

## **FACTSHEET**

**TITLE: STREET & ALLEY VACATION NO. 12008**, requested by the Director of Public Works & Utilities, to vacate a portion of South 38<sup>th</sup> Street right-of-way north of Antelope Creek, generally located at South 38<sup>th</sup> Street and South Street.

**STAFF RECOMMENDATION:** A finding of conformance with the Comprehensive Plan.

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: Consent Agenda, 10/31/12  
Administrative Action: 10/31/12

**RECOMMENDATION:** A finding of conformance with the Comprehensive Plan (6-0: Gaylor Baird, Cornelius, Francis, Lust, Sunderman and Weber voting 'yes'; Hove and Butcher absent).

### **FINDINGS OF FACT:**

1. This is a request by the Director of Public Works and Utilities to vacate a portion of the South 38<sup>th</sup> Street right-of-way as a result of the South Street Bridge Reconstruction Project, whereby South 38<sup>th</sup> Street is no longer a through street and the portion of South 38<sup>th</sup> Street north of Antelope Creek is now a private parking lot.
2. The staff recommendation to find the proposed right-of-way vacation in conformance with the 2040 Comprehensive Plan is based upon the "Analysis" as set forth on p.3, concluding that South 38<sup>th</sup> Street is no longer a through street, and that the portion of South 38<sup>th</sup> Street north of Antelope Creek is now a private parking lot and does not serve a public purpose.
3. On October 31, 2012, this application appeared on the Consent Agenda of the Planning Commission and was opened for public hearing. No one came forward to speak.
4. On October 31, 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 2040 Comprehensive Plan.
5. The cost of the right-of-way was part of the South Street Bridge project, with the new parking lot constructed to offset parking that was removed as part of the bridge project. Therefore, the abutting property owners will not be required to pay for the right-of-way abutting their property.

**FACTSHEET PREPARED BY:** Jean L. Preister

**DATE:** November 9, 2012

**REVIEWED BY:** Marvin Krout, Director of Planning

**DATE:** November 9, 2012

**REFERENCE NUMBER:** FS\CC\2012\SAV12008

**LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT**

**for October 31, 2012 PLANNING COMMISSION MEETING**

**PROJECT #:** Street and Alley Vacation No. 12008

**PROPOSAL:** To vacate a portion of S. 38<sup>th</sup> Street right-of-way

**LOCATION:** S. 38<sup>th</sup> Street and South Street

**LAND AREA:** .09 Acres more or less

**CONCLUSION:** As part of the South Street Bridge Reconstruction Project, S. 38<sup>th</sup> Street is no longer a thru street. The portion of S. 38<sup>th</sup> Street north of Antelope Creek is now a private parking lot and does not serve a public purpose. Vacation of S. 38<sup>th</sup> Street at this location is in conformance with the Comprehensive Plan.

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

**LEGAL DESCRIPTION:** See attached

**SURROUNDING LAND USE AND ZONING:**

North: P Public Zoning District	Antelope Park, Ager Golf Course
South: R-2 Residential	Antelope Creek and Single Family Residential
East: B-1 Local business District	Commercial building
West: B-1 Local business District	Vacant land owned by the NRD

**COMPREHENSIVE PLAN SPECIFICATIONS:**

Local streets and alleys are not included in the functional classification (p 10.15)

**UTILITIES:** The City has an existing 6" water main in this area. LES is requesting an easement for future electrical utility facilities over the entire vacated area.

The Lincoln Fire Department requests the existing water main on 38th Street connected to the 8" main on South Street remain in place and a new hydrant be placed on the existing main in the proximity of 2135 and 2120 South 38th Street. Public Works and Utilities will work with the Lincoln Fire Department to address this issue.

**TRAFFIC ANALYSIS:** South Street is an Urban Minor Arterial and S. 38<sup>th</sup> Street is a Local Street.

**ENVIRONMENTAL CONCERNS:** The NRD is retaining an easement for operations and maintenance over the vacated area. Typically the City would keep an easement for floodplain since this area is currently in the Antelope Creek floodplain. However this area is planned to be removed from the floodplain in the near future due to on-going Antelope Creek flood control projects, so the

City is not requesting a conservation easement for the vacated area. A permanent access easement for the Lower Platte South Natural Resource District will need to be retained to access the Antelope Creek channel for maintenance.

**ANALYSIS:**

1. The street is classified as a local street in the 2040 Comprehensive Plan.
2. With the South Street Bridge Reconstruction project in 2012, a box culvert on S. 38th Street just south of South Street was removed and S. 38th Street was closed permanently. The S. 38th Street bridge over Antelope Creek just south of South Street was also removed and a turnaround "hammerhead" was constructed south of Antelope Creek.
3. As part of the bridge project approximately half of the parking stalls along the southwest side of the commercial property to the east of S. 38<sup>th</sup> Street were removed. The only place available to replace these private stalls was in the portion of S. 38<sup>th</sup> Street north of the creek. A new parking lot was constructed to offset the loss of parking and was intended to be given to the abutting landowner to avoid inflicting damages from the bridge project. The abutting property ended up with exactly the same amount of parking stalls they had prior to the construction of the project.
4. 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. In this case, the cost of the right-of-way was part of the South Street Bridge project. The abutting property owners will not be required to pay for the right of way abutting their property.
5. Since these new parking stalls were intended for private use, this portion of S. 38<sup>th</sup> Street no longer serves a public purpose so vacating it is in Conformance with the Comprehensive Plan.
6. Utility easements will be retained over the entire vacated area as part of the vacation.

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

- 1.1 Include retention of utility easements by City with deed transfer.
- 1.2 Include retention of an access easement for the Lower Platte South Natural Resource District easement by City with deed transfer.

Prepared by:

Christy Eichorn, Planner

**DATE:** October 25, 2012

**APPLICANT:** Director Of Public Works  
555 S. 10<sup>th</sup> Street  
Lincoln, NE 68508

**OWNER:** Lower Platte South Natural Resource District  
3125 Portia Street  
Lincoln, NE 68521

Steve & Barbara Mears  
7401 N. Hampton Road  
Lincoln, NE 68506

**CONTACT:** Christy Eichorn  
555 S. 10<sup>th</sup> Street  
Lincoln, NE 68508  
402-441-7603  
Ceichorn@lincoln.ne.gov

# STREET & ALLEY VACATION NO. 12008

## CONSENT AGENDA

### PUBLIC HEARING & ADMINISTRATIVE ACTION

#### BEFORE PLANNING COMMISSION:

October 31, 2012

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

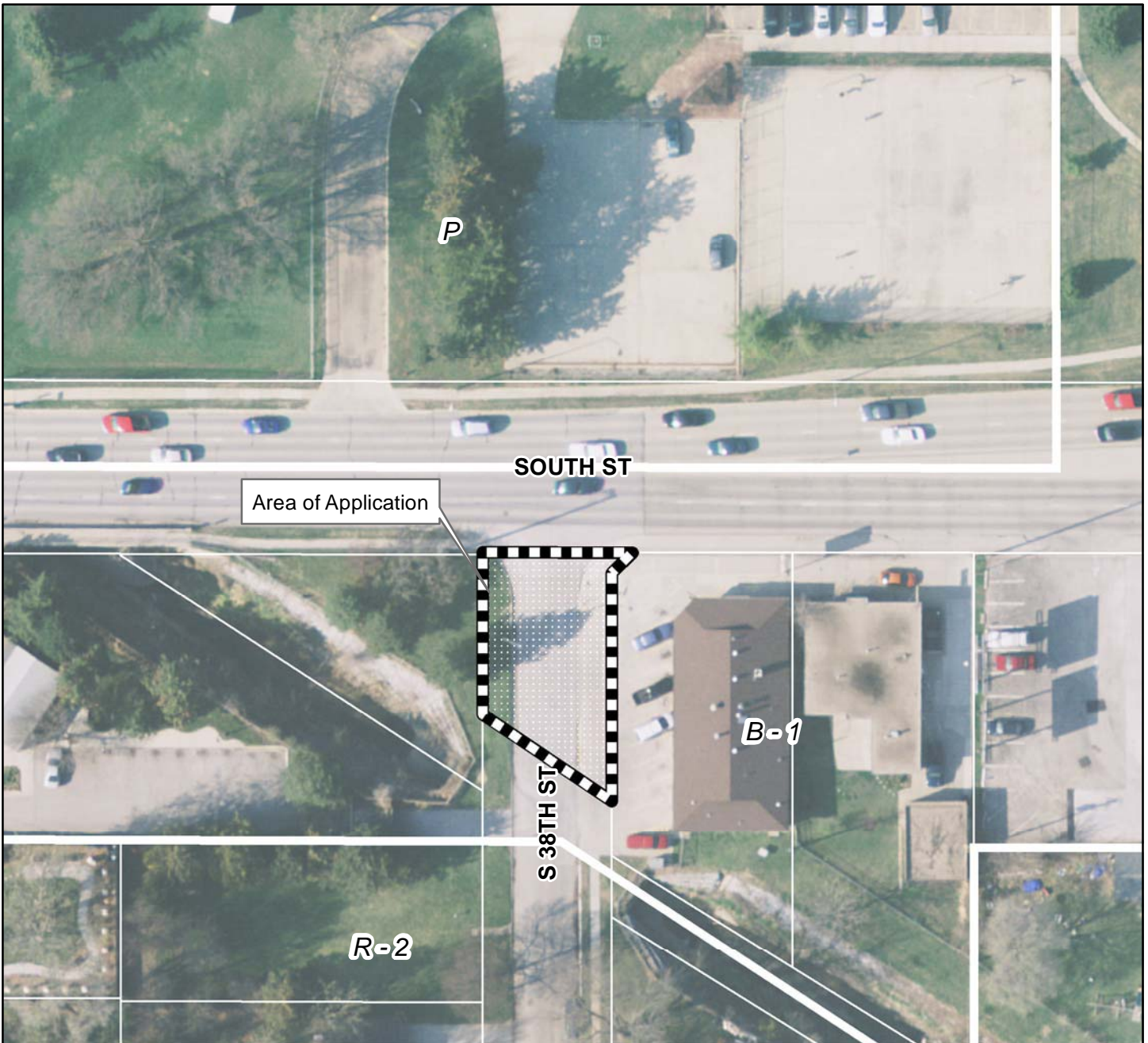
The Consent Agenda consisted of the following items: **SPECIAL PERMIT NO. 12032, SPECIAL PERMIT NO. 12033** and **STREET AND ALLEY VACATION NO. 12008.**

Ex Parte Communications: None

**Item No. 1.2, Special Permit No. 12033**, was removed from the Consent Agenda and scheduled for separate public hearing due to a letter received in opposition.

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

Note: This is final action on Special Permit No. 12032, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days.



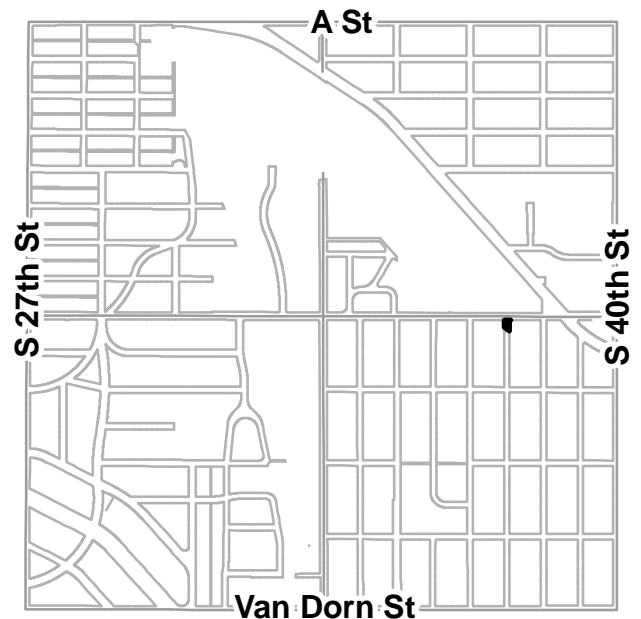
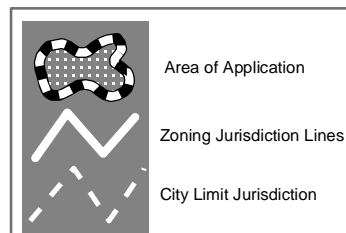
2010 aerial

## Street & Alley Vacation #12008 S 38th & South 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. 31 T10N R07E

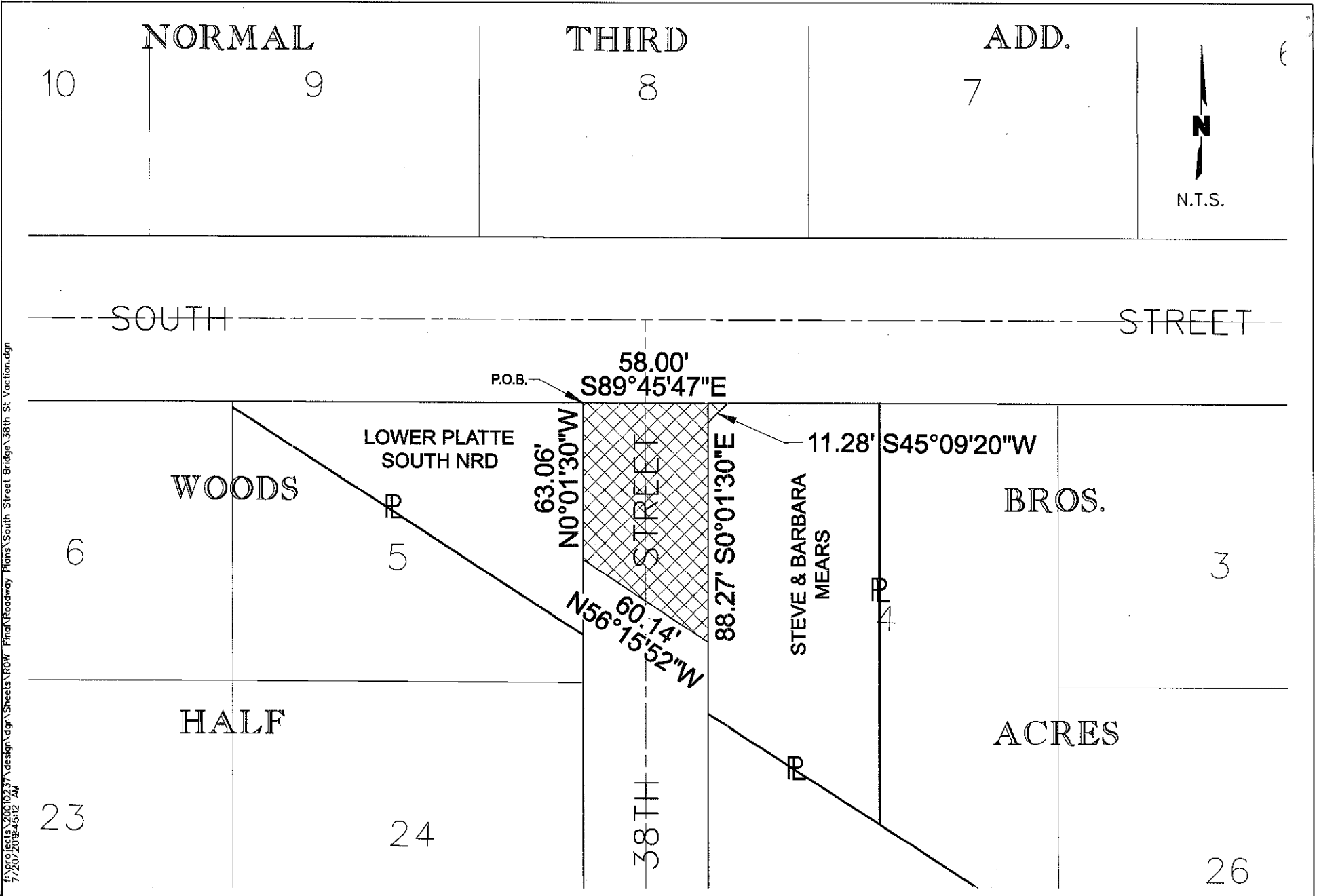


These are pictures of new parking lot. The culvert and bridge were removed to the south of the new parking lot and Antelope Creek was opened up.



Antelope Creek





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PROJECT NO: 001-0237  
 DRAWN BY: TDB  
 DATE: July 20th, 2012

**38TH STREET  
 RIGHT-OF-WAY VACATION**

**MOLSSON**  
 ASSOCIATES

1111 Lincoln Mall, Suite 111  
 P.O. Box 84608  
 Lincoln, NE 68501-4608  
 TEL 402.474.6311  
 FAX 402.474.5160

EXHIBIT  
**A**



**LEGAL DESCRIPTION**  
PARCEL A  
38TH STREET

A PORTION OF THE EXISTING 38TH STREET RIGHT-OF-WAY FROM THE SOUTH RIGHT-OF-WAY LINE OF SOUTH STREET TO A POINT 63.06 FEET ON THE WEST SIDE OF RIGHT-OF-WAY AND 96.27 FEET ON THE EAST, ALSO A TRIANGULAR TRACT OF LAND IN THE NW CORNER OF LOT 4, WOODS BROS HALF ACRES ADDITION USED FOR STREET PURPOSES.

A LEGAL DESCRIPTION FOR A TRACT OF LAND COMPOSED OF A PORTION OF 38TH STREET RIGHT-OF-WAY, AND A PORTION OF LOT 4, WOODS BROS HALF ACRES ADDITION USED FOR STREET PURPOSES, LOCATED IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 31, TOWNSHIP 10 NORTH, RANGE 7 EAST OF THE 6TH P.M., CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING FROM THE NORTHEAST CORNER OF LOT 5, WOODS BROS HALF ACRES ADDITION, SAID POINT BEING THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY LINE OF SOUTH STREET AND THE WEST RIGHT-OF-WAY LINE OF 38<sup>TH</sup> STREET, AND **THE TRUE POINT OF BEGINNING**; THENCE ON AN ASSUMED BEARING OF SOUTH 89 DEGREES 45 MINUTES 47 SECONDS EAST, ALONG THE SOUTH RIGHT-OF-WAY LINE OF SOUTH STREET, A DISTANCE OF 58.00 FEET TO A POINT 8.00 FEET EAST OF THE NORTHWEST CORNER OF SAID LOT 4 AS ORIGINALLY PLATTED; THENCE SOUTH 45 DEGREES 09 MINUTES 20 SECONDS WEST, ALONG THE SOUTHEASTERLY LINE OF A TRACT OF LAND ACQUIRED FOR STREET RIGHT-OF-WAY, A DISTANCE OF 11.28 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF 38<sup>TH</sup> STREET, SAID POINT BEING 8.00 FEET SOUTH OF THE NORTHWEST CORNER OF SAID LOT 4 AS ORIGINALLY PLATTED; THENCE SOUTH 0 DEGREES 01 MINUTES 30 SECONDS EAST, ALONG THE EAST RIGHT-OF-WAY LINE OF 38TH STREET, A DISTANCE OF 88.27 FEET TO A POINT; THENCE NORTH 56 DEGREES 15 MINUTES 52 SECONDS WEST, A DISTANCE OF 60.14 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF 38TH STREET; THENCE NORTH 0 DEGREES 01 MINUTES 30 SECONDS WEST, ALONG THE WEST RIGHT-OF-WAY LINE OF 38TH STREET, A DISTANCE OF 63.06 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINS A CALCULATED AREA OF 4,015 SQUARE FEET OR 0.09 ACRES, MORE OR LESS.