

**LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT**

**for April 25, 2007 PLANNING COMMISSION MEETING**

**PROJECT #:** Street and Alley Vacation #07002

**PROPOSAL:** Vacate portions of Prescott and Lowell Avenues and an east-west alley in Block 30

**LOCATION:** Prescott and Lowell Avenues between South 49<sup>th</sup> and 51<sup>st</sup> Streets

**CONCLUSION:** Less area than requested actually needs to be vacated for the purpose of the church expansion as shown on the site plan. Provided the area to be vacated is reduced as recommended by staff and easements are retained, the right-of-way is excess and unneeded, and the request conforms to the Comprehensive Plan and Zoning Ordinance.

<b><u>RECOMMENDATION:</u></b>	In conformance with the Comprehensive Plan
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**GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** The north 5' of Lowell Avenue from a point 100' east of the east right-of-way line of South 48<sup>th</sup> Street to the west right-of-way line of South 51<sup>st</sup> Street, and the south 20' of Prescott Avenue between the centerline line of vacated South 49<sup>th</sup> Street right-of-way to the east line of Lot 5, Block 30 College View Addition, and the alley between Lots 5 and 12, Block 30, College View Addition, all located in the SE 1/4 of Section 5-9-7, Lancaster County, Nebraska.

**EXISTING LAND USE:** Church and associated parking lot, single-family residential.

**SURROUNDING LAND USE AND ZONING:**

**Prescott Avenue:**

North:	Private College Campus	R-6
South:	Church, parking lot, residential	B-3, R-4
East:	Residential	R-4
West:	Church, parking lot	B-3

**Lowell Avenue:**

North:	Church, parking lot, residential	B-3, R-6
South:	Commercial, residential	B-3, O-2, R-4
East:	Residential	R-4
West:	Church, parking lot	B-3

## **ASSOCIATED APPLICATIONS:**

**CZ#07019** - A request to change the zoning from R-4 to R-6 to reduce the front setback to accommodate a proposed church and parking lot expansion.

## **HISTORY:**

**SAV#05010** - A request to vacate that portion of the east-west alley in Block 30 adjacent to Lots 6, 7, 10 and 11, approved July 24, 2006.

**SAV#03013** - A request to vacate South 49<sup>th</sup> Street between Lowell and Prescott Avenues, and that portion of the east-west alley in Block 30 adjacent to Lots 8 and 9, approved July 26, 2004.

**SP#1742** - A request to construct a 48-stall parking lot in the R-4 zoning district, located east of the now vacated South 49<sup>th</sup> Street, was approved September, 1998.

**1979 Zoning Update** - The B zoning designation was changed to R-4 with the 1979 Zoning Update.

**COMPREHENSIVE PLAN SPECIFICATIONS:** Pg 17 - The 2030 Land Use Plan shows the entire area of this request as Urban Residential.

**TRAFFIC ANALYSIS:** The Comprehensive Plan designates Prescott and Lowell Avenues as local streets, both now and in the future. (E49, F103) Both streets provide access to the adjacent neighborhood and to South 48<sup>th</sup> Street, which is a minor arterial.

The City has initiated the College View Neighborhood Mobility Audit which will look at the pedestrian, biking, transit, and street issues/needs of the College View Neighborhood. This effort is an outgrowth of the Multi-Modal Transportation Report and the Comprehensive Plan. The result of the study will be a strategic plan for potential projects (within reason), efforts, and strategies to address the items identified through the process. This vacation request will not affect that audit if approved.

## **ANALYSIS:**

1. The vacation petition seeks to vacate three portions of right-of-way: 20' along the south side of Prescott Avenue from the centerline of vacated South 49<sup>th</sup> Street to the middle of Block 30; 5' along the north side of Lowell Avenue from 100' east of South 48<sup>th</sup> Street to South 51<sup>st</sup> Street; and that portion of the east-west in Block 30 between Lots 5 and 12. A request for a change of zone from R-4 to R-6 has also been submitted, all for the purpose of providing additional area to accommodate a proposed expansion.

2. The change of zone and vacated rights-of-way combine to provide an additional 28' of area (5' for reduced front setbacks along both Prescott and Lowell Avenues, 5' of right-of-way in Lowell Avenue, and 13' of right-of-way in Prescott Avenue) to allow the parking lot layout shown on the attached Site Master Plan. Without the additional area there is not enough room to provide all the parking spaces shown and a row will have to be eliminated to comply with the Design Standards for parking lots.
3. A copy of the Site Master Plan has been provided which shows an expanded church and parking lot. The Church owns all the lots in Blocks 30 and 31 except Lots 1, 2, 4, and 16, Block 30. The long-range plan includes vacating the remaining alley in Block 30 and consolidating the land within Blocks 30 and 31 to accommodate the future expansion. The two previously approved vacation requests were part of this consolidation effort and allowed the parking lot to be expanded.
4. The right-of-way is 100' wide in Prescott Avenue, and 70' wide in Lowell Avenue. Both are in excess of 60' wide which is the typical right-of-way width for a local residential street. This request seeks to vacate one-half of the right-of-way in excess of 60', or 20' in Prescott Avenue, and 5' in Lowell Avenue.
5. Public Works notes the existing conditions in Prescott Avenue that affect the sidewalk and parking spaces if the request is approved as submitted. The paved surface of Prescott Avenue is 41' wide, versus the typical 27'. If the full 20'-wide area is vacated, the public sidewalk will be on private property, and there will be less than the standard 16.5' from the edge of right-of-way to the back of the curb where utilities and other public facilities are typically located. Public Works recommends that no more than 13' of right-of-way be vacated to maintain a 16.5' separation between the back of curb and edge of right-of-way, and that a public access easement be granted to allow continued use of the sidewalk by the public as the sidewalk will be located in private property.
6. The sidewalk along Lowell Avenue jogs approximately 4' to the south where on-street, diagonal parking spaces end. If the 5' strip is vacated as requested, that portion of the sidewalk adjacent to the on-street parking spaces would also be located on private property and require an easement. There is enough separation east of this point so the sidewalk will remain in the right-of-way after vacating a 5' strip. The Master Plan shows no changes over existing conditions on this part of the site, so vacating any right-of-way where the on-street parking spaces are serves no purpose. The area in Lowell Avenue to be vacated should extend from the point where the on-street parking spaces end (near Lot 14, Block 31) to the west line of South 51<sup>st</sup> Street.
7. The only utilities located in any of the areas to be vacated are electrical. L.E.S. notes that a utility easement should be retained across the entire areas vacated to allow for existing and future electrical utilities. Typically, easements are retained by the City.

8. No lots without frontage to a public street will be created if approved.

**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 Permanent easements for existing and future utilities and for public access for the sidewalk on the south side of Prescott Avenue shall be retained over the vacated areas.
- 1.3 The area to be vacated reduced per the attached legal description as recommended by staff.
- 1.4 The signature block on the petition modified as recommended by the Law Department.

Prepared by:

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Brian Will, 441-6362, [bwill@lincoln.ne.gov](mailto:bwill@lincoln.ne.gov)  
Planner  
April 11, 2007

**PETITIONERS:** KS/NE Conference of Seventh-Day Adventists  
3440 Urish Road  
Topeka, KS 66614

Mitchell Chunestudy  
5026 Lowell  
Lincoln, NE 68506  
402.489.6080

**CONTACT:** Marlyn Schwartz  
5300 Old Cheney Road  
Lincoln, NE 68516  
402.432.1344



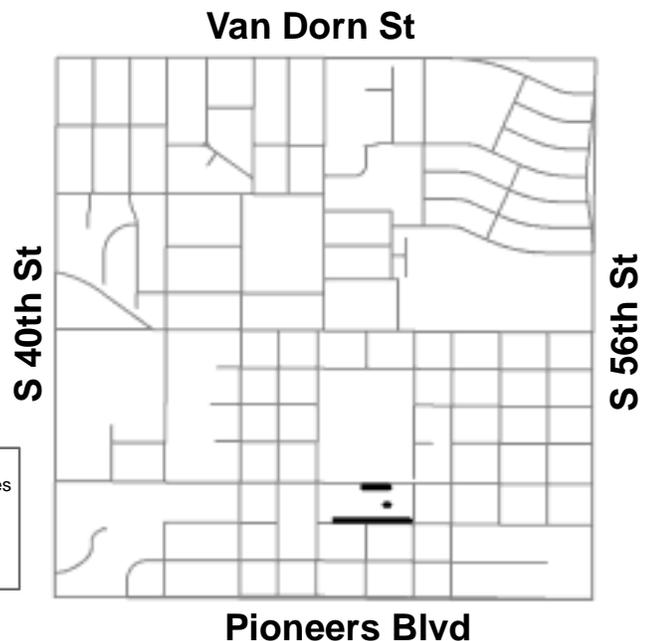
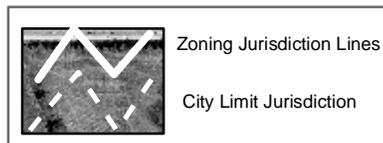
2005 aerial

# Street and Alley Vacation #07002 49th & Prescott

## 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. 5 T09N R07E

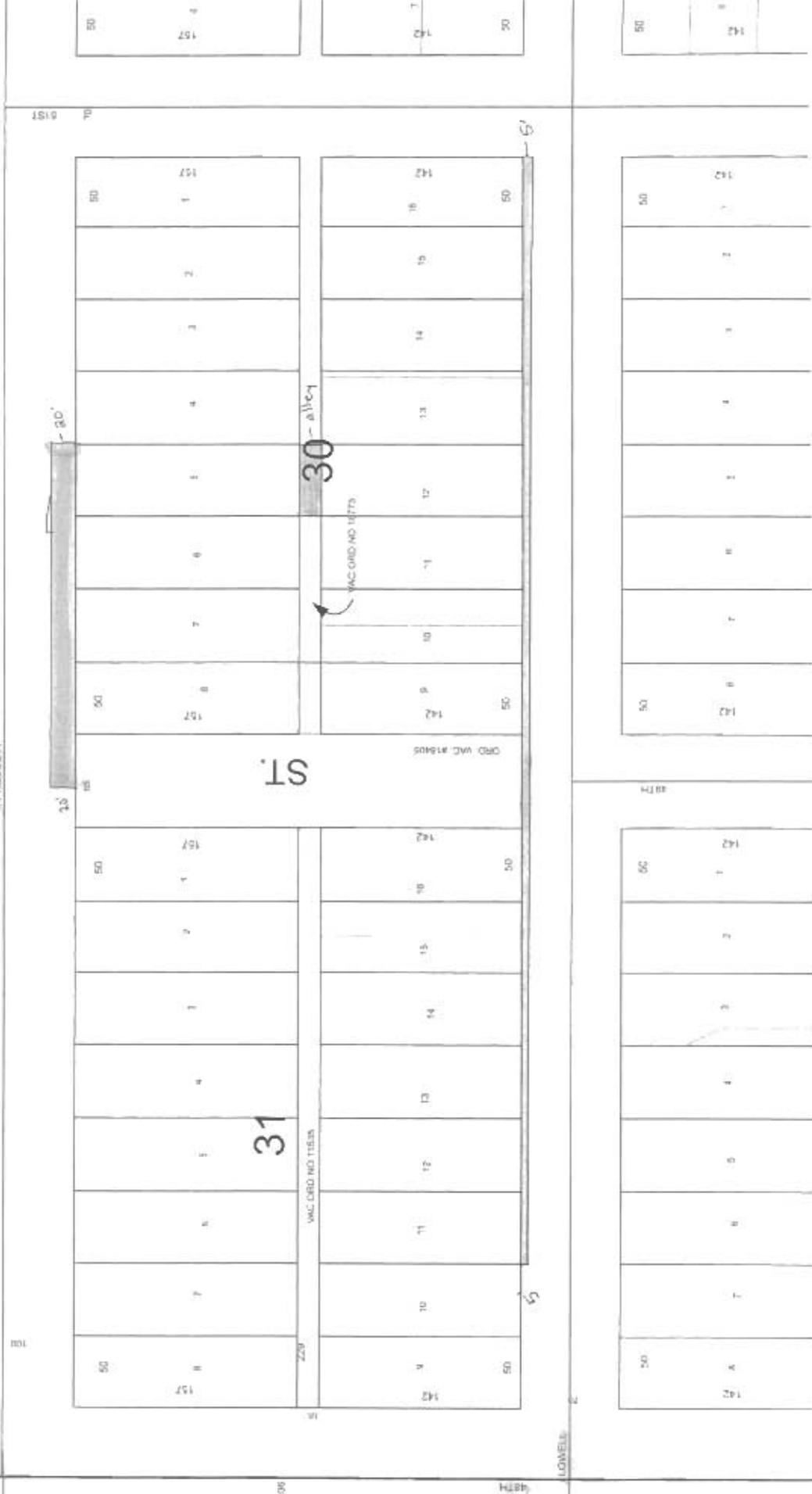


*Handwritten initials*

# VACATION EXHIBIT

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LOWELL

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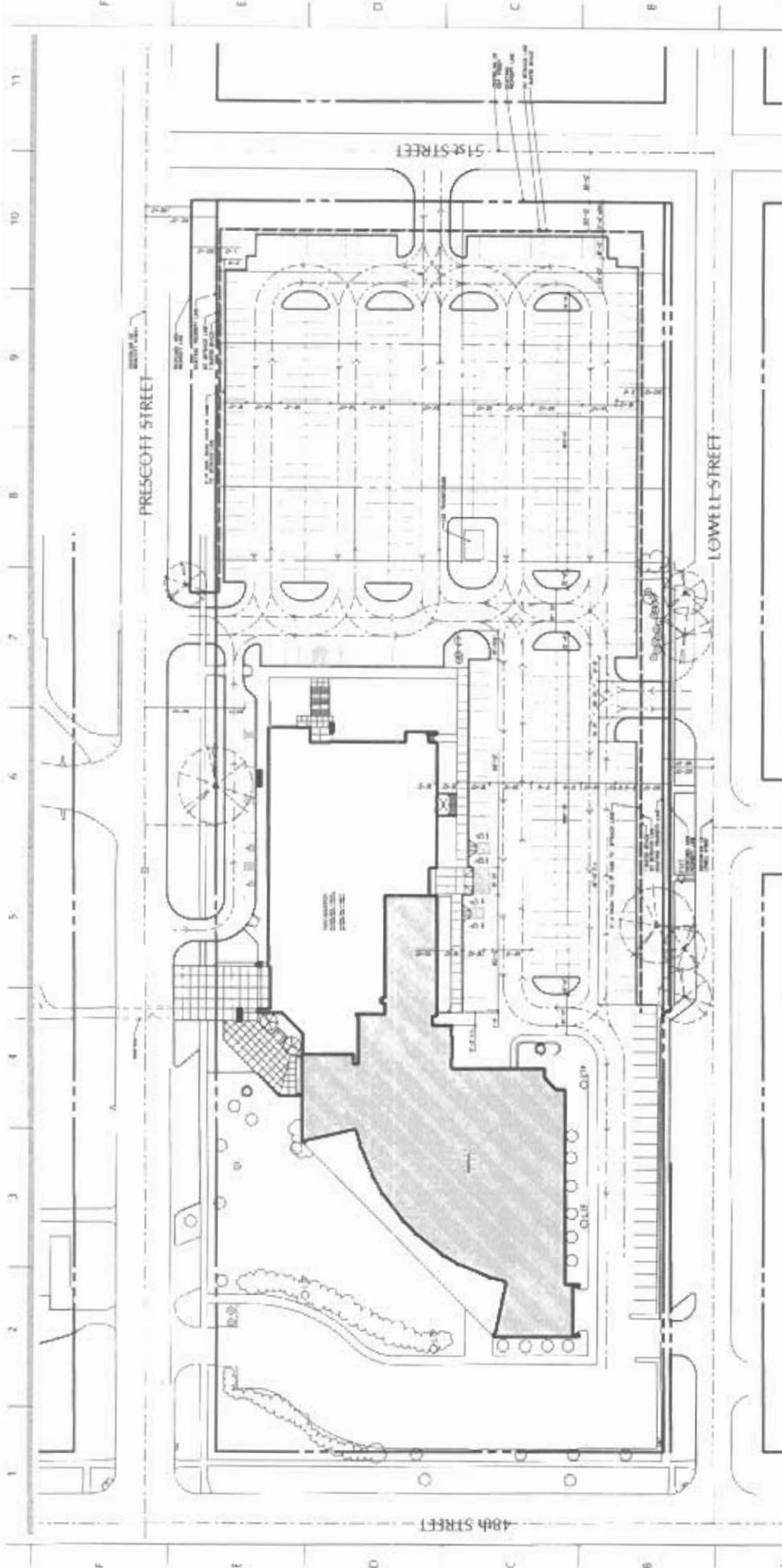
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**A1 SITE PLAN - PARKING MASTERPLAN**

1" = 20'-0"

NOTE

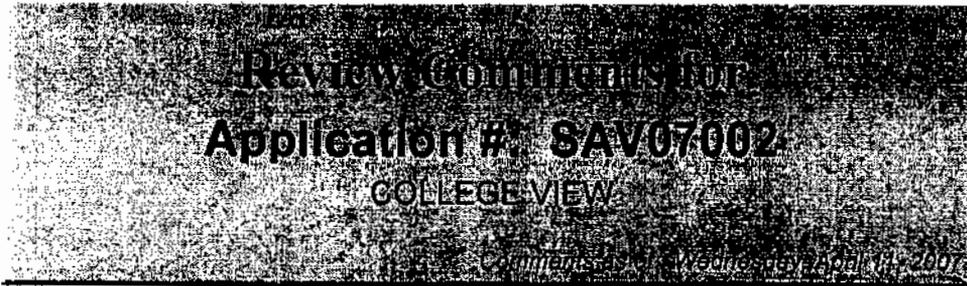
ARCHITECT  
**BAHR VERMEER HAECKER**  
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 211 SOUTH 21st STREET, 3RD FLOOR  
 LINCOLN, NEBRASKA 68508  
 www.bvh.com  
 info@bvh.com

**BAHR VERMEER HAECKER**  
 Architects  
 College View Church  
 Addition  
 4015 South 49th St  
 Lincoln, Nebraska  
 PROJECT: 1020377  
 DATE: 9 APRIL 2007  
 bvh vermeer haecker architects llc

**SAV#07002 - PRESCOTT AND LOWELL AVENUES, S. 49<sup>TH</sup> TO S. 51<sup>ST</sup> STREETS  
LEGAL DESCRIPTION**

**As recommended by staff**

The north 5' of Lowell Avenue from a point 90' west of the west right-of-way line of vacated South 49<sup>th</sup> Street to the west right-of-way line of South 51<sup>st</sup> Street, and the south 13' of Prescott Avenue from the centerline of vacated South 49<sup>th</sup> Street to the east lot line of Lot 5, Block 30 College View Addition, and the alley from the east and west lot lines of Lots 5 and 12, Block 30, College View Addition, all located in the SE 1/4 of Section 5-9-7, Lancaster County, Nebraska.



Status of Review: Approved

Reviewed By Alltel

ANY

Comments:

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Status of Review: Approved

Reviewed By Aquila

ANY

Comments:

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Status of Review: Active

Reviewed By Building & Safety

ANY

Comments:

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Status of Review: Complete

03/23/2007 3:15:35 PM

Reviewed By Fire Department

ANY

Comments: We have no issues from the perspective of our department.

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Status of Review: Complete

03/21/2007 9:32:22 AM

Reviewed By Law Department

NCSBJW

Comments: Brian,

Our office has reviewed the Petition to Vacate submitted for SAV 07002.

The ownership set forth in the Petition to Vacate Public Way for the above-referenced street/alley vacation is correct and the signatures have been properly acknowledged. However, before the petition is filed with the Register of Deeds the following language must be inserted below Ron Carlson's signature on the face of the petition:

President of Kansas-Nebraska Association of Seventh-day Adventists

For future reference, if property abutting the right-of-way to be vacated is owned by more than one titleholder, separate petitions should be filed by each owner. In this case, two petitions should have been filed – one by the Kansas-Nebraska Association of Seventh-day Adventists listing the property it owns that abuts the requested vacation, and another filed by Mitchell Chunestudy listing the property he owns that abuts the requested vacation.

If you have any questions, give me a call.

Rick Peo  
Chief Assistant City Attorney  
441-7264

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Status of Review: Active

Reviewed By Lincoln Electric System

JIM HENNESSY

Comments:

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Status of Review: Active

Reviewed By Parks & Recreation

ANY

Comments:

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Status of Review: Active

Reviewed By Planning Department

BRIAN WILL

Comments:

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Status of Review: Routed

Reviewed By Planning Department

COUNTER

Comments:

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Status of Review: Complete

Reviewed By Planning Department

RAY HILL

Comments:

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# M e m o r a n d u m

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**To:** Brian Will - Planning  
**From:** Byron Blum - Engineering Services  
**Subject:** Right-of-Way Vacation SAV #07002/Change of Zone CZ#07019  
**Date:** April 16, 2007  
**cc:** Randy Hoskins  
Dennis Bartels

The Department of Public Works does not support this proposed vacation as requested. If approved, it would create an inconsistent right-of-way width and leave public sidewalk on private property. A permanent easement would be required for both the sidewalk and the utilities in both streets if approved.

There are no City utilities in the area for proposed vacation. There is however public sidewalk in these areas. If approved, the portion along the south side of Prescott would be within 8' of an existing water main. The right-of-way vacation in Prescott Street should be reduced to the south 13' at most to provide the standard 16-1/2' of right-of-way from the back of curb to the property line. Prescott paving is 41' wide at 49th and Prescott.

The 5' of proposed vacation in Lowell Street west of 49th Street should not be allowed due to the existing parking setback west of 49th Street, which would allow vehicle overhang of the existing sidewalk.

Public Works recommends approval of a partial vacation subject to the following conditions:

- (1) The Prescott vacation be limited to the south 13' of right-of-way from the west line of vacated 49th Street east. An easement be reserved over the vacated 13 feet for the water main and the existing sidewalk.
- (2) The vacation of Lowell be limited to the north 5' of Lowell east of the west line of vacated 49th Street. An easement be reserved over the vacated 5 feet for existing sidewalk.

Please provide your comments below, and also identify the reservations and easements you will require should this vacation be approved. Complete ONLY those areas of your jurisdiction.

Type of Facility	Facility presently in place.	Facility to be built. When?
Sanitary Sewer	_____	_____
Water Mains	_____	_____
Storm Sewer	_____	_____
Electrical Power, Overhead	<u>YES</u>	_____
Electrical Power, Underground	<u>YES</u>	_____
Street Lighting	<u>NONE</u>	_____
Steam Lines	_____	_____
Telephone Lines, Overhead	_____	_____
Telephone Lines, Underground	_____	_____
Gas Mains	_____	_____
Traffic Signal Interconnect	_____	_____
Reconstruction of Surface Features, Cost:	_____	_____
Street Trees	_____	_____

General Comments:

Retain easement across entire proposed vacation  
corridor for existing & future electrical  
facilities / utility

3/26/2007  
Date

Stanley D. Wostul  
Signature

467-7627  
Phone

Rick Peo/Notes  
Sent by: Cheryl L Eno

03/21/2007 09:28 AM

To Brian J Will/Notes@Notes  
cc  
bcc  
Subject SAV 07002

Brian,

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