

**City of Lincoln**

**BOARD OF ZONING APPEALS**

**AGENDA**

**BOARD OF ZONING APPEALS**

Annette McRoy, Chair  
Steve Miller, Vice Chair  
Tracy Edgerton  
David Johnson  
Vickie McDonald

**November 19, 2021**

# CITY BOARD OF ZONING APPEALS

Notice is hereby given that the **CITY BOARD OF ZONING APPEALS** will hold a public hearing on **Friday, November 19, 2021**, at 1:30 p.m. in the **City Council Chambers** on the 1<sup>st</sup> Floor of the County-City Building, 555 South 10th Street, on the following item. For more information, please contact the Planning Department at (402) 441-7491.

**Masks are strongly encouraged for our public meetings in this building.**

## AGENDA

**November 19, 2021**

1. Approval of the minutes of the City Board of Zoning Appeals hearing, held [October 29, 2021](#).

### ADMINISTRATIVE ACTION

2. [BOARD OF ZONING APPEALS 21003](#), requested by NeighborWorks of Lincoln, for a variance to minimum lot width from 40' to 39.9' for a single-family dwelling on property generally located at 30<sup>th</sup> and S Streets.

\* \* \* \* \*

The City Board of Zoning Appeals agenda may be accessed on the Internet at

<http://www.lincoln.ne.gov/city/plan/boards/cibza/cibza.htm>

### ACCOMMODATION NOTICE

The City of Lincoln complies with Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973 guidelines. Ensuring the public's access to and participating in public meetings is a priority for the City of Lincoln. In the event you are in need of a reasonable accommodation in order to attend or participate in a public meeting conducted by the City of Lincoln, please contact the Director of Equity and Diversity, Lincoln Commission on Human Rights, at 402 441-7624 as soon as possible before the scheduled meeting date in order to make your request.

**CITY BOARD OF ZONING APPEAL #21003**

**DATE SCHEDULED FOR PUBLIC HEARING:**

November 19, 2021

**ADDRESS:**

Near North 30<sup>th</sup> & S Streets

**LEGAL DESCRIPTION:**

Lot 8, Block 22, Pecks Grove, SW1/4 of Section 19-10-7,  
Lincoln, Lancaster County, Nebraska.

**EXISTING LAND USE AND ZONING:**

Single-family Residential

R-4 Residential

**SURROUNDING LAND USE AND ZONING:**

North: Residential

R-4

South: Residential

R-4

East: Residential

R-4

West: Residential

R-4

**TYPE(S) OF APPEAL(S):**

THIS APPEAL IS DIRECTED TO THE BOARD RELATIVE TO A VARIANCE PER LINCOLN MUNICIPAL CODE 27.72.020(C)(1).

1. A. Lincoln Municipal Code (LMC) Section 27.72.020(C)(1) In the R-1 through R-4 zoning districts, if a vacant lot or tract of land has less area or width or both less area and width than herein required but is at least 40 feet wide and was legally created prior to November 2, 1953, such lot or tract of land may be used for a single-family dwelling.

The subject lot is 39.9' wide and was legally platted in 1886. The petition is requesting a variance to adjust the 40' minimum lot width exception to 39.9' to allow a single-family dwelling to be built on the lot.

**STAFF FINDINGS:**

1. The subject lot, Lot 8, Block 22, Pecks Grove has no address but is located between 3041 and 3055 S Street. It is vacant with the exception of an accessory building partially straddling the common lot line with 3041.
2. Pecks Grove subdivision was recorded in 1886, and Lot 8, Block 22 was platted as 39.9' wide. The petitioner is NeighborWorks whom is seeking to locate a single-family dwelling on the lot.

3. The property, as are all surrounding properties, is zoned R-4 residential where the lot area regulators are as follows:

Minimum Lot Area – 5,000 square feet.

Average Lot Width – 50'

Setbacks - Front – 25'; Side – 5'; Rear – 20' or 20% of the lot depth, whichever is less.

4. For R-4 Residential lots, the minimum average lot width for a detached, single-family dwelling is 50', but there is an exception. LMC Section 27.72.020(C)(1) states:

In the R-1 through R-4 zoning districts, if a vacant lot or tract of land has less area or width or both less area and width than herein required but is at least 40 feet wide and was legally created prior to November 2, 1953, such lot or tract of land may be used for a single-family dwelling.

5. According to the Department of Building and Safety, no permits have ever been approved for a building on Lot 22. Building and Safety concluded the lot has been vacant over time and used in conjunction with an adjacent lot for yard and open space. This fact also precludes the use of another exception in the Zoning Ordinance, Section 27.72.020(C)(4) which states:

If an existing lot or tract of land in a residential zoning district lawfully occupied by a single-family or two-family dwelling on the effective date of this title or on the effective date of a change in district boundaries from another zoning district to the existing residential district has less area or width or both less area and width than herein required, such lot or tract of land shall not be considered nonstandard due to this condition.

6. Lot 8, Block 22 was legally platted prior to 1953, and according to records has never been developed. If it were 40' wide it could be developed using the exception under Section 27.72.020(C)(1) as it otherwise meets the criteria. However, at 39.9' it is one-tenth of a foot under the allowed minimum.

7. The final plat of Pecks Grove was recorded in 1886. Most of the lots remain today as originally platted. That is, they haven't been divided and deeded to separate owners. Oddly, the west boundary of the final plat extends through the middle of the block as it is developed today (see exhibit of Pecks Grove final plat). All of the lots along the western edge of the final plat were platted at 39.9' in width. A survey of the neighborhood shows that all of the 39.9' lots except for the subject lot have been developed with dwellings.

8. The subject lot is 1/10<sup>th</sup> of a foot short of meeting the minimum requirement exception which allows lots as narrow as 40' in width to be developed with a

single-family dwelling. The amount of shortfall is insignificant and unnoticeable. Other lots of the exact same width have been developed and they are part of the character and fabric of this neighborhood. A single-family dwelling being built on this lot is a benefit to the neighborhood with no negative impact.

9. The Board of Zoning Appeals is authorized to grant this variance per Section 27.59.110 and Neb. Rev. Stat. Section 3-312. Specifically, it shall allow variances where a literal application or enforcement of the regulations would result in a practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of the regulations.
10. If the variance is approved the petitioner will be allowed to build a detached single-family dwelling on the lot. If the variance is denied the lot is undevelopable and will remain vacant.

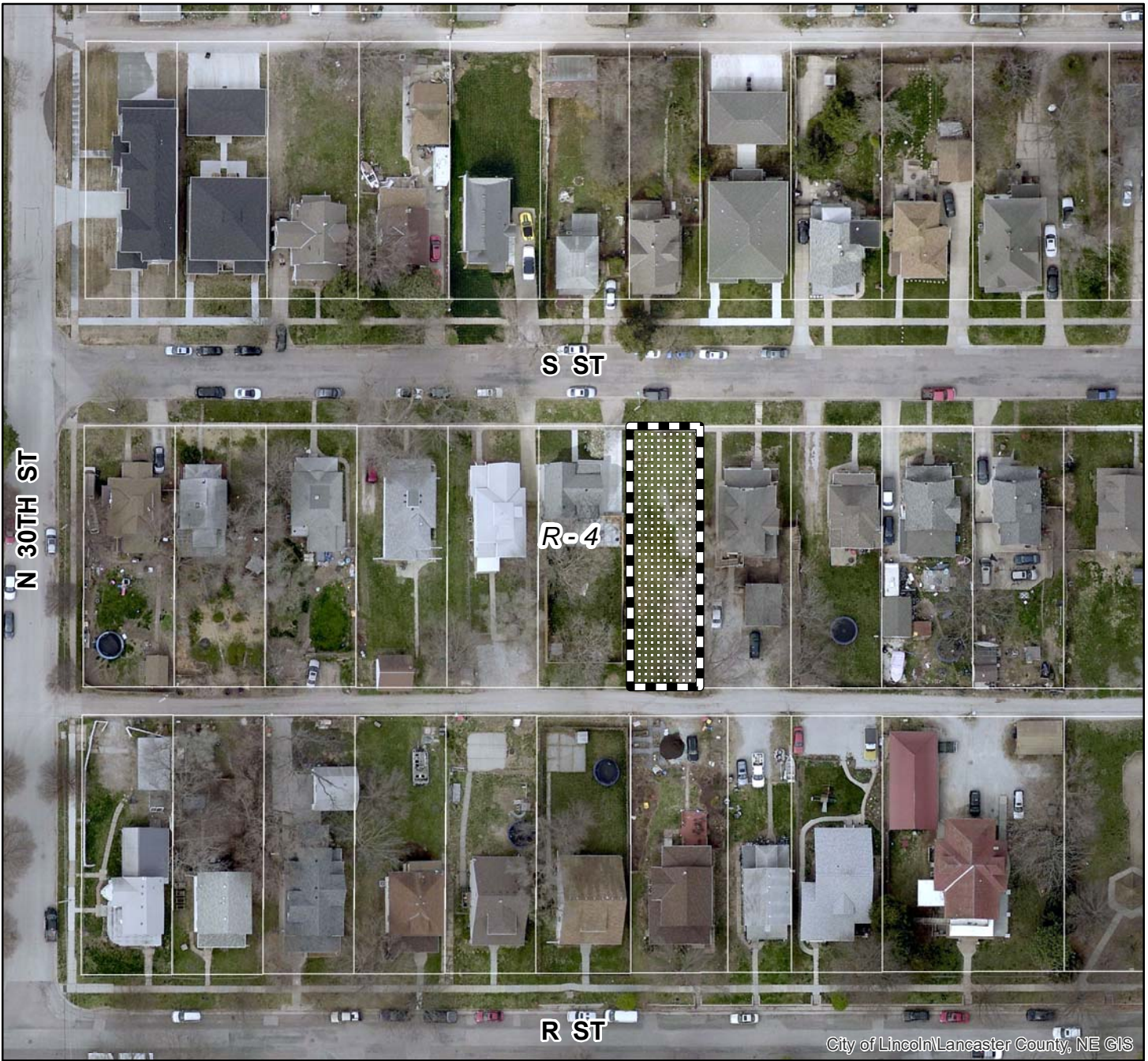
Prepared by

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Brian Will, 441-6362, [bwill@lincoln.ne.gov](mailto:bwill@lincoln.ne.gov)  
Planner  
November 4, 2021

**APPLICANT/  
CONTACT/  
PETITIONER:**

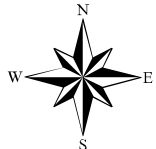
Wayne Mortensen  
NeighborWorks Lincoln  
2430 Q Street  
Lincoln, NE 68503  
Wayne.mortensen@nwlincoln.org  
402-477-7181



City of Lincoln/Lancaster County, NE GIS

2020 aerial

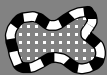


**Board of Zoning Appeals #: BZA21003**  
**N 30th St & S St**

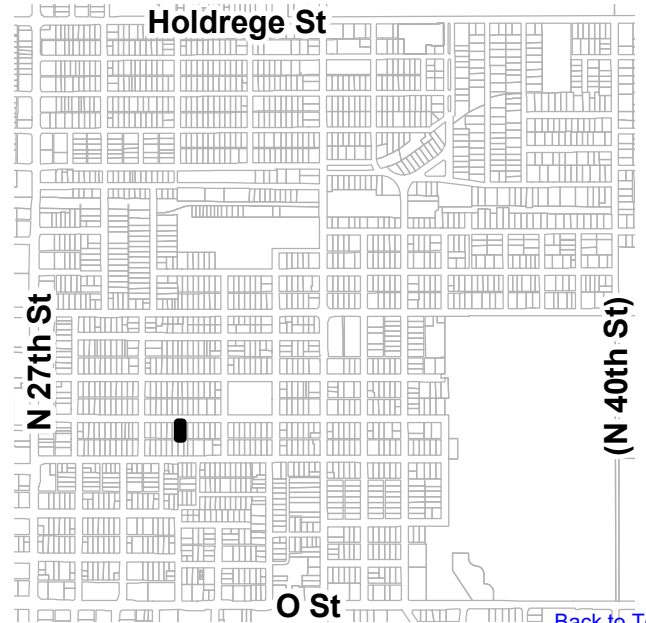


**Zoning:**

- 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.19 T10N R07E**

|   |                               |
|---|-------------------------------|
|  | Area of Application           |
|  | Zoning Jurisdiction Lines     |
|  | Lancaster County Jurisdiction |



S STREET

LOT 8: BLOCK 22: PECKS GROVE ADDITION  
LINCOLN, LANCASTER COUNTY, NEBRASKA  
ZONE R4

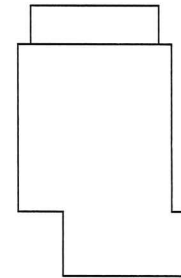
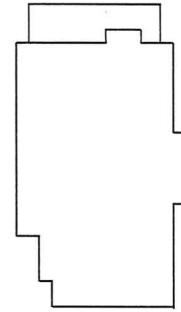
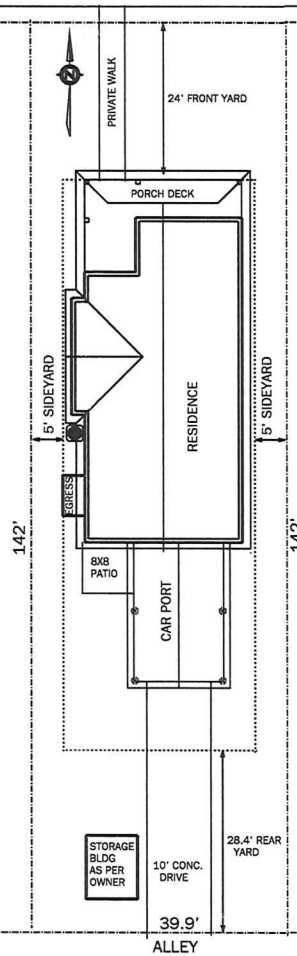
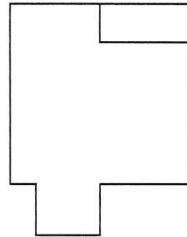
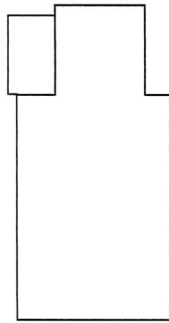
PUBLIC WALK

3029

3041

3055

3065



Plot

SCALE: 1" = 30'-0"

NeighborWorks  
LINCOLN NEBRASKA

LOT 8 S STREET  
1.215 RANCH

APPROVED BY

SAYER  
DRAFTING  
AND  
DESIGN

By Paul Spurr 16033867016

THESE PLANS ARE THE PROPERTY OF SAYER DRAFTING AND DESIGN. THE USER AGREES TO VERIFY ALL DIMENSIONS AND CONDITIONS ON THE GROUND BEFORE CONSTRUCTION. SAYER DRAFTING AND DESIGN IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS. THE USER AGREES TO OBTAIN ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL GOVERNMENT. THE USER AGREES TO BE BOUND BY ALL LOCAL, STATE AND FEDERAL LAWS AND REGULATIONS. THE USER AGREES TO HOLD SAYER DRAFTING AND DESIGN HARMLESS FROM ALL LIABILITY, DAMAGES, LOSSES AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES, IN CONNECTION WITH THESE PLANS.

Plot

DATE:  
Tuesday, June 1, 2021

PAGE:  
1 / 1

A AA-30761

6811 SOUTHFORK CIRCLE  
LINCOLN, NE 68516  
(402) 476-3020  
(402) 476-3138 FAX

# SURVEY RECORD

## K & M inc.

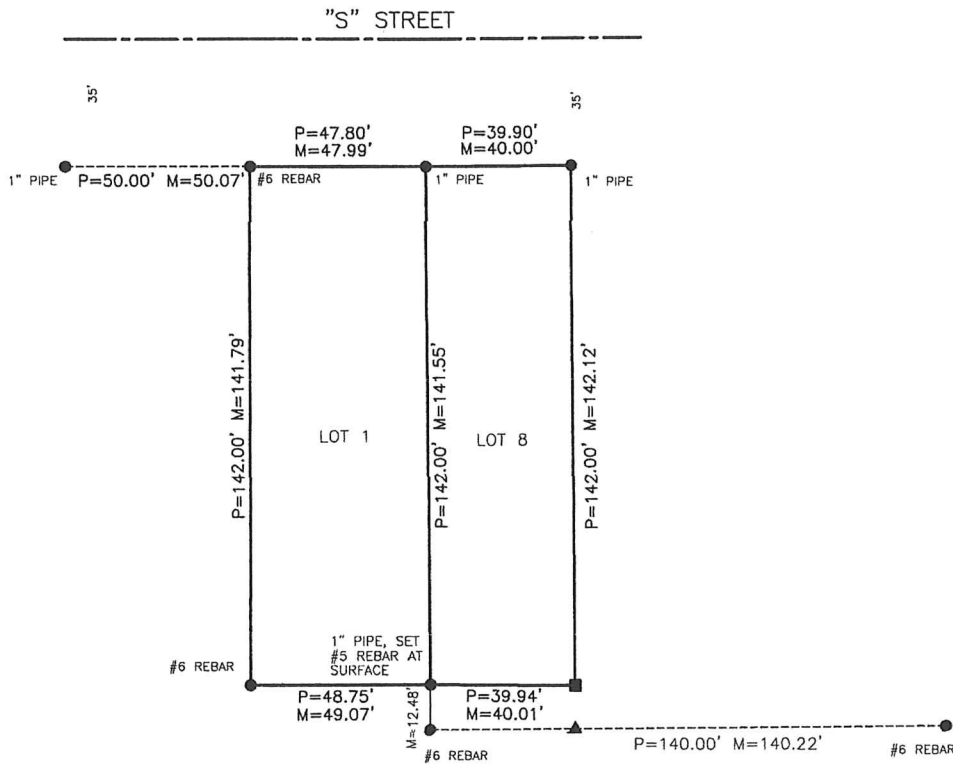
### Land Surveying

PROJECT # 1808056  
DATE: 9/10/2018

Survey Of: LOT 1, BLOCK 8, PITCHER & BALDWINS SUBDIVISION & LOT 8, BLOCK 22,  
PECKS GROVE, LOCATED IN THE SOUTHWEST QUARTER OF

Section: 19 , T 10 N, R 7 E, of the 6th P.M. LINCOLN, LANCASTER County, Nebraska

3041 "S" STREET



SCALE 1" = 40'

RECEIVED

MAR 11 2019

LANCASTER COUNTY  
ENGINEERING DEPT.

- P = Platted
- M = Measured
- = Found as noted
- = Set #5 Rebar & L.S. #483 Cap
- ▲ = Temporary/computed Point

### SURVEYOR'S CERTIFICATE

I hereby certify that I have accurately surveyed the property in the above plat. All dimensions are in feet and decimals of a foot.

Signed this day of 3-1-2019

Billy Joe Kerr  
Billy Joe Kerr, L.S. #483



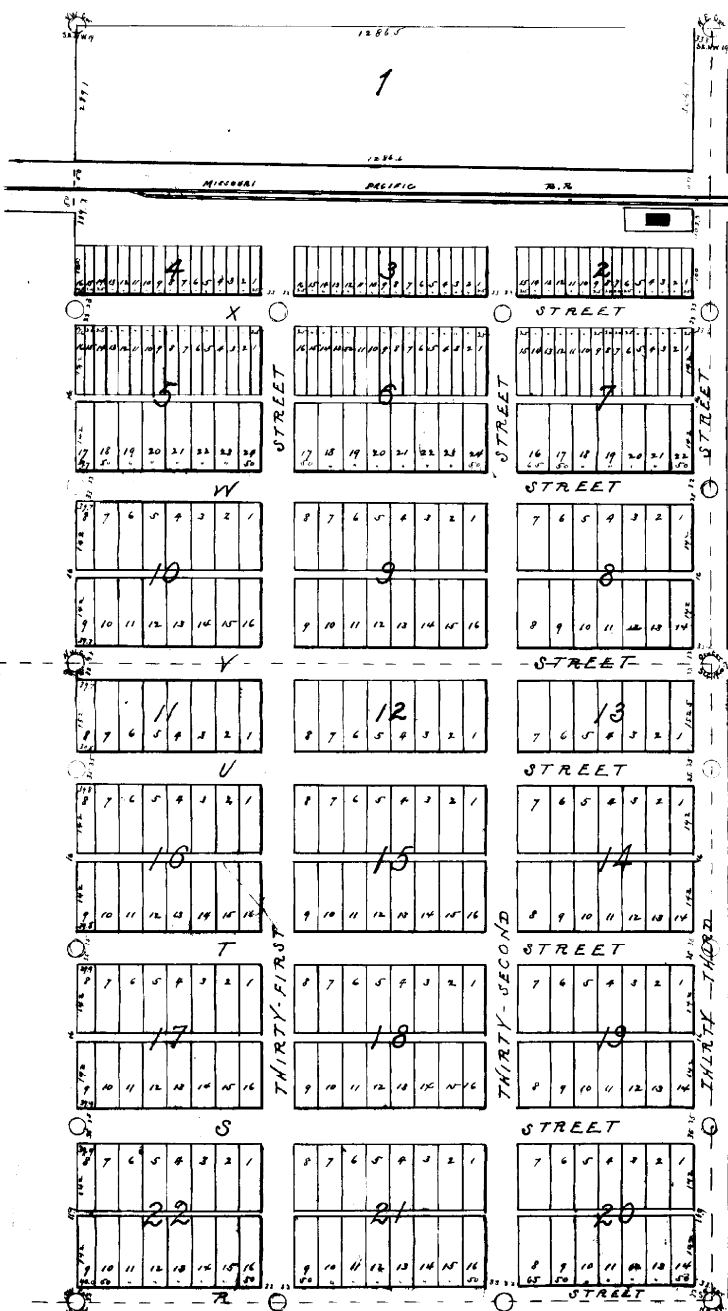
# PECK'S GROVE

## LANCASTER CO. NEB.

Scale, one inch = 200 feet.

LANCASTER COUNTY, NEB.  
 Subscribed and sworn to before me  
 and filed for record in  
 Book \_\_\_\_\_ of said County, this  
 13<sup>th</sup> day of July 1886  
 J. P. Matton  
 County Clerk

*DeBell*  
 Clerk



### LEGEND.

Peck's Grove, Lancaster, Co. Neb. comprises the S.E. 1/4 of the N.W. 1/4 and the N.E. 1/4 of the S.W. 1/4 of Section 19 T. 10 N. 7 E. of the S. 23 R. 7 E.  
 R. Street is 33 feet wide.  
 S, T & U Streets are each 70 feet wide.  
 V, W, X, Thirty-first & Thirty-second streets are each 66 feet wide.  
 Thirty-third street has dimensions as marked on the plat.  
 Alleys are 16 feet wide except the alleys in blocks 20, 21 & 22 which are 11 1/2 feet wide.  
 All streets and alleys are parallel with or at right angles to the south line of the T. 6 1/4 S.W. 1/4 of Section 19 T. 10 N. 7 E.  
 All lots have dimensions as indicated in feet and decimals by red figures on the plat.  
 Block figures indicate the lot's block number.  
 Oak stakes are driven to the ground at the front corners of all lots and at the alley corners on the block lines. Stones are set at points marked 2 and 3.

July 10th 1886.

J. P. Matton  
 Co. Surveyor.

Therefore, subdivision of the S.E. 1/4 N.W. 1/4 and the N.E. 1/4 S.W. 1/4 of Section 19 T. 10 N. 7 E. as appears on this plat is with the free consent and in accordance with the desire of the undersigned owner and proprietor. Signed this twelfth day of July A.D. 1886  
 In presence of: *Patrick, Attorney Trustee*

The State of Nebraska, On this twelfth day of July  
 Lancaster County, A.D. 1886 before me the undersigned a Notary Public duly commissioned and qualified for and residing in said county personally came Frederick A. Hovey trustee to me personally known to be the identical person who executed the foregoing instrument and he acknowledged the same to be his voluntary act and deed.  
 Witness my hand and Notarial Seal of Lincoln in said county the day and year last above written  
*Relovey, Notary Public*



02 November 2021

To the City of Lincoln Board of Zoning Appeals,

Lincoln has a projected deficit of 17,123 housing units, including 5,465 that need to be affordable to low and moderate-income families. This proposed three-bedroom unit will be a welcome addition to the street and to the community as a whole. NeighborWorks Lincoln is adept at building high quality homes that fit into tight infill lots. NeighborWorks Lincoln homes not only respect their context but add value to neighbors and this project will be no different. The design will complement the historic rhythm and scale of the street and observe all required setbacks.

The plat enclosed shows the recorded width\* of the parcel being just three inches (0.6%) shy of 40'-0", thus we humbly ask for a BZA waiver to the minimum required lot width in order to build a single family home on this site. At 24' wide, the one-story home will not feel crowded nor will it crowd the neighbors (especially since it is bordered by a side yard and a driveway on its east and west borders, respectively). The home will benefit from both a generous backyard and a pedestrian oriented front yard/porch. Most importantly, it will be an affordable single-family homeownership opportunity in a very difficult residential market.

Thank you for your consideration in this matter.

Best,



Wayne Mortensen, AIA  
NeighborWorks Lincoln CEO

(402.541.9210)

\*Included within our documentation is a recent survey that suggests the legal width may need to be revised, but are confident in our ability to address any lot width concerns regardless of actual dimension.

