

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for February 4, 2004 PLANNING COMMISSION MEETING

P.A.S.: Street Vacation #04001
43rd and Sumner Streets

PROPOSAL: Vacate a portion of 43rd Street south of Sumner Street for use by adjacent church as parking area.

LOCATION: 43rd Street, south of Sumner Street

LAND AREA: 9,054 square feet, more or less.

CONCLUSION: The vacation of this portion of 43rd Street conforms to the Comprehensive Plan provided easements are retained for public utilities.

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

LEGAL DESCRIPTION: South 43rd Street between the south right-of-way line of Sumner Street, and the south line of the north half of Lot 4, Block 2, Woods Brothers Bryan Sumner Acres, located in Section 32 T10N R7E, Lancaster County, Nebraska.

SURROUNDING LAND USE AND ZONING:

North:	Single-family residential	R-2 Residential
South:	Single-family residential	R-2 Residential
East:	Christ Lutheran Church	R-2 Residential
West:	Single-family residential	R-2 Residential

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

UTILITIES: Aquila has a 2" gas main in the right-of-way that will continue to serve the remaining homes on S. 43rd Street. LES has two street lights along the right-of-way that must be removed. Public Works has sanitary sewer, storm sewer, and water facilities that will remain in use.

TRAFFIC ANALYSIS: South 43rd Street is a local street. Residents currently use it to access Sumner Street to the north and Franklin Street to the south. Should this portion of right-of-way be vacated, it should remain in place to continue providing access to the north for the remaining homes on S. 43rd Street.

ANALYSIS:

1. This is a request to approximately one-half block of South 43rd Street south of Sumner Street. This vacation is part of the Applicant's long range plans for expansion.
2. Applicant intends to purchase this property if vacated, and use it for parking area and building access. Applicant will petition to vacate the remaining portion of South 43rd Street north of Franklin Street once they have ownership of the remaining homes on the west side of S. 43rd Street.
3. The vacation of this street will not create lots without frontage or access to a public street, nor will it create a block length that exceeds 1000'. Applicant is the record owner of all abutting lots. Once this right-of-way is vacated, this right-of-way and the adjacent lots to the west will be incorporated into Applicant's overall parcel.
4. The vacation of this right-of-way will create a dead-end street, and will require a turnaround be constructed and pavement be removed, at a combined cost of \$40,000.

Rather than construct a turnaround, Applicant has proposed to provide a public access and utility easement over the entire vacated area that would allow motorists continued access to Sumner Street. Applicant would reconstruct the street return at Sumner Street to driveway standards. The vacated right-of-way will become a drive aisle with parking on either side. This drive aisle will provide continuous vehicular access from Sumner Street to Franklin Street. Applicant will remove the paving and reconstruct their parking area once they have vacated the remaining portion of South 43rd Street. Applicant should be required to post a bond in the amount determined by the Public Works Department for removal of the existing paving and street return and construction of a driveway return.

5. Aquila, LES, and Public Works all have existing facilities within the area of this vacation, and have requested a permanent easement over the entire vacated area for maintenance of and future additions to these facilities.
6. LES must be contacted if this right-of-way is vacated so they can remove two street lights.

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

- 1.1 Satisfy the provisions of Chapter 14.20 of the Lincoln Municipal Code.

- 1.2 Provide a bond in the amount as determined by the Public Works Department to guarantee the removal of the existing paving and street return at Sumner Street, and to construct a new driveway return in Sumner Street within two (2) years, or until such time as the remaining portion of S. 43rd Street north of Franklin Street is vacated, whichever is sooner.
- 1.3 Contact LES to schedule the removal of two street lights.

Prepared by:

Greg Czaplewski
Planner

Date: **January 27, 2004**

Applicant: Christ Lutheran Church
4325 Sumner Street
Lincoln, NE 68506
483.7774

Owner: Same as Applicant.

Contact: Olsson Associates
Tim Gergen
1111 Lincoln Mall
Lincoln, NE 68508
474.6311



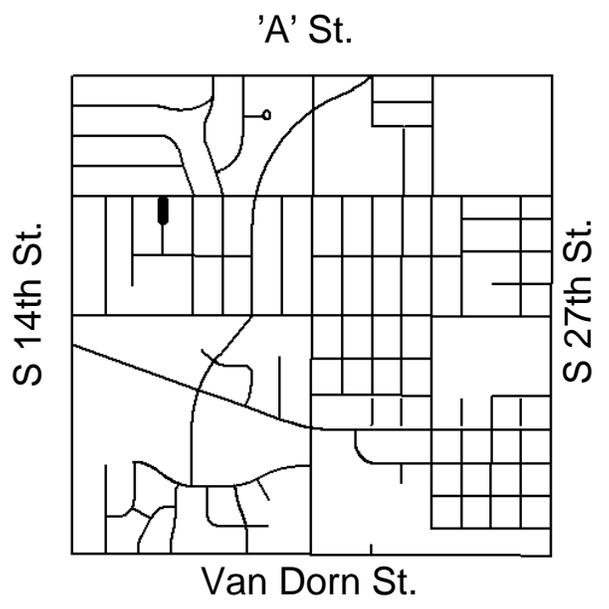
2002 aerial

Street & Alley Vacation #04001 S 43rd & Sumner St.

Zoning:

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-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. 32 T10N R7E



JAN - 6 2004

**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.*)

South 43rd Street between the south line of Sumner Street and the south line of
the north half of lot 4, block 2, Woods Brothers Bryan Sumner Acres

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.

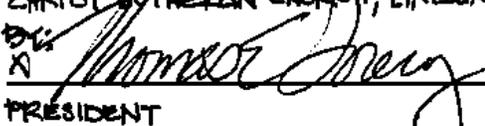
The undersigned hereby represent(s) that he, she, they, or it is(are) the owner(s) of the following described property in Lincoln, Lancaster County, Nebraska, abutting on said street, alley, or other public way: (*Legal description from deed or abstract NOT street address, i.e. Lot 10, Block 500 Boardwalk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

North half of lot 9 and lots 10-12, block 1 Wood Bros. Bryan Sumner Acres

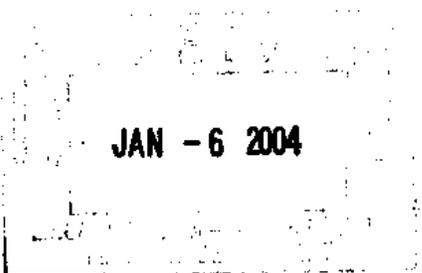
Lots 1-3 and north half of lot 4, block 2 Woods Bros. Bryan Sumner Acres

DATED this 13 day of DECEMBER, 2003.

CHRIST LUTHERAN CHURCH, LINCOLN, NEBRASKA, A NEBRASKA NONPROFIT CORPORATION


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)

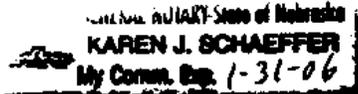
Notary Public

(Corporate Acknowledgment):

STATE OF Nebraska)
) ss.
Lancaster COUNTY)

The foregoing instrument was acknowledged before me on this 13th day of December, 2003, by Thomas Lorenz, president of Christ Lutheran Church, on behalf of the corporation.

(Seal)



Karen J. Schaeffer
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):

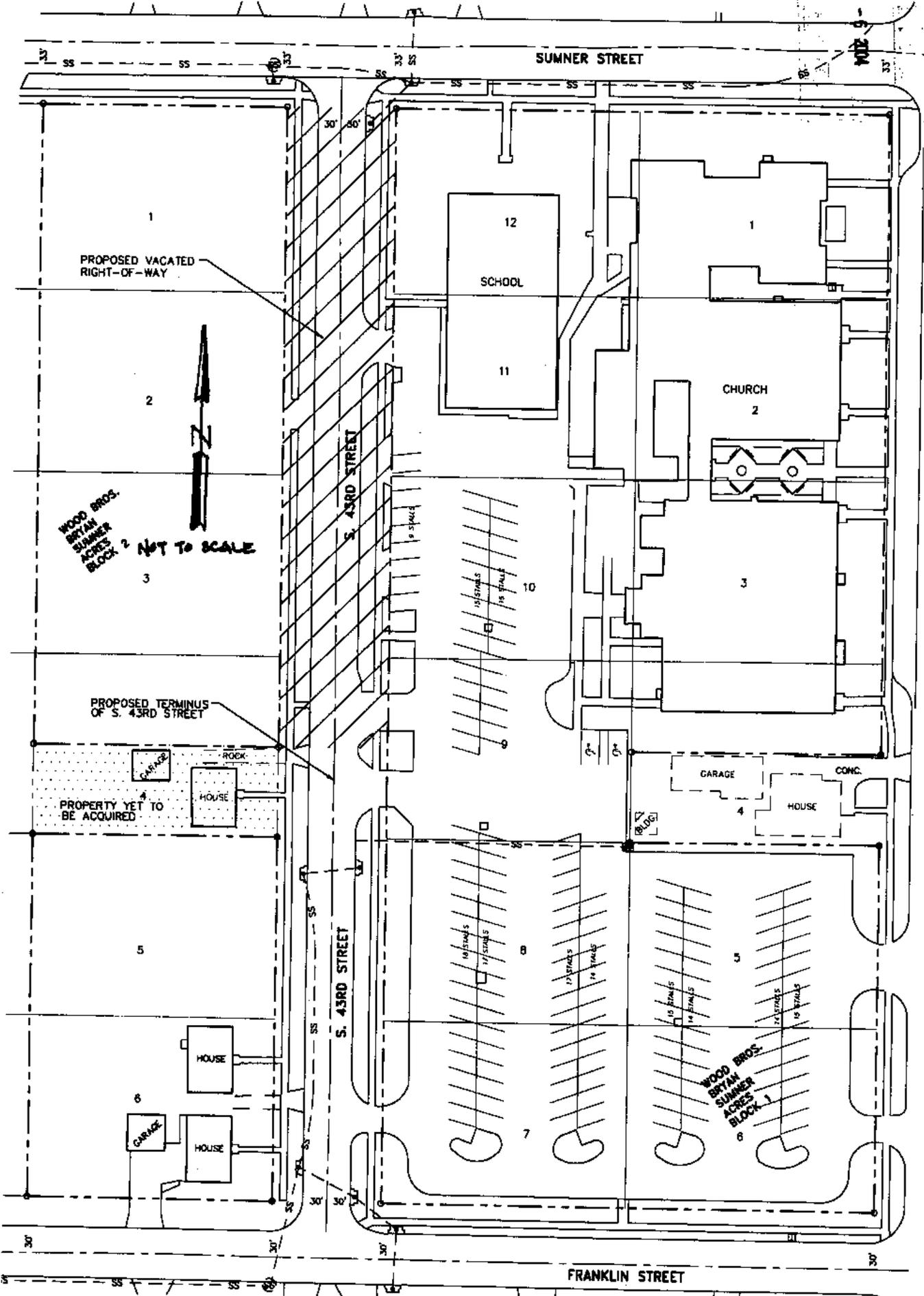
STATE OF _____)
) ss.
_____ COUNTY)

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

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PROPOSED VACATED RIGHT-OF-WAY

2

WOOD BROS.
BYTAN
SUMNER
ACRES
BLOCK 2

NOT TO SCALE

3

PROPOSED TERMINUS
OF S. 43RD STREET

PROPERTY YET TO
BE ACQUIRED

5

HOUSE
GARAGE
HOUSE

6

12

SCHOOL

11

CHURCH

2

3

GARAGE

CONC.

HOUSE

BUILDING

4

15 STALLS
15 STALLS

10

10 STALLS
11 STALLS

8

17 STALLS
14 STALLS

9

15 STALLS
14 STALLS

5

17 STALLS
16 STALLS

WOOD BROS.
BYTAN
SUMNER
ACRES
BLOCK 1

6

FRANKLIN STREET

S. 44TH STREET

RIGHT-OF-WAY VACATION EXHIBIT