

FACTSHEET

SPONSOR: Planning Department

TITLE: MISCELLANEOUS NO. 05004, requested by Christ Lutheran Church, to vacate portions of Woods Brothers Bryan Sumner Acres and adjacent public right-of-way, generally located at 43rd & Sumner Streets.

BOARD/COMMITTEE: Planning Commission
Public Hearing: Consent Agenda: 03/02/05
Administrative Action: 03/02/05

STAFF RECOMMENDATION: Approval

RECOMMENDATION: Approval (9-0: Carlson, Carroll, Krieser, Larson, Marvin, Pearson, Bills-Strand, Sunderman and Taylor voting 'yes').

FINDINGS OF FACT:

1. This is a request to vacate the plat of Lots 1-3 and 5-12, Block 1, and Lots 1-6, Block 2, Woods Brothers Bryan Sumner Acres, and the adjacent right-of-way in order to facilitate the expansion of an existing church. Approval of this plat vacation would eliminate 17 individual lots, a vacated public right-of-way parcel and will vacate additional public right-of-way located between at 43rd Street between Sumner and Franklin Streets.
2. The staff recommendation of approval is based upon the "Analysis" as set forth on p.3, concluding that the proposed vacation of the plat and right-of-way is in conformance with the Comprehensive Plan and the Zoning Ordinance.
3. On March 2, 2005, this application appeared on the Consent Agenda of the Planning Commission and was opened for public hearing. No one came forward to speak.
4. On March 2, 2005, the Planning Commission agreed with the staff recommendation and voted 9-0 to recommend approval.
5. The performance bond in the amount of \$10,000 has been posted to guarantee removal of the existing paving and street returns at Sumner and Franklin Streets, and the construction of driveway returns or curb, gutter and sidewalk.
6. The three street lights located on the portion of South 43rd Street from Franklin Street to Sumner Street have been converted from City ownership to LES ownership and the petitioner (Christ Lutheran) is presently paying a monthly fee to LES for the operation of these lights.
7. The appraisal by Clint Thomas of the Housing Rehab & Real Estate Division of the Urban Development Department is found on p.7-8, finding that the proposed vacated right-of-way be sold to the abutting property owner for \$16,800.
8. The provisions of Chapter 14.20 have been satisfied.

FACTSHEET PREPARED BY: Jean L. Preister

DATE: April 14, 2008

REVIEWED BY: _____

DATE: April 14, 2008

REFERENCE NUMBER: FS\CC\2008\MISC.05004

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for March 2, 2005 PLANNING COMMISSION MEETING

P.A.S.: Misc #05004

PROPOSAL: Vacate portions of a plat and adjacent public right-of-way.

LOCATION: 43rd and Sumner Streets

LAND AREA: 6.13 acres, more or less

CONCLUSION: The vacation of this plat and right-of-way conforms to the Comprehensive Plan and Zoning Ordinance.

<u>RECOMMENDATION:</u>	Approval
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GENERAL INFORMATION:

LEGAL DESCRIPTION: Lots 1-3 and 5-12, Block 1, and Lots 1-6, Block 2, Woods Brothers Bryan Sumner Acres, vacated 43rd Street right-of-way and the remaining portion of 43rd Street right-of-way between Sumner and Franklin Streets, located in the NW1/4 of Section 32 T10N R7E, Lancaster County, Nebraska.

EXISTING LAND USE AND ZONING: Church R-2 Residential

SURROUNDING LAND USE AND ZONING:

North:	Single-family dwellings	R-2 Residential
South:	Single-family dwellings	R-2 Residential
East:	Single-family dwellings	R-2 Residential
West:	Single-family dwellings	R-2 Residential

HISTORY:

May 2004	Street and Alley Vacation #04001 vacated the north portion of 43 rd Street between Sumner and Franklin Streets.
Apr 2003	Special Permit #846B approved an increase in lot coverage for the church from 20% to 25%.
Jun 1990	Administrative Amendment #90037 expanded the area of Special Permit #846A by including an additional lot.
Sep 1988	Administrative Amendment #603 revised the parking lot layout, landscaping plan, and building envelopes approved by Special Permit #846A.
Sep 1987	Special Permit #846A approved an increase in lot coverage for the church from 15% to 20%.

- Jul 1979 Special Permit #846 approved the operation of a pre-school program for up to 12 children.
- May 1979 The zoning update change the zoning designation for this property from A-2 Single-Family Dwelling to R-2 Residential.
- Aug 1925 Woods Brothers Bryan Sumner Acres plat filed with the Lancaster County Register of Deeds.

ANALYSIS:

1. This is a request to vacate the plat of these lots and the adjacent right-of-way in order to facilitate the expansion of an existing church.
2. Approval of this plat vacation would eliminate 17 individual lots, a vacated public right-of-way parcel, and will vacate additional public right-of-way.
3. The north portion of 43rd Street between Sumner and Franklin Streets was vacated in 2004 by this Petitioner. At that time, because Petitioner did not own all property abutting 43rd Street, only a portion was vacated. Petitioner did indicate they would seek to vacate the remaining portion once they acquired ownership of all abutting parcels. Petitioner has acquired the final parcel abutting 43rd Street on this block.
4. The previous vacation created several lots without frontage and access to a public street, but was approved based on full public access easements granted by Petitioner over the entire vacated area. Vacating the remaining portion of South 43rd Street would also create lots without frontage and access, which does not conform to the subdivision ordinance. However, vacating the plat satisfies this concern since the newly created lot will meet the subdivision requirements for frontage and access.
5. There are existing Aquila, LES, and Public Works utilities within the right-of-way and vacated right-of-way. A blanket easement was retained over the previously vacated right-of-way for existing facilities. A similar easement will be required over the portion of right-of-way vacated with this petition. Petitioner has the option of abandoning and relocating the existing utilities at Petitioner's cost.
6. The existing street returns at Sumner and Franklin Streets must be removed and reconstructed as driveways or replaced with curb, gutter, and sidewalk. Petitioner must post a bond to guarantee this work prior to conveyance of the right-of-way. A bond for the 43rd Street return at Sumner Street was not posted with the previous application in anticipation that it would be included in this petition.
7. Petitioner paid a nominal fee for the previously vacated right-of-way, with the knowledge that the balance would be collected as part of this petition.

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

- 1.1 Satisfy the provisions of Chapter 14.20 of the Lincoln Municipal Code, including payment of the remaining balance for previously vacated 43rd Street.
- 1.2 Provide a bond in the amount of \$10,000 to guarantee the removal of the existing paving and street returns at Sumner and Franklin Streets, and the construction of driveway returns or curb, gutter, and sidewalk within two (2) years of the approval of this petition
- 1.3 Contact LES to schedule the removal of two street lights.

PRIOR TO THE CONVEYANCE OF TITLE TO VACATED PUBLIC RIGHTS-OF-WAY, THE PETITIONER SHALL:

- 2.1 Provide utility easements over the entire vacated area for existing and future utility uses.

Prepared by:

Greg Czaplewski
441-7620, gczaplewski@lincoln.ne.gov

Date: February 14, 2005

**Petitioner
and
Owner:** Christ Lutheran Church
4325 Sumner Street
Lincoln, NE 68506
483.7774

Contact: Dennis Scheer
The Clark Enersen Partners
1010 Lincoln Mall, Suite 200
Lincoln, NE 68508
477.9291

MISCELLANEOUS NO. 05004

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

March 2, 2005

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

The Consent Agenda consisted of the following items: **COUNTY CHANGE OF ZONE NO. 05009; USE PERMIT NO. 05002; COUNTY FINAL PLAT NO. 05007, COUPE DEVILLE HEIGHTS 1ST ADDITION; COUNTY MISCELLANEOUS NO. 05003; and MISCELLANEOUS NO. 05004.**

Item No. 1.1, County Change of Zone No. 05009; Item No. 1.2, Use Permit No. 05002; Item No. 1.3, County Final Plat No. 05007; and Item No. 1.4, County Miscellaneous No. 05003 were removed from the Consent Agenda and scheduled for separate public hearing.

Larson moved to approve the remaining Consent Agenda, seconded by Carroll and carried 9-0: Carlson, Carroll, Krieser, Larson, Marvin, Pearson, Bills-Strand, Sunderman and Taylor voting 'yes'.



2002 aerial

Miscellaneous #05004 S. 43rd & Sumner

Zoning:

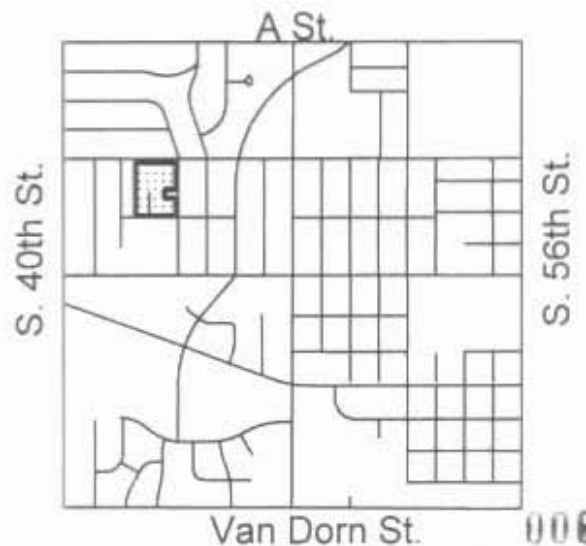
- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned 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. 32 T10N R7E



Zoning Jurisdiction Lines

City Limit Jurisdiction



006

INTEROFFICE MEMORANDUM

TO: Mayor Beutler
& City Council Members

FROM: Clinton W. Thomas

DEPARTMENT: City Council Office

DEPARTMENT: Housing Rehab & Real Estate Division

ATTENTION:

DATE: January 30, 2008

COPIES TO: Teresa J. Meier
Marvin Krout
Dana Roper
Byron Blum, Bldg & Safety
Jean Walker, Planning

SUBJECT: Misc. No. 05004
North 43rd Street from Franklin Street to
Sumner Street

A request has been made to vacate the southerly portion of 43rd Street between Franklin and Sumner Streets. The northern portion of this street was vacated in Street & Alley Vacation Action 04001. At that time, a permanent access easement was retained over the area being vacated and because of that the abutting property owner paid only a nominal sum for the property with the understanding the balance would be paid at the time the remaining portion of the street was vacated. For the purpose of this estimate of value, the area to be vacated is considered to be all of 43rd Street from the north line of Franklin Street to the south line of Sumner Street.

Public Works has indicated there are existing utilities including gas, electric, sewer and water within the area to be vacated and easements would be required over the entire area for these utilities. However, the permanent easement for access will no longer be required. The land owner will be required, however, to remove the street returns on either end of the street being vacated and reconstruct them as driveways, or replace them with curb, gutter and sidewalk. That cost is estimated by Public Works at \$10,000.

The area to be vacated while not being buildable due to the utility easements would still have value for density, removal of set backs, open space, or parking associated with other buildings on the abutting owner's property. As such, an abutting owner could be expected to pay 30% to 40% of the value of the abutting land to obtain a parcel such as this which would take on the value of the abutting land once it was assembled into it. The abutting property is considered to have a value of \$2.00 to \$2.25 per square foot. Given the fact there are numerous utilities which would require maintenance and repair causing intermittent disruptions to the use of the area, it is considered an abutting property owner would be willing to pay something at the lower end of the range of values for assemblage land, or roughly one-third of the value they would hope to realize once the land was assembled, or \$0.75 per square foot. The calculations are as follows:

$$36,054 \text{ sq. ft.} \times \$0.75/\text{sq. ft.} = \$27,040.50$$

From that amount we must deduct the cost of the removal and replacement of the street returns in the amount of \$10,000.00 and the price previously paid toward the vacated northerly portion of the street which was \$250. Those calculations are as follows:

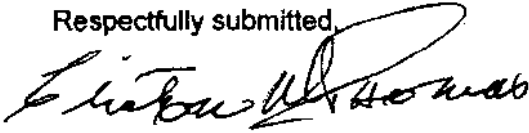
$$\$27,040.50 - \$10,250.00 = \$16,790.50 \text{ called } \$16,800$$

Therefore, it is recommended if the remaining area of the street be vacated, it be sold to the abutting property owner for \$16,800.

Misc. No. 05004
page 2

Should the property owner wish to relocate any of the utilities, they ultimately could do so, but it would be their obligation to replace the utilities and provide the City with a corresponding easement for their continued use and maintenance. As such, it should not affect the estimate of value for the land.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Clinton W. Thomas". The signature is fluid and cursive, with a large loop at the end.

Clinton W. Thomas
Certified General Appraiser #990023