

FACTSHEET

TITLE: MISCELLANEOUS NO. 10006, requested by Morningstar Investments, LLC, to release a portion of an existing public access easement and converting the remaining portion to a common access easement, on property generally located west of South 6th Street and Calvert Street.

STAFF RECOMMENDATION: Approval

ASSOCIATED REQUESTS: Street & Alley Vacation No. 10011 (10-148)

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 07/28/10 and 08/11/10
Administrative Action: 08/11/10

RECOMMENDATION: Approval, subject to written access easement agreements with Burlington Northern Sante Fe Railroad (8-0: Cornelius, Esseks, Francis, Larson, Lust, Partington, Sunderman and Taylor voting 'yes'; Gaylor Baird absent).

FINDINGS OF FACT:

1. This request to release a portion of an existing public access easement should be heard in association with Street and Alley Vacation No. 10011 (10-148).
2. This is a request to release a portion of a public access easement and convert the easternmost portion to a common access easement, on property generally located west of South 6th Street and Calvert Street. A "public" access easement provides the general public the right to move through the easement even though they do not own the lot upon which the easement is located. A "common" access easement provides similar rights, but to a limited group. The purpose of retaining the common access easement is to allow the property owner to the north (Terry Bogle) to continue to access the applicant's property by the existing driveway to 6th Street.
3. The staff recommendation of approval is based upon the "Analysis" as set forth on p.3-4, concluding that the release of the public access easement and conversion of the east 70 feet to a common access easement should have no adverse impacts on the surrounding properties; however, the existing utility and storm sewer easements should remain. The staff presentation to the Planning Commission on July 28th, along with the applicant's testimony, is found on p.5-6.
4. Testimony on behalf of the property owner to the north (Terry Bogle) is found on p.6, with concerns about blocking the access currently being used by the BNSF Railroad.
5. The public hearing was continued to determine the access needs of BNSF. At the continued public hearing, the staff advised that BNSF has drafted suggested common access easement agreements between the railroad and the property owners to the north and to the south. These agreements should be executed prior to public hearing before the City Council. The staff also advised that the property owner to the north of the easement and north of the Calvert Street right-of-way (Bogle) has petitioned the City to vacate all of the 33 feet of the Calvert Street right-of-way from west of South 6th Street to the railroad property (Street & Alley Vacation No. 10011 (10-148)). (Also see Minutes, p.8-9, and Memorandum, p.15.)
6. On August 11, 2010, the Planning Commission voted 8-0 to agree with the staff recommendation of approval, subject to the recording of a common access easement agreement over the east 70 feet and a private access easement agreement over the remaining portion of the existing public access easement (Gaylor Baird absent).
7. The access easement agreements between BNSF and the property owners have been executed.

FACTSHEET PREPARED BY: Jean L. Preister

DATE: November 29, 2010

REVIEWED BY: _____

DATE: November 29, 2010

REFERENCE NUMBER: FS\CC\2010\MISC.10006+

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for July 28, 2010 PLANNING COMMISSION MEETING

- PROJECT #:** Miscellaneous No. 10006
- PROPOSAL:** To release a portion of an existing public access easement and convert the remaining portion to a common access easement.
- LOCATION:** Generally located west of S. 6th Street and Calvert Street.
- LAND AREA:** Approximately 8,889 square feet more or less
- CONCLUSION:** The release of the public access easement and conversion of the east 70 feet to a common access easement is recommended for approval as long as the existing utility and storm sewer easements remain. This application should have no adverse impacts on the surrounding properties.

RECOMMENDATION:

Approval

GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 1, Block 1, Pioneer Business Park Addition, Lincoln, Lancaster County, Nebraska, NW 1/4 SEC 2-9-6.

EXISTING ZONING: I-1 Industrial District

EXISTING LAND USE: Public access, utility and storm sewer easement on a vacant Industrial zoned lot.

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

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 all of the 66' of Calvert Street right-of-way west of S. 6th Street from the west line of Lot 54 I.T. to the railroad tracks. This was right-of-way that was platted across the railroad tracks and it was the railroad that petitioned to have it vacated. This left 33' of existing Calvert Street right-of-way to dead-end at the railroad tracks. (See Exhibit B)

- 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 were 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: There is an existing public storm sewer in Calvert Street. Public Works recommends the release of the public access easement at the rear of the lot and retention of the easement on the east 70 feet of the lot provided that the public utility and storm sewer portion of the easement be retained over the entire existing easement. Public Works also finds the proposal to convert the remaining public access easement to a common access easement satisfactory.

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: Keep the easement as it is today or release the entire public access easement and provide curb cuts off of the Calvert Street right-of-way or S. 6th Street for the lot to the north of the existing easement.

ANALYSIS:

1. This is a request to release a portion of a public access easement and convert the remaining existing public access easement to a common access easement on property generally located west of S. 6th Street and Calvert Street.
2. A public access easement provides for the right of the public to move thru the easement even though they don't own the lot the easement is on. A common access easement provides similar rights but to a limited group. In this case the common access easement would provide access to the lot the easement is on and the lot north of the Calvert Right of Way.
3. The easement is 58.5 feet wide and 221.95 feet long and located along the north lot line of Lot1, Block 1 Pioneer Business Park Addition. This application would release the west

58.5' by 151.95' leaving a 58.5' by 70' common access easement that would facilitate the required ingress and egress to both Lot 1, Block 1, Pioneer Business Park Addition and the property to the north of the easement, Lot1, Block2, Progress South Addition

4. Progress South final plat, approved in 1977, dedicated 33 feet of right-of-way for Calvert St. adjacent to the plat.
5. The south 33' of Calvert was never dedicated to the City and is on an easement granting public access but is not considered a public street.
6. Today the 33' of Calvert right-of-way is not improved. It simply functions as a rockered drive way.
7. A waiver to improve/build Calvert Street, west of S. 6th St., to urban standards was approved with the preliminary plat for Pioneers Business Park Addition, provided that the existing north 33' of Calvert St. be vacated west of S. 6th St. The subdivider was not successful in getting the property owner to the north of the right-of-way (Lot 1 Progress South Addition) to sign the petition to vacate the north 33' of right-of-way.
8. In lieu of vacating Calvert Street or dedicating the south half of the street, a public access, utility and storm sewer easement was granted.
9. The applicant has agreed to keep the east 70 feet as a common access easement because this is where his neighbor to the north has a curb cut and takes his access. If the entire public access easement was released the neighbor to the north would have to find a way to pay for an alternative curb cut. The reason 70' is appropriate is that if a new curb cut was installed on Lot 1 Progress South Addition off of Calvert street it would need to be located 70' from S. 6th Street.
10. City staff had no objection to releasing the public access easement and retaining a common access easement over the east 70 feet as long the utility and storm sewer easements remain over the entire 58.5 by 221.95 easement.
11. Retaining the east 70' as a common access easement will allow the property owner to the north to continue to use their existing access off of S. 6th Street.

Prepared by:
Christy Eichorn
Planner
402-441-7603
ceichorn@lincoln.ne.gov

DATE: July 15, 2010

APPLICANT /OWNER: Morningstar Investments LLC
3121 S. 6th St., Suite #B
Lincoln, NE 68502

MISCELLANEOUS NO. 10006

PUBLIC HEARING BEFORE PLANNING COMMISSION:

July 28, 2010

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

Ex Parte Communications: None.

Staff recommendation: Approval.

Staff presentation: **Christy Eichorn of Planning staff** reviewed the facts of the application. This is an application to vacate what is currently a public access utility and sewer easement located west of S. 6th Street on Calvert Street. Calvert Street is only a 33' right-of-way at this location. The easement lies directly south of the 33' right-of-way of Calvert. The applicant is asking to have a portion of the public access easement released. They are asking that the public access portion be released on all of it, except retain a common access easement over 70' of the eastern portion. Eichorn showed the location of the driveway entrance for the property to the north on the map – if they were to put in a curb cut, then they would need at least 70' of space in order to access their property. The common access easement would be retained so that the property owner to the north could access their property, eliminating the rest of the access easement. The utility and sewer easement remains over the entire piece of property. The request is only to release a portion of the public access easement and keep a common access easement over the easternmost 70'.

Eichorn then advised that there is new information that the railroad may be using a portion of this easement to get to their property. There is a well-worn rock road which definitely appears to be used. The problem is that the railroad was just notified of this application within the last two days. Eichorn suggested that there may need to be some alterations made to the actual legal description as to which portion of the easement would be released to make sure that the railroad retains the right to cross the property to get to their driveway to access the railroad.

Eichorn asked the Planning Commission to recommend approval of the release of the public access easement, with a portion remaining as a common access easement, with the actual legal boundaries to be determined before this application proceeds to the City Council.

The difference between a “public” access easement and “common” access easement is that under a “public” easement, any public can go on that property. “Common” means that it might only have access to the property to the north, to Burlington Railroad and to the property to the south. If all three owners wanted to chain off that access, they could do so.

Sunderman inquired about ownership. Eichorn stated that the easement request came from the owner of the lot to the south, Morningstar Development. The Calvert right-of-way is dedicated to the public. There is a separate owner on the north side of that right-of-way. The right-of-way is not paved and does not have curb and gutter but is designated as public right-of-way.

When the area to the north was platted, the right-of-way had to be dedicated for the street. When the south subdivision came in, the staff had asked that the right-of-way be vacated. That owner, who is not the owner of the property today, chose not to sign the petition to vacate the Calvert Street right-of-way. To make full use of the right-of-way, the city asked for a public access and utility easement – the same access and rights to the property given to the public without having to pave the road with curb and gutter. There is right-of-way on the north and only an easement on the south. The south portion of Calvert has been vacated. When the easement was put in, there was talk that they would build a driveway for the property to the north, potentially off of 6th Street, but there are utilities – a fire hydrant, LES box and another box – which makes having that driveway off 6th Street problematic. The applicant does not intend to build on the easement property but they want the ability to fence it off. It will not be a buildable piece of land even when part of the public access is released.

Larson inquired as to the ownership of the portion of Calvert Street going west that is vacated. Eichorn stated that it is owned by the railroad and they asked to have it vacated, meaning that the City is giving up their rights and responsibility to that property. It no longer belongs to the public but to the abutting property owner.

Proponents

1. Jeff Mann, Morningstar Investments, the applicant and property owner to the south, stated that Morningstar has made this application because they have a concern with public access and the liability issues since the only public they have noticed using it are bicyclists using the path to get to Wilderness Park. They want to clean up the ditch and make that portion of the easement look nicer. They have no need to fence it off – they just want to get in there, clean it up and cut down the vehicular traffic.

Opposition

1. Darrell Stock, 1115 K Street, #104, appeared on behalf of **Terry Bogle**, who is the owner of Lot 1, Progress South, the lot just to the north. Mr. Bogle is not really opposing the request, but is requesting a modification of the area to be affected. Mr. Bogle is in the building designated as Lot 1. The road next to the railroad tracks is a single path through the trees and it crosses a concrete culvert so the railroad is not likely to want to cross anywhere else. His concern is that this is likely to run afoul of what Burlington has used as access forever. They are also concerned that the fencing may block off the access they are currently using and Burlington would have to go further north onto Mr. Bogle's area. Stock suggested that the public access remain on the south edge of the Burlington access to give them a straight shot west into that access without having to go over north onto the Bogle property. All of the tenants of Bogle's property are tradesmen with trucks, trailers, etc. They need a considerable amount of space for all of the commercial vehicle traffic. If this would be modified to put the fence 20' further south, it will solve the railroad problem and it will accommodate Mr. Bogle's needs for the additional space for trucks and vehicles in and out of his property.

Sunderman confirmed with Stock that if the railroad is guaranteed their access, then Mr. Bogle's concerns are resolved. Stock agreed, and he believes 20' will take care of it. Moving the line 20' south should accommodate the railroad and it will not encroach on the property owner to the north.

Dennis Bartels of Public Works clarified that he has a copy of the approved curb cut permit, for the property to the north, that is within 70' west of the west line of S. 6th Street off of the 33' of Calvert Street right-of-way. The curb cut was never installed. The property to the north of the Calvert Street right-of-way is required to have a front yard setback. The parking lot may be required to be landscaped, thus the building to the north may not meet zoning requirements.

Eichorn reiterated that the staff recommendation to the Planning Commission is that the Planning Commission recommend approval of the vacation of the public access easement, with the understanding that the legal description would be determined before the application is scheduled on the City Council agenda. That would give staff some time to look at whether the 20' proposed by Mr. Bogle is adequate. Staff only became aware of the proposal to change the 20' just before this meeting.

Larson suggested that this should be deferred.

Eichorn also clarified that even though it is a public access and utility easement, the property owner to the north is not allowed to store cars or to store any kind of other items that are associated with his business in that public right-of-way. Perhaps that has been an issue of concern. Unfortunately, there is no curb cut so it makes it difficult to know where the Calvert Street right-of-way and where the pavement starts for the building. Technically, this is a street, so there should be a front yard setback with landscaping that should have been put in at the time the business was opened. It will remain public right-of-way, so they cannot store cars, equipment or personal items related to the business in the street or use it as part of their own personal property – they can only use it for access to the property to the north.

Response by the Applicant

Mann indicated that the applicant is more than happy to defer to the railroad's needs. Personally, he has never seen a vehicle from the railroad using that access. They use Pioneer Boulevard four miles down the road. However, Mann stated that he would take issue with reducing what was requested by 20' for the sole purpose of the tenant to the north using it as a driveway.

ACTION BY PLANNING COMMISSION:

July 28, 2010

Larson moved to defer two weeks so that the information that just became needed can be gathered and revealed at our next meeting, seconded by Partington.

Taylor believes that the decision can be made now and they can go before the City Council and get everything clarified. He does not see why the Planning Commission cannot make a decision today.

Larson stated that he really does not know what decision to make because he does not have all the information.

Taylor thinks there is enough information to make a decision.

Larson believes there is a conflict between the applicant and the opposing party, and he does not know which way to vote.

Rick Peo, City Law Department, suggested that what was presented today raises a different issue. We are talking about reserving a common access easement over the property for the benefit of the two abutting properties. The railroad abuts at the far end. It sounds like we do not know what the railroad needs. He would be more inclined to suggest that the common access be preserved for the north and south property owners and that Morningstar enter into a private agreement with the railroad for any access they might need.

Sunderman confirmed that the public access also goes to the railroad. Peo stated that the public access easement would not be released until Morningstar agrees to grant the railroad any access they might need in a private agreement. It is Morningstar's property. It has come to our attention late that the railroad might be utilizing something. Initially, we did not know they were using the property for access..

Taylor suggested that the Planning Commission could require an agreement with the railroad as a condition of approval and then let it go forward. Taylor stated that he will vote against the deferral.

Francis stated that she is in favor of deferral until staff can find out what the railroad needs as opposed to putting the burden on Morningstar to contact the railroad.

Sunderman indicated that he is on the fence. A lot of things have come up at the last minute and the Commission has run into problems in letting things go forward when that happens. However, with the Law Department's legal advice, it appears to resolve quite a bit with the suggestion of releasing the public easement, retaining the common access, and requiring an agreement with the railroad. That takes care of all the issues as far as the property owner to the north. There is also the issue of using the front yard as a driveway, but that is not an issue before the Commission with this application. He will vote against deferral.

Motion to defer carried 3-2: Larson, Francis and Partington voting 'yes'; Taylor and Sunderman voting 'no' (Gaylor Baird, Lust, Cornelius and Esseks absent).

This application will be scheduled for continued public hearing and action on August 11, 2010.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: August 11, 2010

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

Ex Parte Communications: None.

Staff recommendation: Approval.

Staff presentation: **Christy Eichorn of Planning staff** stated this is an application to release an existing easement. The easement to be released is a public access easement about 53 feet wide. The existing easement has both a public access easement as well as sanitary

sewer lines and utilities. The purpose of releasing the public access easement is so the only access would be to the property owners to the north and south. The staff report talks about having a common access easement over the east 70 feet. The property owner to the north has their property on the easement. Allowing a common access easement on the east 70 feet would allow them to keep their driveway and access their property to the north.

Two weeks ago, it came to staff's attention that Burlington Northern Santa Fe Railroad has a driveway at the end of the public access easement to access their property. Staff has been in contact with the railroad. BNSF has drafted two different easement agreements. One is for a common access easement over the east 70 feet that BNSF, the property owner to the north and the property owner to the south would all abide by. The City Attorney's office has reviewed the agreement and finds it satisfactory.

BNSF drafted another private easement agreement for the remaining portion between BNSF and Morningstar Investments, which is the property owner to the south. The City Attorney's office has also reviewed this agreement and finds it satisfactory.

The staff recommendation is approval of the release of the public access easement, conditioned upon the two agreements that were drafted by the railroad being signed and filed with the Register of Deeds.

Larson questioned if Morningstar Investments is agreeable to this condition. Eichorn replied that Morningstar Investments has agreed to the two agreements.

Proponents

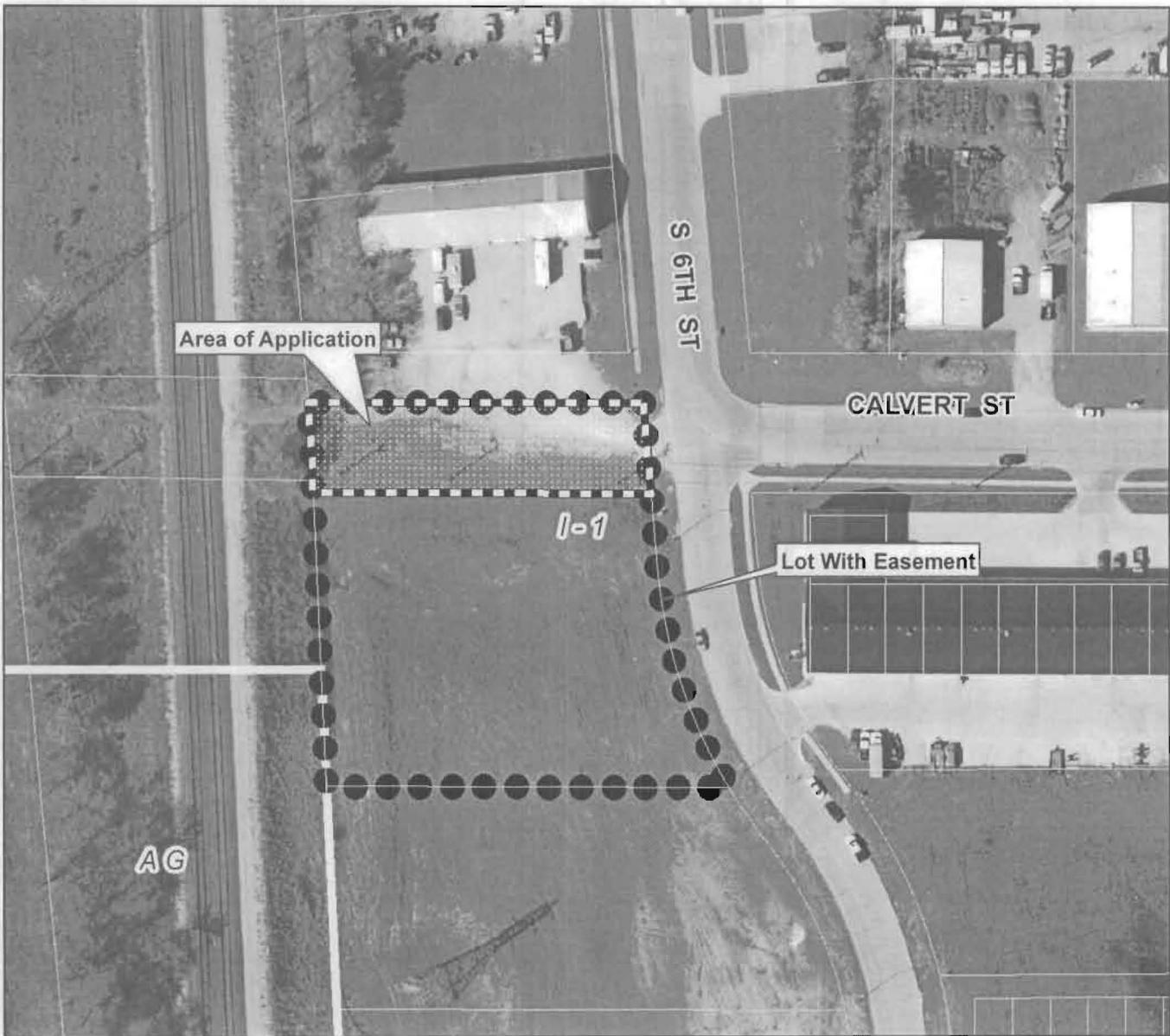
1. **David Rasmussen** appeared as attorney for Burlington Northern Santa Fe Railroad. The railroad needs unrestricted access to reach their property. This road is used quite frequently. As long as the common access easement agreement and private easement agreement are agreed upon, they are agreeable to this release. They would like to have an executed copy of both agreements in their hands to file with the Register of Deeds when the City approves the release of the existing easement so that there is no interruption of service for BNSF.

No one appeared in opposition.

ACTION BY PLANNING COMMISSION:

August 11, 2010

Taylor moved approval with the condition that written agreements be filed with the Register of Deeds for a common access easement over the east 70 feet and a private easement agreement for the remaining portion of the existing public access easement, seconded by Larson and carried 8-0: Cornelius, Esseks, Francis, Larson, Lust, Partington, Sunderman and Taylor voting 'yes'; Gaylor Baird absent. This is a recommendation to the City Council.



2007 aerial

**Miscellaneous #10006
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

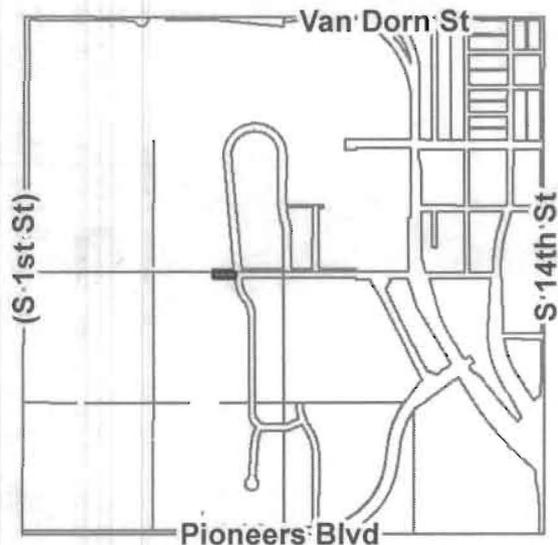
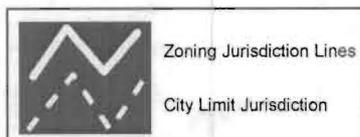
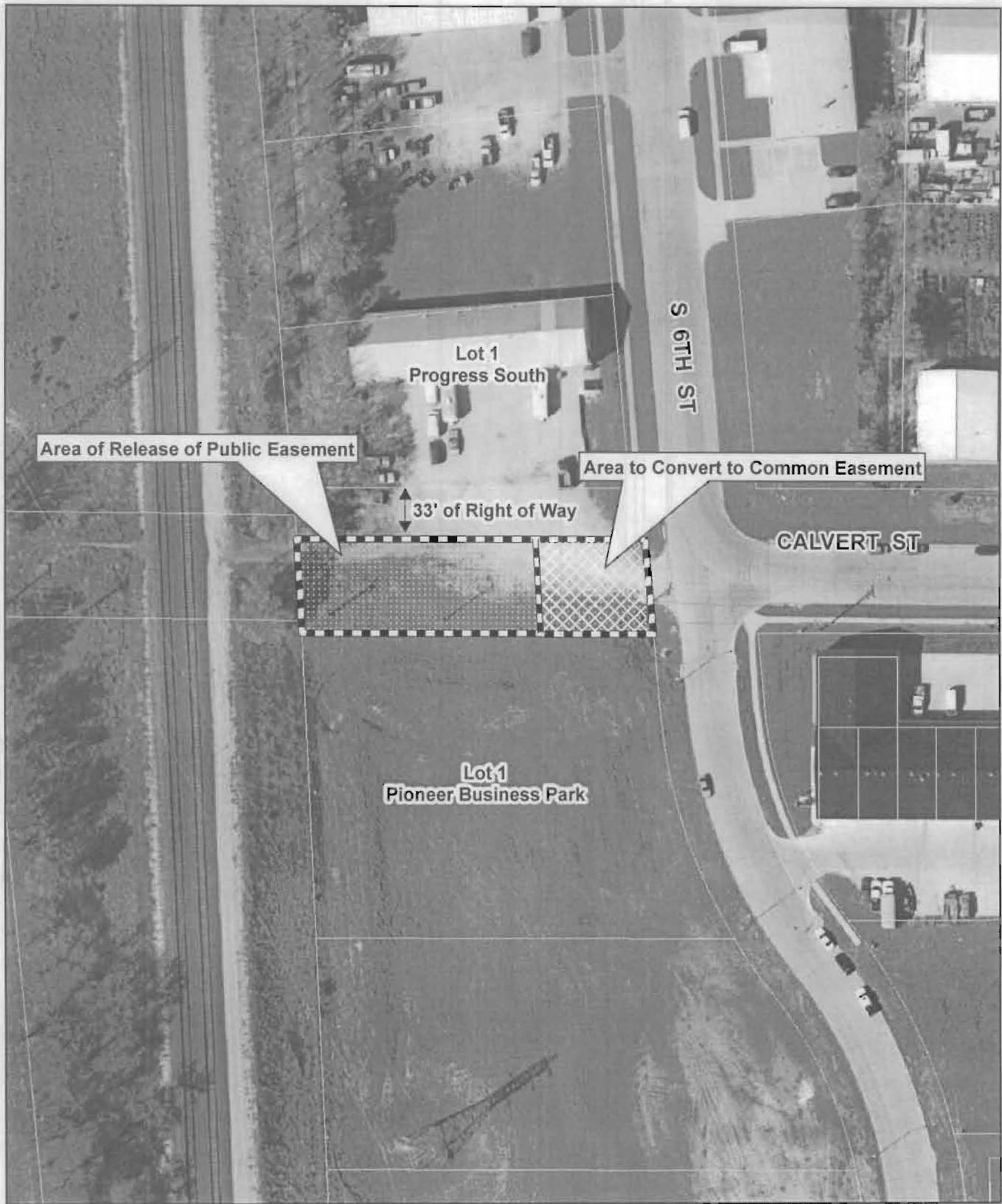


EXHIBIT A



Miscellaneous #10006
S 6th & Calvert St

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2007 aerial

Morningstar Investments, L.L.C.
3121 South 6th Street, Suite B
Lincoln, Nebraska 68502
402 423 5386

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JUN 17 2010
M10-51378
LAW DEPT.

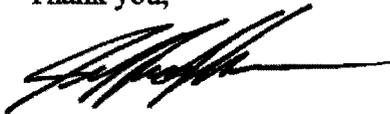
June 14, 2010

City Attorney Office
City of Lincoln
555 South 10th Street
Suite 300
Lincoln, Nebraska 68508

RE: Public Access Easement on Lot 1, Block 1, Pioneer Business Park Addition

Morningstar Investments, L.L.C. is requesting the abandonment of a portion of the 58.5 foot by 221.95 foot Public Access Easement located on the North property line of Lot 1, Block 1, Pioneer Business Park Addition in the following manor. The abandonment of the Easement 58.5 foot in width and starting at the west property line the abandonment of 151.95 feet to the east. The remaining 58.5 foot by 70 foot Public Access Easement would facilitate the required ingress and egress to both lot 1, block 1, Pioneer Business Park Addition and Lot 1, Block 2, Progress South Addition as shown on the original building permit plans for 3501 South 6th Street. Morningstar Investments, L.L.C. further requests that the remaining 58.5 foot by 70 foot Access Easement be converted to a Common Access rather than a Public Access Easement.

Thank you,



Jeff Mann (Member)
Mike Young (Member)

cc: Dennis Bartels, Public Works & Utilities

COMMENTS FOR MISC10006 - PUBLIC ACCESS EASEMENT RELEASE

LES - 7-08-10; Maintain a 10' wide centerline easement (5' either side of the existing facilities) and a 10' wide easement along the East side of the proposed Public Access Easement abandonment of Lot 1, Block 1. MIke P.

Public Works - The release of the public access easement at the rear of the lot and retention of the easement on the east 70 feet of the lot is satisfactory to Public Works provided that the public utility and storm sewer portion of the easement over the same area be retained. The proposal to convert the remaining public access easement to a common access easement is also satisfactory.

MEMORANDUM

TO: Planning Commission
FROM: Christy Eichorn, Planning Department
DATE: August 9, 2010
RE: Agreements and Vacation Associated with Misc10006

On July 28, 2010 Planning Commission held a public hearing on Misc10006 regarding the release of a public access easement. This was an application to vacate what is currently a public access easement located west of S. 6th Street south of the 33' Calvert Street right-of-way. The applicant was asking that the public access portion be released and a common access easement be retained over 70' of the eastern portion of the existing easement area. The purpose of retaining the common access easement was to allow the property owner to the north to continue to access their property, by the existing driveway.

During the hearing Planning Commission was advised that there was new information that the railroad may be using a portion of the public access easement to access their property to the west.

Planning Commission voted to defer this application for two weeks until staff could get some information from the railroad.

Since the Planning Commission the Burlington Northern Santa Fe (BNSF) railroad and Morningstar Investments have informed staff that they have a draft agreement that would allow BNSF a private easement on the portion of the public access easement that has been requested to be vacated. Staff recommends approval of the proposed vacation with the condition that BNSF and Morningstar have a written agreement allowing BNSF to access their property thru an easement on Morningstar's property before the public access easement is released.

In response to the discussion about the proposed public access easement release, the property owner to the north of the easement and north of the Calvert right-of-way has petitioned the City to vacate all of the 33 feet of Calvert right-of way west of S. 6th Street to the railroad property. Morningstar is in support of this vacation and has also signed the petition. The application to vacate this right of way will be before the Planning Commission on September 8th. The vacation of this right-of-way has no impact on the proposed release of easement discussed above at this time.

Christy J. Eichorn

From: David Rasmussen [DRasmussen@wolfesnowden.com]
Sent: Tuesday, August 10, 2010 10:27 AM
To: Christy J. Eichorn
Subject: RE: Item No. 4.1 - Miscellaneous No. 10006

Just a couple of points. Two easements will be necessary as the common access easement will be needed as well as the private easement between Morningstar and BNSF. BNSF would like those both executed prior to vacation of the public access easement.

In addition, BNSF will oppose the vacation of the 33' of right of way on the Bogle property unless a written agreement is in place at the time of vacation that gives BNSF an easement over the entire 33' feet. Without paying for a survey I cannot tell from the map how much of the 33' BNSF uses to access the tracks. It looks like the road currently used might cross the 33' feet and BNSF will not want to have to move the road. I have tentatively discussed this with Darrell Stock and I don't think his client has an objection to that, but BNSF would like that agreement to be in place as a condition for approval of vacating that right-of-way.

David W. Rasmussen
drasmussen@wolfesnowden.com

From: Christy J. Eichorn [mailto:ceichorn@lincoln.ne.gov]
Sent: Tuesday, August 10, 2010 10:05 AM
To: David Rasmussen
Subject: FW: Item No. 4.1 - Miscellaneous No. 10006

Attached is a memo I sent to Planning Commission members yesterday. This document is essentially what I will be saying tomorrow at the hearing. If you have any questions about this memo please do not hesitate to contact me.

From: Teresa A. McKinstry
Sent: Monday, August 09, 2010 2:43 PM
To: 'jeff-mmg@neb.rr.com'
Cc: Christy J. Eichorn; Marvin S. Krout; Steve S. Henrichsen
Subject: Item No. 4.1 - Miscellaneous No. 10006

Attached is a memo from Christy Eichorn of Planning staff regarding Item No. 4.1 on the August 11, Planning Commission agenda, Miscellaneous No. 10006.

Teresa McKinstry
Lincoln-Lancaster County Planning Dept.
555 S. 10th St. #213
Lincoln NE 68508
402-441-6162

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