City Council Introduction: July 18, 2016
Public Hearing: July 25, 2016

Bill No. 16-73

FACTSHEET

TITLE: **STREET & ALLEY VACATION NO. 16003**

BOARD/COMMITTEE: Planning Commission

APPLICANT: Double D Land Company, LLC

RECOMMENDATION: A finding of conformance with the Comprehensive Plan (7-0: Beecham, Sunderman, Corr, Cornelius, Weber, Harris and Hove voting 'yes'; Scheer declared a conflict of interest; Lust absent).

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

OTHER DEPARTMENTS AFFECTED: N/A

SPONSOR: Planning Department

OPPONENTS: None present at hearing.

REASON FOR LEGISLATION: To vacate a portion of the South 98th Street right-of-way between Andermatt Drive and Yankee Hill Road.

DISCUSSION/FINDINGS OF FACT:

1. 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.2-3, concluding that the right-of-way was originally dedicated to accommodate a right-hand turn lane and a street intersection. The development plan for the adjacent land does not require access to South 98th Street, so the access point is no longer needed. As a result, the proposed right-of-way to be vacated is excess and no longer needed. This request is consistent with and conforms to the Comprehensive Plan.

2. On June 22, 2016, the Planning Commission agreed with the staff recommendation and voted 7-0 to find the proposed street right-of-way vacation to be in conformance with the 2040 Comprehensive Plan as part of the consent agenda.

3. 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 rights-of-way be sold to the abutting property owner for $25.00. Staff indicated that there are no utilities within the area.

4. The funds for the vacated right-of-way in the amount of $25.00 have been paid to the City Clerk, thus the requirements of provisions of Chapter 14.20 of the Lincoln Municipal Code have been satisfied.

FACTSHEET PREPARED BY: Geri Rorabaugh, Administrative Officer

DATE: July 8, 2016

REVIEWED BY: David R. Cary, Director of Planning

DATE: July 8, 2016

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LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for June 22, 2016 PLANNING COMMISSION MEETING

PROJECT #: Street and Alley Vacation No. 16003

PROPOSAL: Vacate a portion of the South 98th Street right-of-way between Andermatt Drive and Yankee Hill Road

LOCATION: South of the intersection of Andermatt Drive and South 98th Street

LAND AREA: 0.15 acres more or less

CONCLUSION: The right-of-way was originally dedicated to accommodate a right-hand turn lane and a street intersection. The development plan for the adjacent land does not require access to South 98th Street, so the access point is no longer needed. As a result, the proposed right-of-way to be vacated is excess and no longer needed. This request is consistent with and conforms to the Comprehensive Plan.

RECOMMENDATION:	Conforms to the Comprehensive Plan

GENERAL INFORMATION:

LEGAL DESCRIPTION: See attached legal description.

SURROUNDING LAND USE AND ZONING:

North:	Single-family Residential	R-3
South:	Vacant	R-3
East:	Ag Residential	AG
West:	Vacant	R-3

UTILITIES:

There are no utilities noted within the area to be vacated, so it is not necessary to retain any easements when the land is deeded to the petitioner.

ANALYSIS:

1. This is a request to vacate approximately 0.15 acres of right-of-way in the west one half of South 98th Street, south of the intersection with Andermatt Drive. The right-of-way was originally dedicated to accommodate future development on the adjacent tract

2. South 98th Street was partially improved in 2010 to full urban standards, and occurred prior to development in this area. Turn lanes and access points were located based upon assumptions about future land uses using the best available information at the time. As right-of-way was acquired, it included enough to accommodate right-turn lanes and street stubs based upon those assumptions and the preferences of adjacent land owners.

3. Since then, the Southlake Community Unit Plan (CUP) has been expanded to include the adjacent 32 acre tract located southwest of the intersection of Andermatt Drive and South 98th Street. As part of the approved plan for the CUP, an access point onto South 98th Street was not shown.

4. The Southlake CUP is now in the process of final platting to create home sites consistent with the approved plan. A final plat now under review will create lots adjacent to South 98th Street in the area of the proposed vacation. It is a requirement of that final plat that this request be approved, and that the vacated right-of-way be included in the lots adjacent to South 98th Street.

5. Given the most recent amendment to the Southlake CUP, the area proposed to be vacated by this request is no longer needed for either a turn lane or street intersection. As a result, the right-of-way is excess and no longer needed. If the request is approved, it will allow the land to be included in the adjacent development and used for some other purpose.

6. 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
June 7, 2015

PETITIONER: Richard Krueger
Double D Land Company
8200 Cody Drive
Lincoln, NE 68508

CONTACT: Tim Gergen
The Clark Enersen Partners
1010 Lincoln Mall
Lincoln Mall
Lincoln, NE 68508
402-477-9291

STREET AND ALLEY VACATION NO. 16003

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION: **June 22, 2016**

Members present: Beecham, Cornelius, Corr, Harris, Sunderman, Weber, Scheer, and Hove present; (Lust absent).

The Consent Agenda consisted of the following items: **COUNTY PRELIMINARY PLAT NO. 16002; CHANGE OF ZONE NO. 16017, COUNTY SPECIAL PERMIT NO. 16026, USE PERMIT NO. 145B, USE PERMIT 151A, and STREET AND ALLEY VACATION NO. 16003.**

There were no ex parte communications disclosed.

Commissioner Scheer declared a conflict of interest on **Street and Alley Vacation No. 16003** and exited the chambers for the hearing and vote on the Consent Agenda.

Item 1.1, **County Preliminary Plat No. 16002**, was removed from the Consent Agenda and had separate public hearing.

Beecham moved approval of the remaining Consent Agenda, seconded by Corr and carried 7-0: Beecham, Cornelius, Corr, Harris, Sunderman, Weber and Hove voting 'yes'; Scheer abstaining; Lust absent.

Note: This is final action on **COUNTY SPECIAL PERMIT NO. 16026 and USE PERMIT NO. 145B,** unless appealed to the County Board or the City Council by filing a letter of appeal with the County or City Clerk within 14 days.

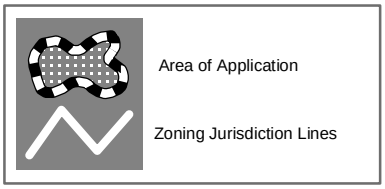
2013 aerial

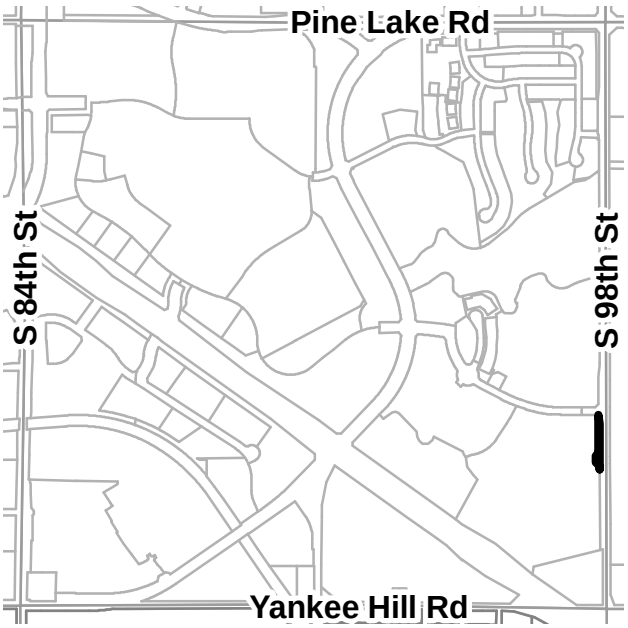
Street and Alley Vacation #: SAV16003
South 98th Street

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.23 T09N R07E





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The Clark Enersen Partners

May 25, 2016

Mr. David Cary
Planning Department, City of Lincoln
County-City Building
555 So. 10th Street
Lincoln, NE 68508

RE: South 98th Street Right of Way Vacation

Dear Mr. Cary:

Enclosed please find the following for the above-mentioned project:

1. Application (Right of Way Vacation)
2. Application fee $165
3. Right of Way Vacation Legal Description w/ exhibit
4. Petition to Vacate Public Way

On behalf of the Owner, Double D Land Company LLC, 8200 Cody Drive, Suite F, Lincoln NE 68512, we are requesting to vacate a portion of the right of way for South 98th Street between Andermatt Drive and Yankee Hill Road. This application is to remove a portion of right of way that is for a right turn lane that is built on South 98th Street that is no longer needed. The driveway from S. 98th street is being removed thus not requiring a turn lane. The applicant has an approved Executive Order to remove the turn lane pavement. The Southlake development that is proposing the right of way vacation will be taking access from the internal street, Andermatt Drive, and will not be utilizing this existing driveway from S. 98th Street.

Sincerely,

Tim Gergen

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.)*
Portion of South 98th Street located between Andermatt Dr. and Yankee Hill Road, see attached legal description & exhibit

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.)***
Southlake 7th Addition, Outlot A

DATED this 6th day of June, 2016.

Double D Land Company LL
[Name of Titleholder]

By: Richard C Krueger
Managing Member

(ALL TITLEHOLDERS OF THE REAL ESTATE DESCRIBED ON THE PRECEDING PAGE MUST SIGN THIS PETITION BEFORE A NOTARY PUBLIC)

STATE OF Nebraska)
) ss.
Lancaster COUNTY)

The foregoing instrument was acknowledged before me on this 6th day of June, 2016, by Richard C. Krueger, managing member of Double D Land Comp, on behalf of said limited liability company.

(Seal)

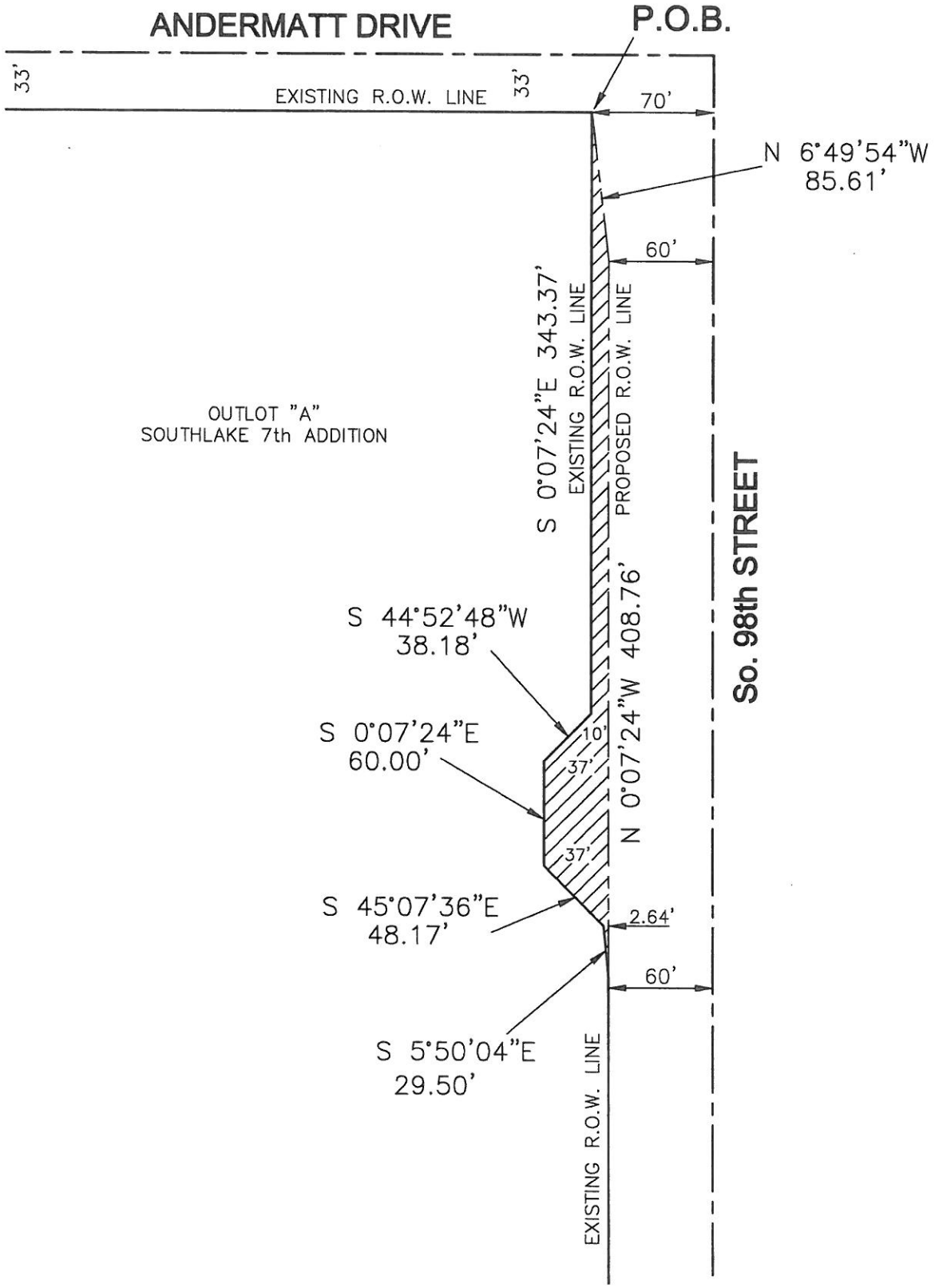
ABBY VITER
General Notary State of Nebraska
My Commission Expires
December 24, 2019.

Notary Public

SIGNATURE PAGE FOR LIMITED LIABILITY COMPANY

THAT PART OF OUTLOT "A", SOUTHLAKE 7th ADDITION, LOCATED IN THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6TH. P.M., LANCASTER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID OUTLOT "A", SAID POINT BEING AN INTERSECTION POINT O THE WEST 70' RIGHT-OF-WAY LINE FOR SOUTH 98th STREET WITH THE SOUTH 33' RIGHT-OF-WAY LINE FOR ANDERMATT DRIVE; THENCE SOUTHERLY ON THE WEST RIGHT OF WAY FOR SOUTH 98th STREET FOR THE NEXT FIVE (5) COURSES, S 0°07'24"E 343.37'; THENCE S 44°52'48"W 38.18'; THENCE S 0°07'24"E 60.00'; THENCE S 45°07'36"E 48.17'; THENCE S 5°50'04"E 29.50', SAID POINT BEING 60' WEST OF THE EAST LINE OF SAID SECTION 23; THENCE NORTHERLY AND PARALLEL TO SAID EAST LINE, N 0°07'24"W 408.76'; THENCE NORTHERLY, N 6°49'54"W 85.61', TO THE POINT OF BEGINNING, SAID TRACT CONTAINING AN AREA OF 6,586.08 SQUARE FEET OR 0.15 ACRES, MORE OR LESS.



INTEROFFICE MEMORANDUM

TO: Mayor Beutler & City Council Members		FROM:	Clinton W. Thomas
DEPARTMENT: City Council Office		DEPARTMENT:	Housing Rehab & Real Estate Division
ATTENTION:		DATE:	July 1, 2016
COPIES TO:	Teresa J. Meier David Cary, Planning Jeff Kirkpatrick, City Attorney Byron Blum, Bldg & Safety Geri Rorabough, Planning Soulinnee Phan, City Clerk's Office Jamie Phillips, Mayor's Office	SUBJECT:	SAV 16003, S98th, Andermatt to YHR

A request has been made to vacate a portion of South 98th Street south of Andermatt Drive. The area was viewed and appears as a portion of typical Street Right of Way. A portion of the street stub previously constructed appears to be located on the area to be vacated. Staff has indicated there are no utilities within the area.

There is an existing right turn lane and street stub which was installed in anticipation of a future street connection. Since this is no longer needed it will require the removal of the concrete and storm sewer inlets and replacement of a street curb in that location at the owner's expense. Public Works has estimated that cost to be $61,000.

In this writers opinion the cost to cure greatly exceeds the value of the area to be vacated even after it is assembled into the adjoining land. As such, it is only considered to have a nominal value of $25.00. Therefore, if the area is to be vacated it is recommended that it be sold to the abutting property owner for $25.00.

Respectfully submitted,

Clinton W. Thomas
Certified General Appraiser #990023