

## FACTSHEET

**TITLE: STREET & ALLEY VACATION NO. 12003**, requested by Union College, to vacate all of the alley located one-half block west of South 52<sup>nd</sup> Street between Prescott Avenue and Cooper Avenue.

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

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: Consent Agenda, 05/02/12  
Administrative Action: 05/02/12

**RECOMMENDATION:** A finding of conformance with the Comprehensive Plan (7-0: Esseks, Sunderman, Lust, Gaylor Baird, Butcher, Francis and Hove voting 'yes'; Cornelius and Weber absent).

### FINDINGS OF FACT:

1. This is a request from Union College to vacate the north-south alley in Block 28, College View, located approximately one-half block west of South 52<sup>nd</sup> Street between Prescott Avenue and Cooper Avenue, for the purpose of facilitating the expansion of Union College, while allowing for better utilization of the lots in Block 28, all of which are owned by Union College.
2. The staff recommendation to find the proposed alley vacation in conformance with the 2040 Comprehensive Plan is based upon the "Analysis" as set forth on p.3, concluding that the petitioner, College View, intends to locate a driving aisle over the vacated alley to access a new building and parking areas. With the amendment to the Union College special permit which expands the boundary, the alley becomes excess and unnecessary and would facilitate the expansion plans of Union College if vacated.
3. On May 2, 2012, 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 May 2, 2012, the Planning Commission agreed with the staff recommendation and voted 7-0 to find the proposed vacation to be in conformance with the 2040 Comprehensive Plan.
5. The appraisal by Clint Thomas of the Housing Rehab & Real Estate Division of the Urban Development Department is found on p.16, recommending that the vacated area be sold to the abutting property owner for \$500.00.
6. The funds for the vacated alley have been paid. Therefore, the provisions of Chapter 14.20 of the Lincoln Municipal Code have been satisfied.
7. The requirement for a final plat eliminating lots without frontage to a public street has also been satisfied.

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

**DATE:** July 9, 2012

**REVIEWED BY:** Marvin Krout, Director of Planning

**DATE:** July 9, 2012

**REFERENCE NUMBER:** FS\CC\2012\SAV12003

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

**for May 2, 2012 PLANNING COMMISSION MEETING**

**PROJECT #:** Street and Alley Vacation No. 12003

**PROPOSAL:** Vacate all of the alley located one-half block west of South 52<sup>nd</sup> Street between Prescott and Cooper Avenues

**LOCATION:** Approximately South 51<sup>st</sup> and Prescott Avenue

**CONCLUSION:** This request is associated with Pre-existing Special Permit #28C which proposes to expand the boundary of the Union College special permit to include Lots 1-9, Block 28 College View. The petitioner owns all the properties adjacent to the alley be vacated (Lots 1-12, Block 28), and intends to locate a driving aisle over the vacated alley to access a new building and parking areas. With the amendment to the Union College special permit, the alley becomes excess and unnecessary and would facilitate the expansion plans of Union College if vacated. This request is consistent with and conforms to the Comprehensive Plan.

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

**LEGAL DESCRIPTION:** All the north-south alley in Block 28, College View, Lancaster County, Nebraska.

**SURROUNDING LAND USE AND ZONING:**

North:	Union College	R-4, R-6
South:	Prescott Avenue, Residential	R-4, R-6
East:	Residential	R-4
West:	Vacant, Union College	R-6

**ASSOCIATED REQUEST:**

Pre-existing Special Permit #28C has been submitted proposing to expand the boundary of the permit to include Lots 1-9, Block 28, College View.

**UTILITIES:**

There are utilities in the alley proposed to be vacated which include sanitary sewer, electric and telephone. Easements will be retained to guarantee continued accessibility for maintenance and repair by the appropriate utility.

## **ANALYSIS:**

1. This is a request from Union College to vacate all the north-south alley in Block 28. The alley is located approximately one-half block west of South 52<sup>nd</sup> Street between Prescott and Cooper Avenues.
2. The College has expansion plans, which are being proposed as part of the associated request, PESP#28C. The site plan submitted with that request shows the boundary of the special permit being expanded to include Lots 1-9, Block 28. See the attached exhibit identifying Block 28 in relationship to the campus.
3. Union College owns all the lots in Block 28. The petition seeks to vacate all the alley in Block 28, bounded by Lots 1-6 on the east, and Lots 7-12 on the west. It is noted that once the alley is vacated that lots without frontage to public right-of-way will be created, contrary to Title 26 Land Subdivision Ordinance. The requirement that a final plat be approved consolidating the lots and alley in Block 28 is included as a condition of approval.
4. If the alley is not vacated, setbacks will be measured from the alley and require changes to the proposed expansion plan. Additionally, the alley cannot be incorporated into the parking lot for exclusive use as a driving aisle as planned.
5. Public Works & Utilities notes that the alley return onto Prescott Avenue must be reconstructed to accommodate a commercial driveway, consistent with their recommended changes to the site plan associated with PESP#28C. Reconstruction of this return is a condition of approval of the special permit, and is to be completed at the time of building permits.
6. There are various utilities located in the alley as noted by the utility providers, including sanitary sewer, electric and telephone. As part of the vacation process, utility easements will automatically be retained to allow continued maintenance, construction and operation of these facilities.
7. Vacating this alley will facilitate the expansion of Union College, while allowing for better utilization of the lots in Block 28. Provided access to the existing utilities is assured, this right-of-way is otherwise excess and unneeded and it is appropriate to vacate it.
8. 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.
2. A final plat eliminating lots without frontage to a public street has been reviewed, executed and in final form to be recorded upon approval of the alley vacation.

Prepared by:

Brian Will, 441-6362, [bwill@lincoln.ne.gov](mailto:bwill@lincoln.ne.gov)

April 17, 2013

**PETITIONER:** Union College  
3800 South 48<sup>th</sup> Street      Bldg #A  
Lincoln, NE 68506  
402-486-2502

**CONTACT:** Jerry Nelson  
Sandstone Construction  
5617 Thompson Creek Blvd  
Lincoln, NE 68516  
402-421-6688

# STREET & ALLEY VACATION NO. 12003

## CONSENT AGENDA

### PUBLIC HEARING & ADMINISTRATIVE ACTION

#### BEFORE PLANNING COMMISSION:

May 2, 2012

Members present: Gaylor Baird, Butcher, Esseks, Francis, Hove, Lust and Sunderman; Cornelius and Weber absent.

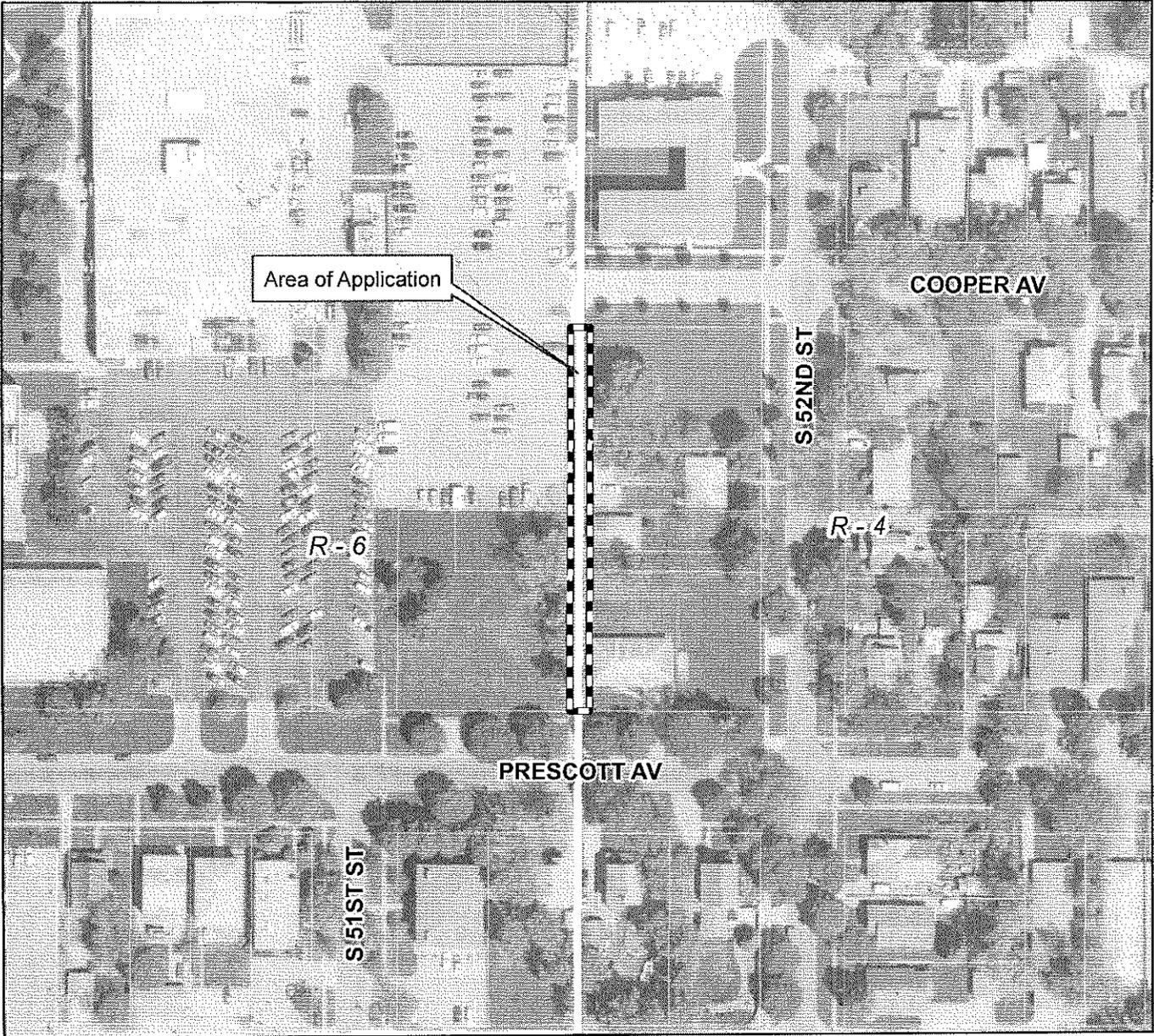
The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 12006, CHANGE OF ZONE NO. 12007, SPECIAL PERMIT NO. 12011, SPECIAL PERMIT NO. 12012, PRE-EXISTING SPECIAL PERMIT NO. 28C and STREET AND ALLEY VACATION NO. 12003.**

Ex Parte Communications: None

**Item No. 1.4, Special Permit No. 12012,** was removed from the Consent Agenda and scheduled for separate public hearing.

Lust moved approval of the remaining Consent Agenda, seconded by Esseks and carried 7-0: Gaylor Baird, Butcher, Esseks, Francis, Hove, Lust and Sunderman voting 'yes'; Cornelius and Weber absent.

Note: This is final action on Special Permit No. 12011 and Pre-Existing Special Permit No. 28C unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

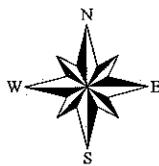


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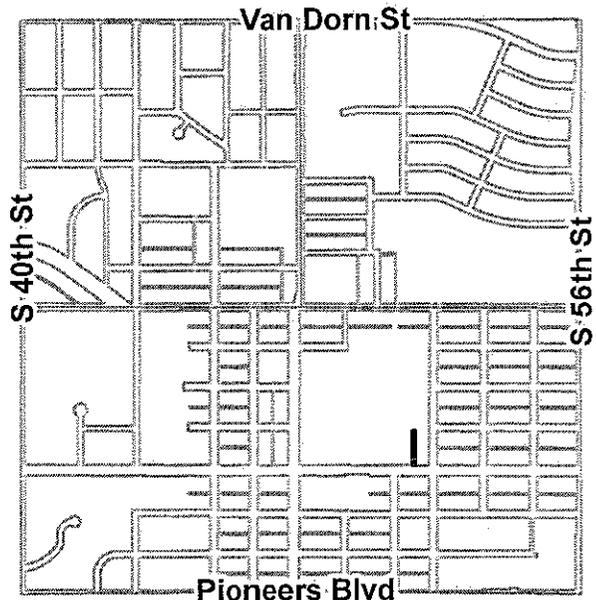
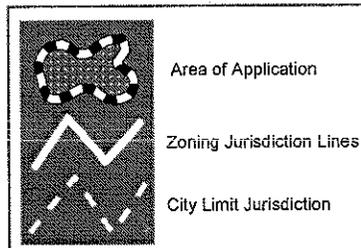
**Street and Alley Vacation #12003  
Prescott & Cooper Ave**

**Zoning:**

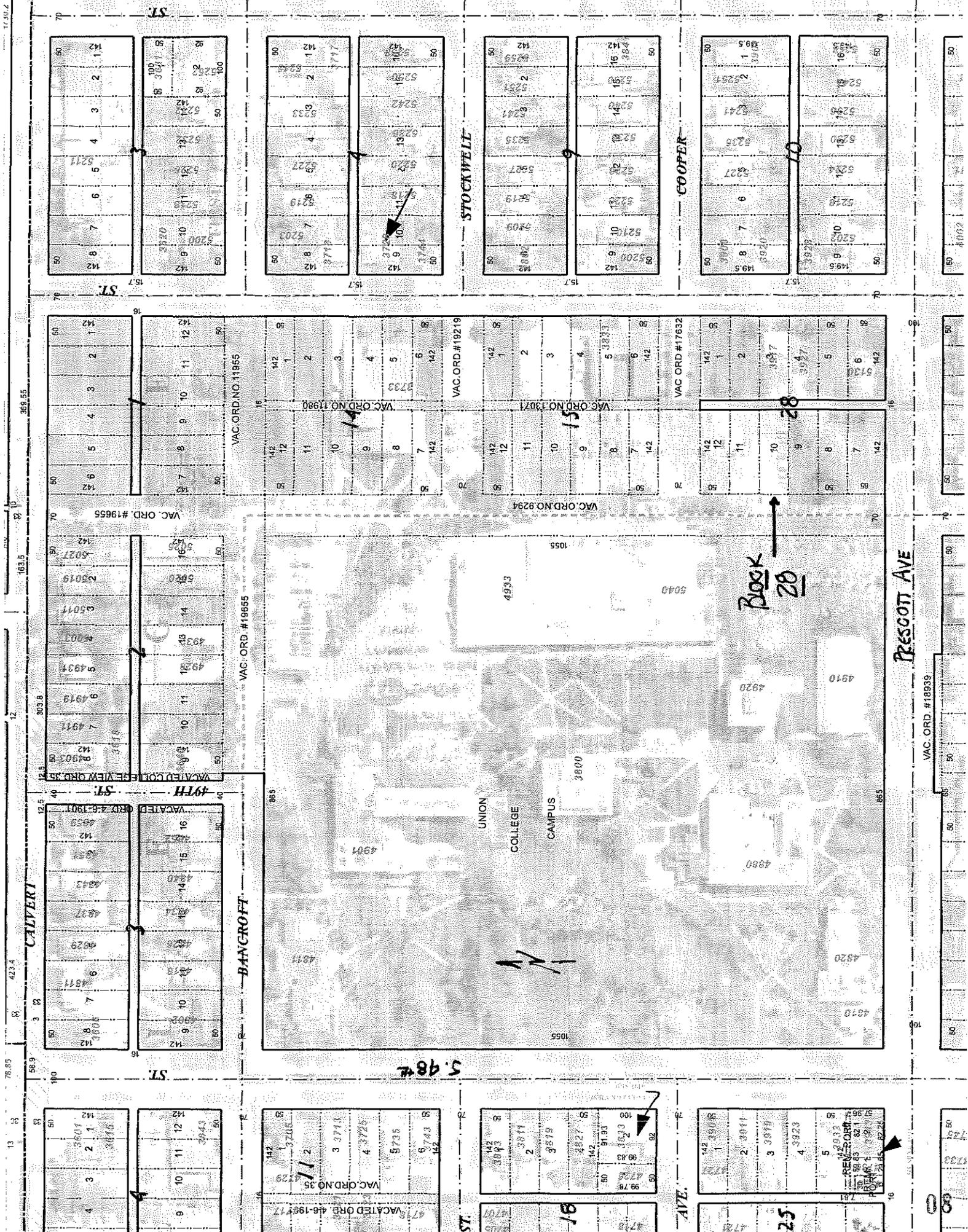
- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial 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. 5 T09N R07E







CALVERT

BANCROFT

STOCKWELL

COOPER

PRESCOTT AVE

UNION COLLEGE CAMPUS

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RECEIVED

MAR 29 2012

Lincoln/Lancaster Co.  
Planning Department

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.)

NORTH-SOUTH ALLEY WEST OF 52<sup>ND</sup> STREET BETWEEN  
PRESCOTT AV AND COOPER AVE

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.)

See attached

DATED this 27<sup>th</sup> day of March, 2012

Gary B. Henger

Union College

Secretary-Treasurer

Lincoln, NE 68506

(ALL TITLEHOLDERS OF THE ABOVE DESCRIBED REAL ESTATE MUST SIGN THIS PETITION BEFORE A NOTARY PUBLIC -- NOTARIAL ACKNOWLEDGMENTS ON REVERSE)

INFORMATION SHEET

An Information Sheet must be filled out completely by the owners of each parcel abutting the requested vacation. The attached Petition to Vacate Public Way must also be filled out completely according to the instructions contained in the Instruction Sheet.

1. Name of Petitioner (Current Titleholder/s): Union College

If more than one individual, indicate if you are:

joint tenants with right of survivorship, OR tenants in common

2. Petitioner's Address: 3800 S 48th St Bldg #A  
Lincoln, NE 68506-4387

3. Petitioner's Telephone Number: (402 ) 486-2502

4. Name of street, alley, or other public way sought to be vacated: NORTH-SOUTH ALLEY  
WEST OF 52ND STREET BETWEEN PRESCOTT AV  
AND COOPER AV.

5. Legal description of Petitioner's property which abuts the public way sought to be vacated:  
SEE ATTACHED

6. Why are you seeking to have this street, alley, or other public way vacated?

Development of Union College Land

7. What use or uses do you propose to make of the public way should it be vacated?

Site Access

8. Do you intend to purchase that portion of the vacated public way which abuts your property as described in the Petition to Vacate Public Way and/or other portions of the vacated public way?

X YES NO

9. Name and address of person to whom tax statement should be sent:

Union College-Vice President for Financial Administration  
3800 S. 48th Street  
Lincoln, NE 68506

The property will be appraised and the purchase price of the portion abutting your property must be paid by you to the City Clerk unless you have indicated that the portion abutting your property will be sold to any other abutting owner willing to pay the purchase price. The Vacation Ordinance will not be introduced before the City Council until the full price of the entire public way proposed to be vacated has been paid.

\*\*\* IMPORTANT: BE SURE THAT THE PETITION TO VACATE PUBLIC WAY HAS BEEN PROPERLY EXECUTED BY ALL TITLEHOLDERS TO YOUR PROPERTY AND ATTACH IT TO THIS INFORMATION SHEET.

(Individual(s) Acknowledgment):

STATE OF \_\_\_\_\_ )  
 ) ss.  
\_\_\_\_\_ COUNTY )

The foregoing instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by

\_\_\_\_\_  
(Please indicate name(s) and marital status of person(s) signing)

(Seal)

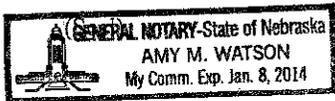
\_\_\_\_\_  
Notary Public

(Corporate Acknowledgment):

STATE OF Nebraska )  
 ) ss.  
Lancaster COUNTY )

The foregoing instrument was acknowledged before me on this 27<sup>th</sup> day of March, 2012, by

Gary Bollinger, secretary/treasurer of Union College, on behalf of the corporation.



Amy M. Watson  
Notary Public

(Partnership Acknowledgment):

STATE OF \_\_\_\_\_ )  
 ) ss.  
\_\_\_\_\_ COUNTY )

The foregoing instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by

\_\_\_\_\_, general partner of \_\_\_\_\_, on behalf of the partnership.

(Seal)

\_\_\_\_\_  
Notary Public

(Limited Liability Company Acknowledgment):

STATE OF \_\_\_\_\_ )  
 ) ss.  
\_\_\_\_\_ COUNTY )

The foregoing instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by

\_\_\_\_\_, managing member of \_\_\_\_\_, on behalf of said limited

liability company.

(Seal)

\_\_\_\_\_  
Notary Public

LEGAL DESCRIPTIONS

WEST OF ALLEY:

COLLEGE VIEW, BLOCK 28, LOTS 7-12  
CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA

EAST OF ALLEY:

COLLEGE VIEW, BLOCK 28, LOTS 1-6  
CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA



Application Information		
Application #	SAV12003	Title: N-S ALLEY, S 52ND ST & PRESCOT
Associated Requests	PESP28C	

Planning Department Use Only		
Submission Date	4/3/2012	Review Due: 4/13/2012
Project Planner	Brian Will	

Review Comments		
Planning	<input checked="" type="radio"/> Corrections Needed for Review <input type="radio"/> Insufficient Information for Review <input type="radio"/> Recommend Denial <input type="radio"/> Recommend Approval with Conditions <input type="radio"/> Recommend Approval <input type="radio"/> No Review Required Review 1:	
Black Hills Corp (Randy Kreifels)	<input type="radio"/> Corrections Needed for Review <input type="radio"/> Insufficient Information for Review <input type="radio"/> Recommend Denial <input checked="" type="radio"/> Recommend Approval with Conditions <input type="radio"/> Recommend Approval <input type="radio"/> No Review Required Review 1: I assume you are meaning the alley between 51st & 52nd - Prescott & Cooper. If so BHE does have any facilities within this alley, so we would recommend approval.	
Building & Safety (Terry Kathe)	<input type="radio"/> Corrections Needed for Review <input type="radio"/> Insufficient Information for Review <input type="radio"/> Recommend Denial <input type="radio"/> Recommend Approval with Conditions <input type="radio"/> Recommend Approval <input type="radio"/> No Review Required Review 1:	
Development Review Manager (Steve Henrichsen)	<input type="radio"/> Corrections Needed for Review <input type="radio"/> Insufficient Information for Review <input type="radio"/> Recommend Denial <input type="radio"/> Recommend Approval with Conditions <input checked="" type="radio"/> Recommend Approval <input type="radio"/> No Review Required Review 1:	
Law Department	<input type="radio"/> Corrections Needed for Review <input type="radio"/> Insufficient Information for Review <input type="radio"/> Recommend Denial <input type="radio"/> Recommend Approval with Conditions <input checked="" type="radio"/> Recommend Approval <input type="radio"/> No Review Required	

(Rick Peo)	<p>Review 1: The Law Department has confirmed that Union College is the titleholder of all lots abutting the alley to be vacated. The attachment to the Petition setting forth the abutting property owned by Union College includes property not abutting this alley. Either the petition or the attachment should be amended to only reflect the abutting property that Union College owns: Lots 1 - 12, Block 28, College View Addition, Lincoln, Lancaster County, Nebraska.</p>	
LES (Mike Petersen)	<p><input type="radio"/> Corrections Needed for Review    <input type="radio"/> Insufficient Information for Review  <input type="radio"/> Recommend Denial    <input checked="" type="radio"/> Recommend Approval with Conditions    <input type="radio"/> Recommend Approval    <input type="radio"/> No Review Required</p> <p>Review 1: 4-06-2012; LES requests the following; Retain easements for existing and future electrical facilities across the entire corridor. Mike P.</p>	
Public Works (Bruce Briney)	<p><input type="radio"/> Corrections Needed for Review    <input type="radio"/> Insufficient Information for Review  <input type="radio"/> Recommend Denial    <input type="radio"/> Recommend Approval with Conditions    <input type="radio"/> Recommend Approval    <input checked="" type="radio"/> No Review Required</p> <p>Review 1:</p>	
Public Works (Buff Baker)	<p><input type="radio"/> Corrections Needed for Review    <input type="radio"/> Insufficient Information for Review  <input type="radio"/> Recommend Denial    <input checked="" type="radio"/> Recommend Approval with Conditions    <input type="radio"/> Recommend Approval    <input type="radio"/> No Review Required</p> <p>Review 1: The alley will be required to be reconstructed to meet Driveway Design Standards and easement retained for the Sanitary Sewer.</p>	
Public Works (Dennis Bartels)	<p><input type="radio"/> Corrections Needed for Review    <input type="radio"/> Insufficient Information for Review  <input type="radio"/> Recommend Denial    <input checked="" type="radio"/> Recommend Approval with Conditions    <input type="radio"/> Recommend Approval    <input type="radio"/> No Review Required</p> <p>Review 1: Retain an easement for the existing public sewer in the alley. The existing alley return needs to be removed and the curb replaced, or if approved with the amended site plan the alley return needs to be removed and reconstructed as a driveway meeting driveway standards.</p>	
Public Works & Utilities - Wastewater (Brian Kramer)	<p><input type="radio"/> Corrections Needed for Review    <input type="radio"/> Insufficient Information for Review  <input type="radio"/> Recommend Denial    <input checked="" type="radio"/> Recommend Approval with Conditions    <input type="radio"/> Recommend Approval    <input type="radio"/> No Review Required</p> <p>Review 1: Retain an easement for the existing public sewer in the alley.</p>	
Public Works & Utilities - Water (Nick McElvain)	<p><input type="radio"/> Corrections Needed for Review    <input type="radio"/> Insufficient Information for Review  <input type="radio"/> Recommend Denial    <input type="radio"/> Recommend Approval with Conditions    <input type="radio"/> Recommend Approval    <input type="radio"/> No Review Required</p> <p>Review 1:</p>	
Time Warner Cable (Lou Kipper)	<p><input type="radio"/> Corrections Needed for Review    <input type="radio"/> Insufficient Information for Review  <input type="radio"/> Recommend Denial    <input type="radio"/> Recommend Approval with Conditions    <input type="radio"/> Recommend Approval    <input type="radio"/> No Review Required</p>	

<p>Urban Development - Real Estate (Clint Thomas)</p>	<p>Review 1:</p> <p> <input type="radio"/> Corrections Needed for Review    <input type="radio"/> Insufficient Information for Review  <input type="radio"/> Recommend Denial    <input type="radio"/> Recommend Approval with Conditions    <input checked="" type="radio"/> Recommend Approval    <input type="radio"/> No Review Required         </p> <p>Review 1:</p>	
<p>Windstream (Jon Littrell)</p>	<p> <input type="radio"/> Corrections Needed for Review    <input type="radio"/> Insufficient Information for Review  <input type="radio"/> Recommend Denial    <input checked="" type="radio"/> Recommend Approval with Conditions    <input type="radio"/> Recommend Approval    <input type="radio"/> No Review Required         </p> <p>Review 1: Windstream has existing pole and cable facilities within the alley right of way and requests that a utility easement be retained in the entire alley for existing and future facilities Jon Littrell 4/16/12</p>	

## INTEROFFICE MEMORANDUM

TO: Mayor Beutler  
& City Council Members

FROM: Clinton W. Thomas

DEPARTMENT: City Council Office

DEPARTMENT: Housing Rehab & Real Estate Division

ATTENTION:

DATE: May 4, 2012

COPIES TO: Teresa J. Meier  
Marvin Krout  
Rod Confer  
Byron Blum, Bldg & Safety  
Jean Preister, Planning

SUBJECT: Street & Alley Vacation No.12003  
North/South Alley approximately  
51<sup>st</sup> Street & Prescott Avenue

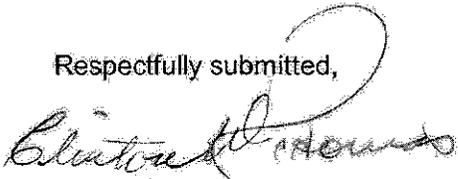
A request has been made to vacate the north/south alley in Block 28, College View, and has been determined to be in conformity with the Comprehensive Plan. The area to be vacated is a 16-foot wide alley consisting of 5,040 square feet. Public Works had indicated the existence of sanitary sewer, electric and telephone lines within the alley and have asked that easements be retained to guarantee accessibility for maintenance and repair of these utilities. The owner will also be required to replace the alley return with a commercial driveway.

Long, narrow strips such as this rarely have any value in and of themselves. This fact is compounded when easements are retained for various utilities and there is always the specter of future maintenance of these utilities disrupting the use of the property. Added to this is the requirement that the perspective owner will have the expenditure of replacing the alley access. As such the area to be vacated is considered to have only a nominal value of \$0.10 per square foot. The calculations are as follows:

$$5,040 \text{ sq. ft.} \times \$0.10/\text{sq. ft.} = \$504.00 \quad \text{Called } \$500.00$$

Therefore if the area is to be vacated it is recommend it be sold to the abutting property owner for \$500.

Respectfully submitted,



Clinton W. Thomas  
Certified General Appraiser #990023