

FACTSHEET

TITLE: STREET & ALLEY VACATION NO. 10003, requested by the Lincoln Parks & Recreation Department, to vacate the west 34 feet of South 29th Street right-of-way from the north line of Washington Street to the south line of the east-west alley between Washington Street and A Street.

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

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 03/24/10
Administrative Action: 03/24/10

RECOMMENDATION: A finding of conformance with the Comprehensive Plan (7-0: Larson, Partington, Taylor, Esseks, Gaylor Baird, Francis and Cornelius voting 'yes'; Lust and Sunderman absent).

FINDINGS OF FACT:

1. This street vacation request was heard by the Planning Commission in conjunction with a change of zone and special permit to relocate the Elias Dial House (a designated landmark) from 2033 South 16th Street to this location at 29th & Washington rather than it being demolished as part of a redevelopment project in the area of 16th & South Streets. The developer at 16th & South Streets has since submitted an amended plan to accomplish that project while leaving the Dial House on its original site.
2. The Parks & Recreation Department wishes to proceed with this request to vacate a portion of the South 29th Street right-of-way from the north line of Washington Street to the south line of the east-west alley between Washington and A Streets in order to enhance the value of the property at 29th and Washington Streets. The vacation of this right-of-way would expand an adjacent parcel owned by the Parks and Recreation Foundation to create a buildable lot.
3. The Planning Department intends to withdraw the associated change of zone and special permit for relocating the Dial House when the redevelopment construction commences at 16th & South Street.
4. The staff recommendation to find the proposed vacation in conformance with the Comprehensive Plan is based upon the "Analysis" as set forth on p.3-4. The staff presentation is found on p.5-6. Testimony on behalf of the Parks Department is found on p.7.
5. There was no testimony in opposition.
6. On March 24, 2010, the Planning Commission agreed with the staff recommendation and voted 7-0 to find the proposed vacation in conformance with the Comprehensive Plan (Lust and Sunderman absent).
7. The appraisal by Clint Thomas of the Housing Rehab & Real Estate Division of the Urban Development Department is found on p.10, recommending that the vacated area be sold to the abutting property owner for \$636.00.
8. The provisions of Chapter 14.20 of the Lincoln Municipal Code have been satisfied.

FACTSHEET PREPARED BY: Jean L. Preister

DATE: August 5, 2010

REVIEWED BY: _____

DATE: August 5, 2010

REFERENCE NUMBER: FS\CC\2010\SAV.10003

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for March 24, 2010 PLANNING COMMISSION MEETING

PROJECT #: Street and Alley Vacation No.10003

PROPOSAL: To vacate the west 34 feet of S. 29th Street right-of-way from the north line of Washington Street to south line of the east-west alley between Washington Street and A Street.

LOCATION: S. 29th Street and Washington Street

LAND AREA: .10 acres more or less

CONCLUSION: The proposed street vacation is in conformance with the Comprehensive Plan

<u>RECOMMENDATION:</u>	Conforms to the Comprehensive Plan
-------------------------------	------------------------------------

GENERAL INFORMATION:

LEGAL DESCRIPTION: West 34 feet of S. 29th Street right-of-way from the north line of Washington Street to south line of the east-west alley between Washington Street and A Street.

SURROUNDING LAND USE AND ZONING:

North: B-3 Commercial District	Vacant - To be utilized by the Parks Department in the future
East: P Public	Park land including the Rock Island Trail
South: R-2 Residential	Single and two family dwellings
West: R-2 Residential	Single and two family dwellings

ASSOCIATED APPLICATIONS: SP10014, CZ10005

COMPREHENSIVE PLAN SPECIFICATIONS:

The 2030 Comprehensive Plan identifies this area as Residential
S. 29th Street is a local street
Alleys are not included in the functional classification (p 102)

UTILITIES:

Black Hills Energy - Black Hills Energy does not have any gas lines within the area, so Black Hills Energy does not have any objections to this vacation.

Lincoln Electric System - LES has an existing high voltage underground cable located 10' west of the east right-of-way of S. 29th Street. Although this is probably outside of the requested 34ft vacation, LES requests that an easement for existing and future electrical facilities be retained across the entire proposed vacation corridor.

Public Works - There is an existing 8" sanitary sewer which runs across the northeast corner of the proposed vacation. There also is an existing 24" water main running north-south in the area of proposed vacation. A permanent easement should be required over the entire vacated area for maintenance or future replacement of these utilities.

There is an existing paved street return at the north side of Washington in 29th Street. This return would have to be removed and curb and gutter installed at the applicants expense.

The vacation creates a dead end unless an alley is graded and paved and an alley return is built. In the remaining 16' of S. 29th Street, a corner triangle of right-of-way should be retained at the northeast corner of the vacated area. The right angle sides of the triangle should be 15' long.

TRAFFIC ANALYSIS: S. 29th Street and Washington Street are both local streets.

ANALYSIS:

1. 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.
2. The street is classified as a local street in the 2030 Comprehensive plan. It is not a paved roadway at the location of the proposed vacation.
3. Historic Preservation Commission has received and denied an application to demolish the Elias Dial House a designated local landmark located at 2033 S. 16th Street just north of South Street. The Commission has approved an application to relocate the house, pending confirmation of a suitable site. The Parks Foundation is in the process of acquiring a 32' wide buildable, residentially zoned lot at the north-west corner of S. 29th Street and Washington Street. This vacation will provide the opportunity to combine the vacated right-of-way of S. 29th Street with the existing 32' wide lot to create a more desirable lot for the relocation of the Dial House.
4. The 34' of right-of way combined with the 32' wide lot, create a more suitable lot (66' wide) for the 28' wide Dial House. Although there will be a utility easement over the east 34 feet of the lot without the vacation the original 32' lot minus the 5' side yards would leave a buildable area of only be 22' wide.
5. The approval of both the special permit #10014 for a local landmark at this new location and the change of zone designation are contingent upon the approval of the street vacation.

6. Building and Safety has recommended that the name S. 29th Street be removed and the remaining right-of-way be designated as an alley.

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

- 1.1 The provisions of Chapter 14.20 of the Lincoln Municipal Code are met. (Potentially parts of 14.20 may not apply if purchased by the Parks Foundation.)
- 1.2 An utility easement is retained over the entire 34' of the vacated Right-of way.
- 1.3 A public access easement is retained over a 15' by 15' triangle at the north-east corner of the portion of the right-of-way to be vacated.
- 1.4 Designation of remaining 16' of former S. 29th Street as an alley, not a street.

Prepared by:

Christy Eichorn, Planner
402-441-7603
ceichorn@lincoln.ne.gov

DATE: March 11, 2010

APPLICANT:

Lynn Johnson
Lincoln Parks & Recreation Department
2740 A Street
Lincoln, NE 68502

CONTACT:

JJ Yost
Lincoln Parks & Recreation Department
2740 A Street
Lincoln, NE 68502
402-441-8255

**CHANGE OF ZONE NO. 10005
TO DESIGNATE A HISTORIC LANDMARK;
SPECIAL PERMIT NO. 10014,
FOR HISTORIC PRESERVATION;
and
STREET & ALLEY VACATION NO. 10003**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

March 24, 2010

Members present: Larson, Partington, Taylor, Esseks, Gaylor Baird, Francis and Cornelius; Lust and Sunderman absent.

Ex Parte Communications: None.

Staff recommendation: Approval of the landmark designation; conditional approval of the special permit; and a finding of conformance with the Comprehensive Plan on the street vacation.

Staff presentation: **Ed Zimmer of Planning staff** reported that the Historic Preservation Commission (HPC) reviewed this change of zone and special permit last week and unanimously recommended that the Planning Commission act favorably. This is an unusual application. Typically, when we designate property as a landmark, we mean improved property. In this case, we are recommending the designation of unimproved property as a landmark, with the intent and purpose of creating the opportunity if the owners of the Dial House (which has been a designated landmark since 1988 at 2033 S. 16th Street) are willing and can accomplish moving the property rather than demolishing it. An application to demolish that landmark has been denied. Under Chapter 27.57, Historic Preservation, the owner will have the right to demolish after six months. We are trying to create an opportunity for relocation as a preferable outcome as opposed to demolishing.

If the Planning Commission acts favorably on the change of zone and special permit, it would be the Planning Department's intention to hold these applications on pending until there is documentation from the owners of the Dial House that they will be able and intend to accomplish this move. The conditions of approval on the special permit do require that the special permit will be null and void if the Elias Dial House is not placed upon this property by December 31, 2010, although the special permit could be extended one year administratively. This is an attempt to create an opportunity to save this building if the owners are so willing.

The street vacation is a somewhat separate matter, but if the right-of-way is vacated, a buildable lot would be created, and that is a good outcome in and of itself. That right-of-way vacation could be carried forward even if the move of the house does not occur.

Esseks inquired as to the present owners of the Dial House and whether there is any indication that they are willing to undertake the cost of relocating. Zimmer advised that the owner is Speedway Properties. The Dial House is currently located at 2033 S. 16th Street. The owner did appear before the Historic Preservation Commission for the application to demolish (which was denied) and for

the application to relocate. They have indicated a strong interest in moving the house. This is an attempt to create a buildable lot that would be suitable for the surrounding area.

Esseks then inquired as to the ownership of the property to which the house would be moved. Zimmer stated that the property at 2952 Washington Street is under contract, to be purchased by Parks & Recreation, with the intent to potentially convey it to the benefit of the Parks Dept. It is part of a larger parcel stretching from A Street to Washington Street that Parks & Recreation is acquiring.

Esseks wondered whether Speedway Properties would be required to purchase the land before they could relocate the house. Zimmer indicated that Speedway Properties would have to acquire the land from the Parks Foundation or Parks Department. He believes the land would have some value if the buildable lot is created.

Esseks wondered whether the 2952 Washington Street property could be conveyed to the Parks Foundation. Zimmer stated that he does not know that the Parks Foundation would want to be in the position of being a landlord of a small residential property. It is Zimmer's opinion that a good outcome would be if the 2952 Washington Street property were in the hands of a homeowner who is maintaining it. Part of this action would keep it under landmark protection at the new location – it would allow the building to be moved and still be under landmark protection.

In addition, Zimmer pointed out that this whole package would vacate 34 feet of the public right-of-way and retain 16 feet for future alley type use. The house will face south onto Washington Street. The combined parcel would be 66 feet wide, but 34 feet of that needs to remain under easement because of the water main underneath it. The remaining 32 feet by itself is not wide enough for a 28 feet wide house and ordinary 5 feet west side yard. The special permit allows reduction of that west side yard.

It was also pointed out that the Planning Department is sponsoring this proposal to facilitate this possibility.

Support

1. Peter Katt appeared for Mark Hunzeker on behalf of **Speedway Properties (B&J Partnership)**, the current owner of the Dial House. He agreed with Zimmer's comments and expressed appreciation for all the extra effort the City is going through in trying to create the opportunity to save this historic structure. His client is willing to go this route. He believes that the best outcome for this property is for it to be saved and not demolished. It cannot stay where it is currently located, and it appears that there is at least a reasonably good possibility and outcome on where this home may be successfully relocated and maintain its historic character.

Katt noted that all of the details of the lot purchase and how that relates are not in place at this time. They do not have a price for the lot from the Parks Foundation, but it does not make sense to put the details together until this action is in place. His client is interested in making this happen.

2. JJ Yost of Lincoln Parks & Recreation indicated that the Parks Department is kind of working as a third party with the Parks Foundation and the current landowner. The Parks Department is interested in ultimately acquiring the property that fronts on A Street. The Foundation is working to facilitate this move. They did meet with the neighborhood about this plan and had very a favorable reaction – the neighbors are interested in getting an owner-occupied home on this lot.

Larson asked whether the Parks Foundation has acquired that lot. Yost answered “no”, but indicated that the Parks Foundation should be closing with the current owner within the next couple of weeks. The current landowner is clearing the property before the closing. There was no testimony in opposition.

CHANGE OF ZONE NO. 10005

ACTION BY PLANNING COMMISSION:

March 24, 2010

Larson moved approval, seconded by Francis.

Francis thinks this is a good solution and appreciates all parties working together to save the house.

Esseks believes this to be a precedent for future action and is a great example of cooperation.

Cornelius suggested that this sounds like an opportunity to improve a neighborhood, save a landmark building and make opportunity for development, and that is a win for all parties involved.

Motion for approval carried 7-0: Larson, Partington, Taylor, Esseks, Gaylor Baird, Francis and Cornelius voting ‘yes’; Lust and Sunderman absent. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 10014

ACTION BY PLANNING COMMISSION:

March 24, 2010

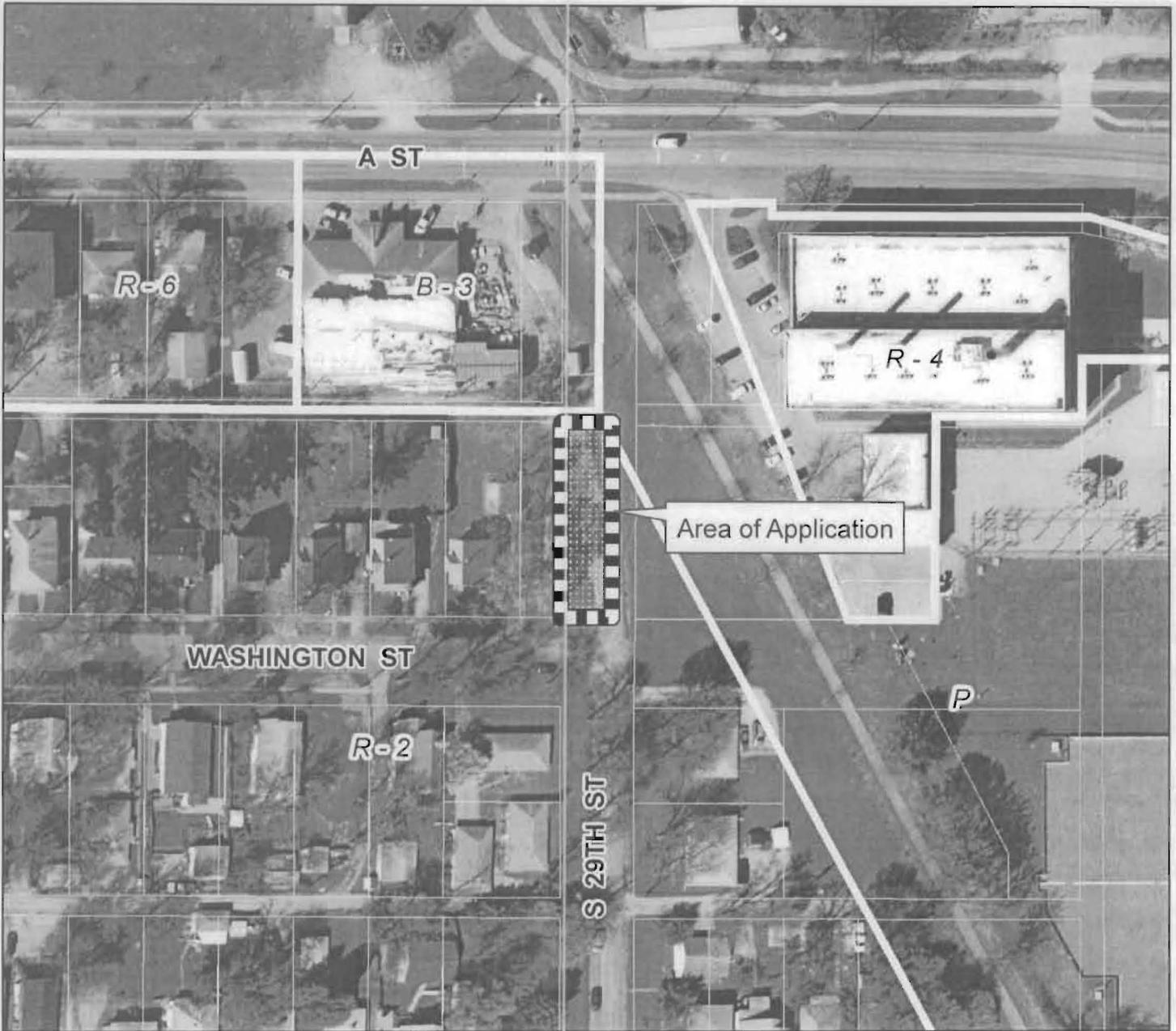
Francis moved to approve the staff recommendation of conditional approval, seconded by Larson and carried 7-0: Larson, Partington, Taylor, Esseks, Gaylor Baird, Francis and Cornelius voting ‘yes’; Lust and Sunderman absent. This is a recommendation to the City Council.

STREET & ALLEY VACATION NO. 10003

ACTION BY PLANNING COMMISSION:

March 24, 2010

Larson made a motion to find the street vacation to be in conformance with the Comprehensive Plan, seconded by Taylor and carried 7-0: Larson, Partington, Taylor, Esseks, Gaylor Baird, Francis and Cornelius voting ‘yes’; Lust and Sunderman absent. This is a recommendation to the City Council.



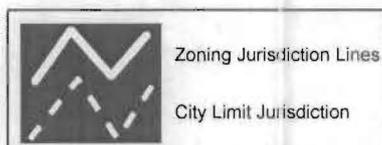
2007 aerial

Street & Alley Vacation # 10003 S 29th & Washington St

Zoning:

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transillon 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. 31 T10N R07E





INTEROFFICE MEMORANDUM

TO: Mayor Beutler
& City Council Members

FROM: Clinton W. Thomas

DEPARTMENT: City Council Office

DEPARTMENT: Housing Rehab & Real Estate Division

ATTENTION:

DATE: April 16, 2010

COPIES TO: Teresa J. Meier
Marvin Krout
Rod Confer
Byron Blum, Bldg & Safety
Jean Prelster, Planning

SUBJECT: Street & Alley Vacation No. 10003
west 34 feet of South 29th Street
between Washington St. & the alley

A request has been made to vacate the west 34 feet of South 29th Street between the north line of Washington Street and the south line of the north/south alley south of A Street. The area was viewed and appeared as a rock drive leading into the property north of the alley. There were no utilities visible in the right-of-way, but Public Works has indicated the existence of a sanitary sewer and a water main within the proposed area to be vacated. They have requested an easement be retained over the entire area for maintenance and replacement of these and other utilities. Public Works has also requested that a curb and gutter be installed along the north side of Washington Street.

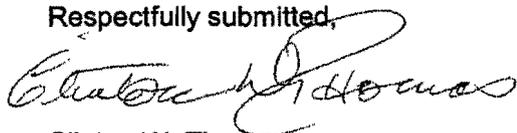
A strip of land such as this while not buildable, in and of itself, when assembled with a similar narrow strip would ordinarily create a buildable area. However, the existence of an easement over the area to be vacated would render that area unbuildable. Therefore, the net gain to any purchaser would be only an additional 5 feet of buildable area as the side yard is being moved away. The value of an additional 5 feet of buildable area is considered to be offset by the cost of installing a curb and gutter along Washington Street. As such, the value of the area to be vacated with retention of utility easements over it is considered to be nominal, or \$0.15 per square foot. The area being vacated is 4,240 square feet. Calculations are as follows:

$$4,240 \text{ sq. ft.} \times \$0.15/\text{sq. ft.} = \$636$$

Therefore, it is recommended if the area be vacated it be sold to the abutting property owner for \$636.00 and the appropriate utility easements be retained.

Staff has indicated the width of the Dial House which is to be relocated to this site is 28 feet. Since the lot to which the vacated area is being assembled is only 32 feet wide it would appear that after deducting the 5 foot setback there would only be 27 feet of buildable area. Since the house to be moved onto the lot is 28 feet wide it would appear not to fit within the buildable area. Unless the City is comfortable with a building being constructed over the easement, we might want to consider only retaining an easement over the easterly 33 feet of the vacated area; thereby, leaving enough area for its intended use without encroaching on the utility easements being retained.

Respectfully submitted,



Clinton W. Thomas
Certified General Appraiser #990023