

## FACTSHEET

**TITLE:** **STREET VACATION NO. 03022**, requested by Donald Everett, Jr. on behalf of The Eating Establishment, Ltd., to vacate a portion of the alley right-of-way adjacent to Rock "N Roll Runza, generally located at 14<sup>th</sup> & "P" Streets.

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 01/07/04  
Administrative Action: 01/07/04

**STAFF RECOMMENDATION:** A finding that the proposed alley vacation is not in conformance with the Comprehensive Plan.

**RECOMMENDATION:** A finding of conformance with the Comprehensive Plan and approval, with conditions, as amended (9-0: Carlson, Krieser, Larson, Marvin, Sunderman, Pearson, Taylor, Carroll and Bills-Strand voting 'yes').

### FINDINGS OF FACT:

1. The purpose of this request to vacate a portion of the alley right-of-way adjacent to the Rock 'N Roll Runza located at 14<sup>th</sup> and "P" Streets is to reconfigure the existing parking area to allow for additional parking stalls.
2. The staff "Analysis" is found on p.2-3 and concludes that the proposed alley vacation is not in conformance with the Comprehensive Plan and should be denied; however, the conditions of approval found on p.3-4 are recommended by the staff should the proposed alley vacation be granted, which require, in part:
  - Posting of a bond to guarantee the reconstruction of the alley return to 16 feet wide and construction of a curb along the south side of the alley up to the parking stalls.
  - Angle parking stalls not to exceed 50 degrees (as opposed to 90 degrees).
3. The applicant's testimony is found on p.5-6, indicating that the petitioner intends to dedicate at least half or more of the stalls for employee parking and at least two stalls for customers.
4. There was no testimony in opposition.
5. The Planning Commission discussion with staff is found on p.6-7. Dennis Bartels of Public Works & Utilities stated that if this alley vacation is approved, Public Works objects to the 90 degree parking stalls. If the vacation is approved, the parking stalls should be required to be at 50 degree angle to allow for sufficient turn width to back out in a single motion. Mr. Bartels also acknowledged that most of the dedicated alleys in the downtown area are 16' wide, even though the subdivision ordinance provides for the alley width to be 20'.
6. On January 7, 2004, the Planning Commission disagreed with the staff recommendation and voted 9-0 to find the proposed alley vacation to be in conformance with the Comprehensive Plan, with the conditions of approval as set forth on p.3-4, with amendment, requiring that two of the angle parking stalls be designated for "take-out" customers and the balance of the angle parking stalls shall be designated for employees only.
7. The appraisal submitted by the City Real Estate Division is found on p.11.
8. The City Clerk has determined that the provisions of Chapter 14.20 of the Lincoln Municipal Code have been satisfied.
9. The site plan submitted by the petitioner in response to the conditions of approval is found on p.10.

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

**DATE:** February 17, 2004

**REVIEWED BY:** \_\_\_\_\_

**DATE:** February 17, 2004

**REFERENCE NUMBER:** FS\CC\2004\SAV.03022

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

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**for January 7, 2004 PLANNING COMMISSION MEETING**

**\*\*As Revised and Recommended for Approval by Planning Commission\*\***  
**\*\*January 7, 2004\*\***

- P.A.S.:** Street and Alley Vacation #03022
- PROPOSAL:** Vacate a portion of the alley right-of-way adjacent to Rock and Roll Runza.
- LOCATION:** Approximately 14<sup>th</sup> and "P" Streets.
- LAND AREA:** 400 square feet, more or less.
- CONCLUSION:** The vacation of this alley does not conform to the Comprehensive Plan.

<b>RECOMMENDATION:</b>	<b>Denial</b>
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**GENERAL INFORMATION:**

**LEGAL DESCRIPTION:**

The southern four feet of the east-west alley between "P" and "Q" Streets, abutting Lot 62, Littles Subdivision, located in the southwest 1/4 of Section 24 T10N R6E, Lancaster County, Nebraska.

**SURROUNDING LAND USE AND ZONING:**

North:	Commercial	B-4 Lincoln Center Business
South:	Commercial	B-4 Lincoln Center Business
East:	Commercial	B-4 Lincoln Center Business
West:	Commercial	B-4 Lincoln Center Business

**COMPREHENSIVE PLAN SPECIFICATIONS:**

The Land Use Plan shows the area around this vacation as Commercial. (F 25)

**ANALYSIS:**

1. This is a request to vacate a portion of the alley right-of-way adjacent to Rock and Roll Runza, located at 14<sup>th</sup> and "P" Streets.
2. Applicants intend to purchase this property if vacated, and use it to reconfigure their existing parking area to allow for additional stalls.
3. The vacation of this right-of-way will not create lots without frontage or access to a public street, nor will it create a block length that exceeds 1000'.

4. This alley is currently 20' wide. Although this exceeds the typical Downtown-area alley width of 16', this alley was repaved in 2000 to the full right-of-way width of 20'.
5. Parking off of an alley within Downtown is uncommon. However, when it occurs, it is generally parallel, thereby minimizing the amount of maneuvering room necessary for cars leaving parking stalls. Currently, it appears applicant uses existing parallel parking stalls for their delivery trucks.
6. Changing the parking layout to angled stalls creates potential conflicts between vehicles backing from a parking stall into the alley, and vehicles entering the alley from 14<sup>th</sup> Street. Therefore, if this portion of the alley is vacated, angled parking stalls greater than 50 degrees should not be allowed.
7. Like most alleys Downtown, service trucks utilize alleys for temporary parking while loading/unloading, which could add to the number of traffic conflicts here. Visits to the site during the week of December 22, 2003 revealed several instances where delivery trucks were parked across the alley entrance or within the alley, blocking through movements.
8. The Public Works Department recommends denial of this alley vacation.
9. Should this portion of this alley be vacated, Applicant should be required to reconstruct the alley return to a 16 foot width, and construct a curb along the south side of the alley up to the point of the parking stalls. A bond should be posted in the amount of \$2,000 to guarantee the completion of the work.
10. There is not sufficient width here to provide 90 degree parking stalls. Applicant should be limited to angled parking stalls, not to exceed 50 degrees.
11. Alltel, LES, Public Works, and Time Warner Cable all have existing facilities within the area of this vacation, and have requested a permanent easement over the entire vacated area for maintenance of and future additions to these facilities.
12. Any relocation of existing facilities will be at property owner's expense.
13. Should the Planning Commission choose to recommend other than Denial, the Planning Staff suggests the following conditions of approval. **\*\*The Planning Commission voted a finding of conformance with the Comprehensive Plan, 9-0, with conditions, as amended, below.\*\***

**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 must be met.

- 1.2 Post a bond in the amount of \$2,000 to guarantee the reconstruction of the alley return to 16 feet wide and construction of a curb along the south side of the alley up to the parking stalls.
- 1.3 A permanent utility easement over the entire vacated area for maintenance of existing facilities and for future construction of new facilities must be provided.
- 1.4 Property owner must agree any relocation of existing facilities will be at property owner's expense.
- 1.5 Property owner must agree to provide angle parking stalls not to exceed 50 degrees.
- 1.6 Two (2) of the angle parking stalls shall be designated for "take-out" customers and the balance of the angle parking shall be designated for employees only. (\*\*Per Planning Commission, 01/07/04\*\*)

Prepared by:

Greg Czaplewski  
Planner

**Date:** December 17, 2003

**Applicant:** The Eating Establishment, Ltd.  
PO Box 6042  
Lincoln, NE 68506

**Owner:** Same as Applicant

**Contact:** 14<sup>th</sup> and P Enterprises, L.L.C.  
Donald Everett Jr.  
PO Box 6042  
Lincoln, NE 68506  
423.2394

# STREET & ALLEY VACATION NO. 03022

## PUBLIC HEARING BEFORE PLANNING COMMISSION:

January 7, 2004

Members present: Carlson, Krieser, Larson, Marvin, Sunderman, Pearson, Taylor, Carroll and Bills-Strand.

Staff recommendation: Not in conformance with the Comprehensive Plan - denial.

Ex Parte Communications: None.

## Proponents

1. **Brad Harris, Runza National**, presented the application. They currently have two parking stalls off of the alley. The existing alley is 20' wide, which is unusual. Most alleys downtown are 16' wide. The intent of the vacation is to create some additional parking stalls (90 degree stalls as opposed to two parallel stalls). They had a preliminary meeting with Public Works where Public Works suggested that they apply to vacate the southern 4', the reason being that the design standards require a certain depth for 90 degree parking stalls. With the 4', they could get the sufficient depth for the six 90 degree parking stalls. This is the purpose of the request to vacate.

With regard to the staff recommendation of denial, Harris noted that one of the concerns was that parking off an alley downtown is not common. Harris countered that there are a variety of situations downtown where there is parking off of the alley. He passed around some pictures of such examples. Another concern in the report was that this could create additional traffic conflicts. Harris does not believe this is an overly busy alley and he does not believe the additional parking stalls would necessarily create traffic conflicts. They intend to dedicate 3-4 of these stalls for employees, and probably only 2 stalls would be dedicated to customer traffic, so there would not be a lot of turnover in these parking stalls. With regard to delivery truck traffic, one possibility would be to create a dedicated delivery stall where they currently have a dumpster located. The applicant had a subsequent meeting with Public Works to discuss these concerns, and while the applicant was not able to convince Public Works to change their recommendation, the applicant would agree to the conditions of approval set forth in the staff report requiring 50 degree parking stalls as opposed to 90 degree parking stalls. This would not allow as many parking stalls but the applicant would agree to this condition. The applicant also agrees to extend the curb return to match the new alley width of 16'; as well as posting the \$2,000 bond.

Harris believes that the reduction from 20' to 16' in this alley would be consistent with most downtown alleys; this change will not affect traffic flow through the alley; and the applicant certainly would be willing to consider vacating less than 4' as long as there is enough room to meet the parking design standards for the 90 degree or 50 degree parking stalls.

Harris reiterated that they intend to dedicate at least half or more of the stalls for employee parking and at least two stalls dedicated for customers.

Pearson inquired whether the applicant would be willing to dedicate all of the stalls to employee parking and delivery. Harris indicated that they would prefer to leave at least a couple of the stalls available for customer traffic. Pearson's concern is that if the general public knows there is parking back there, they are going to be driving there and it is not going to be available and they will be circling the block, which will increase traffic. Don Everett, President of Runza, stated that the applicant would be willing to dedicate those stalls to employee parking; however, they wanted two stalls for pick-up customers. Downtown is a challenge for businesses because of parking. The two stalls they wish to dedicate for customers would simply be for "take-out" orders from Flatwater, which they just opened. Pearson still believes this would then increase the traffic in the alley. Everett further offered that the majority of their business is from 12:00-1:00 p.m. Beyond that, these parking stalls would not turn over very often. He does not consider this alley any busier than any other alley. In fact, the congestion, if any, is due to delivery trucks delivering food to their business or to Amigo's. Runza is willing to dedicate part of their property for delivery trucks so that they can be off of the alley and off of 14<sup>th</sup> Street. Pearson thought this alley was the exit for the Runza drive-through. Everett clarified that the exit for the drive-through runs parallel to the alley. The drive-through is completely separate from the alley.

Bills-Strand wondered whether the alley serves as an exit for the other two fast food restaurants that share that area. Everett stated that both of the fast food restaurants have their own ingress and egress, but there is still traffic that goes through there. He knows that Arby's wants to keep traffic flow through there and changing the alley to 16' would not preclude one-way traffic as it has always been designated. Runza would recommend maintaining the 16' width. He was not sure that the alley is marked one-way.

There was no testimony in opposition.

#### Staff questions

Taylor asked for a staff response. Dennis Bartels of Public Works stated that the subdivision ordinance provides for the alley width of 20'. However, he acknowledged that the majority of dedicated alleys in the downtown area are 16' wide, even though the ordinance speaks otherwise. Nevertheless, the present standard is 20' instead of 16'. With regard to the one-way alley, Bartels advised that the Lincoln Municipal Code provides that all downtown alleys are to operate one-way. This alley does not go through the entire length east to west. You have to make a left hand turn and exit onto Q Street. It functions as a one-way west to east, and then north to Q Street. Public Works objected to the 90 degree parking because the design standards require more than 15' for a 90 degree parking stall. Public Works is recommending the 50 degree stall because you do not need as much turn width to back out in a single motion.

Taylor inquired whether there is some sort of easement that is available that makes it so that there can be flow-through traffic in those areas. Bartels responded stating that this alley was paved 20' in width when the Children's Museum opened. It functions as one-way off of 14<sup>th</sup> Street. Another reason for recommending denial is that in reviewing vacations, as a policy we want to treat both sides equally. If we vacate 4' off the Runza side, we would definitely be opposed to doing it on the other side. However, if the applicant agrees to 50 degree parking stalls off of the alley, Bartels believes it will function.

Larson asked how many parking stalls will be lost with the 50 degree parking as opposed to 90 degree. Bartels thought it might perhaps be one. There may be some opportunity to adjust some other dimensions. Just backing out into the alley, people coming in off the street will have to wait. We do not want to encourage a lot of traffic in alleys that doesn't have to be there.

Since we're not vacating the complete alley on one side, Carroll wondered what kind of traffic problems the 16' width creates. Bartels stated that Public Works is requesting that they rebuild the south return on the alley so that functionally, off of 14<sup>th</sup> Street, there is a 14' opening.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

January 7, 2004

Larson moved a finding of conformance, with conditions as set forth in the staff report, seconded by Taylor.

Taylor does not believe this will add more traffic; however, he wants there to be an indication that the area will be used for "take-out" customers only.

Carlson moved to amend to add a condition that two of the parking stalls would be designated for "take-out" (delivery/pickup) customers and the balance designated for employee parking only, seconded by Taylor and carried 9-0: Carlson, Krieser, Larson, Marvin, Sunderman, Pearson, Taylor, Carroll and Bills-Strand voting 'yes'.

Bills-Strand commented that it is nice to add some parking for employees because it is difficult to hire employees for these downtown businesses when they have to pay for parking.

Main motion for finding of conformance with the Comprehensive Plan, with conditions, as amended, carried 9-0: Carlson, Krieser, Larson, Marvin, Sunderman, Pearson, Taylor, Carroll and Bills-Strand voting 'yes'. This is a recommendation to the City Council.



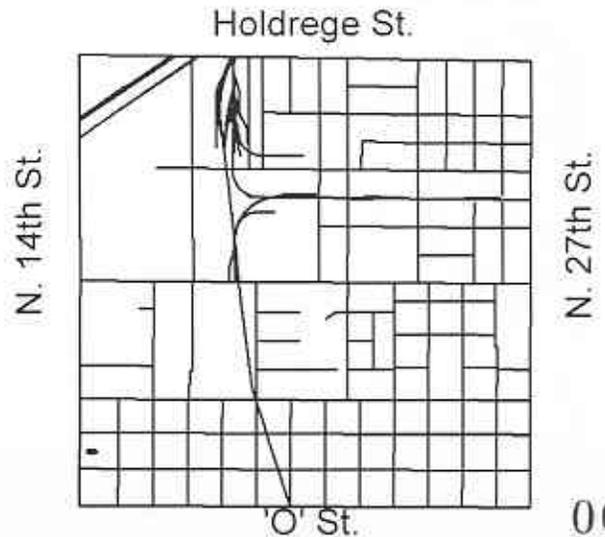
**Street & Alley Vacation #03022**  
**N. 14th & P St.**

2002 aerial

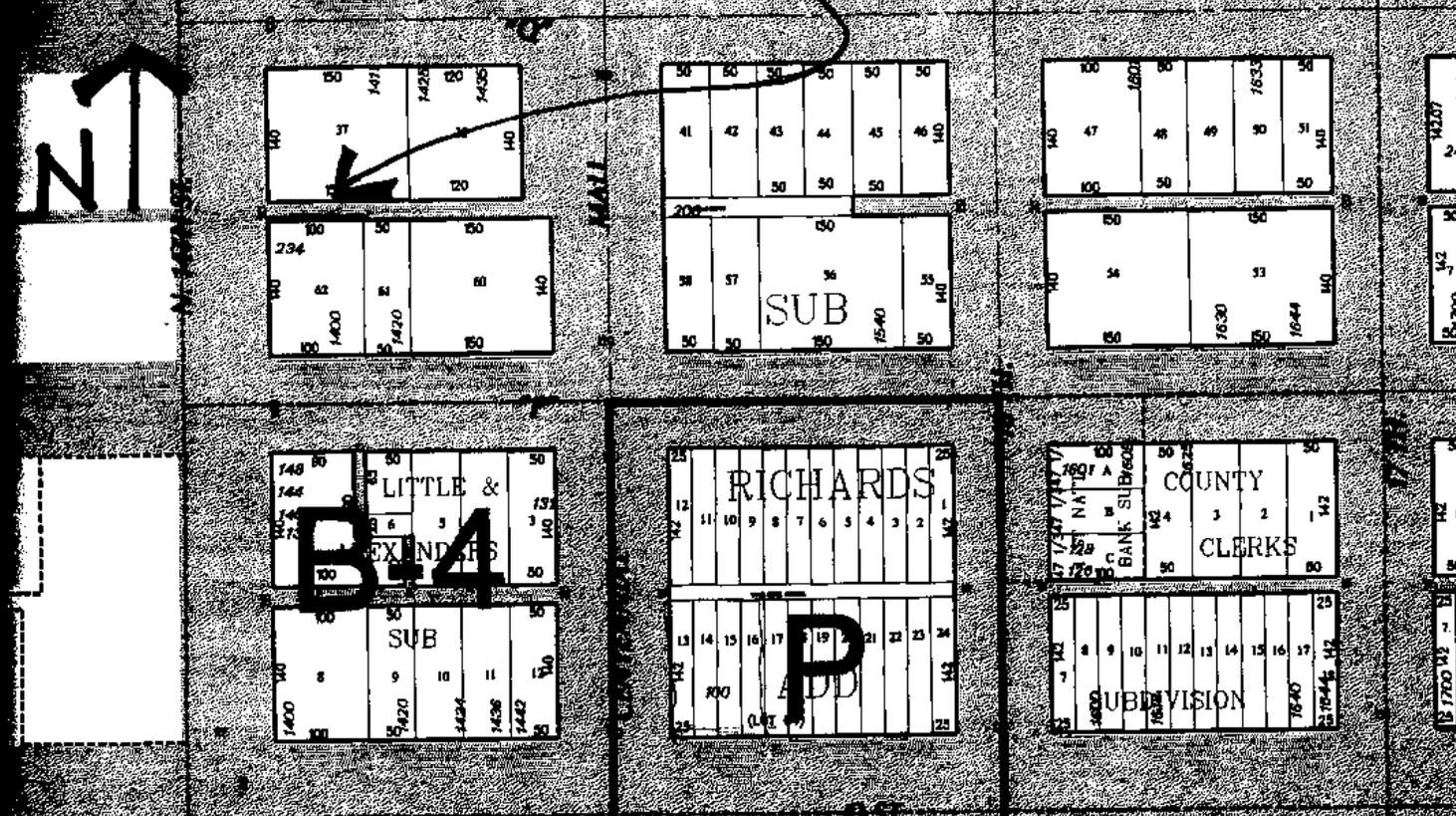
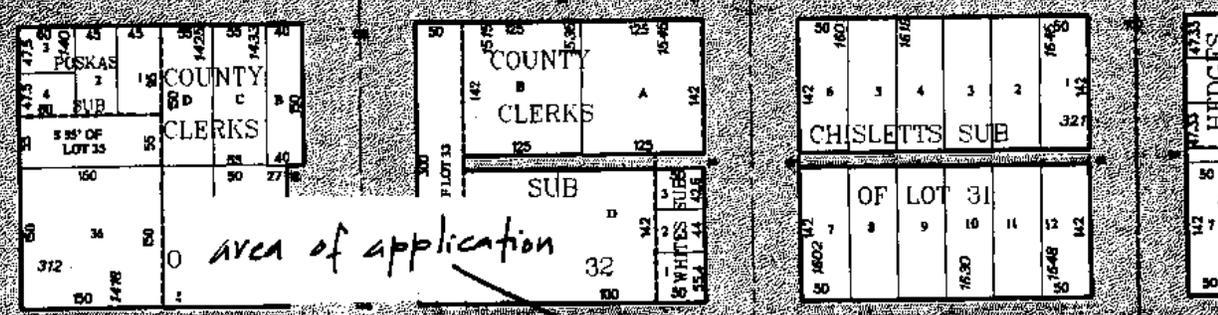
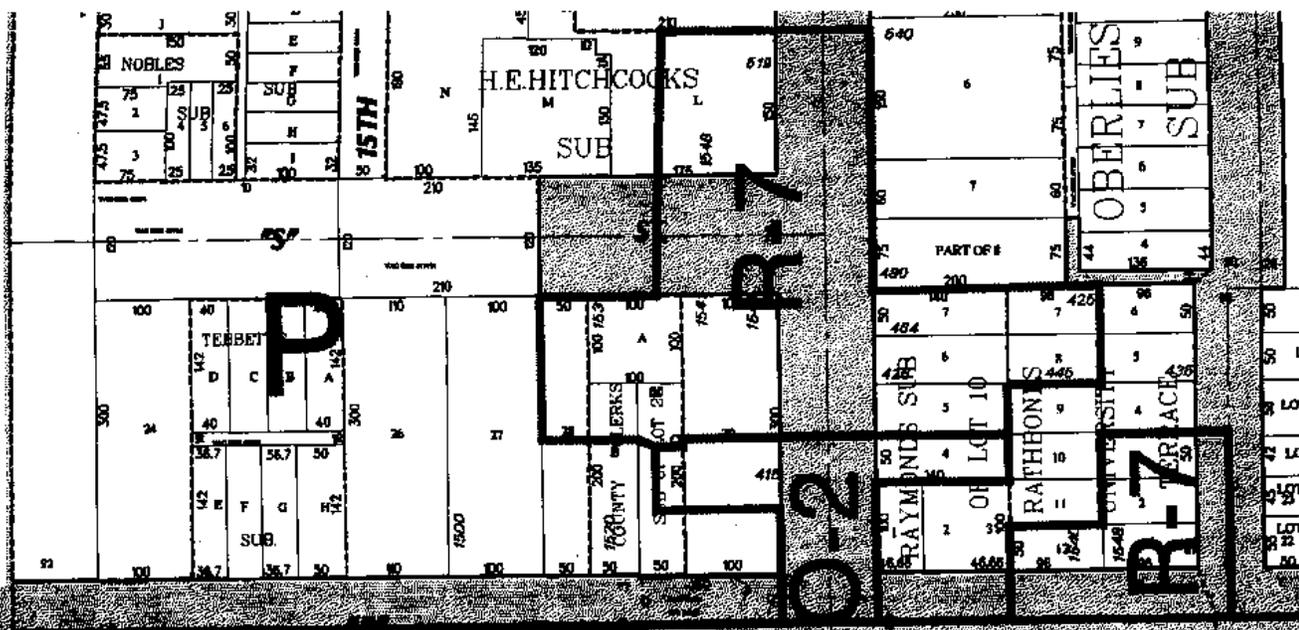
**Zoning:**

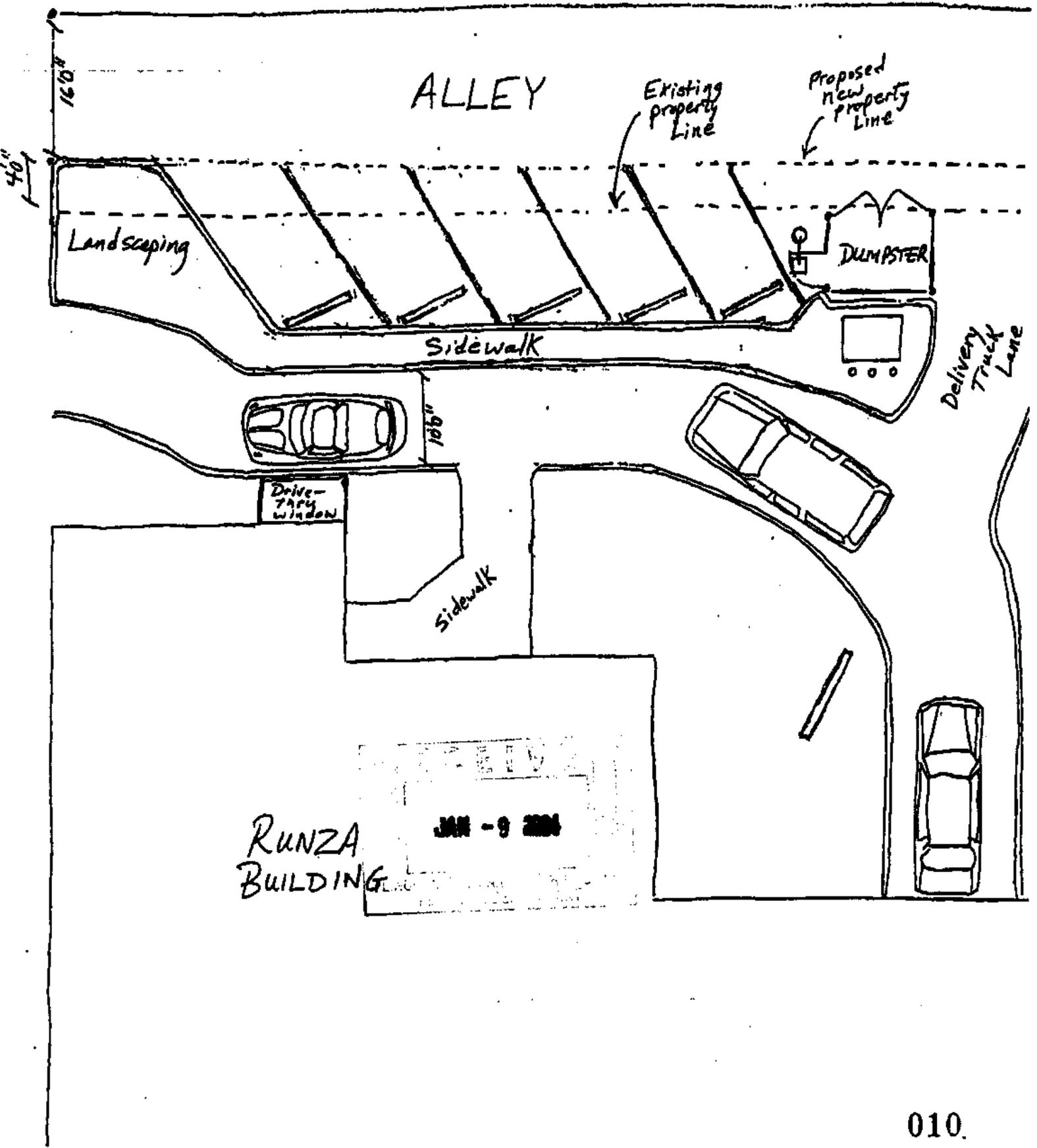
- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R.C Residential Conservation District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned 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. 24 T10N R6E



008





ALLEY

Existing property Line

Proposed new property Line

Landscaping

DUMPSTER

Sidewalk

Delivery Truck Lane

Driver-Thru window

Sidewalk

RUNZA BUILDING

JAN - 9 2004

SAV. 03022

### INTEROFFICE MEMORANDUM

TO: Mayor Seng  
& City Council Members

FROM: Clinton W. Thomas

DEPARTMENT: City Council Office

DEPARTMENT: Real Estate Division

ATTENTION:

DATE: February 5, 2004

COPIES TO: Joan Ross  
Marvin Krout  
Dana Roper  
Byron Blum

SUBJECT: Vacation of East-West Alley adjacent  
Littles Sublot 62, 14<sup>th</sup> & P Streets

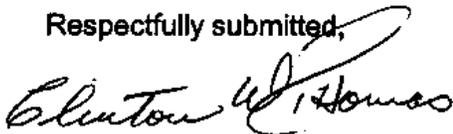
A request has been made to vacate four feet of the alley adjacent to the downtown Rock'N Roll Runza location at 14<sup>th</sup> & P Streets. Staff has indicated easements would need to be retained for existing utilities and the alley return will need to be reconstructed with a curb along the south side of the alley up to the parking stalls. This cost is estimated at \$2,000.

Small parcels such as this have very little value, in and of themselves, and normally are attractive only to abutting property owners. As such, the abutting property owners are rarely willing to pay the entire value the property would have once it is assembled into the larger parcel. Additional consideration is the fact the area will be un-buildable due to the retention of utility easements while the cost to rebuild the alley approach and curb is another expense a buyer would have to look at. It is this writer's opinion the value of a small strip, such as this, encumbered by easements is probably not much greater than the cost to rebuild the alley return. As such, a nominal amount of \$0.10 per square foot is considered to be appropriate for the value of the area to be vacated. The calculations are as follows:

$$400 \text{ sq. ft.} \times \$0.10/\text{sq. ft.} = \$40$$

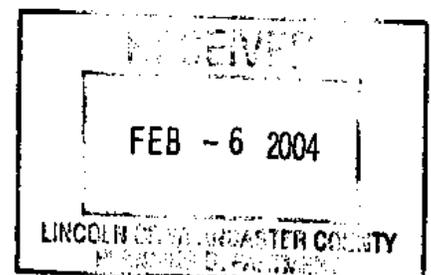
Therefore, it is recommended if this portion of the alley be vacated it be sold to the abutting property owner for \$40.00.

Respectfully submitted,



Clinton W. Thomas  
Certified General Appraiser #990023

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