

## FACTSHEET

**TITLE:** STREET VACATION NO. 05003, requested by Charles D. Humble on behalf of the petitioning property owners, to vacate the old South 84<sup>th</sup> Street right-of-way west of the new alignment near the intersection with Highway 2, generally located north of the intersection of South 84<sup>th</sup> Street and Highway 2.

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

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 05/15/05  
Administrative Action: 05/15/05

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

### **FINDINGS OF FACT:**

1. This proposed street vacation is the result of the South 84<sup>th</sup> Street realignment project moving South 84<sup>th</sup> Street to the east approximately 150 feet. The old right-of-way is no longer needed. The provisions for disposing of the old right-of-way were included in the annexation agreement associated with Appian Way (now known as the Prairie Lakes Shopping Center) at 84<sup>th</sup> & Highway 2. The terms of that annexation agreement require that the vacated right-of-way be deeded at no cost to all adjacent owners.
2. The staff recommendation to find the proposed street vacation to be in conformance with the Comprehensive Plan is based upon the "Analysis" as set forth on p.3, concluding that the Appian Way annexation agreement contains provisions pertaining to the realignment of South 84<sup>th</sup> Street adjacent to it, including how new right-of-way is dedicated and how vacated right-of-way is to be disposed of. This request is consistent with the annexation agreement. This request conforms with the Comprehensive Plan, provided that easements are retained to accommodate existing utilities and an adjustment is made to retain 70' of right-of-way east of the centerline south of Highway 2.
3. The minutes of the public hearing before the Planning Commission are found on p.5.
4. There was no testimony in opposition.
5. On May 11, 2005, the Planning Commission agreed with the staff recommendation and voted 9-0 to find the proposed street vacation to be in conformance with the Comprehensive Plan.
6. The original petitions heard and acted upon by the Planning Commission requested the vacation of 12 separately described parcels, both north and south of Highway 2. On October 14, 2005, Charles Humble, on behalf of the petitioning property owners, removed the five parcels lying south of Highway 2 from the street vacation request because the abutting property owners of that portion lying south of Highway 2 were unable to reach agreement with the Nebraska Department of Roads on reimbursement for the portion which is state-owned and not subject to the annexation agreement (See p.6). This street vacation request now only includes Parcels 1-7, i.e. that portion of old 84<sup>th</sup> Street lying north of Highway 2. The attached map has been revised accordingly to show only the area to be vacated north of Highway 2 (p.7).
7. The provisions of Chapter 14.20 of the Lincoln Municipal Code have been satisfied because the City is deeding the land to the owners at no charge according to the terms of the annexation agreement.
8. Condition #1.2 is no longer applicable because the property south of Highway 2 (Parcels 12-16) has been withdrawn from the street vacation request.
9. Condition #1.3 has been satisfied because the City will retain the easements when the property is deeded to the abutting property owners.

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

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

**REFFRNCF NI IMRF:** F:\C:\2005\SAV 05003

**DATE:** October 24, 2005

**DATE:** October 24, 2005

# LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

## for May 11, 2005 PLANNING COMMISSION MEETING

**PROJECT #:** Street and Alley Vacation #05003

**PROPOSAL:** Vacate the old South 84<sup>th</sup> Street right-of-way west of the new alignment near the intersection with Highway 2.

**LOCATION:** North and south of the intersection of South 84<sup>th</sup> Street and Highway 2.

**LAND AREA:** Approximately 6.03 Acres.

**CONCLUSION:** The Appian Way annexation agreement contains provisions pertaining to the realignment of South 84<sup>th</sup> Street adjacent to it, including how new right-of-way is dedicated and how vacated right-of-way is to be disposed of. This request is consistent with it. Provided easements are retained to accommodate existing utilities and an adjustment is made to retain 70' of right-of-way east of centerline south of Highway 2, this request conforms to the Comprehensive Plan.

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

**LEGAL DESCRIPTION:** See attached legal descriptions.

### **RELEVANT HISTORY:**

**June 16, 2003** -ANN#02006; CZ#3373 for a change of zone from AGR to R-3 and O-3; PP#02016 creating 9 lots for residential development, 12 for office/commercial, and three outlots; and, UP#145 for 192,900 square feet of office and commercial floor area for Pine Lake Plaza were approved.

**November 5, 2001** - ANN#01006 (annexing 245 acres into the City of Lincoln and included land on both sides of Highway 2 east of South 84<sup>th</sup> Street). The owner was required to enter into an annexation agreement with the City, which among other things addressed the relocation of South 84<sup>th</sup> Street); CZ#3320 changing the zoning on 98.8 acres east of relocated South 91<sup>st</sup> Street from AG to R-3; CZ#3285 changing the zoning on 146.3 acres between South 84<sup>th</sup> and relocated South 91<sup>st</sup> Street north of Highway 2 from AG to B-5; UP#140 for 825,400 square feet of commercial space, with the option to expand to 940,000 square feet provided that the total p.m. peak hour trips does not exceed 2,925; and, PP#01006 for Appian Way Regional Center was approved for 28 commercial lots and 8 outlots all for Appian Way were approved.

**UTILITIES:** There are existing 24" and 48" water mains, and a 12" gas main in South 84<sup>th</sup> Street and easements must be granted to accommodate them. L.E.S. will require additional utility easements to accommodate future electrical facilities to serve the area.

**ANALYSIS:**

1. The South 84<sup>th</sup> Street realignment in this area is complete, and the street has been moved to the east approximately 150'. The old right-of-way is no longer needed for South 84<sup>th</sup> Street and is considered excess.
2. Provisions for both acquiring new right-of-way and disposing of the old relative to the South 84<sup>th</sup> Street realignment in this area were included in the annexation agreement associated with Appian Way. Andermatt (one of the signatories to the agreement and the developer of Prairie Lakes Shopping Center) agreed to dedicate the necessary right-of-way to accommodate the realignment south of Pine Lake Road, with the understanding that the old right-of-way would be vacated and that adjacent portions would be deeded to the corporation.
3. The petitions are submitted by four different adjacent property owners, and request that the right-of-way be vacated and deeded to them at no cost. The Law Department has confirmed that the terms of the agreement require the vacated right-of-way to be deeded at no cost to all adjacent owners.
4. Once vacated rights-of-way have been conveyed, Lincoln Municipal Code (LMC) Title 26 prohibits them from being reconveyed or devoted to a separate use unless it complies with all applicable requirements for lots within the zoning district in which the parcel is situated.
5. The use permits for both Appian Way and Pine Lake Plaza showed the future realignment of South 84<sup>th</sup> Street, and included the vacated right-of-way within the limits of the permits and as part of future lots. Those portions outside the boundaries of the use permits and proposed to be deeded to Brinkman and the 7<sup>th</sup> Day Adventist Church must be combined with other parcels to be developed in compliance with LMC.
6. Easements must be retained to accommodate existing water and gas mains, and to accommodate future electrical utilities to serve the area.
7. Public Works and Utilities notes that the amount of right-of-way to be vacated south of Highway 2 must be reduced to provide 70' of right-of-way east of the centerline . The petition for this area must be revised to the satisfaction of Public Works and Utilities.
8. The petitioners are requesting that the City remove and dispose of the remaining hard surface across the area to be vacated. Public Works notes in their review that the City was not required to remove it as part of the annexation agreement, nor was removal part of the realignment project. The review also notes that removal should be at the cost of the parties acquiring the property.

**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 The petition to vacate South 84<sup>th</sup> Street south of Highway 2 must be revised to the satisfaction of Public Works and Utilities.
- 1.3 All required water main, gas main, and electrical utility easements shall be retained.

Prepared by:

Brian Will  
Planner  
April 27, 2005

**APPLICANT/  
CONTACT:**

Charles Humble  
301 South 13<sup>th</sup> Street  
Lincoln, NE 68508  
476-1000

**OWNER:**

Eiger Corp.  
1710 South 70<sup>th</sup> Street  
Lincoln, NE 68506  
484-9000

I.A.T., LLC  
Stanley and Grace Portsche  
5020 M Street  
Lincoln, NE 68510

Bruce Brinkman  
7201 South 84<sup>th</sup> Street  
Lincoln, NE 68516  
489-3314

Mid-American Conference Association of 7<sup>th</sup> Day Adventists  
8307 Pine Lake Road  
Lincoln, NE 68516  
484-3000

## STREET & ALLEY VACATION NO. 05003

### PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 11, 2005

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

Staff recommendation: A finding of conformance with the Comprehensive Plan.

Ex Parte Communications: None.

1. **Charlie Humble** appeared on behalf of **Mid-America 7<sup>th</sup> Day Adventists**, and stated that he also represents the other property owners. He agreed with the staff finding of conformance.

2. **DaNay Kalkowski** appeared on behalf of **Eiger Corp.**, one of the property owners. She agreed that the staff report does a good job of explaining this right-of-way exchange and it is in conformance with the Annexation Agreement entered into with the City in 2001. There was no testimony in opposition.

Larson inquired whether 84<sup>th</sup> Street will cross Highway 2. Dennis Bartels of Public Works explained that South 84<sup>th</sup> Street was reconstructed with a new alignment. The old alignment is what is being vacated.

### ACTION BY PLANNING COMMISSION:

May 11, 2005

Marvin moved a finding of conformance, seconded by Carroll and carried 9-0: Carroll, Pearson, Marvin, Krieser, Sunderman, Carlson, Taylor, Larson and Bills-Strand voting 'yes'. This is a recommendation to the City Council.



"CHARLES Humble"  
<CHUMB@eslaw.com>  
10/14/2005 01:55 PM

To <BWill@lincoln.ne.gov>  
cc  
bcc  
Subject Vacation of "old" 84th St.

Pursuant to our telephone conference of today, this will confirm that as applicant we wish to proceed to City Council with only that portion of old 84th St. lying north of Hwy. 2. Due to the fact that abutting owners of that portion lying south of Hwy. 2 were unable to reach agreement with NDOR, the vacaion of 84th St. south will not go forward to City Council. If I need to do anything further to get to vacation to Council, please let me know.



2005 aerial

## Street & Alley Vacation #05003 S. 84th & Hwy #2

### Zoning:

- R-1 to R-4 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. 23 T9N R7E



Zoning Jurisdiction Lines  
City Limit Jurisdiction



007

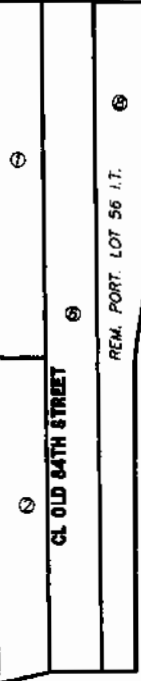


CL PINE LAKE ROAD

LAN COUNTY 94-39685

LOT 5, BLOCK 2  
PINE LAKE PLAZA

LOT 6, BLOCK 2  
PINE LAKE PLAZA

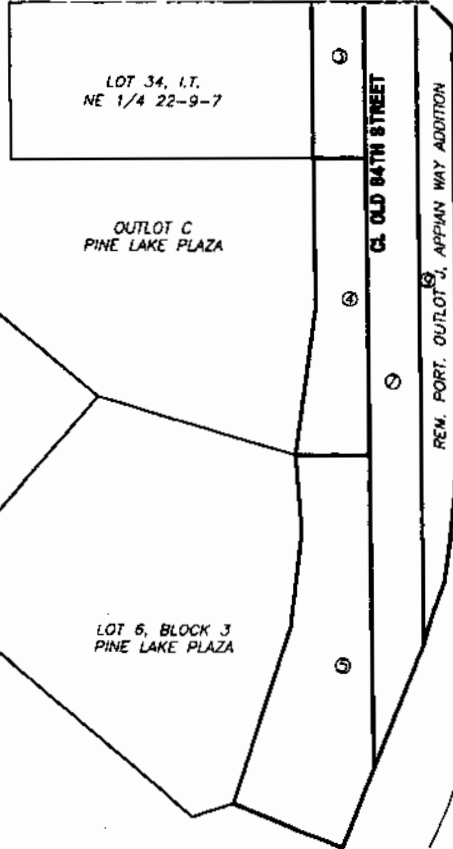


CL 84TH STREET

REM. PORT. LOT 56 I.T.

EIGER DRIVE

EIGER DRIVE



CL 84TH STREET

MAR 17 2005

008

1/1	1" = 120'	34-1404
71-28-04		

**HWS**  
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Lincoln, NE 68501  
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**84TH STREET VACATIONS  
NEAR 84TH & HWY NO. 2 INTERSECTION**

**SITE MAP**



**84<sup>TH</sup> STREET VACATIONS  
HIGHWAY NO. 2 TO PINE LAKE ROAD**

**PARCEL # 1**

**ADJACENT TO LOT 5, BLOCK 2, PINE LAKE PLAZA**

A TRACT OF LAND IN THE EXISTING SOUTH 84<sup>TH</sup> STREET RIGHT OF WAY ADJACENT TO LOT 5, BLOCK 2, PINE LAKE PLAZA, CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

REFERRING TO THE NORTHEAST CORNER OF SECTION 22, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6<sup>TH</sup> P.M., THENCE S 00°40'41" E, ASSUMED BEARING, ALONG THE EASTERLY LINE OF SAID SECTION 22, A DISTANCE OF 50.01 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING S 00°40'41" E, ALONG THE EASTERLY LINE OF SAID SECTION 22, A DISTANCE OF 339.51 FEET; THENCE S 89°19'19" W, A DISTANCE OF 50.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 5; THENCE N 00°40'41" W, ALONG THE EASTERLY LINE OF SAID LOT 5, A DISTANCE OF 340.23 FEET TO A POINT ON THE SOUTHERLY EXISTING 50.00 FOOT RIGHT OF WAY LINE OF PINE LAKE ROAD AND AT THE SOUTHEAST CORNER OF A TRACT OF LAND DEEDED TO LANCASTER COUNTY AND RECORDED AS INSTRUMENT 94-39685 IN THE LANCASTER COUNTY REGISTER OF DEEDS; THENCE S 89°51'10" E, A DISTANCE OF 50.01 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS AN AREA OF 16,993.41 SQUARE FEET, 0.39 ACRES.

**84<sup>TH</sup> STREET VACATIONS  
HIGHWAY NO. 2 TO PINE LAKE ROAD**

**PARCEL # 2**

**ADJACENT TO LOT 6, BLOCK 2, PINE LAKE PLAZA**

A TRACT OF LAND IN THE EXISTING SOUTH 84<sup>TH</sup> STREET RIGHT OF WAY ADJACENT TO LOT 6, BLOCK 2, PINE LAKE PLAZA, CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

REFERRING TO THE NORTHEAST CORNER OF SECTION 22, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6<sup>TH</sup> P.M., THENCE S 00°40'41" E, ASSUMED BEARING, ALONG THE EASTERLY LINE OF SAID SECTION 22, A DISTANCE OF 389.52 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUING S 00°40'41" E, ALONG THE EASTERLY LINE OF SAID SECTION 22, A DISTANCE OF 300.29 FEET; THENCE S 76°06'38" W, A DISTANCE OF 51.36 FEET TO THE SOUTHEAST CORNER OF SAID LOT 6; THENCE N 00°40'41" W, ALONG THE EASTERLY LINE OF SAID LOT 6, A DISTANCE OF 312.03 FEET TO THE NORTHEAST CORNER OF SAID LOT 6; THENCE N 89°19'19" E, A DISTANCE OF 50.00 FEET TO THE **POINT OF BEGINNING**.

THE ABOVE DESCRIBED TRACT CONTAINS AN AREA OF 15,308.05 SQUARE FEET, 0.35 ACRES.

**84<sup>TH</sup> STREET VACATIONS  
HIGHWAY NO. 2 TO PINE LAKE ROAD**

**PARCEL # 3**

**ADJACENT TO LOT 34, I.T., NE ¼ SECTION 22-9-7**

A TRACT OF LAND IN THE EXISTING SOUTH 84<sup>TH</sup> STREET RIGHT OF WAY ADJACENT TO LOT 34, IRREGULAR TRACT, CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

REFERRING TO THE NORTHEAST CORNER OF SECTION 22, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6<sup>TH</sup> P.M., THENCE S 00°40'41" E, ASSUMED BEARING, ALONG THE EASTERLY LINE OF SAID SECTION 22, A DISTANCE OF 809.81 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING S 00°40'41" E, ALONG THE EASTERLY LINE OF SAID SECTION 22, A DISTANCE OF 149.30 FEET; THENCE S 89°19'19" W, A DISTANCE OF 50.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 34; THENCE N 00°40'41" W, ALONG THE EASTERLY LINE OF SAID LOT 34, A DISTANCE OF 150.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 34; THENCE N 89°52'25" E, A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS AN AREA OF 7,482.45 SQUARE FEET, 0.17 ACRES.

**84<sup>TH</sup> STREET VACATIONS  
HIGHWAY NO. 2 TO PINE LAKE ROAD**

**PARCEL # 4**

**ADJACENT TO OUTLOT C, PINE LAKE PLAZA**

A TRACT OF LAND IN THE EXISTING SOUTH 84<sup>TH</sup> STREET RIGHT OF WAY ADJACENT TO OUTLOT C, PINE LAKE PLAZA, CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

REFERRING TO THE NORTHEAST CORNER OF SECTION 22, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6<sup>TH</sup> P.M., THENCE S 00°40'41" E, ASSUMED BEARING, ALONG THE EASTERLY LINE OF SAID SECTION 22, A DISTANCE OF 959.11 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUING S 00°40'41" E, ALONG THE EASTERLY LINE OF SAID SECTION 22, A DISTANCE OF 283.88 FEET; THENCE S 89°19'19" W, A DISTANCE OF 70.95 FEET TO THE SOUTHEAST CORNER OF SAID OUTLOT C; THENCE N 07°50'08" E, ALONG THE EASTERLY LINE OF SAID OUTLOT C, A DISTANCE OF 141.50 FEET TO A CORNER OF SAID OUTLOT C LOCATED 50.00 FEET WESTERLY OF, PERPENDICULAR MEASUREMENT, THE EASTERLY LINE OF SAID SECTION 22; THENCE N 00°40'41" W, ALONG THE EASTERLY LINE OF SAID OUTLOT C, A DISTANCE OF 143.94 FEET TO THE SOUTHEAST CORNER OF LOT 34, IRREGULAR TRACT; THENCE N 89°19'19" E, A DISTANCE OF 50.00 FEET TO THE **POINT OF BEGINNING**.

THE ABOVE DESCRIBED TRACT CONTAINS AN AREA OF 15,659.80 SQUARE FEET, 0.36 ACRES.

**84<sup>TH</sup> STREET VACATIONS  
HIGHWAY NO. 2 TO PINE LAKE ROAD**

**PARCEL # 5**

**ADJACENT TO LOT 6, BLOCK 3, PINE LAKE PLAZA**

A TRACT OF LAND IN THE EXISTING SOUTH 84<sup>TH</sup> STREET RIGHT OF WAY ADJACENT TO LOT 6, BLOCK 3, PINE LAKE PLAZA, CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

REFERRING TO THE NORTHEAST CORNER OF SECTION 22, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6<sup>TH</sup> P.M., THENCE S 00°40'41" E, ASSUMED BEARING, ALONG THE EASTERLY LINE OF SAID SECTION 22, A DISTANCE OF 1,242.99 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUING S 00°40'41" E, ALONG THE EASTERLY LINE OF SAID SECTION 22, A DISTANCE OF 299.54 FEET; THENCE S 22°07'35" W, A DISTANCE OF 81.93 FEET; THENCE N 67°52'25" W, A DISTANCE OF 112.31 FEET TO A CORNER OF SAID LOT 6 LOCATED 135.29 FEET WESTERLY OF, PERPENDICULAR MEASUREMENT, THE EASTERY LINE OF SAID SECTION 22; THENCE N 18°08'56" E, A DISTANCE OF 177.89 FEET TO A CORNER OF SAID LOT 6 LOCATED 77.88 FEET WESTERLY OF, PERPENDICULAR MEASUREMENT, THE EASTERLY LINE OF SAID SECTION 22; THENCE N 06°48'10" E, ALONG THE EASTERLY LINE OF SAID LOT 6, A DISTANCE OF 92.43 FEET TO A CORNER OF SAID LOT 6 LOCATED 65.85 FEET WESTERLY OF, PERPENDICULAR MEASUREMENT, THE EASTERY LINE OF SAID SECTION 22; THENCE N 04°45'30" W, ALONG THE EASTERLY LINE OF SAID LOT 6, A DISTANCE OF 71.70 FEET TO THE NORTHEAST CORNER OF SAID LOT 6; THENCE N 89°19'19" E, A DISTANCE OF 70.95 FEET TO THE **POINT OF BEGINNING**.

THE ABOVE DESCRIBED TRACT CONTAINS AN AREA OF 31,859.80 SQUARE FEET, 0.73 ACRES.

**84<sup>TH</sup> STREET VACATIONS  
HIGHWAY NO. 2 TO PINE LAKE ROAD**

**PARCEL # 6**

**ADJACENT TO THE REMAINING PART OF LOT 56, I.T., NW ¼ 23-9-7**

A TRACT OF LAND IN THE EXISTING SOUTH 84<sup>TH</sup> STREET RIGHT OF WAY ADJACENT TO THE REMAINING PART OF LOT 56, IRREGULAR TRACT, CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

REFERRING TO THE NORTHWEST CORNER OF SECTION 23, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6<sup>TH</sup> P.M., THENCE S 00°40'41" E, ASSUMED BEARING, ALONG THE WESTERLY LINE OF SAID SECTION 23, A DISTANCE OF 50.01 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING S 00°40'41" E, ALONG THE WESTERLY LINE OF SAID SECTION 23, A DISTANCE OF 639.80 FEET; THENCE N 89°19'19" E, A DISTANCE OF 50.00 FEET TO A CORNER OF THE REMAINING PART OF SAID LOT 56; THENCE N 00°40'41" W, ALONG THE WESTERLY LINE OF THE REMAINING PART OF SAID LOT 56, A DISTANCE OF 638.78 FEET TO THE NORTHWEST CORNER OF THE REMAINING PART OF SAID LOT 56; THENCE N 89°30'33" W, A DISTANCE OF 50.01 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS AN AREA OF 31,964.50 SQUARE FEET, 0.73 ACRES.

**84<sup>TH</sup> STREET VACATIONS  
HIGHWAY NO. 2 TO PINE LAKE ROAD**

**PARCEL # 7**

**ADJACENT TO THE REMAINING PART OF OUTLOT J, APPIAN WAY**

A TRACT OF LAND IN THE EXISTING SOUTH 84<sup>TH</sup> STREET RIGHT OF WAY ADJACENT TO THE REMAINING PART OF OUTLOT J, APPIAN WAY ADDITION, CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

REFERRING TO THE NORTHWEST CORNER OF SECTION 23, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6<sup>TH</sup> P.M., THENCE S 00°40'41" E, ASSUMED BEARING, ALONG THE WESTERLY LINE OF SAID SECTION 23, A DISTANCE OF 809.81 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUING S 00°40'41" E, ALONG THE WESTERLY LINE OF SAID SECTION 23, A DISTANCE OF 732.72 FEET; THENCE N 22°07'35" E, A DISTANCE OF 129.00 FEET TO THE SOUTHWEST CORNER OF THE REMAINING PART OF SAID OUTLOT J; THENCE N 00°40'41" W, ALONG THE WESTERLY LINE OF SAID REMAINING PART OF OUTLOT J, A DISTANCE OF 613.80 FEET TO THE NORTHWEST CORNER OF THE REMAINING PART OF SAID OUTLOT J; THENCE S 89°19'19" W, A DISTANCE OF 50.00 FEET TO THE **POINT OF BEGINNING**.

THE ABOVE DESCRIBED TRACT CONTAINS AN AREA OF 33,662.85 SQUARE FEET, 0.77 ACRES.

CHARLES THONE  
DONALD H. ERICKSON  
WM. E. MORROW, JR.  
SAM JENSEN  
DANIEL B. KINNAMON  
THOMAS J. GUILFOYLE  
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ALAN M. WOOD  
WILLIAM F. AUSTIN  
JOHN C. BROWNRIGG  
THOMAS J. CULHANE  
RICHARD J. GILLOON  
SAMUEL E. CLARK  
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JERALD L. RAUTERKUS  
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PATRICK R. GUINAN

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301 SOUTH 13<sup>TH</sup> STREET  
LINCOLN, NEBRASKA 68508-2571  
TELEPHONE (402) 476-1000  
FACSIMILE (402) 476-6167

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April 14, 2005

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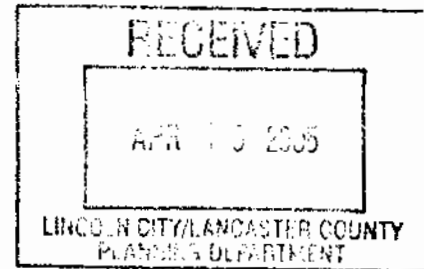
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**HAND DELIVERED**

Marvin Krout, Director  
Lincoln-Lancaster County Planning Department  
555 South 10<sup>th</sup> Street, Suite 213  
Lincoln, NE 68508

Re: Vacation of Former South 84<sup>th</sup> Street  
Our File No.: 15671.38723



Dear Mr. Krout:

As you will recall, on March 17, 2005, I filed a number of Petitions to vacate the public right of way of the former 84<sup>th</sup> Street from Pine Lake Road south. Attached hereto is a new Petition to vacate part of the right of way of former 84<sup>th</sup> Street together with appropriate attachments and an Information Sheet. This filing should be considered as part of the filing which I made on March 17, 2005.

The need for filing the attached Petition to Vacate Public Way came about as part of the review process of the original Petitions filed on March 17. John Egger of HWS and I met with Rick Peo in the City Attorney's office to review what appeared to City staff to be legal descriptions which needed revising. Mr. Egger revised those legal descriptions and we obtained a Title Certificate from Nebraska Title Company to reflect the abutting ownership.

The result is a Petition to Vacate Public Way with legal descriptions and parcel identifications attached, together with a diagram and a copy of the Title Certificate for Parcels 12, 13, 14, 15 and 16. The previous Petition to Vacate Public Way describing Parcels 12, 13 and 14 is hereby superseded by the attached Petition and ought to be discarded.

The reference that I made in the third paragraph of my March 17 letter regarding the issue that the vacated public right of way should be conveyed to abutting property owners at no cost due to the agreement between Eiger Corp. and the City of Lincoln remains pertinent.



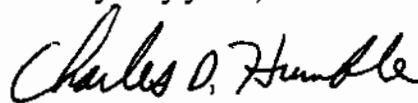
Marvin Krout, Director  
Lincoln-Lancaster County Planning Department  
Page 2  
April 14, 2005

Likewise, the request contained in the fourth paragraph of my March 17 letter that the City ought to remove the remaining hard surfaced area of former south 84<sup>th</sup> Street and dispose of it at its cost and expense is also incorporated as part of this letter.

Please keep me apprised of the scheduling of the vacation of former south 84<sup>th</sup> Street to the Planning Commission.

If you have any questions, please don't hesitate to contact me at 476-1000. Thank you.

Very truly yours,



Charles D. Humble

CDH:rij

Enclosures

c: Ernest R. Peo III  
G. Thomas Evans  
W. Michael Morrow, Esq.  
Stanley and Grace Portsche  
Bruce C. Brinkman

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March 17, 2005

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**HAND DELIVERED**

Marvin Krout, Director  
Lincoln-Lancaster County Planning Department  
555 South 10<sup>th</sup> Street, Suite 213  
Lincoln, NE 68508

MAR 17 2005

Re: Vacation of Former South 84<sup>th</sup> Street  
Our File No.: 15671.38723

Dear Mr. Krout:

In connection with the vacation of the former 84<sup>th</sup> Street right of way from Pine Lake Road south, I represent a number of titleholders. Since several titleholders are involved, I checked with Rick Peo in the City Attorney's Office, who agreed with me that one application fee of \$125 is sufficient for this application. The fee is enclosed by check.

On behalf of Mid-America Union Conference Association of Seventh-Day Adventists, a Nebraska nonprofit corporation, Bruce C. Brinkman, a single person, I.A.T., LLC, a Nebraska limited liability company, and Eiger Corp., a Nebraska corporation, I hereby enclose Petitions to Vacate Public Way with legal descriptions attached, Information Sheets with legal descriptions and diagrams attached.

You will note on the Information Sheets that in answer to paragraph 8 that each applicant has indicated that it does not intend to purchase the vacated public way abutting their property. Each titleholder expects to be deeded that portion of the vacated public right of way abutting their property at no cost to them because of the agreement reached between Eiger Corp. and the City of Lincoln in the "Conditional Annexation and Zoning Agreement for S. 84<sup>th</sup> & Highway 2." In that Agreement, under "Right-of-Way and Land Exchanges," in exchange for the dedication of certain rights of way which were made by Eiger Corp. and Andermatt, L.L.C., the City agreed to vacate and transfer the rights of way described in said Petitions at no cost to the abutting property owners.

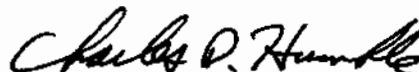
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Marvin Krout, Director  
Lincoln-Lancaster County Planning Department  
Page 2  
March 17, 2005

The titleholders described herein all join together in asking the City to remove the remaining hard surfaced area of former South 84<sup>th</sup> Street and dispose of the same at its cost and expense.

Please keep me apprised of the scheduling of the vacation of former South 84<sup>th</sup> Street to the Planning Commission. If you have any questions, please don't hesitate to contact me at 476-1000. Thank you.

Very truly yours,



Charles D. Humble

CDH:rjj

Enclosures

c: G. Thomas Evans  
W. Michael Morrow, Esq.  
Stanley and Grace Portsche  
Bruce C. Brinkman

# **M e m o r a n d u m**

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**To:** Greg Czaplewski, Planning Department  
**From:** Byron Blum, Engineering Services  
**Subject:** Vacation of Former South 84<sup>th</sup> Street Right-of-Way  
**Date:** April 8, 2005  
**cc:** Dennis Bartels  
Randy Hoskins  
Scott Opfer

There is existing 24" and 48" water mains in the area for proposed vacation. A permanent easement will need to be established for these water mains for future maintenance. The easement for the 24" water main should be the east 50' of the former 84<sup>th</sup> Street right-of-way between Pine Lake Road and Nebraska Highway 2. For the 48" water main south of Nebraska Highway 2, the entire proposed vacation area should be maintained for a permanent easement.

The information sheet from all the petitioners requests that the right-of-way be deeded to all petitioners at no cost based upon the 84<sup>th</sup> and Highway 2 conditional annexation and zoning agreement. Only the east side owner, Eiger Corporation, was party to this agreement and was the party that dedicated the right-of-way for relocated 84<sup>th</sup> Street. The west side was not party to this agreement and did not provide any dedication for 84<sup>th</sup> and therefore it is recommended that they pay appraised value for the property.

The cover letter indicates that the City should remove the existing street paving. This was not covered in the annexation agreement and the City, as part of the 84<sup>th</sup> Street project, will not remove the existing pavement. The removal of the pavement should be a cost of the parties acquiring the property. If the City is required to remove the pavement, the cost should be recovered from the future owners before title is conveyed.

The right-of-way south of Highway 2 should not be vacated to the extent shown on the exhibits. The vacation adjacent to Parcel 14 should be reduced to retain 70' of right-of-way east of the centerline of the new 84<sup>th</sup> Street paving. It is also recommended that the vacated right-of-way be replatted and that vehicular access to the new 84<sup>th</sup> Street, Eiger Drive, and Nebraska Highway 2 be relinquished.

Portions of the property to be vacated may have been purchased by the Nebraska Department of Roads. In the past, if they have purchased right-of-way, they have expected to be reimbursed with a vacation. It is recommended that they review this vacation prior to action being taken.



**Rick Peo**  
<rpeo@ci.lincoln.ne.us  
>

To: gczaplewski@ci.lincoln.ne.us, bwill@ci.lincoln.ne.us  
cc:  
Subject: street and alley vacation#05003-former S. 84th

04/14/2005 02:56 PM

The petitions to vacate as revised by petition filed by Charlie Humble on 4-14-05 are satisfactory . Ownership of abutting property has been confirmed. City has previosly agreed to convey vacated right of way without compensation as the new right of of way for 84th St was provided without compensation.