

City Council Introduction: **Monday**, March 12, 2007
Public Hearing: **Monday**, March 19, 2007, at **1:30** p.m.

Bill No. 07-38

FACTSHEET

TITLE: STREET & ALLEY VACATION NO. 07001,
requested by Eiger Corporation, to vacate the South
84th Street right-of-way south of Highway 2, generally
located southeast of the intersection of South 84th
Street and Highway 2.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: Consent Agenda: 02/28/07
Administrative Action: 02/28/07

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

RECOMMENDATION: A finding of conformance with
the Comprehensive Plan (7-0: Carlson, Carroll,
Cornelius, Esseks, Krieser, Taylor and Sunderman
voting 'yes'; Larson and Strand absent).

FINDINGS OF FACT:

1. The South 84th Street realignment is complete, and the street has been moved to the east approximately 150 feet. The old right-of-way both north and south of Highway 2 is no longer needed for street purposes and is considered excess.
2. The staff recommendation to find the proposed vacation of right-of-way to be in conformance with the Comprehensive Plan is based upon the "Analysis" as set forth on p.3, concluding that the right-of-way to be vacated is excess and not needed for street purposes, and should be vacated and allowed to be used for some other purpose.
3. The provisions for both acquiring new right-of-way and disposing of the old relative to the South 84th Street realignment were addressed in the annexation agreement associated with Appian Way. Therefore, there is no money required to be paid by the petitioner for this street vacation.
4. On February 28, 2007, this application appeared on the Planning Commission Consent Agenda and was opened for public hearing. No one came forward to speak.
5. On February 28, 2007, the Planning Commission agreed with the staff recommendation and voted 7-0 to find the proposed street vacation to be in conformance with the Comprehensive Plan (Strand and Larson absent).

FACTSHEET PREPARED BY: Jean L. Walker

DATE: March 5, 2007

REVIEWED BY: _____

DATE: March 5, 2007

REFERENCE NUMBER: FS\CC\2006\SAV.07001

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for February 28, 2007 PLANNING COMMISSION MEETING

PROJECT #: Street and Alley Vacation No. 07001.

PROPOSAL: To vacate South 84th Street right-of-way south of Highway 2.

LOCATION: Southeast of the intersection of South 84th Street and Highway 2.

LAND AREA: .87 acres more or less (38,259 square feet).

CONCLUSION: South 84th Street has been reconstructed in this area, and the realignment moved the street west. This request has been revised to only vacate the right-of-way east of the section line. The right-of-way to be vacated is excess and unneeded for street purposes, and should be vacated and allowed to be used for some other purpose.

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

LEGAL DESCRIPTION: See attached exhibit and legal description.

SURROUNDING LAND USE AND ZONING:

North:	Highway 2, Commercial, Office	O-3, B-5
South:	Residential, Commercial	AGR, R-3, B-5
East:	Commercial	B-5
West:	South 84 th Street, Residential	AGR, R-3

COMPREHENSIVE PLAN SPECIFICATIONS:

March 26, 2001 - The Southeast Lincoln/Highway 2 subarea plan was adopted.

HISTORY:

December 6, 2004 - UP#150B was approved.

August 11, 2004 - CZ#04039, SP#2046A, and UP#150A were approved.

March 15, 2004 - ANN#03002, CZ#3411, SP#2046 and UP#150 were approved annexing approximately 53.52 acres of land, changing the zoning from AG and AGR to H-4 and B-5, and approving approximately 358,000 square feet of commercial floor area.

ANALYSIS:

1. The South 84th Street realignment is complete, and the street has been moved to the east approximately 150'. The old right-of-way both north and south of Highway 2 is no longer needed for street purposes and is considered excess.
2. The area to be vacated with this request was originally included as part of SAV#05003, approved in 2005. That petition included all excess South 84th Street right-of-way both north and south of Highway 2 associated with the realignment. However, the petition was modified to delete the right-of-way south of Highway 2 and only the right-of-way north of the highway was vacated.
3. A portion of the area to be vacated is owned by the State of Nebraska (see attached ownership exhibit). The State purchased the land several years ago as right-of-way, but it is no longer needed for that purpose. However, because it is owned by the State, the State has the authority to either sell it or retain it. The State does not object to the proposed vacation, but the two parties have not been able to agree to terms of the sale.
4. Because the two parties have not agreed to terms, the petition has been revised from all former South 84th Street right-of-way south of Highway 2, to only include the right-of-way east of the section line. Ideally, all of the excess right-of-way in this area would be vacated and put to some use. However, the City cannot require the parties to agree to terms, and the revised petition is a valid request and meets the requirements to be vacated.
5. There are utilities in the area including a 48" water main and a 12" high-pressure gas line. Additionally, a future underground electrical line will be installed later this year. To accommodate them, easements will be retained where appropriate when the vacated land is deeded to the adjacent owner.
6. Public Works notes that 70' of right-of-way east of the new South 84 Street should be retained to allow for necessary turn lanes. The revised petition provides this amount of right-of-way.
7. 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 reconstruction 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. However, in this case provisions for both acquiring new right-of-way and disposing of the old relative to the South 84th Street realignment were addressed in the annexation agreement associated with Appian Way. Eiger Corp. (one of the signatories to the agreement and the developer of Prairie Lakes Shopping Center) agreed to dedicate the necessary right-of-way to accommodate the realignment south of Pine Lake Road, with the understanding that the old right-of-way would be vacated and that adjacent portions would be deeded to the corporation.

Prepared by:

Brian Will, 441-6362, bwill@lincoln.ne.gov
Planner
February 14, 2007

APPLICANT: Gregory Sutton
Eiger Corp.
1710 South 70th Street
Lincoln, NE 68506

CONTACT: DaNay Kalkowski
Seacrest & Kalkowski, PC
1111 Lincoln Mall Ste 350
Lincoln, NE 68508

STREET & ALLEY VACATION NO. 07001

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

February 28, 2007

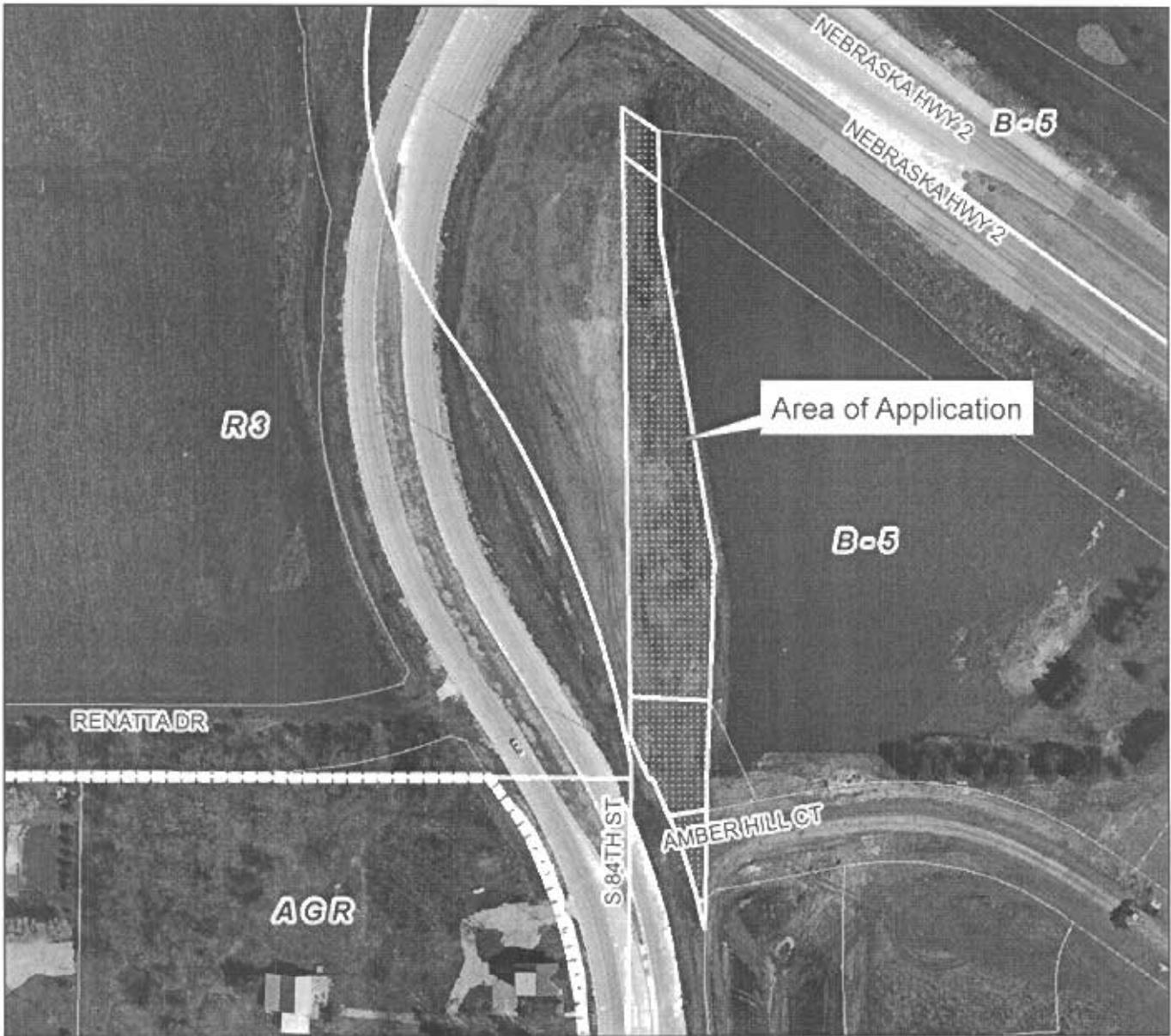
Members present: Carlson, Carroll, Cornelius, Esseks, Krieser, Sunderman and Taylor; Larson and Strand absent.

The Consent Agenda consisted of the following items: **COUNTY CHANGE OF ZONE NO. 07005, CHANGE OF ZONE NO. 07007, SPECIAL PERMIT NO. 07003, STREET AND ALLEY VACATION NO. 07001 and WAIVER NO. 07001.**

Ex Parte Communications: None.

Carroll moved to approve the Consent Agenda, seconded by Cornelius and carried 7-0: Carlson, Carroll, Cornelius, Esseks, Krieser, Sunderman and Taylor voting 'yes'; Larson and Strand absent.

Note: This is final action on Special Permit No. 07003 and Waiver No. 07001, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.



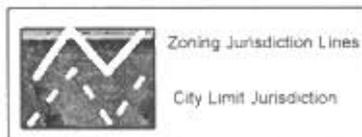
2005 aerial

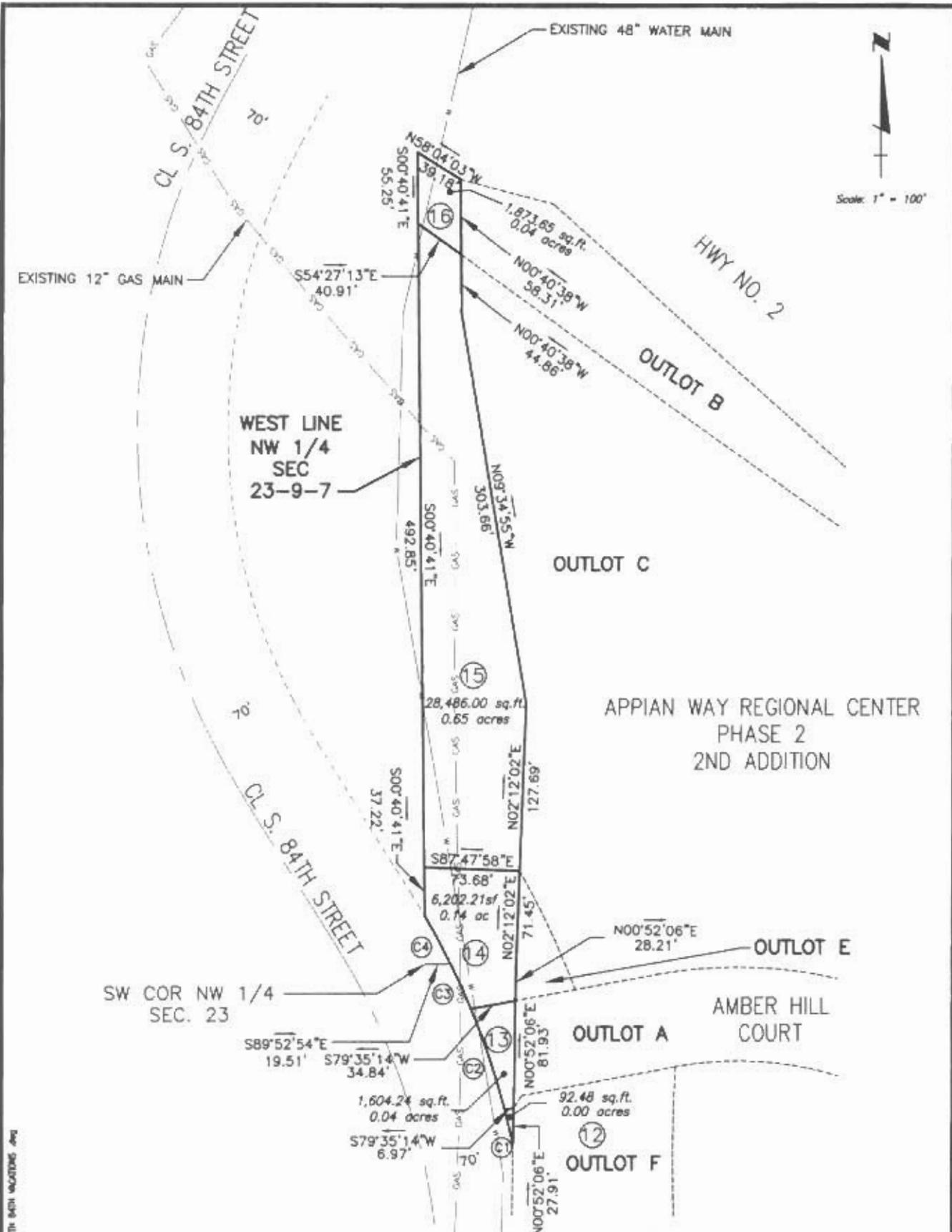
Street and Alley Vacation #07001 S 84th St & Hwy 2

Zoning:

Two Square Miles
Sec. 22 T09N R07E
Sec. 23 T09N R07E

- R-1 to R-5 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-7 Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-6 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District





**PARCELS # 12 - 16
 ADJ. TO OUTLOTS A, B, C, E & F**

**84TH STREET VACATIONS NEAR
 84TH & HWY NO. 2 INTERSECTION**

LINCOLN OFFICE
 205 J St., Ste 2000
 Omaha, NE 68101
 (402) 479-2200
 www.hms.com



DATE: 02-19-07
 SHEET NO: 34-1856
 OF 6
 1/6

OUTLOT C

APPIAN WAY REGIONAL CENTER
 PHASE 2
 2ND ADDITION

OUTLOT E

OUTLOT A

AMBER HILL COURT

OUTLOT F

CURVE TABLE

CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD LENGTH
C1	27.42'	595.00'	02°38'25"	S13°33'55"E	27.42'
C2	81.28'	595.00'	07°49'35"	S18°47'55"E	81.21'
C3	38.05'	595.00'	03°39'50"	S24°32'38"E	38.04'
C4	41.96'	595.00'	04°02'25"	S28°23'45"E	41.95'

P:\31065_14165\DWG\31065 SOUTH WITH VACATIONS.dwg

**84TH STREET VACATIONS
HIGHWAY NO. 2 SOUTH**

PARCEL # 12

**ADJACENT TO OUTLOT F, APPIAN WAY REGIONAL CENTER
PHASE 2, 2ND ADDITION**

A TRACT OF LAND IN THE EXISTING SOUTH 84TH STREET RIGHT OF WAY ADJACENT TO OUTLOT F, APPIAN WAY REGIONAL CENTER PHASE 2, 2ND ADDITION, CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

REFERRING TO THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6TH P.M., THENCE S 89°52'54" E, ASSUMED BEARING, ALONG THE SOUTHERLY LINE OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 23, A DISTANCE OF 19.51 FEET TO THE BEGINNING OF A 595.00 FOOT RADIUS CURVE, CONCAVE TO THE WEST; THENCE SOUTHERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 11°29'26", AN ARC DISTANCE OF 119.33 FEET, THE CHORD OF SAID CURVE BEARS S 20°37'50" E, A DISTANCE OF 119.13 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTHERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 02°38'25", AN ARC DISTANCE OF 27.42 FEET, THE CHORD OF SAID CURVE BEARS S 13°33'55" E, A DISTANCE OF 27.42 FEET TO A POINT ON THE WESTERLY LINE OF SAID OUTLOT F; THENCE N 00°52'06" E, ALONG THE WESTERLY LINE OF SAID OUTLOT F, A DISTANCE OF 27.91 FEET TO THE NORTHWEST CORNER OF SAID OUTLOT F; THENCE S 79°35'14" W, A DISTANCE OF 6.97 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS AN AREA OF 92.48 SQUARE FEET, 0.00 ACRES.

**84TH STREET VACATIONS
HIGHWAY NO. 2 SOUTH**

PARCEL # 13

**ADJACENT TO OUTLOT A
APPIAN WAY REGIONAL CENTER PHASE 2
2ND ADDITION**

A TRACT OF LAND IN THE EXISTING SOUTH 84TH STREET RIGHT OF WAY ADJACENT TO OUTLOT A, APPIAN WAY REGIONAL CENTER PHASE 2, 2ND ADDITION, CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

REFERRING TO THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6TH P.M., THENCE S 89°52'54" E, ASSUMED BEARING, ALONG THE SOUTHERLY LINE OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 23, A DISTANCE OF 19.51 FEET TO THE BEGINNING OF A 595.00 FOOT RADIUS CURVE, CONCAVE TO THE WEST; THENCE SOUTHERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 03°39'50", AN ARC DISTANCE OF 38.05 FEET, THE CHORD OF SAID CURVE BEARS S 24°32'38" E, A DISTANCE OF 38.04 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTHERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 07°49'35", AN ARC DISTANCE OF 81.28 FEET, THE CHORD OF SAID CURVE BEARS S 18°47'55" E, A DISTANCE OF 81.21 FEET; THENCE N 79°35'14" E, A DISTANCE OF 6.97 FEET TO THE SOUTHWEST CORNER OF SAID OUTLOT A; THENCE N 00°52'06" E, ALONG THE WESTERLY LINE OF SAID OUTLOT A, A DISTANCE OF 81.93 FEET TO THE NORTHWEST CORNER OF SAID OUTLOT A; THENCE S 79°35'14" W, A DISTANCE OF 34.84 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS AN AREA OF 1,604.24 SQUARE FEET, 0.04 ACRES.

**84TH STREET VACATIONS
HIGHWAY NO. 2 SOUTH**

PARCEL # 14

**ADJACENT TO OUTLOT E
APPIAN WAY REGIONAL CENTER PHASE 2
2ND ADDITION**

A TRACT OF LAND IN THE EXISTING SOUTH 84TH STREET RIGHT OF WAY ADJACENT TO OUTLOT E, APPIAN WAY REGIONAL CENTER PHASE 2, 2ND ADDITION, CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

REFERRING TO THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6TH P.M., THENCE S 89°52'54" E, ASSUMED BEARING, ALONG THE SOUTHERLY LINE OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 23, A DISTANCE OF 19.51 FEET TO THE BEGINNING OF A 595.00 FOOT RADIUS CURVE, CONCAVE TO THE WEST AND THE POINT OF BEGINNING; THENCE SOUTHERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 3°39'50", AN ARC DISTANCE OF 38.05 FEET, THE CHORD OF SAID CURVE BEARS S 24°32'38" E, A DISTANCE OF 38.04 FEET; THENCE N 79°35'14" E, A DISTANCE OF 34.84 FEET TO THE SOUTHWEST CORNER OF SAID OUTLOT E; THENCE N 00°52'06" E, ALONG THE WESTERLY LINE OF SAID OUTLOT E, A DISTANCE OF 28.21 FEET; THENCE N 02°12'02" E, ALONG THE WESTERLY LINE OF SAID OUTLOT E, A DISTANCE OF 71.45 FEET TO THE NORTHWEST CORNER OF SAID OUTLOT E; THENCE N 87°47'58" W, A DISTANCE OF 73.68 FEET TO A POINT ON THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 23; THENCE S 00°40'41" E, ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 23, A DISTANCE OF 37.22 FEET TO THE BEGINNING OF A 595.00 FOOT RADIUS CURVE, CONCAVE TO THE WEST; THENCE SOUTHERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 04°02'25", AN ARC DISTANCE OF 41.96 FEET, THE CHORD OF SAID CURVE BEARS S 28°23'45" E, A DISTANCE OF 41.95 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS AN AREA OF 6,202.21 SQUARE FEET, 0.14 ACRES.

**84TH STREET VACATIONS
HIGHWAY NO. 2 SOUTH**

PARCEL # 15

**ADJACENT TO OUTLOT C
APPIAN WAY REGIONAL CENTER PHASE 2
2ND ADDITION**

A TRACT OF LAND IN THE EXISTING SOUTH 84TH STREET RIGHT OF WAY ADJACENT TO OUTLOT C, APPIAN WAY REGIONAL CENTER PHASE 2, 2ND ADDITION, CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER SAID OUTLOT C, THENCE N 54°27'13" W, ASSUMED BEARING, A DISTANCE OF 40.91 FEET TO A POINT ON THE WEST LINE OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE SIXTH PRINCIPAL MERIDIAN; THENCE S 00°40'41" E, ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 23, A DISTANCE OF 492.85 FEET; THENCE S 87°47'58" E, A DISTANCE OF 73.68 FEET TO A CORNER OF SAID OUTLOT C; THENCE N 02°12'02" E, ALONG THE WESTERLY LINE OF SAID OUTLOT C, A DISTANCE OF 127.69 FEET; THENCE N 09°34'55" W, ALONG THE WESTERLY LINE OF SAID OUTLOT C, A DISTANCE OF 303.66 FEET; THENCE N 00°40'38" W, ALONG THE WESTERLY LINE OF SAID OUTLOT C, A DISTANCE OF 44.86 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS AN AREA OF 28,486.00 SQUARE FEET, 0.65 ACRES.

**84TH STREET VACATIONS
HIGHWAY NO. 2 SOUTH**

PARCEL # 16

**ADJACENT TO OUTLOT B
APPIAN WAY REGIONAL CENTER PHASE 2
2ND ADDITION**

A TRACT OF LAND IN THE EXISTING SOUTH 84TH STREET RIGHT OF WAY ADJACENT TO OUTLOT B, APPIAN WAY REGIONAL CENTER PHASE 2, 2ND ADDITION, CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER SAID OUTLOT B, THENCE N 58°04'03" W, ASSUMED BEARING, A DISTANCE OF 39.18 FEET TO A POINT ON THE WEST LINE OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE SIXTH PRINCIPAL MERIDIAN; THENCE S 00°40'41" E, ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 23, A DISTANCE OF 55.25 FEET; THENCE S 54°27'13" E, A DISTANCE OF 40.91 FEET TO THE SOUTHWEST CORNER OF SAID OUTLOT B; THENCE N 00°40'38" W, ALONG THE WESTERLY LINE OF SAID OUTLOT B, A DISTANCE OF 58.31 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS AN AREA OF 1,873.65 SQUARE FEET, 0.04 ACRES.

SEACREST & KALKOWSKI, PC, LLO

1111 LINCOLN MALL, SUITE 350
LINCOLN, NEBRASKA 68508-3910

TELEPHONE (402) 435-6000
FACSIMILE (402) 435-6100

KENT SEACREST
E-MAIL: kent@sk-law.com

DANAY KALKOWSKI
E-MAIL: danay@sk-law.com

January 11, 2007

HAND DELIVERY

Brian Will
Planning Department
County-City Building
555 South 10th Street
Lincoln, NE 68508

RE: Street Vacation

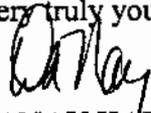
Dear Brian:

Our office represents Eiger Corp., the owner of property located south of Highway 2 and east of 84th Street. Eiger Corp. has previously submitted a petition and legal descriptions for the vacation of right-of-way located south of Highway 2 and east of 84th Street as part of Street and Alley Vacation No. 05003. Eiger Corp. would like to start a new application for the previously submitted petition. Enclosed please find an application fee in the amount of \$125.00.

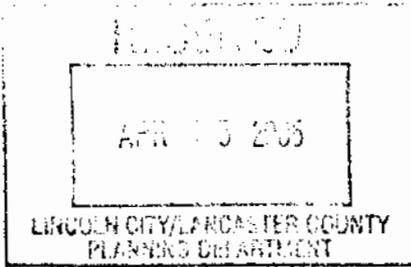
The Conditional Annexation and Zoning Agreement for South 84th and Highway 2 contains provisions pertaining to the realignment of South 84th Street adjacent to property owned by Eiger Corp., including how new right-of-way was to be dedicated and how vacated right-of-way was to be disposed of. This vacation request is consistent with the terms of the Annexation Agreement.

If you have any questions regarding the application or need any additional information, please give me a call.

Very truly yours,


DANAY KALKOWSKI
For the Firm

Enclosure



**PETITION TO VACATE PUBLIC WAY
with
RELEASE AND WAIVER OF RIGHTS AND TITLE,
AND QUITCLAIM DEED TO CITY OF LINCOLN**

TO THE HONORABLE CITY COUNCIL OF THE CITY OF LINCOLN, NEBRASKA:

The undersigned property owner(s) hereby petition you to vacate the following street, alley, or other public way, commonly known as: (i.e.: *Elm Street from 1st to 2nd St. or East-west alley, from the north line of 1st St. to the south line of 2nd St.*)

Former 84th Street from the South line of Hwy. 2 south to a point apprx 654.36 south
of the south ROW line of Hwy. 2 as shown on attachment

in the CITY OF LINCOLN, NEBRASKA, with the City reserving in said street, alley, or other public way such title, rights, easements, and privileges as it may deem necessary. In consideration of the vacation of the above-described street, alley, or other public way, we, and each of us, for ourselves, our heirs, personal representatives, successors, and assigns, hereby waive and release any and all claims, causes of action, rights of access, and demands of every nature, known or unknown, which may accrue to us, or which we now have, or which we may hereafter have as a result of such vacation; and hereby quitclaim unto the City of Lincoln, Nebraska, and to its successors and assigns forever, all right, title, interest, estate, and demand, both at law and in equity, in and to all of said street, alley, or other public way.

TO HAVE AND TO HOLD the above-described street, alley, or other public way together with all tenements, hereditaments, and appurtenances thereto belonging unto the City of Lincoln, Nebraska, and to its successors and assigns forever.

The undersigned hereby represent(s) that he, she, they, or it is(are) the owner(s) of the following described property in Lincoln, Lancaster County, Nebraska, abutting on said street, alley, or other public way: (*Legal description from deed or abstract NOT street address, i.e. Lot 10, Block 500 Boardwalk Addition NOT 4500 Park Place Blvd.*)

Outlots A, B, C, E and F, Applan Way Regional Center Phase II 2nd. Addition,
Lancaster County, Nebraska

DATED this 13 day of April, 2005.

Eiger Corp., a Nebraska corporation

By: *Arey Sutton*
President

**(ALL TITLEHOLDERS OF THE ABOVE DESCRIBED REAL ESTATE MUST SIGN THIS PETITION
BEFORE A NOTARY PUBLIC -- NOTARIAL ACKNOWLEDGMENTS ON REVERSE)**

(Individual(s) Acknowledgment):

STATE OF _____)
) ss.
_____ COUNTY)

The foregoing instrument was acknowledged before me on this _____ day of _____, 20____, by

(Please indicate name(s) and marital status of person(s) signing)

(Seal)

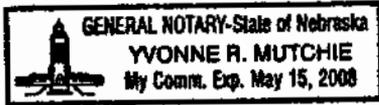
Notary Public

(Corporate Acknowledgment):

STATE OF NEBRASKA)
) ss.
LANCASTER COUNTY)

The foregoing instrument was acknowledged before me on this 13 day of April, 2005, by Gregory E. Sutton, president of Eiger Corp., on behalf of the corporation.

(Seal)



Yvonne Mutchie
Notary Public

(Partnership Acknowledgment):

STATE OF _____)
) ss.
_____ COUNTY)

The foregoing instrument was acknowledged before me on this _____ day of _____, 20____, by _____, general partner of _____, on behalf of the partnership.

(Seal)

Notary Public

(Limited Liability Company Acknowledgment):

STATE OF _____)
) ss.
_____ COUNTY)

The foregoing instrument was acknowledged before me on this _____ day of _____, 20____, by _____, managing member of _____, on behalf of said limited liability company.

(Seal)

Notary Public