

FACTSHEET

TITLE: STREET & ALLEY VACATION NO. 10011, requested by Terry Bogle, to vacate Calvert Street from the west line of the South 6th Street right-of-way to the east line of the Burlington Northern Santa Fe Railroad right-of-way, generally located west of the intersection of South 6th Street and Calvert Street.

STAFF RECOMMENDATION: A finding of conformance with the Comprehensive Plan

ASSOCIATED REQUESTS: Miscellaneous No. 10006 (10R-205)

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: Consent Agenda, 09/08/10
Administrative Action: 09/08/10

RECOMMENDATION: A finding of conformance with the Comprehensive Plan (8-0: Gaylor Baird, Cornelius, Esseks, Larson, Lust, Partington, Sunderman and Taylor voting 'yes'; Francis absent).

FINDINGS OF FACT:

1. This request to vacate the Calvert Street right-of-way should be heard in association with the miscellaneous request to release the existing public access easement and convert a portion to a common access easement (10R-205).
2. This is a request to vacate the 33 ft. wide right-of-way of Calvert Street between South 6th Street and the railroad property to the west. It appears that the petitioner is using a portion of the right-of-way on occasion for temporary storage. The vacation would allow the right-of-way to be used for this purpose legally, and reduce the setback and landscape requirements on his property. The owner will be retaining access across the abutting land to the south and to 6th Street via the common access easement being established by the associated application.
3. The staff recommendation to find the proposed vacation to be in conformance with the Comprehensive Plan is based upon the "Analysis" as set forth on p.3-4, concluding that the vacation should have no adverse impacts on the surrounding properties, provided that the utility and storm sewer easements remain and a common access easement for Burlington Northern Santa Fe Railroad is filed with the Register of Deeds. The BNSF has secured an agreement with this owner and the owner abutting to the south for a common access easement by which they can access the track area from 6th Street.
4. On September 8, 2010, this application appeared on the Consent Agenda of the Planning Commission and was opened for public hearing. No one came forward to speak.
5. On September 8, 2010, the Planning Commission voted 8-0 to agree with the staff recommendation to find the proposed vacation to be in conformance with the Comprehensive Plan (Francis absent).
6. 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 \$1,110.00, which amount has been paid by the petitioner. Thus, the provisions of Chapter 14.20 of the Lincoln Municipal Code have been satisfied.
7. The common access easement agreement with the BNSF Railroad has been executed.

FACTSHEET PREPARED BY: Jean L. Preister

DATE: November 29, 2010

REVIEWED BY: _____

DATE: November 29, 2010

REFERENCE NUMBER: FS\CC\2010\SAV.10011+

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for September 8, 2010 PLANNING COMMISSION MEETING

PROJECT #: Street and Alley Vacation No.10011

PROPOSAL: To vacate all of the right-of-way of Calvert Street between S. 6th Street and the railroad property to the west.

LOCATION: Generally located west of the intersection of S. 6th Street and Calvert Street.

LAND AREA: .17 acres more or less

CONCLUSION: The vacation of the public right-of-way is recommended for approval as long as utility and storm sewer easements remain and a common access easement for Burlington Northern Santa Fe Railway(BNSF) is filed at the Register of Deeds. This application should have no adverse impacts on the surrounding properties.

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

LEGAL DESCRIPTION: Calvert Street from the west line of S. 6th Street right-of-way to the east line of the Burlington Northern Santa Fe Railway right-of-way.

SURROUNDING LAND USE AND ZONING:

I-1 Industrial Zoning on all sides

North: Industrial building

South: Industrial building

East: Industrial building

West: Rail Road Tracks

ASSOCIATED APPLICATIONS: Misc10006 release of a public access easement directly south of the proposed street vacation.

COMPREHENSIVE PLAN SPECIFICATIONS:

The street is not shown on the Functional Street and Road Classification plan. (p102 City, p103 County)

HISTORY:

July 25, 1977 City Council approved the Progress South Final Plat which dedicated the north 33' of Calvert right-of-way to the City.

- February 10, 1997 City Council approved the vacation of Calvert Street that went across the rail road tracks. This vacation left Calvert as a dead end west of S. 6th Street.
- September 15, 2003 Preliminary Plat 03002 Pioneer Business Park Addition was approved. The remaining south 33' of Calvert Street was required to be dedicated west of S. 6th Street at the time of final plat.
- February 18, 2004 Resolution PC-00847 for Pioneer Business Park Addition granted a waiver of the requirement to dedicate Calvert Street conditioned upon Outlot A and Lot 1 be combined into a single lot creating a public access, utility and storm sewer easement along the north end of the Lot.
- April 21, 2004 Final Plat # 03002 Pioneer Business Park Addition was approved by the Planning Director and dedicated a 58.5' by 221.95' public access, utility and storm sewer easement along the northern portion of Lot 1, Block 1 in lieu of dedicating the south 33' of Calvert Street west of S. 6th Street.
- April 6, 2010 Morningstar Investments, the current owner of Lot 1 Pioneer Business Park Addition, was notified by the City Law Department that they could not fence or block off the easement because it was a public access easement.

UTILITIES: LES and Lincoln Public Works Department have facilities in this right-of-way. An easement for these facilities should be retained over the entire vacated right-of-way.

TOPOGRAPHY: This portion of Calvert Street is relatively flat.

TRAFFIC ANALYSIS: S. 6th Street and Calvert Streets are local streets. The Calvert Street right-of-way dead ends west of S. 6th Street, east of the railroad tracks. Only two lots have frontage on the Calvert Right-of-way west of S. 6th Street.

ALTERNATIVE USES: Do not vacate the 33 feet of existing Calvert right-of-way.

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. As stated in the History section above, Calvert Street at this location is only a half street with 33 feet of dedicated right-of-way.
3. Terry Bogle, the applicant, has indicated to Planning staff that he intends to purchase the entire right-of-way. Vacating this right-of-way is beneficial to the applicant because what is now considered a front yard along Calvert would become a side yard which requires less of a building setback. It appears that the applicant is using a portion of the right-of-way for temporary storage on occasion.

4. The property owner to the south, Morningstar Investments, has also signed the petition to vacate. They have an application in progress to eliminate a public access easement on property to the south and abutting Calvert Street. This application was recommended for approval with conditions by the Planning Commission on August 11, 2010. The purpose of eliminating the public access easement was to eliminate foot and bicycle traffic between S. 6th Street and the railroad right-of-way, essentially reducing potential liability for Morningstar Investments.
5. The railroad has a driveway to their property just south of the Calvert Street. BNSF has indicated to the Planning staff that they are also interested in reducing public access to their right-of-way and reducing the number of people trying to use their driveway. The railroad will retain access to their driveway by private agreements with Morningstar Investments and Mr. Bogle. The easement for the railroad on the vacated right-of way is expected to be 3 feet north of the south line of the vacated right-of-way, more or less.
6. It is common practice for the City to retain a conservation easement on vacated right-of-way to protect flood storage in the floodplain. The proposed vacation is in the 100 year floodplain in the Salt Creek Storage area.
7. City departments have no objection to the vacation as long as easements are retained over the entire right-of-way to protect access to and maintain existing facilities.

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

- 1.1 The provisions of Chapter 14.20 of the Lincoln Municipal Code are met.
- 1.2 Sign a conservation easement acceptable to the City.
- 1.3 Sign a common access easement for and acceptable to Burlington Northern Santa Fe Railway.
- 1.4 Provide a bond for a sidewalk in the vacated right-of-way along the west side of S. 6th Street.
- 1.5 Provide a utility easement over the entire vacated area.

Prepared by:
Christy Eichorn, Planner
441-7603 or ceichorn@lincoln.ne.gov

DATE: August 26, 2010

APPLICANT / CONTACT: Terry Bogle
2594 SW Soukup Cir.
Lincoln, NE 68522

STREET & ALLEY VACATION NO. 10011

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

September 8, 2010

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

The Consent Agenda consisted of the following items: **SPECIAL PERMIT NO. 10030, STREET AND ALLEY VACATION NO. 10011** and **STREET AND ALLEY VACATION NO. 10012.**

Ex Parte Communications: None

Lust moved to approve the Consent Agenda, seconded by Larson and carried 8-0: Gaylor Baird, Cornelius, Esseks, Larson, Lust, Partington, Sunderman and Taylor voting 'yes'; Francis absent.

Note: This is final action on Special Permit No. 10030, 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.

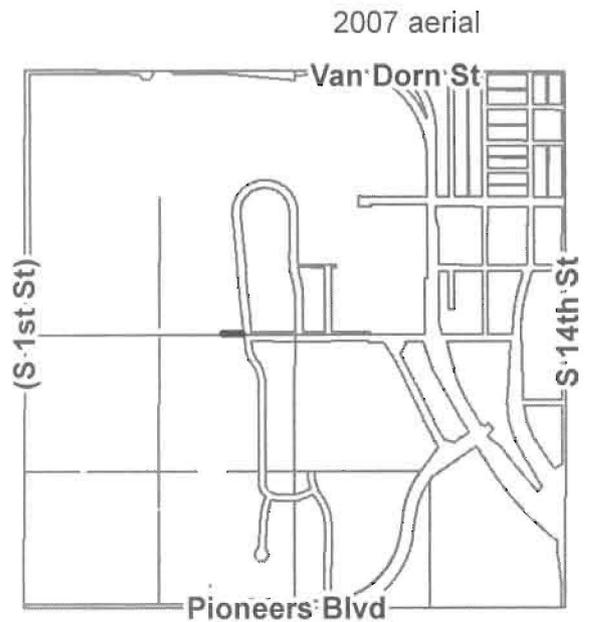


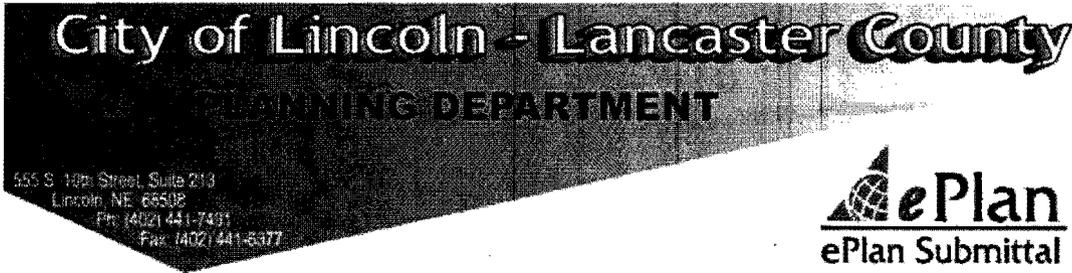
**Street & Alley Vacation #10011
S 6th & Calvert St**

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 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. 2 T09N R06E





Application Information	
Application #	SAV10011
Title	CALVERT STREET WEST OF S. 6TH
Associated Requests	

Planning Department Use Only	
Submission Date	8/9/2010
Review Due	8/19/2010
Project Planner	Christy Elchorn

Review Comments	
Planning	<input type="radio"/> Corrections Needed for Review <input type="radio"/> Insufficient Information for Review <input type="radio"/> Recommend Denial <input type="radio"/> Recommend Approval with Conditions <input checked="" type="radio"/> Recommend Approval <input type="radio"/> No Review Required Review 1: _____
Black Hills Corp (Randy Kreifels)	<input type="radio"/> Corrections Needed for Review <input type="radio"/> Insufficient Information for Review <input type="radio"/> Recommend Denial <input type="radio"/> Recommend Approval with Conditions <input checked="" type="radio"/> Recommend Approval <input type="radio"/> No Review Required Review 1: Black Hills Energy does not have any objections to this vacation.
Building & Safety (Terry Kathe)	<input type="radio"/> Corrections Needed for Review <input type="radio"/> Insufficient Information for Review <input type="radio"/> Recommend Denial <input type="radio"/> Recommend Approval with Conditions <input type="radio"/> Recommend Approval <input type="radio"/> No Review Required Review 1: _____
Development Review Manager (Steve Henrichsen)	<input type="radio"/> Corrections Needed for Review <input type="radio"/> Insufficient Information for Review <input type="radio"/> Recommend Denial <input type="radio"/> Recommend Approval with Conditions <input checked="" type="radio"/> Recommend Approval <input type="radio"/> No Review Required Review 1: _____
Emergency Communications (Kelly Davila)	<input type="radio"/> Corrections Needed for Review <input type="radio"/> Insufficient Information for Review <input type="radio"/> Recommend Denial <input type="radio"/> Recommend Approval with Conditions <input type="radio"/> Recommend Approval <input type="radio"/> No Review Required Review 1: _____

100 response

007

	Review 1: <input type="text"/>	
Emergency Communications (Tara Garza)	<input type="radio"/> Corrections Needed for Review <input type="radio"/> Insufficient Information for Review <input type="radio"/> Recommend <input type="radio"/> Denial <input type="radio"/> Recommend Approval with Conditions <input checked="" type="radio"/> Recommend Approval <input type="radio"/> No Review Required Review 1: <input type="text"/>	
Fire Department (Richard Furasek)	<input type="radio"/> Corrections Needed for Review <input type="radio"/> Insufficient Information for Review <input type="radio"/> Recommend <input type="radio"/> Denial <input type="radio"/> Recommend Approval with Conditions <input type="radio"/> Recommend Approval <input type="radio"/> No Review Required Review 1: We have no issues from the perspective of our department.	
Law Department (Rick Peo)	<input type="radio"/> Corrections Needed for Review <input type="radio"/> Insufficient Information for Review <input type="radio"/> Recommend <input type="radio"/> Denial <input checked="" type="radio"/> Recommend Approval with Conditions <input type="radio"/> Recommend Approval <input type="radio"/> No Review Required Review 1: The legal description of the Morning Star property should be added to the petition.	
LES (Mike Petersen)	<input type="radio"/> Corrections Needed for Review <input type="radio"/> Insufficient Information for Review <input type="radio"/> Recommend <input type="radio"/> Denial <input checked="" type="radio"/> Recommend Approval with Conditions <input type="radio"/> Recommend Approval <input type="radio"/> No Review Required Review 1: 8-19-10; LES will request a twenty foot easement on the East end portion of the requested Street Vacation. There is a existing underground facility in that area. See the MISC Doc folder for a CAD sketch for the easement request. Mike P.	
Public Works (Barnie Blum)	<input type="radio"/> Corrections Needed for Review <input type="radio"/> Insufficient Information for Review <input type="radio"/> Recommend <input type="radio"/> Denial <input checked="" type="radio"/> Recommend Approval with Conditions <input type="radio"/> Recommend Approval <input type="radio"/> No Review Required Review 1: The City of Lincoln has an existing 6" water main in a portion of the right-of-way. A permanent easement will have to be established for the water main for future maintenance or possible replacement	
Public Works (Bruce Briney)	<input type="radio"/> Corrections Needed for Review <input type="radio"/> Insufficient Information for Review <input type="radio"/> Recommend <input type="radio"/> Denial <input type="radio"/> Recommend Approval with Conditions <input type="radio"/> Recommend Approval <input checked="" type="radio"/> No Review Required Review 1: <input type="text"/>	
Public Works (Buff Baker)	<input type="radio"/> Corrections Needed for Review <input type="radio"/> Insufficient Information for Review <input type="radio"/> Recommend <input type="radio"/> Denial <input checked="" type="radio"/> Recommend Approval with Conditions <input type="radio"/> Recommend Approval <input type="radio"/> No Review Required Review 1: There is a 6" Water Main stubbed into the area of vacation west of 6th Street. A easement should be retained for future connection to the west. See Barnie's comments. A 72" Storm Sewer is located south of the proposed vacation, aligning from the east center line where the Calvert Street extention should have been constructed	
	<input type="radio"/> Corrections Needed for Review <input type="radio"/> Insufficient Information for Review <input type="radio"/> Recommend	

<p>Public Works (Dennis Bartels)</p>	<p>Denial <input type="radio"/> <input checked="" type="radio"/> Recommend Approval with Conditions <input type="radio"/> Recommend Approval <input type="radio"/> No Review Required</p> <p>Review 1: The future owner of the vacated Calvert Street should be required to build sidewalk across the east side of the vacation. Vacation is satisfactory subject to retention of easements for any existing utilities.</p>
<p>Public Works (Edwin Kouma)</p>	<p>Corrections Needed for Review <input type="radio"/> <input type="radio"/> Insufficient Information for Review <input type="radio"/> Recommend Denial <input type="radio"/> <input checked="" type="radio"/> Recommend Approval with Conditions <input type="radio"/> Recommend Approval <input type="radio"/> No Review Required</p> <p>Review 1: If there is an easement for storm drain pipe it should be retained.</p>
<p>Public Works & Utilities - Wastewater (Brian Kramer)</p>	<p>Corrections Needed for Review <input type="radio"/> <input type="radio"/> Insufficient Information for Review <input type="radio"/> Recommend Denial <input type="radio"/> <input checked="" type="radio"/> Recommend Approval with Conditions <input type="radio"/> Recommend Approval <input checked="" type="radio"/> No Review Required</p> <p>Review 1:</p>
<p>Public Works & Utilities - Water (Nick McElvain)</p> <p><i>no response</i></p>	<p>Corrections Needed for Review <input type="radio"/> <input type="radio"/> Insufficient Information for Review <input type="radio"/> Recommend Denial <input type="radio"/> <input checked="" type="radio"/> Recommend Approval with Conditions <input type="radio"/> Recommend Approval <input type="radio"/> No Review Required</p> <p>Review 1:</p>
<p>Time Warner Cable (Lou Klpper)</p> <p><i>no response</i></p>	<p>Corrections Needed for Review <input type="radio"/> <input type="radio"/> Insufficient Information for Review <input type="radio"/> Recommend Denial <input type="radio"/> <input checked="" type="radio"/> Recommend Approval with Conditions <input type="radio"/> Recommend Approval <input type="radio"/> No Review Required</p> <p>Review 1:</p>
<p>Urban Development - Real Estate (Clint Thomas)</p>	<p>Corrections Needed for Review <input type="radio"/> <input type="radio"/> Insufficient Information for Review <input type="radio"/> Recommend Denial <input type="radio"/> <input checked="" type="radio"/> Recommend Approval with Conditions <input type="radio"/> Recommend Approval <input type="radio"/> No Review Required</p> <p>Review 1:</p>
<p>Windstream (Jim Heinke)</p>	<p>Corrections Needed for Review <input type="radio"/> <input type="radio"/> Insufficient Information for Review <input type="radio"/> Recommend Denial <input type="radio"/> <input checked="" type="radio"/> Recommend Approval with Conditions <input type="radio"/> Recommend Approval <input type="radio"/> No Review Required</p> <p>Review 1: 8-23-10; Windstream has underground cables at the same location as LES crossing the requested Street Vacation area. Windstream requests the same easement area as LES with an increased dimension on the South of 27' rather than the 20' shown by LES.</p>

INTEROFFICE MEMORANDUM

TO: Mayor Beutler
& City Council Members

FROM: Clinton W. Thomas

DEPARTMENT: City Council Office

DEPARTMENT: Housing Rehab & Real Estate Division

ATTENTION:

DATE: October 4, 2010

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

SUBJECT: Street & Alley Vacation No.10011
Calvert Street between South 6th Street
and the BNSF Railroad right-of-way

A request has been made to vacate that portion of Calvert Street lying between South 6th Street and the Burlington Northern Santa Fe Railroad right-of-way. The area was viewed and appeared as a rock drive being utilized as access to the abutting business as well as the Burlington Northern Santa Fe right-of-way. An overhead electric line was visible along the southerly portion of the right-of-way. Staff has also indicated the existence of a storm sewer on the property. Easements have been requested over the entire area to be vacated for these and other utilities.

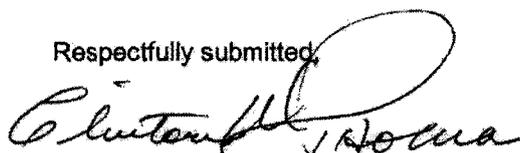
The buyer is also required to provide an access easement over the entire area for the benefit of the Burlington Northern Santa Fe Railway.

Narrow strips of land such as this rarely have much value, in and of themselves; but when assembled into the abutting land take on the value of the larger parcel. While it will take on the value of the property to which it is assembled, the fact the land is encumbered with easements for various public utilities as well as providing access for the railroad, it is considered to have only a nominal value of \$0.15 per square foot. The area to be vacated is 0.17 acres, or approximately 7,405 square feet. The calculations are as follows:

$$7,405 \text{ sq. ft.} \times \$0.15/\text{sq. ft.} = \$1,110.75 \quad \text{Called} \quad \$1,110.00$$

Therefore, if the area is to be vacated, it is recommended that it be sold to the abutting property owner for \$1,110.00 with the retention of utility easements to the City and the subsequent filing of an access easement for the benefit of the Burlington Northern Santa Fe Railroad.

Respectfully submitted,



Clinton W. Thomas
Certified General Appraiser #990023