

FACTSHEET

TITLE: STREET & ALLEY VACATION NO. 12005, requested by the Lincoln Community Playhouse, on property generally located on the east side of South 56th Street at the intersection of Lillibridge Street.

STAFF RECOMMENDATION: A finding of conformance with the Comprehensive Plan, subject to the provisions of Chapter 14.20 of the Lincoln Municipal Code.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: Consent Agenda: 08/22/12
Administrative Action: 08/22/12

RECOMMENDATION: Conditional approval, subject to the provisions of Chapter 14.20 of the Lincoln Municipal Code (6-0: Gaylor Baird, Butcher, Cornelius, Hove, Lust and Sunderman voting 'yes'; Francis and Weber absent).

FINDINGS OF FACT:

1. This is a request to vacate a 30' x 50' right-of-way stub in Lot 1, Block 2, Thomasbrook Addition. The stub is located on the east side of South 56th Street, east of the intersection of Lillibridge and South 56th Street. The purpose of this request is to facilitate development of the Lincoln Community Playhouse Planned Unit Development to allow for better utilization of the lots involved in the PUD.
2. This vacation request was heard before the Planning Commission at the same time as the proposed Lincoln Community Playhouse PUD. The PUD is being heard by the City Council on September 17, 2012 (Bill #12-117).
3. The staff recommendation to find the right-of-way vacation to be in conformance with the Comprehensive Plan is based upon the "Analysis" as set forth on p.3, concluding that the subject right-of-way was dedicated in 1990 as part of the Thomasbrook Addition final plat. The intent may have been to accommodate an extension of Lillibridge Street, but after a review of the record, it is difficult to say for certain. Given the surrounding development pattern today, the stub is not needed and the proposed Lincoln Community Playhouse PUD shows the vacated right-of-way being incorporated into the site plan. Given there is no current or future planned use for the stub, the right-of-way is unneeded and unnecessary, and it is appropriate that it be vacated.
4. On August 22, 2012, this application and the associated proposed Lincoln Community Playhouse PUD (Change of Zone No. 12024) appeared on the Consent Agenda of the Planning Commission and were opened for public hearing. No one came forward to speak.
5. On August 22, 2012, the Planning Commission agreed with the staff recommendation and voted 6-0 to find the proposed right-of-way vacation to be in conformance with the Comprehensive Plan, subject to the provisions of Chapter 14.20 of the Lincoln Municipal Code (Francis and Weber absent).
6. On August 22, 2012, the Planning Commission also voted 6-0 to recommend conditional approval of the associated Lincoln Community Playhouse PUD (Change of Zone No. 12024). The PUD is scheduled for public hearing before the City Council on September 17, 2012 (Bill #12-117).
7. The appraisal by Clint Thomas of the Housing Rehab & Real Estate Division of the Urban Development Department is found on p.11, recommending that the vacated area be sold to the abutting property owner for \$225.00.
8. The funds for the vacated right-of-way have been paid. Therefore, the provisions of Chapter 14.20 of the Lincoln Municipal Code have been satisfied.

FACTSHEET PREPARED BY: Jean L. Preister
REVIEWED BY: Marvin Krout, Director of Planning
REFERENCE NUMBER: FS\CC\2012\SAV12005

DATE: September 17, 2012
DATE: September 17, 2012

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for August 22, 2012 PLANNING COMMISSION MEETING

PROJECT #: Street and Alley Vacation No. 12005

PROPOSAL: Vacate a 50' x 30' right-of-way stub in the northeast corner of Lot 1, Block 2, Thomasbrook Addition

LOCATION: On the east side of South 56th Street at the intersection of Lillibridge Street

CONCLUSION: The subject right-of-way stub was dedicated in 1990 as part of the Thomasbrook Addition final plat. The intent may have been to accommodate an extension of Lillibridge Street, but after a review of the record it's difficult to say for certain. Given the surrounding development pattern today, the stub is not needed, and the associated planned unit development proposal from the Lincoln Community Playhouse shows the vacated right-of-way being incorporated into the site plan. Given there is no current or future planned use for the stub, the right-of-way is unneeded and unnecessary and it is appropriate that it be vacated.

RECOMMENDATION:	Conforms to the Comprehensive Plan
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GENERAL INFORMATION:

LEGAL DESCRIPTION: All 30' x 50' of right-of-way at the northwest corner of Lot 1, Block 2, Thomasbrook Addition, Lancaster County, Nebraska.

SURROUNDING LAND USE AND ZONING:

North:	Lincoln Community Playhouse	R-2
South:	Vacant	R-3
East:	Vacant	R-3
West:	South 56 th Street, Residential	R-2

ASSOCIATED REQUEST:

Change of Zone #12024 for the Lincoln Community Playhouse which seeks to include the lot surrounding the subject right-of-way stub and the Playhouse lot in a planned unit development (PUD).

UTILITIES:

There are utilities in the alley proposed to be vacated which include sanitary sewer, electric and telephone. Easements will be retained to guarantee continued accessibility for maintenance and repair by the appropriate utility.

ANALYSIS:

1. This is a request from the Lincoln Community Playhouse to vacate a 30' x 50' right-of-way stub in Lot 1, Block 2, Thomasbrook Addition. The stub is located on the east side of South 56th Street, east of the intersection of Lillibridge and South 56th Streets.
2. The Lincoln Community Playhouse owns both the lot where the playhouse is located (Lot 140), as well as the lot surrounding the subject right-of-way (Lot 1, Block 2, Thomasbrook Addn) adjacent to the south.
3. The stub was dedicated with the final plat of Thomasbrook Addition in 1990, perhaps to facilitate the future extension of Lillibridge Street. East of South 56th Street, Lillibridge exists as a private roadway inside the apartment complex, extending only from the east edge of Lot 1 to South 60th Street.
4. The associated PUD submitted by the Playhouse shows the area of the stub incorporated into the site plan and used for a driveway onto South 56th Street. There is an existing driveway at this location today, but as part of the PUD it will provide shared access for all lots in the PUD, as well as cross-access with Gere Library adjacent to the north.
5. There are various utilities located in the right-of-way as noted by the utility providers, including electric, gas and telephone. As part of the vacation process, utility easements will automatically be retained to allow continued maintenance, construction and operation of these facilities.
6. Vacating this right-of-way stub will facilitate the proposed PUD and the development shown, and allow for better utilization of the lots involved. Provided access to the existing utilities is assured, this right-of-way is otherwise excess and unneeded and it is appropriate to vacate it.
7. 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.

CONDITIONS

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

1. The provisions of Chapter 14.20 of the Lincoln Municipal Code are met.

Prepared by:

Brian Will, 441-6362, bwill@lincoln.ne.gov
August 9, 2013

PETITIONER: Lincoln Community Playhouse
2500 South 56th Street
Lincoln, NE 68506
402-489-7529

CONTACT: Tim Gergen
Olsson Associates
1111 Lincoln Mall
Lincoln, NE 68508
402-474-6311

**CHANGE OF ZONE NO. 12024
and
STREET & ALLEY VACATION NO. 12005**

**CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:**

August 22, 2012

Members present: Gaylor Baird, Butcher, Cornelius, Hove, Lust and Sunderman; Francis and Weber absent.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 12023, STREET AND ALLEY VACATION NO. 12005, CHANGE OF ZONE NO. 12024 and COMBINED SPECIAL/USE PERMIT NO. 13A.**

Ex Parte Communications: None

Item No. 1.1, Change of Zone No. 12023, was removed from the Consent Agenda and scheduled for separate public hearing.

Sunderman moved approval of the remaining Consent Agenda, seconded by Sunderman and carried 6-0: Gaylor Baird, Butcher, Cornelius, Hove, Lust and Sunderman voting 'yes'; Francis and Weber absent.



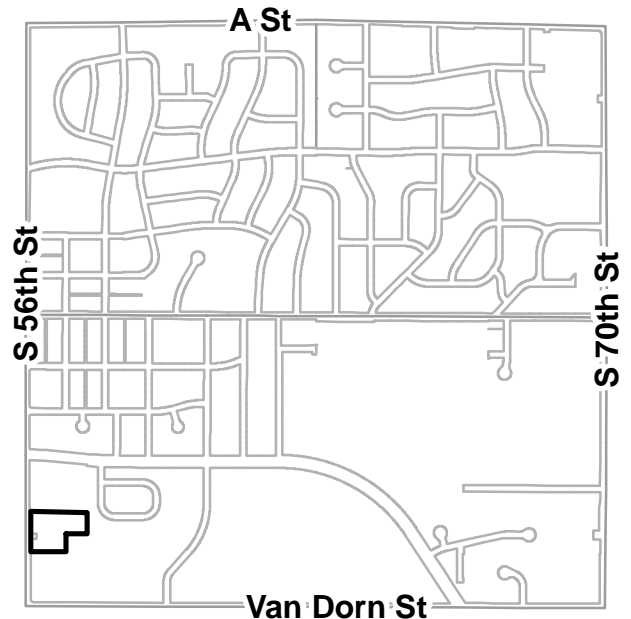
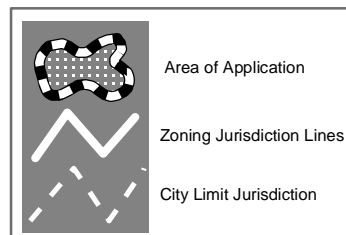
2010 aerial

**Street & Alley Vacation #12005
Lincoln Community Playhouse PUD
S 56th St & Lillibridge 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. 33 T10N R07E



THOMASBROOK ADDITION

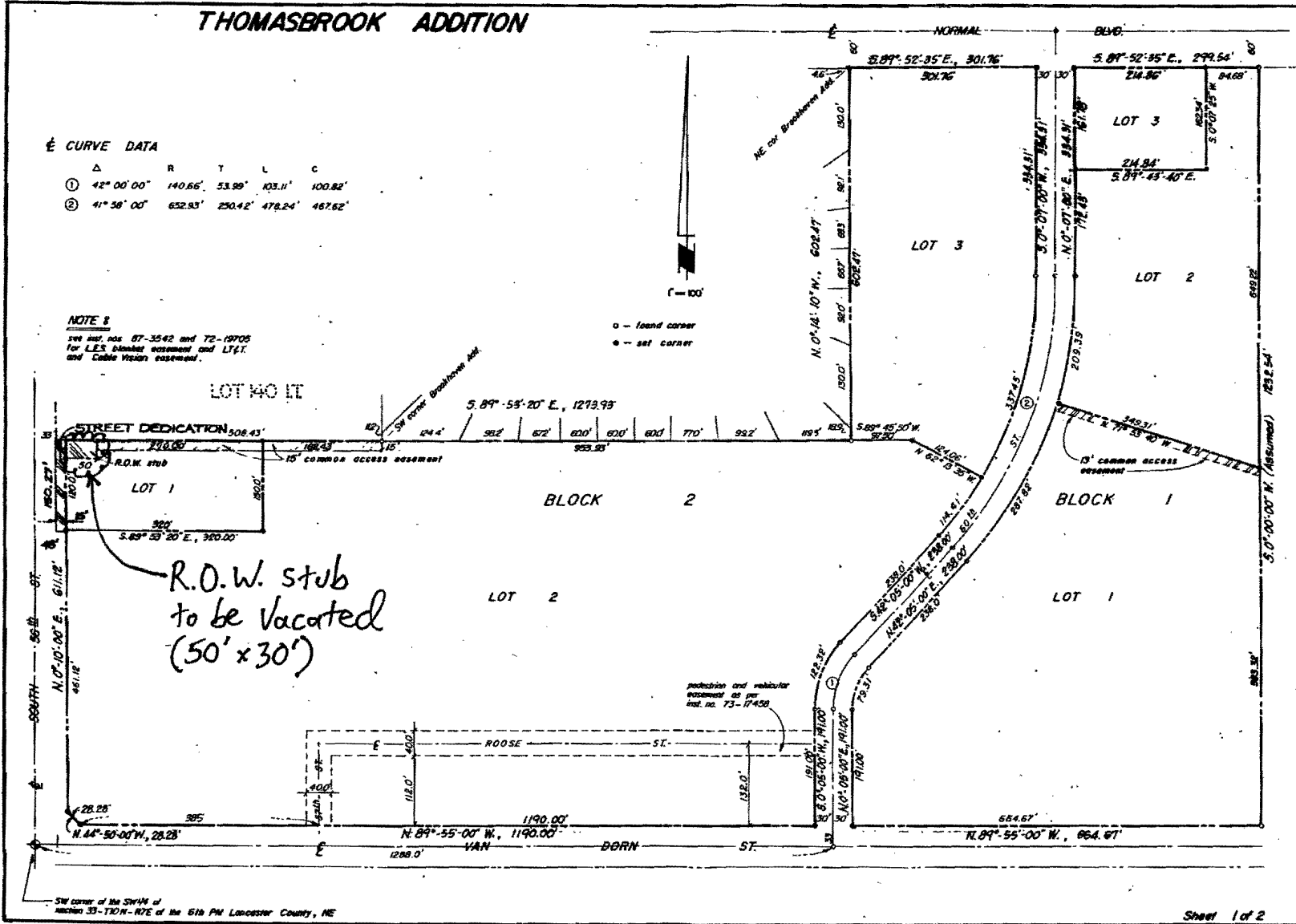
CURVE DATA

Δ	R	T	L	C	
①	42° 00' 00"	140.66'	53.99'	103.11'	100.82'
②	41° 38' 00"	652.93'	250.42'	478.24'	467.62'

NOTE 8

see plat nos. 87-3542 and 72-19705
for L&S blanket easement and LT&T
and Cable Vision easement.

○ - found corner
● - set corner



R.O.W. stub
to be vacated
(50' x 30')

SW corner of the SW 1/4 of
section 33-T12N-R7E of the 5th PM Lancaster County, NE

Sheet 1 of 2

007

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.*)

50'x30' Right-of-way Stub located at the northwest corner of Lot 1, Block 2 Thomasbrook Addition

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.*)

Lot 1, Block 2 Thomasbrook Addition

Lot 140 I.T. Section 33 Township 10 North Range 7 East

DATED this 25 day of July

Lincoln²⁰¹² Community Playhouse, Inc.
Bob Everitt

by Bob Everitt, Board President

(Individual(s) Acknowledgment):

STATE OF _____)
) ss.
_____ COUNTY)

The foregoing instrument was acknowledged before me on this _____ day of _____, 20____, by

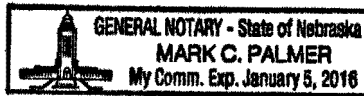
(Please indicate name(s) and marital status of person(s) signing)

(Seal)

Notary Public

(Corporate Acknowledgment):

STATE OF Nebraska)
) ss.
Lancaster COUNTY)



The foregoing instrument was acknowledged before me on this 25 day of July, 2012, by
Bob Everitt, president of Lincoln Community Playhouse, on behalf of the corporation.
Board

(Seal)

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

INFORMATION SHEET

An Information Sheet must be filled out completely by the owners of each parcel abutting the requested vacation. The attached **Petition to Vacate Public Way** must also be filled out completely according to the instructions contained in the Instruction Sheet.

1. Name of Petitioner (Current Titleholder/s): Lincoln Community Playhouse

If more than one individual, indicate if you are:

_____ joint tenants with right of survivorship, OR _____ tenants in common

2. Petitioner's Address: 2500 South 56th St.
Lincoln NE 68506

3. Petitioner's Telephone Number: (402) 489-7529

4. Name of street, alley, or other public way sought to be vacated: 50'x30' Right of Way
Stub located at the northwest corner of Lot 1,
Block 2 Thomasbrock Addition

5. Legal description of Petitioner's property which abuts the public way sought to be vacated: _____
Lot 1, Block 2 Thomasbrock Addition
Lot 140 I.T. Section 33 Township 10 North Range 7 East

6. Why are you seeking to have this street, alley, or other public way vacated?
The stub for the street is no longer being used as a street.
The stub is being used as a driveway.

7. What use or uses do you propose to make of the public way should it be vacated?
Continue to use property as a driveway to a parking lot.

8. Do you intend to purchase that portion of the vacated public way which abuts your property as described in the **Petition to Vacate Public Way** and/or other portions of the vacated public way? YES NO

9. Name and address of person to whom tax statement should be sent:
Lincoln Community Playhouse
2500 South 56th Street
Lincoln NE 68506

The property will be appraised and the purchase price of the portion abutting your property must be paid by you to the City Clerk unless you have indicated that the portion abutting your property will be sold to any other abutting owner willing to pay the purchase price. The Vacation Ordinance will not be introduced before the City Council until the full price of the entire public way proposed to be vacated has been paid.

*** **IMPORTANT: BE SURE THAT THE PETITION TO VACATE PUBLIC WAY HAS BEEN PROPERLY EXECUTED BY ALL TITLEHOLDERS TO YOUR PROPERTY AND ATTACH IT TO THIS INFORMATION SHEET.**

INTEROFFICE MEMORANDUM

TO: Mayor Beutler
& City Council Members

FROM: Clinton W. Thomas

DEPARTMENT: City Council Office

DEPARTMENT: Housing Rehab & Real Estate Division

ATTENTION:

DATE: September 5, 2012

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

SUBJECT: Street & Alley Vacation No.12005
East of South 56th Street at
Lillibridge Street

A request has been made to vacate the street stub located opposite Lillibridge Street on South 56th Street. Staff has indicated the existence of numerous utilities within the area and has asked that easements be retained for future maintenance and replacement of them. They have also indicated the area to be vacated would provide cross access to the Gere Library located to the north. Given the fact there is the possibility of future intrusion on the area for maintenance of the utilities and the public will be allowed to utilize the area for access, it is considered the majority of the value of this area is being retained by the public. As such, a nominal value of \$0.15 per square foot is considered appropriate. The calculations are as follows:

$$1,500 \text{ sq. ft.} \times \$0.15/\text{sq. ft.} = \$225.00$$

Therefore, it is recommended if the area be vacated it be sold to the abutting property owner for \$225.

Respectfully submitted,



Clinton W. Thomas
Certified General Appraiser #990023