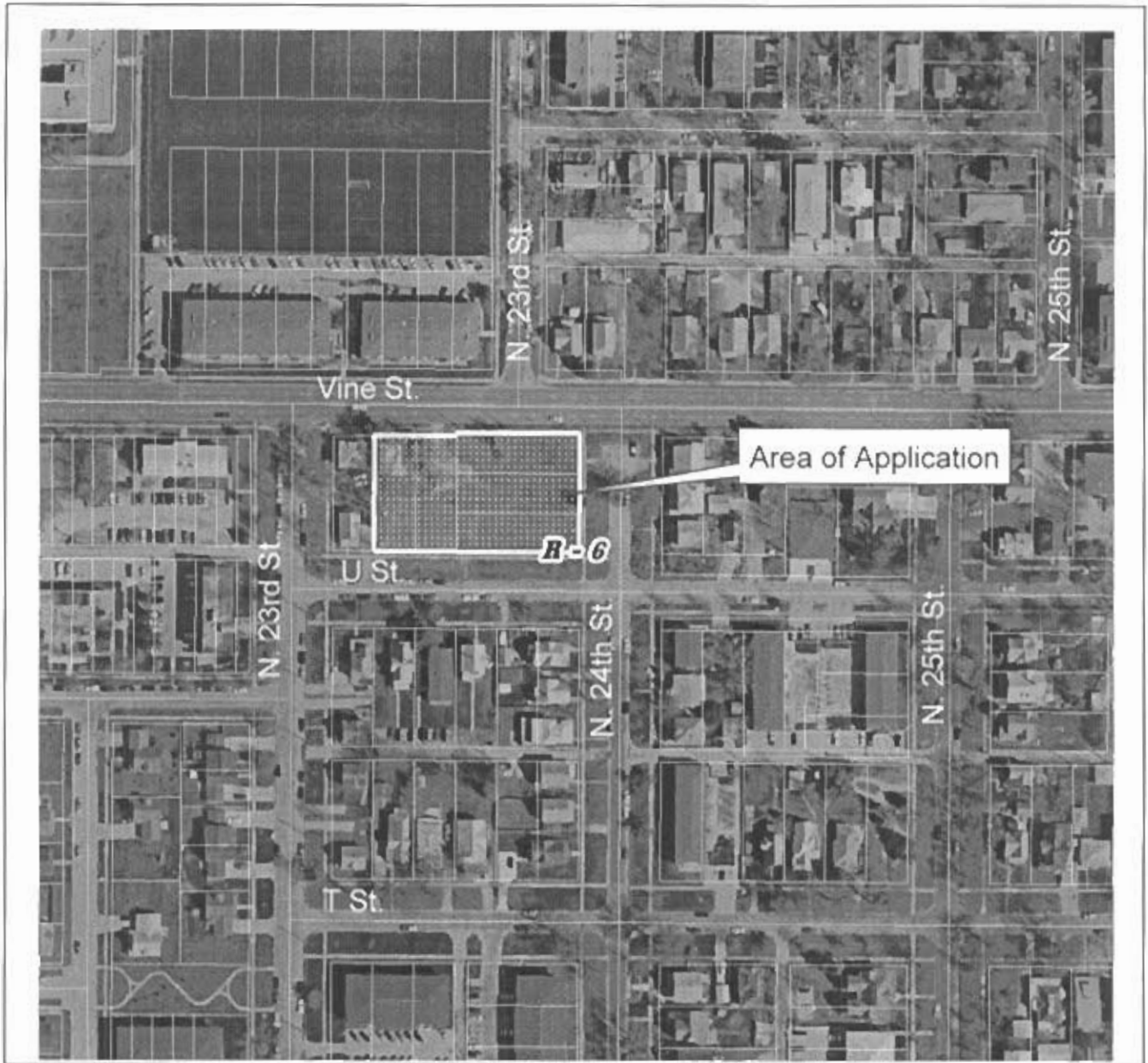
Pearson stated that she will support the project. She believes the amount of care that has been done with the design is wonderful. She would rather that it not be so dense, but she understands the economics of it.

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.





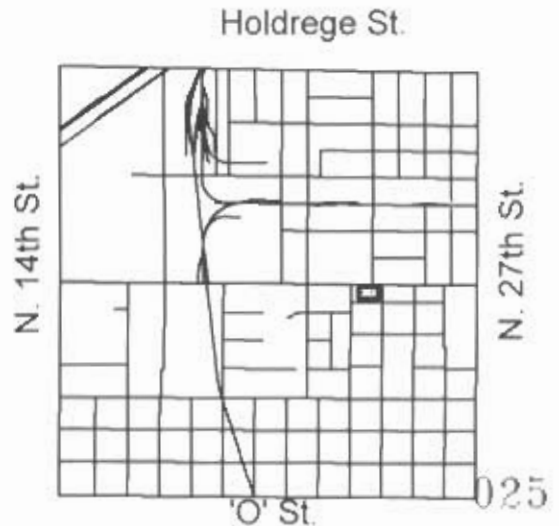
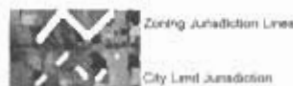
**Special Permit #04025**  
**S. 24th & J St**  
**Liberty Village CUP**

2002 aerial

**Zoning:**

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-1 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. 24 T10N R6E





**BRIAN D. CARSTENS AND ASSOCIATES**  
LAND USE PLANNING RESIDENTIAL & COMMERCIAL DESIGN  
601 Old Cheney Road, Suite C Lincoln, NE 68512 Phone: 402.434.2424

April 29, 2004

Mr. Marvin Krout  
Planning Director  
City of Lincoln / Lancaster County  
555 South 10<sup>th</sup> Street  
Lincoln, NE 68508

RE: Liberty Village: COMMUNITY UNIT PLAN/ SPECIAL PERMIT

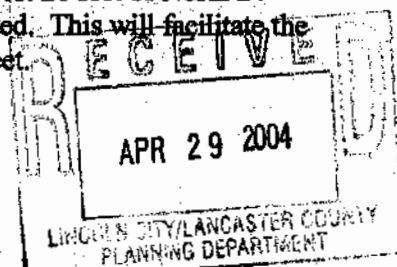
On behalf of Brighton Construction Company, Inc. (Brighton), we submit the following Special Permit for your review. Liberty Village consists of 16, single-family homes, all of which take access to a private driveway that will be maintained by a homeowners association. The water and sewer will be public. Each two-story home is approximately 1,600 square feet with off street parking and a two-stall, rear access garage. All homes will be affordable and designed to complement neighborhood architecture.

Bounded by Vine Street on the north, "U" Street to the south and 24th Street to the east, this one-acre property is the largest, vacant tract of residential land in Antelope Valley. It has been designated as a targeted development in the Antelope Valley Redevelopment Plan.

Although the area's high-density R-6 zoning would allow Brighton to erect a 40-unit apartment building, the owners have chosen to construct 16 detached, single-family homes to comply with the neighborhood's desire for increased ownership and reduced density. This presents a unique opportunity to encourage architecturally appropriate homes in a redevelopment area: Homes that respect the historic quality of Antelope Valley and its multicultural demographic.

Liberty Village has the support of the Urban Development Department of the City of Lincoln, which has agreed providing down payment assistance to qualified buyers through Neighborhoods Inc. The Nebraska Investment Finance Authority has also approved Super Target 2.9-percent financing for qualified buyers. In exchange, Brighton has agreed to limit sales of homes to owner occupants. The development will be controlled by a redevelopment agreement drafted by Urban Development and includes architectural supervision through city agents. The project booklet submitted provides complete details of this development, letters of support and architectural exhibits.

As part of this project, we are requesting the vacation of the west 20 feet of North 24<sup>th</sup> Street and the north 15 feet of 'U' Street right of way be vacated. This will facilitate the trading of land between the City and Brighton along Vine Street.



026

We are requesting the following waivers to the subdivision and zoning ordinance:

1. Waiver of the Preliminary Plat procedures, as this project is a C.U.P/ Special Permit
2. Waiver of the required front yard setback from 20 feet to 10 feet along Vine Street, from 20 feet to 1 foot along North 24<sup>th</sup> Street and from 20 feet to 6 feet along 'U' Street, as this is a redevelopment project, where flexibility needs to be incorporated into zoning regulations to assist in the redevelopment package.
3. Waiver of the required side yard setback from 5 feet to 4 feet. This reduction will still meet required distances between the homes as per the Building Code.
4. Waiver of driveway depth from 20 feet to 10 feet. As you are exiting the garages, you will still be able to see oncoming traffic in the alley, as the required site distance would allow 8 feet from the garages to the alley.
5. Waiver of the required landscape screening around the perimeter of the C.U.P/ Special Permit, as screening this project from the streets would not be compatible with other single family residences in the neighborhood.
6. Waiver of storm water/ detention requirements, as this is an infill project that already has adjacent city storm sewer.
7. Waiver of the minimum lot area from 4,000 square feet to 2,200 square feet, as this is an infill project with unique site conditions.
8. Waiver of average lot width from 50 feet to 30 feet, similar to other single family residences in the neighborhood.
9. Waiver of recreational facilities, as there are recreational opportunities near this site, as well as the proposed Antelope Creek/ Valley improvements.
10. Waiver of open space requirements in the R-6 district, as this is a single family infill area near existing parks and the proposed Antelope Creek/ Valley improvements.

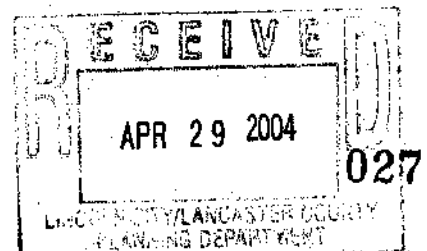
We are excited to be the first public/ private residential redevelopment project in Antelope Valley. Please feel free to contact myself or Fernando Pages of Brighton Construction Company, Inc. if you have any further questions.

Sincerely,



Brian D. Carstens

cc. Fernando Pages- Brighton Construction Company, Inc  
Mark Hunzeker  
Wynn Hjermstead- Urban Development





**BRIAN D. CARSTENS AND ASSOCIATES**  
LAND USE PLANNING RESIDENTIAL & COMMERCIAL DESIGN  
601 Old Cheney Road, Suite C Lincoln, NE 68512 Phone: 402.434.2424

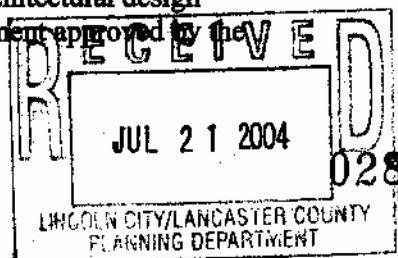
July 20, 2004

Mr. Marvin Krout  
Planning Director  
City of Lincoln / Lancaster County  
555 South 10<sup>th</sup> Street  
Lincoln, NE 68508

RE: Liberty Village: COMMUNITY UNIT PLAN/ SPECIAL PERMIT #04025

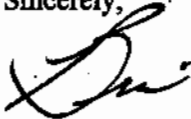
We have made the following changes to the Community Unit Plan for Liberty Village to get scheduled onto City Council.

- 1.1.1 Planning Commission granted approval of all of our waivers. No additional waivers need to be shown.
- 1.1.2 The right-of-way along Vine Street has been to revised to reflect that portion of Right-Way that has been taken by the City of Lincoln.
- 1.1.3 A sidewalk has been shown to cross North 24<sup>th</sup> Street just North of our new Private Driveway. We have been working with John G. Olson of Olsson's to work out a location for the sidewalk that will work with the new construction of Vine Street. The elevation will not allow for a sidewalk connection on the West side of North 24<sup>th</sup> Street.
- 1.1.4 The relocated sidewalks along 'U' Street and North 24<sup>th</sup> Street have been revised to be located at 3 feet off the property line.
- 1.1.5 A stop sign has been added to the intersection of North 24<sup>th</sup> Street and 'U;' Street to acquire the necessary sight distance required.
- 1.1.6 LES easements have been added to the North and South side of the proposed Private Driveway.
- 1.1.7 Note 17 has been added to the site plan stating, "Architectural design elements shall be substantially similar to those included in the neighborhood design standards and the Liberty Village project proposal. Such architectural design elements may be changed through an administrative amendment approved by the planning director."



- 1.1.8 Note 18 has been added to the site plan stating, "No two adjacent structures on the same block face can have the same architectural design or exterior building material treatments."
- 1.2.1 It has been noted on the utility plan, that the water and sanitary sewer are both Public.
- 1.2.2 The sanitary sewer and water main have been revised. The water is 15 feet from the buildings. The sanitary is then 10 feet from the water and 9 feet from the building. These are located as per our meeting with Public Works.
- 1.2.3 A 34 foot wide combined water main and sanitary sewer easement is shown. This was discussed with Public Works at a meeting and it was agreed that 34 feet will be fine.
- 1.2.4 The water main has been located 15 feet from any building.
- 1.3.1 A note and cloud has been added to the grading plan stating "Temporary Grading-Lot 16 shall not be built on until such time as future development to the west is commenced."
- 1.3.2 A note and cloud has been added to the grading plan stating "Temporary Grading-Lot 16 shall not be built on until such time as future development to the west is commenced."

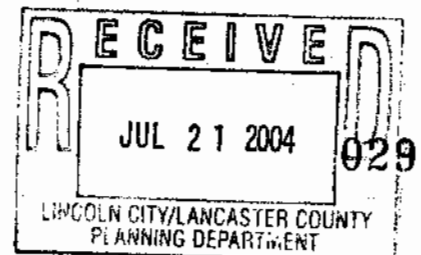
Sincerely,



Brian D. Carstens

cc. Fernando Pages- Brighton Construction Company, Inc  
Mark Hunzeker  
Wynn Hjermstead- Urban Development  
John G. Olson - Olsson Associates

Enclosures: 6 sets of sheets 1 thru 4  
8-1/2" x 11" reductions of the plans





E.S.P. CONSULTING ENGINEERS

BRIAN D. CARLTON & ASSOCIATES  
LAWYER, PLANNING  
RESIDENTIAL & COMMERCIAL  
TERMIN

601 OLD CHENEY ROAD  
SUITE 'A'  
LINCOLN, NEBRASKA  
68512

# LIBERTY VILLAGE

COMMUNITY  
UNIT PLAN

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PLANNING DEPARTMENT  
CITY OF LINCOLN, NEBRASKA

LINCOLN, NE

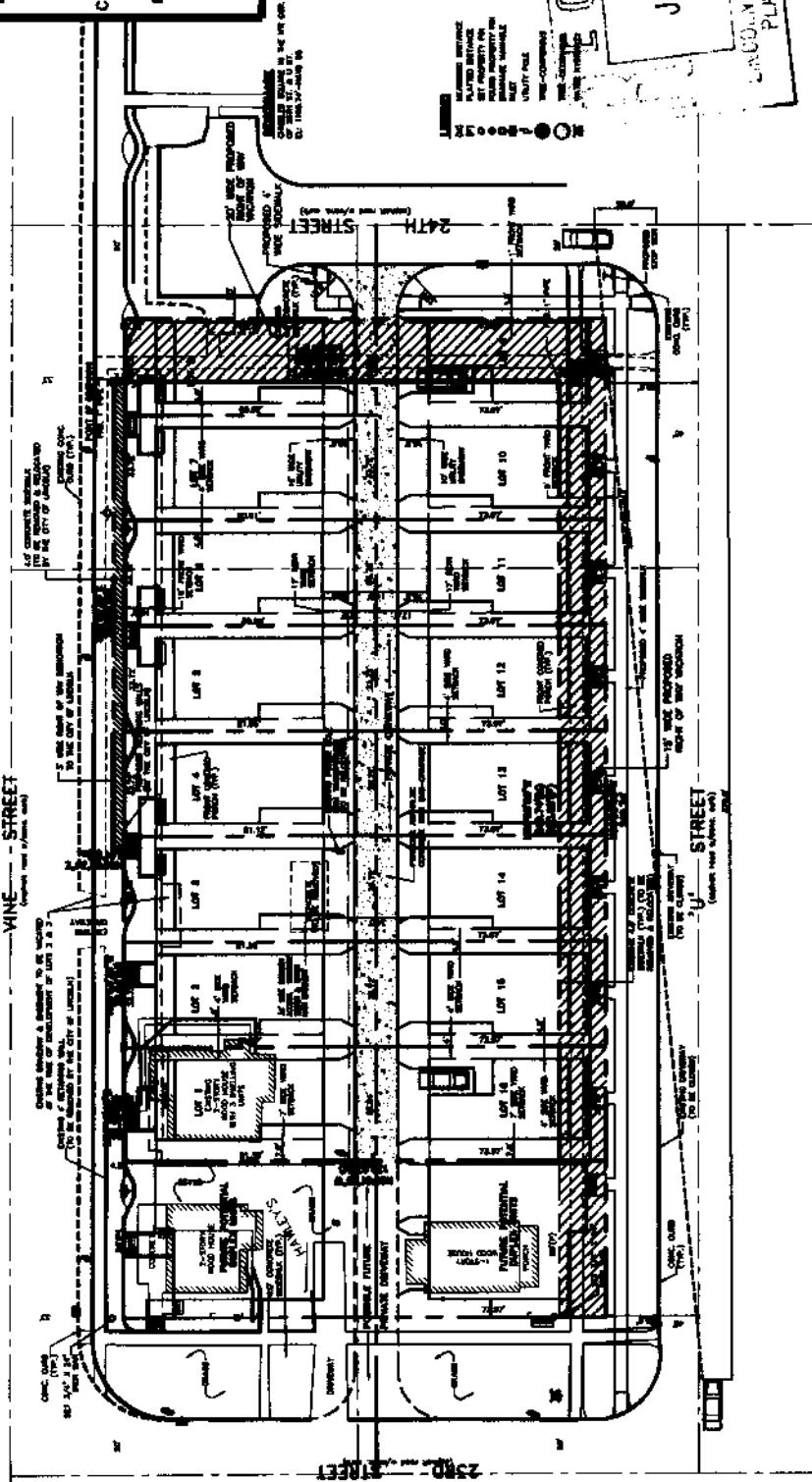
# SITE PLAN



SCALE: 1" = 20'

PROJECT #0212  
EXHIBIT 1, TRAC

1 OF 4



**PERMITS & REGULATIONS**  
1. All construction shall be in accordance with the City of Lincoln, Nebraska, Ordinance 123456789, and the City of Lincoln, Nebraska, Ordinance 987654321.  
2. All construction shall be in accordance with the City of Lincoln, Nebraska, Ordinance 123456789, and the City of Lincoln, Nebraska, Ordinance 987654321.  
3. All construction shall be in accordance with the City of Lincoln, Nebraska, Ordinance 123456789, and the City of Lincoln, Nebraska, Ordinance 987654321.

- 1. Number of lots to be subdivided: 16
- 2. Area of the proposed lots: 100,000 sq. ft.
- 3. Area of the proposed lots: 100,000 sq. ft.
- 4. Number of lots to be subdivided: 16
- 5. Area of the proposed lots: 100,000 sq. ft.
- 6. Number of lots to be subdivided: 16
- 7. Area of the proposed lots: 100,000 sq. ft.
- 8. Number of lots to be subdivided: 16
- 9. Area of the proposed lots: 100,000 sq. ft.

Lot	Area (sq. ft.)	Use
1	100,000	Residential
2	100,000	Residential
3	100,000	Residential
4	100,000	Residential
5	100,000	Residential
6	100,000	Residential
7	100,000	Residential
8	100,000	Residential
9	100,000	Residential
10	100,000	Residential
11	100,000	Residential
12	100,000	Residential
13	100,000	Residential
14	100,000	Residential
15	100,000	Residential
16	100,000	Residential

- 10. All lots shall be used for residential purposes only.
- 11. The minimum lot area shall be 10,000 sq. ft.
- 12. The minimum lot width shall be 100 feet.
- 13. The minimum lot depth shall be 100 feet.
- 14. The minimum lot area shall be 10,000 sq. ft.
- 15. The minimum lot width shall be 100 feet.
- 16. The minimum lot depth shall be 100 feet.
- 17. The minimum lot area shall be 10,000 sq. ft.
- 18. The minimum lot width shall be 100 feet.
- 19. The minimum lot depth shall be 100 feet.

- 1. The City of Lincoln, Nebraska, Ordinance 123456789, and the City of Lincoln, Nebraska, Ordinance 987654321.
- 2. The City of Lincoln, Nebraska, Ordinance 123456789, and the City of Lincoln, Nebraska, Ordinance 987654321.
- 3. The City of Lincoln, Nebraska, Ordinance 123456789, and the City of Lincoln, Nebraska, Ordinance 987654321.
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- 8. The City of Lincoln, Nebraska, Ordinance 123456789, and the City of Lincoln, Nebraska, Ordinance 987654321.
- 9. The City of Lincoln, Nebraska, Ordinance 123456789, and the City of Lincoln, Nebraska, Ordinance 987654321.

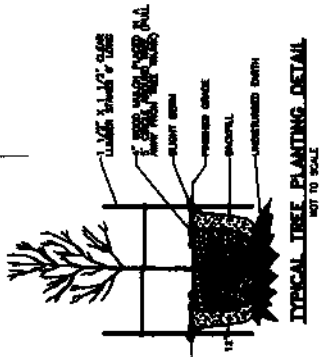
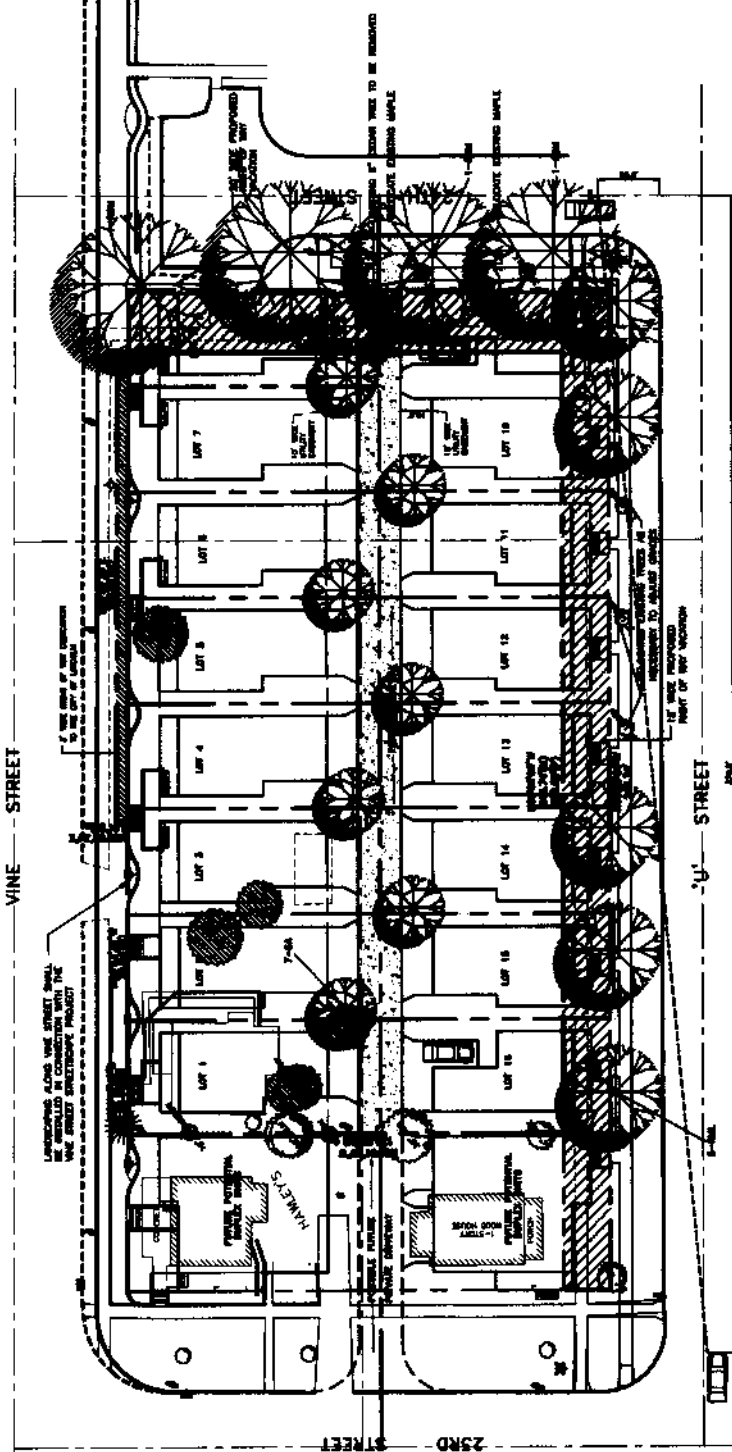
**GENERAL NOTES**  
1. The City of Lincoln, Nebraska, Ordinance 123456789, and the City of Lincoln, Nebraska, Ordinance 987654321.  
2. The City of Lincoln, Nebraska, Ordinance 123456789, and the City of Lincoln, Nebraska, Ordinance 987654321.  
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8. The City of Lincoln, Nebraska, Ordinance 123456789, and the City of Lincoln, Nebraska, Ordinance 987654321.  
9. The City of Lincoln, Nebraska, Ordinance 123456789, and the City of Lincoln, Nebraska, Ordinance 987654321.

**BRIAN D. CARSTERS & ASSOCIATES**  
 LAND USE PLANNING  
 RESIDENTIAL & COMMERCIAL DESIGN  
 601 OLD CHENEY ROAD  
 LINCOLN, NE 68512  
 PHONE: (402) 464-9004  
 FAX: (402) 464-9007  
 © 2004 CARSTERS, INC.

**LIBERTY VILLAGE**  
 COMMUNITY UNIT PLAN  
 R04023  
 N. 24TH & VINE STREETS  
 LINCOLN, NE

**LANDSCAPE PLAN**  
  
 SCALE: 1" = 20'  
 PROJECT: R04023  
 DATE: 07/21/04

**E.S.P.**  
 CONSULTING ENGINEERS  
 601 OLD CHENEY RD.  
 SUITE 'A'  
 LINCOLN, NEBRASKA  
 68512



**STREET TREE SCHEDULE**

KEY	COMMON NAME / BOTANICAL NAME	SIZE	METHOD	SPREAD	HEIGHT	REMARK	QUANTITY
1	AMERICAN BIRCH	1.0 FT DIA.	B & B	40'	40'		1
2	AMERICAN BIRCH	1.0 FT DIA.	B & B	40'	40'		3

**LANDSCAPE SCHEDULE**

KEY	COMMON NAME / BOTANICAL NAME	SIZE	METHOD	SPREAD	HEIGHT	REMARK	QUANTITY
1	AMERICAN BIRCH	1.0 FT DIA.	B & B	40'	40'		1

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 JUL 21 2004  
 LINCOLN CITY/LANCASTER COUNTY  
 PLANNING DEPARTMENT 031

**BRIAN D. CARSTENS & ASSOCIATES**  
 LAND USE PLANNING  
 RESIDENTIAL  
 COMMERCIAL  
 DESIGNER

2401 OLD CHENEY ROAD  
 LINCOLN, NE 68502

PHONE: (402) 441-5444  
 FAX: (402) 441-5447  
 @2003 CARSTENS, INC.

**LIBERTY VILLAGE**

COMMUNITY  
 UNIT PLAN  
 #04023

N. 24TH & VINE  
 STREETS  
 LINCOLN, NE

**UTILITY PLAN**



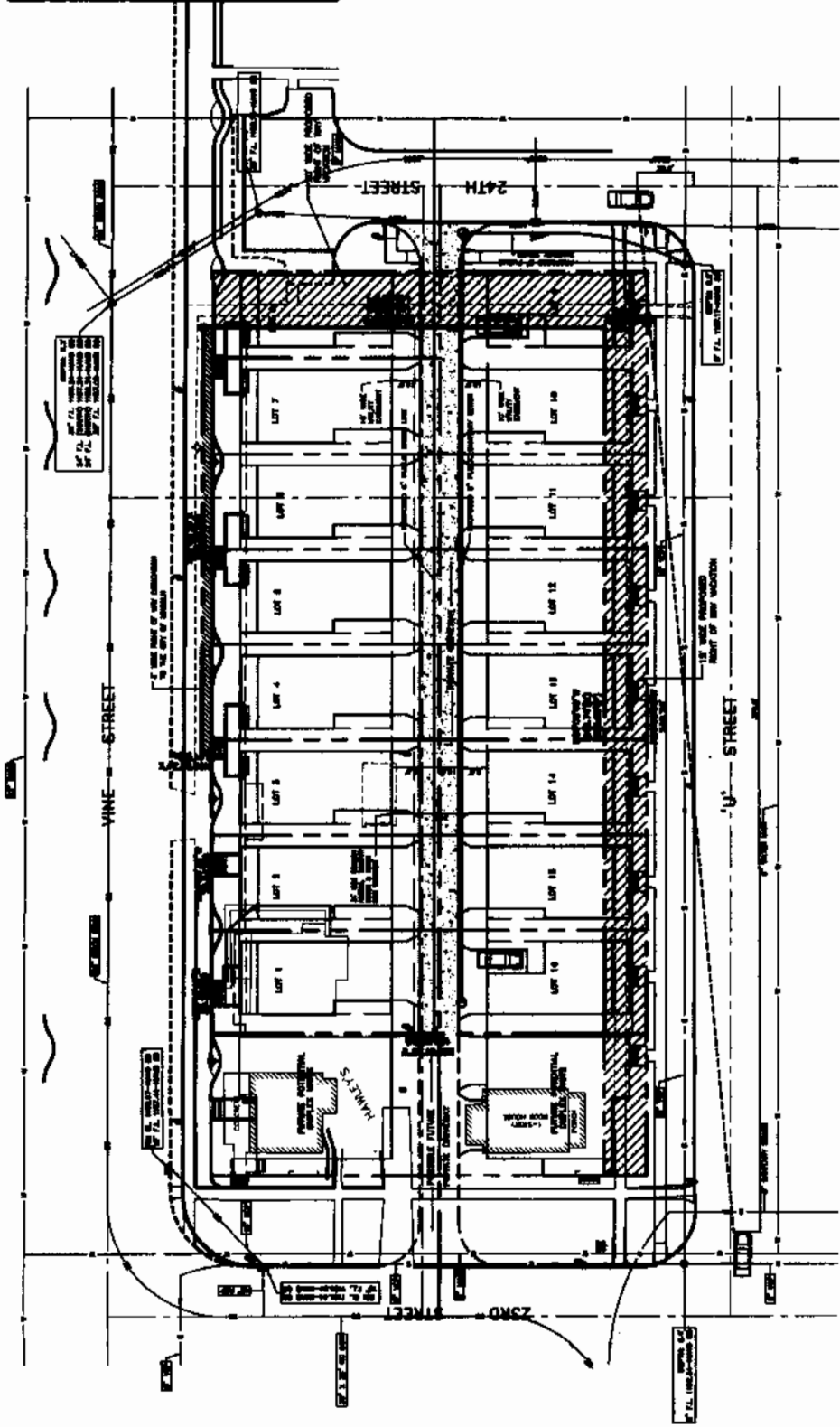
SCALE: 1" = 20'

PROJECT #04023  
 DATE: 06/20/04  
 DRAWING NO. 04023-UP

3 OF 4

**E.S.P.**  
 CONSULTING  
 ENGINEERS

601 OLD  
 CHENEY RD.  
 SUITE 'A'  
 LINCOLN  
 NEBRASKA  
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CITY OF LANCASTER  
 PLANNING DEPARTMENT

032



**BRIAN D. CARSTENS & ASSOCIATES**  
 LAND USE PLANNING  
 RESIDENTIAL & COMMERCIAL DESIGN

300 OLD CHEMNEY ROAD  
 LINCOLN, NE 68512

PLANNING AND DESIGN  
 2000 CHEMNEY ROAD  
 LINCOLN, NE 68512

**LIBERTY VILLAGE**

COMMUNITY DEVELOPMENT  
 1990S

N. 24TH & VINE STREETS  
 LINCOLN, NE

**GRADING PLAN**

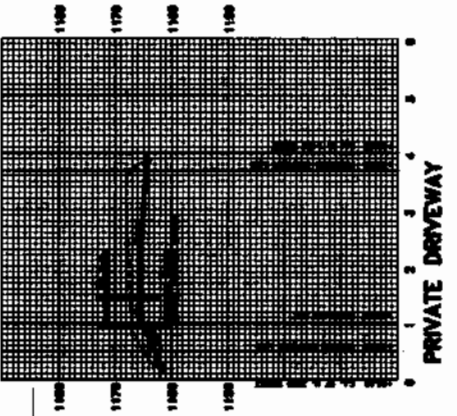
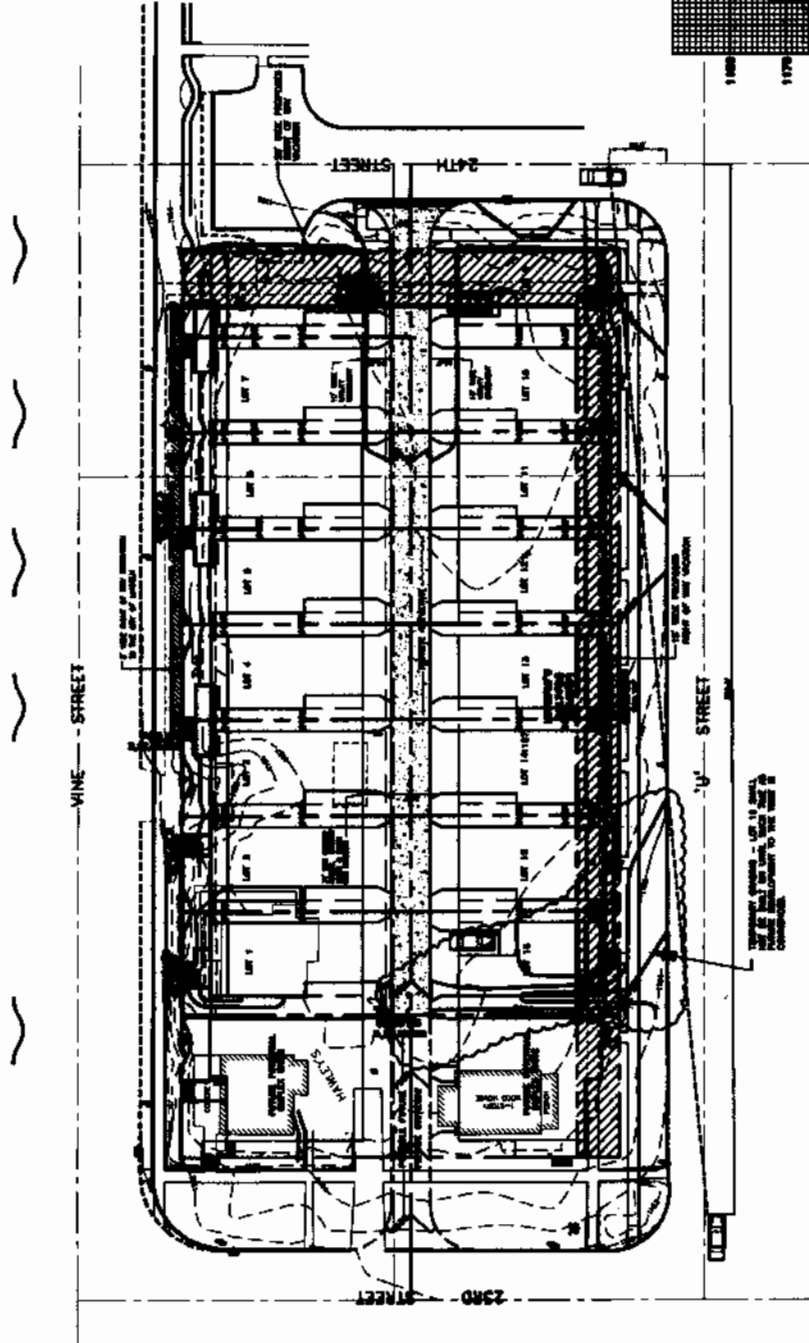


SCALE: 1"=40'

DATE: 07/21/04  
 DRAWN BY: [illegible]

**E.S.P.**  
 CONSULTING ENGINEERS

801 OLD CHEMNEY RD.  
 SUITE 'A'  
 LINCOLN, NEBRASKA  
 68512



**RECEIVED**

JUL 21 2004

033

PLANNING DEPARTMENT



"Bess Scott"  
<besscott@diodecom  
.net>

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

06/23/2004 09:56 AM

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