

## FACTSHEET

**TITLE:** STREET & ALLEY VACATION NO.  
14013 - Russwood Parkway

**BOARD/COMMITTEE:** Planning Commission

**APPLICANT:** Brehm Enterprises, Inc.  
and Cornhusker Bank

**RECOMMENDATION:** A finding of conformance with the Comprehensive Plan (9-0: Sunderman, Harris, Beecham, Cornelius, Hove, Weber, Scheer, Corr and Lust voting 'yes').

**STAFF RECOMMENDATION:** A finding of conformance with the 2040 Comprehensive Plan

**OTHER DEPARTMENTS AFFECTED:** N/A

**SPONSOR:** Planning Department

**OPPONENTS:** None

**REASON FOR LEGISLATION:** To vacate a portion of the Russwood Parkway right-of-way containing approximately 1,200 square feet adjacent to Outlot A, Russwood Park 4th Addition, generally located at Russwood Parkway and College Park Drive.

### **DISCUSSION/FINDINGS OF FACT:**

1. This proposed right-of-way vacation and Use Permit No. 13011A were heard at the same time before the Planning Commission.
2. The purposed vacation is part of a land exchange between the City of Lincoln and the developer of the associated Use Permit No. 13011A. This proposed vacation and associated dedication will maintain a consistent right-of-way line along the built road. The sidewalk and streetscape zone will then be located completely in the public right-of-way.
3. The staff recommendation to find the proposed vacation to be in conformance with the Comprehensive Plan is based upon the "Analysis" as set forth on p.3, concluding that the vacation of this right-of-way will adjust the property line to place public improvements within the public right-of-way. The vacation of right-of-way is in conformance with the 2040 Comprehensive Plan. The staff presentation is found on p.5-6.
4. The applicant's testimony is found on p.6.
5. There was no testimony in opposition.
6. On January 7, 2015, the Planning Commission agreed with the staff recommendation and voted 9-0 to find the proposed vacation of Russwood Parkway right-of-way to be in conformance with the 2040 Comprehensive Plan.
7. The appraisal by Clint Thomas of the Housing Rehab & Real Estate Division of the Urban Development Department is found on p.15 recommending that the vacated right-of-way be exchanged to the developer for the additional dedicated street right-of-way at no additional cost. Therefore, there being no funds to be paid to the City for the vacated right-of-way, the provisions of Chapter 14.20 of the Lincoln Municipal Code have been satisfied.
8. On January 7, 2015, the Planning Commission also voted 9-0 to recommend conditional approval of the associated Use Permit No. 13011A, as revised, said use permit amendment being introduced on the Council agenda on January 26, 2015 (Bill #15R-27).

**FACTSHEET PREPARED BY:** Jean Preister, Administrative Officer

**DATE:** January 20, 2015

**REVIEWED BY:** David R. Cary, Acting Director of Planning

**DATE:** January 20, 2015

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

**for January 7, 2014 PLANNING COMMISSION MEETING**

**PROJECT #:** Street and Alley Vacation No. 14013

**PROPOSAL:** To vacate approximately 0.03 acres of Russwood Parkway right-of-way adjacent to Outlot A, Russwood Park 4<sup>th</sup> Addition, Lincoln, Lancaster County, Nebraska.

**LOCATION:** A portion of Russwood Parkway right-of-way lying between O Street and College Park Drive

**LAND AREA:** The street vacation request is approximately 0.03 acres, more or less.

**CONCLUSION:** Vacation of this right-of-way will adjust the property line to place public improvements within the public right-of-way. Subject to the conditions of approval, vacation of this right-of-way is in conformance with the Comprehensive Plan.

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

**LEGAL DESCRIPTION:**  
See the attached legal description exhibit.

**SURROUNDING LAND USE AND ZONING:**

North: B-2, Retail/Restaurant  
South: B-2, Natural Gas Substation/Restaurant/Convenience Store  
East: O-3, Office Building  
West: B-2, Restaurant/Automobile Service

**ASSOCIATED APPLICATIONS:**

FPPL14105 Russwood Park 5<sup>th</sup> Addition  
This plat will include 0.03 acres of the vacated Russwood Parkway right-of-way and proposes to dedicate 0.05 acres for Russwood Parkway right-of-way.

UP13011A Russwood Park Use Permit amendment to increase the approved commercial floor area by 27,500 square feet.

**COMPREHENSIVE PLAN SPECIFICATIONS:**

P. 10.15 - Local streets and alleys are not included in the functional classification.

**HISTORY:**

January 1996            Russwood Park First Addition platted the Russwood Parkway right-of-way

**UTILITIES:** There is a 6 inch water main in the area of application. Utility easements will need to be retained by the City.

**TRAFFIC ANALYSIS:** Russwood Parkway has 80 feet right-of-way from O Street to College Park Drive. Vacating approximately 8 feet of right-of-way will leave 72 feet of right-of-way.

**ANALYSIS:**

1.     This application is part of a land exchange between the City of Lincoln and the developer. Since this is a land exchange, no money will be paid to the City of Lincoln for the vacated right-of-way.
  
2.     Russwood Parkway is classified as a local street in the 2040 Comprehensive plan.
  
3.     The proposal is to vacate 0.03 acres of Russwood Parkway right-of-way near College Park Drive. The final plat of Russwood Park 5<sup>th</sup> Addition is currently under review and proposes to dedicate 0.05 acres for Russwood Parkway right-of-way near O Street. Because Russwood Parkway was not constructed in the center of the right-of-way, portions of the sidewalk and streetscape zone are on the adjacent private property. This street vacation and associated dedication will correct these deficiencies and will maintain a consistent right-of-way line along the built road. The sidewalk and streetscape zone will then be located completely in the public right-of-way.

**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    Include retention of utility easements by City with deed transfer.

Prepared by:

Paul Barnes, Planner  
402-441-6372  
[pbarnes@lincoln.ne.gov](mailto:pbarnes@lincoln.ne.gov)

**DATE:** December 23, 2014

**APPLICANT:** Cornhusker Bank  
1101 Cornhusker Highway  
Lincoln, NE 68521

**OWNER:** Brehm Enterprises, Inc.  
213 N. 13<sup>th</sup> Street  
Lincoln, NE 68508

**CONTACT:** Kent Seacrest  
1111 Lincoln Mall, Suite 350  
Lincoln, NE 68508

**USE PERMIT NO. 13011A  
and  
STREET & ALLEY VACATION NO. 14013**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

January 7, 2015

Members present: Weber, Sunderman, Corr, Cornelius, Beecham, Harris, Scheer, Hove and Lust.

Staff recommendation: Conditional approval of the use permit amendment, as revised, and a finding of conformance with the Comprehensive Plan on the street vacation request.

These applications were removed from the Consent Agenda for further discussion.

There were no ex parte communications disclosed.

Staff presentation: **Paul Barnes of Planning staff** explained that the use permit amendment is to increase the allowable floor area located at North 84<sup>th</sup> and O Streets. Earlier this year, a use permit was approved for a pad site of 17,700 sq. ft. at the intersection for the Aldi's grocery store and that building has been constructed and is completed. Today's request is to allow additional floor area for commercial uses, i.e., a bank and office building, and another pad site north of Aldi's for potentially a restaurant or other commercial use.

Barnes also pointed out that the application includes a waiver or modification to allow an increase in the allowable height for the office building located towards O Street to increase the building height up to 65 feet. This center is surrounded by rights-of-way and does not impact residential neighborhoods, and with frontage on a major arterial, the staff supports the increase in height.

The applicant is also requesting a waiver of the parking requirements, which is why this item was removed from the consent agenda. The applicant requested that all uses within the center have a parking requirement of 1 parking space per 315 sq. ft. During that discussion, the entire use permit center was to have a joint parking agreement. We now have new information that Aldi's on Lot 1 is currently not part of that joint parking agreement. Therefore, the revisions to the staff recommendation recognize that fact; however, staff is still supportive of the parking reduction as long as there is a joint parking agreement on the other two lots. They can still meet the parking requirements at 1 per 315 sq. ft.

Barnes then discussed the street vacation for a portion of Russwood Parkway. The vacation is being requested in the northwest portion of the center, and the applicant will dedicate additional right-of-way towards the south and west portion of the center. The reason for vacating and dedicating is that Russwood Parkway was not built in the

center of the right-of-way. Thus, it shifted the sidewalks and other elements onto and off of private property. The vacating and dedicating will clean up the line of where Russwood Parkway was constructed and put all of the streetscape elements in the public right-of-way.

### Proponents

**1. Barry Lockard, President of Cornhusker Bank**, expressed appreciation for this opportunity. He provided a history of Cornhusker Bank, which came to Lincoln in 1960 from Davey, Nebraska. From that time until now, the bank has continued to grow and has been able to double the size of its growth and continue to invest and help businesses and residents in Lincoln. This opportunity at 84<sup>th</sup> and O Streets will allow Cornhusker Bank to continue to be viable in a significant way. This is not just about brick and mortar – it's really about investing in our community and establishing opportunities to continue to grow. That is why we are calling it a "center". This building will allow us to create efficiencies and relationships. It sets up Cornhusker Bank to be successful for 30-35 years, while providing an opportunity to share the building with the community.

Lockard also acknowledged that this is a significant entryway into the City. There will be a community room on the back end of the building to share with customers and nonprofits and provide educational opportunities. As a community bank, Cornhusker Bank wants to be able to share this building with the community.

**2. Kent Seacrest** also appeared on behalf of the applicant. He stated that a neighborhood meeting was held on December 11<sup>th</sup>. They invited 12 neighbors, and presented to one person, and there was no controversy. The applicant has subsequently received communication from Kohl's asking several good questions and the applicant was able to give them several good answers and Kohl's is in support.

Seacrest expressed appreciation to Planning staff, especially Paul Barnes and Steve Henrichsen, who worked hard to get the conditions put together, as well as Bob Simmering of Public Works and Terry Kathe of Building & Safety. The applicant is in agreement with the new condition #2.13 and is ready to proceed.

There was no testimony in opposition.

### **USE PERMIT NO. 13011A**

### **ACTION BY PLANNING COMMISSION:**

January 7, 2015

Hove moved to approve the staff recommendation of conditional approval, as revised, seconded by Cornelius.

Corr stated that she will support this project. Part of her consideration was another office building that is across the street and down another block, so the height was not that big of an issue to her. She believes that will complement both sides of the street.

This is an exciting area for improvement. She appreciates that the applicant had a neighborhood meeting.

Motion for conditional approval, as revised, carried 9-0: Weber, Sunderman, Corr, Cornelius, Beecham, Harris, Scheer, Hove and Lust voting 'yes'. This is a recommendation to the City Council.

**STREET & ALLEY VACATION NO. 14013**  
**ACTION BY PLANNING COMMISSION:**

January 7, 2015

Beecham moved to approve a finding of conformance with the Comprehensive Plan, seconded by Cornelius.

Lust commented that this part of the application obviously makes a lot of sense given the way the roadway was built.

Motion carried 9-0: Weber, Sunderman, Corr, Cornelius, Beecham, Harris, Scheer, Hove and Lust voting 'yes'. This is a recommendation to the City Council.



2013 aerial

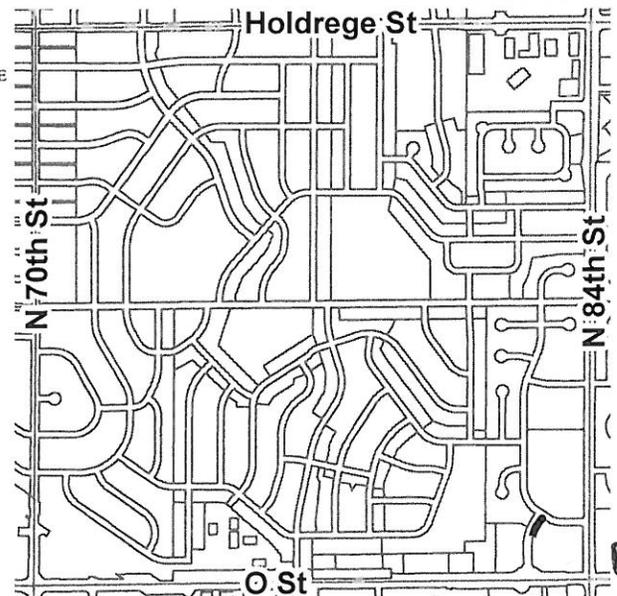
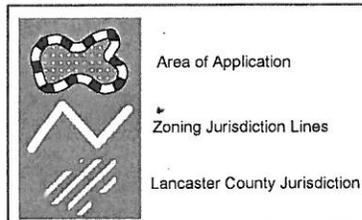
**Street and Alley Vacation #: SAV14013**  
**Russwood Prky & College Park Dr**

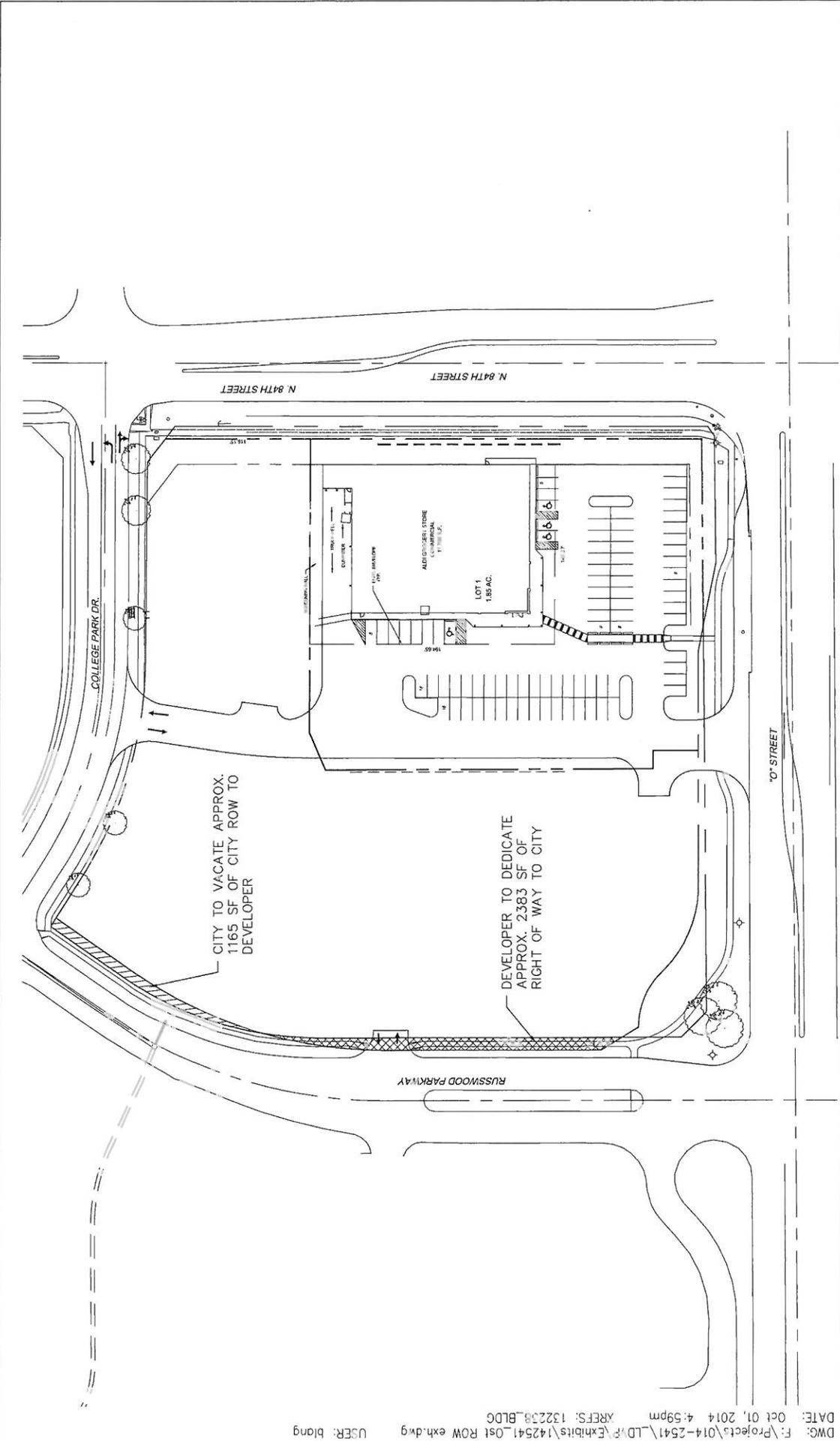


**Zoning:**

- 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.22 T10N R07E





DWG: F:\Projects\014-2541\LD\RF\Exhibits\142541\_081 ROW exh.dwg  
 DATE: Oct 01, 2014 4:59pm XREFS: 132238\_BLDG  
 USER: blang

PROJECT NO: 014-2541	<b>MOLSSON</b> ASSOCIATES	EXHIBIT
DRAWN BY: BAL		1
DATE: 10.1.14		

**RUSSEWOOD PARKWAY ROW EXHIBIT**

601 P Street, Suite 200  
 Lincoln, NE 68508  
 TEL 412.474.8311  
 FAX 402.474.5180

0030

DWG: F:\Projects\014-2541\SVYO\MasterXrefs\Final Plat\Drawings\014-2541\_Vacation.dwg USER: dthomson 132238\_BLDG  
 DATE: Oct 13, 2014 3:05pm XREFS: ACAD-110887\_SALTA 110887\_SR 142541\_Ost ROW exh

A LEGAL DESCRIPTION FOR STREET VACATION PURPOSES COMPOSED OF A PORTION OF RUSSWOOD PARKWAY RIGHT-OF-WAY LOCATED IN THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 10 NORTH, RANGE EAST OF THE 6TH P.M., CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF OUTLOT 'A', RUSSWOOD PARK 4TH ADDITION; THENCE, SOUTHWEST, ALONG THE WEST LINE OF SAID OUTLOT 'A', ON AN ASSUMED BEARING OF SOUTH 34 DEGREES 55 MINUTES 00 SECONDS WEST, A DISTANCE OF 70.40 FEET TO A POINT OF CURVATURE; THENCE AROUND A CURVE IN A COUNTER CLOCKWISE DIRECTION, HAVING A RADIUS OF 360.00 FEET, A DELTA ANGLE OF 18 DEGREES 58 MINUTES 52 SECONDS, ALONG THE WEST LINE OF SAID OUTLOT 'A', AN ARC LENGTH OF 119.26 FEET, A CHORD BEARING OF SOUTH 25 DEGREES 26 MINUTES 02 SECONDS WEST, AND A CHORD DISTANCE OF 118.72 FEET TO A POINT OF CURVATURE; THENCE AROUND A CURVE IN A CLOCKWISE DIRECTION, HAVING A RADIUS OF 280.00 FEET; A DELTA ANGLE OF 25 DEGREES 38 MINUTES 02 SECONDS; AN ARC LENGTH OF 125.27 FEET; A CHORD BEARING OF NORTH 22 DEGREES 05 MINUTES 58 SECONDS EAST, AND A CHORD DISTANCE OF 124.23 FEET TO A POINT; THENCE NORTH 34 DEGREES 55 MINUTES 00 SECONDS EAST, ALONG A LINE THAT IS 8.00 FEET WEST OF AND PARALLEL WITH THE WEST LINE OF SAID OUTLOT 'A', A DISTANCE OF 65.99 FEET TO A POINT OF INTERSECTION WITH THE WESTERLY EXTENSION OF THE NORTH LINE OF SAID OUTLOT 'A'; THENCE SOUTH 57 DEGREES 47 MINUTES 15 SECONDS EAST, ALONG THE WESTERLY EXTENSION OF THE NORTH LINE OF SAID OUTLOT 'A', A DISTANCE OF 8.01 FEET TO THE POINT OF BEGINNING.

SAID STREET VACATION CONTAINS A CALCULATED AREA OF 1,163.17 SQUARE FEET OR 0.03 ACRES, MORE OR LESS

PROJECT NO: 2014-2541	RUSSWOOD PARKWAY RIGHT-OF-WAY VACATION		601 P Street, Suite 200 P.O. Box 84608 Lincoln, NE 68508 TEL 402.474.6311 FAX 402.474.5160	EXHIBIT
DRAWN BY: DAT			2 OF 2	
DATE: 10/13/14				

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 1<sup>st</sup> to 2<sup>nd</sup> St. or East-west alley, from the north line of 1<sup>st</sup> St. to the south line of 2<sup>nd</sup> St.)

That portion of Russwood Parkway legally described and shown on Exhibit "A", which is attached hereto and incorporated herein by this reference,

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*)

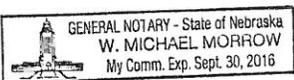
Outlot A, Russwood Park 4<sup>th</sup> Addition, Lincoln, Lancaster County, Nebraska.

DATED this 24 day of Novemer, 2014.

Brehm Enterprises, Inc., a Nebraska corporation  
By: Mary Jo Livingston  
Mary Jo Livingston  
Chief Executive Officer

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF LANCASTER        )

The foregoing instrument was acknowledged before me this 24 day of November, 2014, by Mary Jo Livingston, Chief Executive Officer of Brehm Enterprises, Inc., a Nebraska corporation, on behalf of the corporation.



W. Michael Morrow  
Notary Public

# SEACREST & KALKOWSKI, PC, LLO

1111 LINCOLN MALL, SUITE 350  
LINCOLN, NEBRASKA 68508-3910

TELEPHONE (402) 435-6000  
FACSIMILE (402) 435-6100

KENT SEACREST  
E-MAIL: kent@sk-law.com

DANAY KALKOWSKI  
E-MAIL: danay@sk-law.com

November 26, 2014

David Cary  
Interim Planning Director  
555 South 10<sup>th</sup> Street  
Lincoln, NE 68508

RE: Amendment to Use Permit No. 13011

Dear David:

Our office represents Cornhusker Bank, who has a contract to lease Outlot A, Russwood Park Fourth Addition, Lincoln, Lancaster County, Nebraska (the "Property"). The Property consists of approximately three acres that is zoned B-2 and is part of Use Permit No. 13011 (the "Use Permit"). Cornhusker Bank is requesting a formal amendment to increase the square footage permitted under the Use Permit by 27,500 square feet. The additional square footage will allow the Property to be utilized for a 58,000 square feet corporate headquarters for the Bank that will contain retail as well as office uses and a 2,000 square feet restaurant along N. 84<sup>th</sup> Street. The existing Use Permit also permits a 17,700 square feet grocery store on Lot 1, Russwood Park 4<sup>th</sup> Addition.

The Bank is requesting a waiver to allow a height increase from 40 feet to 65 for the Bank headquarters building along O Street. The Property is located at least 300 feet from the closest residential lot and the building will be setback even further. The additional height should cause minimal impact to the nearest residential use while the taller building will provide a higher floor to area ratio making more efficient use of the existing infrastructure. The Lincoln City/Lancaster County Comprehensive Plan identifies O Street as a Primary Entryway Corridor. The addition of a corporate headquarters building along O Street will make a positive statement for the entryway.

The Bank is also requesting a 10% mixed use reduction in the parking requirements for the entire Use Permit. This will change the ratio of parking from one parking space per 300 square feet of commercial floor area and one parking stall per 100 square feet for restaurant uses to one space per 315 square feet for all uses. The Use Permit provides for a mixed use development including retail banking, office, restaurant and grocery uses with cross-parking between the lots. The mix of uses has the potential of allowing shared parking between the various land uses and thus reducing the overall number of parking stalls. We are working with Aldi on an agreement for cross parking. The City has recently approved two other mixed use/shared parking projects. One involved the LPS Headquarters and Whole Foods. That project allowed one parking stall per 400 square feet resulting in approximately a 25% reduction in parking. The second was the Holdrege/Idylwild PUD mixed use project that allowed one stall per 375 square feet for a 20%

reduction in parking. The requested reduction is less than those two successful mixed use developments.

The Bank is proposing with initial City staff support a swap of right-of-way with the City along Russwood Parkway that will allow the zoning setbacks to apply for all of the items. We have enclosed a Petition to Vacate that has been executed by the current property owner requesting the vacation of approximately 1,165 square feet of Russwood Parkway right-of-way. Within the next thirty days a final plat will be submitted for Russwood Park 5<sup>th</sup> Addition showing the dedication of approximately 2,383 square feet of additional right-of-way along Russwood Parkwood to the City. With these changes, the streetscape zone requirements and parking lot and driveway setbacks contained in notes on the Use Permit Site Plan and on Revised Exhibit 1 are no longer necessary. Consequently, they have been removed. We are also requesting the removal of the "Setback Exhibit" that is currently part of the Use Permit.

The Bank has had discussions with the State of Nebraska and City of Lincoln on access points and road improvements for the Use Permit. Olsson Associates has submitted a separate request to Public Works for variations to the Access Policy Manual. Enclosed herein is a draft agreement with the State and City that addresses the construction, funding and right-of-way adjustments for the required improvements along O Street and North 84<sup>th</sup> Street. We are also providing a copy of the draft agreement to James Knott at Nebraska Department of Roads by separate cover.

Enclosed please find the following:

1. City of Lincoln Application Form;
2. Application fee in the amount of \$792;
3. Use Permit Site Plan;
4. Petition to Vacate; and
5. O Street and North 84<sup>th</sup> Street Improvement Agreement.

Brad Marshall at Olsson Associates will be submitting the plans to project docs.

This is an exciting new development for the City. We appreciate your consideration of the above requests. If you have any questions or need any additional information, please do not hesitate to contact me or Brad Marshall.

Very truly yours,



KENT SEACREST  
For the Firm

Enclosures

cc (via email): Barry Lockard, Cornhusker Bank  
Alan Slattery  
Boyd Batterman  
David Livingston

Mike Morrow  
Mike Eckert  
Evan Weidenhamer  
Ryan Stemmons  
Gary Norton  
Doug Emery

**INTEROFFICE MEMORANDUM**

TO: Mayor Beutler  
& City Council Members

FROM: Clinton W. Thomas

DEPARTMENT: City Council Office      DEPARTMENT: Housing Rehab & Real Estate Division

ATTENTION:

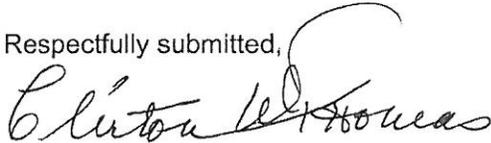
DATE: December 15, 2014

COPIES TO: Teresa J. Meier  
David R. Cary  
Jeff Kirkpatrick  
Byron Blum, Bldg & Safety  
Jean Preister, Planning  
Sandy Dubas, City Clerk's Office  
Jamie Phillips, Mayor's Office

SUBJECT: Street & Alley Vacation No. 14013  
Russwood Parkway

A request has been made to vacate a portion of Russwood Parkway in conjunction with the development of the site along the east side of Russwood Parkway north of O Street. As part of the development, the developer has agreed to dedicate additional street right-of-way south of the portion to be vacated in exchange for the area of vacation. Since the area being dedicated is larger than the area the City is vacating it seems to be in the best interest of the City to vacate the area being requested and exchange it for the area of dedication. Therefore, it is recommended that if the area be vacated it be exchanged to the developer for the additional dedicated street right-of-way at no additional cost.

Respectfully submitted,



Clinton W. Thomas  
Certified General Appraiser #990023