

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
NOVEMBER 16, 2021 AGENDA**

Subject:	Type:	Submitted By:
RIGHT-OF-WAY VACATION – PART OF 78 TH ST. WEST OF PARK VIEW BLVD	◆ RESOLUTION ORDINANCE RECEIVE/FILE	CALE BRODERSEN, AICP ASSISTANT PLANNER

SYNOPSIS

An ordinance has been prepared to approve the vacation of a portion of unused 78th Street public right-of-way southwest of Park View Boulevard, in order to convey it to two adjacent property owners. This unused property will be added to the tax base and one property owner intends to utilize the additional buildable area to construct an attached garage.

FISCAL IMPACT

The adjacent property owners will reimburse the City for any and all expenses incurred in the process of vacating and conveying the property.

RECOMMENDATION

Approval.

BACKGROUND

The City of La Vista received a request by Terry Frecks and Wyatt Buls to vacate and convey a portion of the 78th Street right-of-way southwest of Park View Boulevard to be split between the two adjacent property owners. Frecks and Buls currently maintain the property, however the transfer of legal ownership would give Mr. Buls the necessary buildable area to construct an attached garage to his home located at 7801 Park View Boulevard. Staff has confirmed that the City has no use for the property and supports its conveyance.

An ordinance has been prepared to vacate that portion of the 78th Street right-of-way as shown on Exhibit A and the vicinity map included in this packet. Exhibit B shows that portion which would be conveyed to Wyatt and Elizabeth Buls, and Exhibit C shows that portion which would be conveyed to Terry and Mary Frecks. A notice of the sale and the manner and terms of the sale (attached to this staff report) will be published for three consecutive weeks in the newspaper. A remonstrance can be filed against the sale of the property if at least 30% of the electors voting in the last City election sign the remonstrance. A remonstrance against the sale must be filed within 30 days after the passage and publication of the ordinance. If a remonstrance is not filed, the City will prepare deeds in which the City quitclaims its interest in the vacated right-of-way to Terry and Mary Frecks and Wyatt and Elizabeth Buls, and the properties will be replatted to establish two new legal lots of record. A drainage and utility easement will be included on the Final Plat to ensure adequate maintenance access to the storm sewer line located under a portion of the right-of-way to be vacated.

ORDINANCE NO. _____

AN ORDINANCE VACATING, AND RESERVING AND RETAINING TITLE IN THE CITY TO, AND DIRECTING THE SALE AND CONVEYANCE OF, A PART OF 78TH STREET RIGHT-OF-WAY LOCATED IN THE NW ¼ OF SECTION 14, TOWNSHIP 14 NORTH, RANGE 12 EAST OF THE 6TH P.M., SARPY COUNTY, NEBRASKA; AND TO PROVIDE AN EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA:

Section 1. It is hereby declared necessary, expedient, proper and for the public good to vacate, and for the City to reserve and retain title to (for sale and conveyance of), a part of 78TH Street right-of-way located in the NW ¼ of Section 14, Township 14 North, Range 12 East of the 6th P.M., Sarpy County, Nebraska, more particularly described or depicted as Parcel 1 in Exhibit A, attached hereto (“Parcel 1”); and said Parcel 1 is hereby vacated and the City reserves and retains title thereto for sale and conveyance thereof as directed in Section 2 below. Such vacation, sale and conveyance, in addition to any other conditions specified in this Ordinance, shall be subject to approval, execution, and filing with the Sarpy County Register of Deeds of one or more replats incorporating applicable portions of Parcel 1, as described below, into abutting lots owned by the Grantees, and shall be effective on the date that the quitclaim deeds described in Section 2 below are filed with the Sarpy County Register of Deeds.

Section 2. Upon payment of adequate consideration and such costs and fees incurred by the City in connection with the vacation, sale and conveyance of Parcel 1 as determined satisfactory by the Community Development Director, the City shall provide quitclaim deeds selling and conveying Parcel 1 as follows:

<u>Description</u>	<u>Grantee</u>
The portion of Parcel 1 described or depicted as Parcel 2 in Exhibit B, and	Wyatt & Elizabeth Buls, husband and wife (“Buls”)
The portion of Parcel 1 described or depicted as Parcel 3 in Exhibit C,	Terry & Mary Frecks, husband and wife (“Frecks”)

subject to the rights, conditions and limitations set forth in this Ordinance, including without limitation those set forth in this Section 2 below, and in accordance with the manner and terms of conveyance specified in Exhibit D attached hereto, which rights, conditions, limitations, manner and terms are hereby deemed to be in the best interests of the City; and all of which rights, conditions, limitations, manner and terms shall constitute covenants running with the land and continue in perpetuity and be binding on Buls, Frecks, and all successors or assigns of Buls, Frecks, Parcel 2, or Parcel 3, or any of them.

- a. In addition to any reserved rights provided elsewhere in this Ordinance or in any document or instrument of conveyance or under applicable law, the following rights, conditions and limitations shall be reserved in perpetuity to the City of La Vista with respect to each of Parcel 2 and Parcel 3:
 - i. the right to maintain, operate, repair, replace, extend and renew sewers and other improvements now existing in, on, over, under or across Parcel 2 or Parcel 3 and in the future to construct, maintain, repair, replace, extend and renew additional or other sewers and improvements;

- ii. the right to authorize public utilities, cable television companies and other persons, systems or services to construct, maintain, repair, replace, renew, extend and operate now or hereafter installed water mains and gas mains, poles, lines, conduits, equipment and appurtenances above, in, on, over, across or below the surface of the ground for the purpose of serving the general public or abutting property;
 - iii. the right to authorize such connections or branch lines as may be ordered, desired or permitted by the City or such other utility, person, system or service; and
 - iv. the right to enter upon Parcel 2 or Parcel 3 to accomplish the above or to enforce or exercise any other rights or requirements set forth in this Ordinance or under any applicable laws, rules, or regulations, and any related or similar purposes at any and all times.
- b. Parcel 1 abuts an existing residential property on Lot 1301, La Vista, owned and occupied by Buls, and an existing residential property on Lots 880 & 881, La Vista, owned and occupied by Frecks. Due to the proximity of the lots to their respective properties, the Buls and Frecks each desires and represents to the City that they each shall acquire their respective portions of Parcel 1 described in this Ordinance for the sole purpose of incorporating, owning and maintaining said parcels into and in connection with their respective homes on lots 1301, 880, and 881.

Vacation, conveyances, and closing of or on Parcel 2 to Buls and Parcel 3 to Frecks shall be subject to the following conditions:

- i. Buls and Frecks at their sole cost and expense shall apply for and receive approval of preliminary and final plats incorporating Parcel 2 and Parcel 3 into the existing abutting properties (Lots 1301, 880, and 881, La Vista) on such conditions as satisfactory to the Mayor and City Council; and
- ii. Any construction, maintenance, or use of or on the properties shall be subject to satisfaction of all applicable federal, state and local laws, rules, and regulations, as adopted, modified or superseded from time to time, including without limitation any applicable permitting, zoning, building code, or other requirements.

Such conveyances shall be executed by the Mayor and City Clerk, who are hereby authorized to take such action. Exhibits A through D as referenced above shall be incorporated into this Ordinance by reference.

Section 3. The City Clerk is hereby authorized and directed to publish notice of the sale of Parcel 1 and the terms of such sale in accordance with the requirements of Section 16-202 of the Revised Statutes of Nebraska.

Section 4. This ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

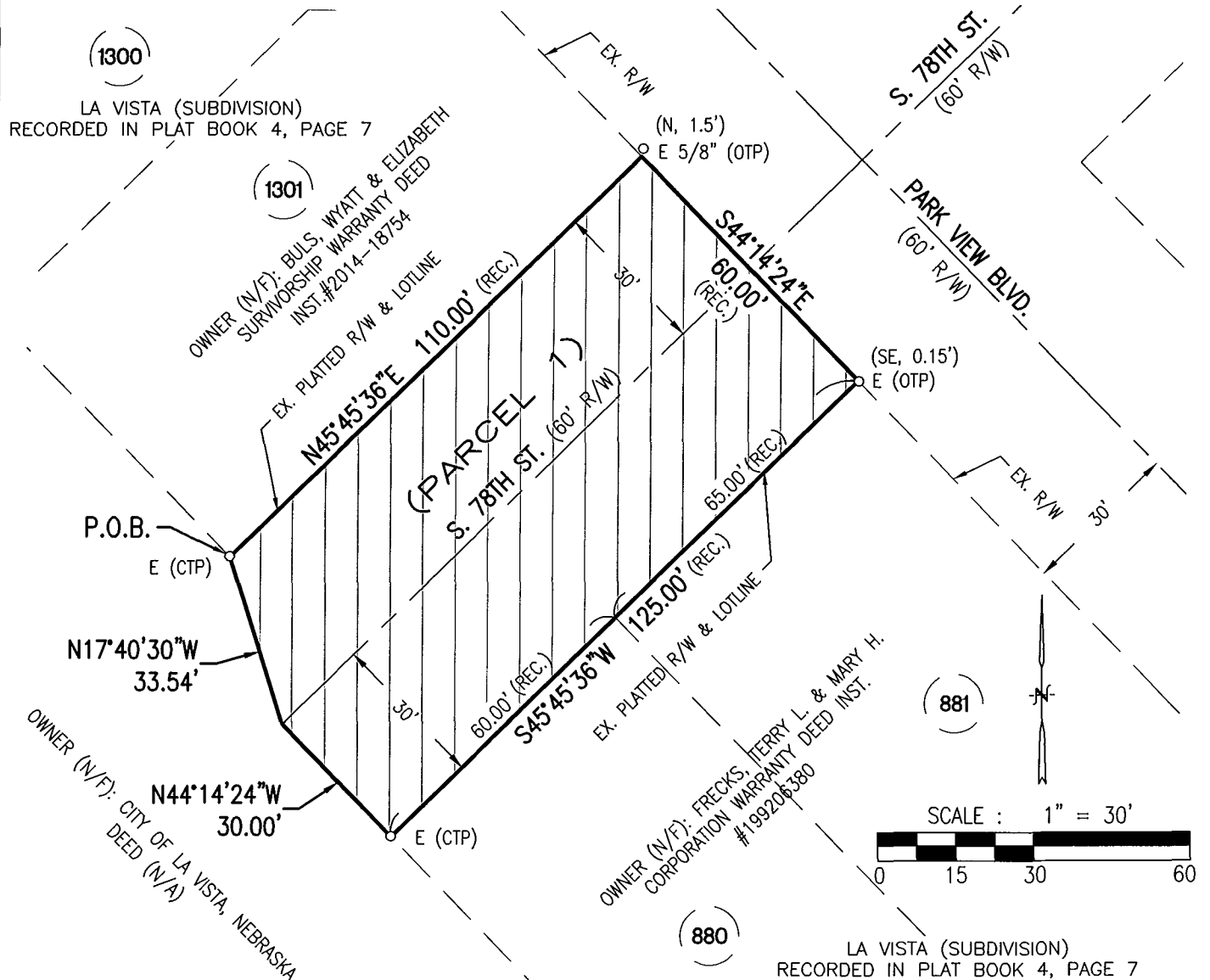
PASSED AND APPROVED THIS 16th DAY OF NOVEMBER 2021.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk



PROPERTY DESCRIPTION - (PARCEL 1)

A PART OF THE PLATTED 60.00-FOOT WIDE SEVENTY-EIGHTH (78TH) STREET RIGHT-OF-WAY LYING SOUTH OF THE SOUTHERLY RIGHT-OF-WAY LINE OF PARK VIEW BOULEVARD, AS SHOWN BY LA VISTA, A SUBDIVISION, AS RECORDED IN PLAT BOOK 4, PAGE 7 OF THE RECORDS OF THE REGISTER OF DEEDS OF SARPY COUNTY, NEBRASKA, LOCATED IN THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 14 NORTH, RANGE 12 EAST OF THE 6TH PRINCIPAL MERIDIAN, LA VISTA, SARPY COUNTY, NEBRASKA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 1301 OF SAID LA VISTA (SUBDIVISION), SAID POINT BEING ON THE WESTERLY RIGHT-OF-WAY LINE OF SAID (78TH) STREET; THENCE WITH THE SAID WESTERLY RIGHT-OF-WAY LINE, N45°45'36"E, 110.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 1301 AND THE SOUTHERLY RIGHT-OF-WAY LINE OF PARK VIEW BOULEVARD; THENCE LEAVING SAID WESTERLY RIGHT-OF-WAY LINE, S44°14'24"E, 60.00 FEET TO THE NORTHWEST CORNER OF LOT 881 OF SAID LA VISTA (SUBDIVISION) AND THE EASTERLY RIGHT-OF-WAY LINE OF SAID (78TH) STREET; THENCE WITH SAID EASTERLY RIGHT-OF-WAY LINE, S45°45'36"W, 125.00 FEET TO THE SOUTHWEST CORNER OF LOT 880 OF SAID LA VISTA (SUBDIVISION); THENCE LEAVING SAID EASTERLY RIGHT-OF-WAY LINE, N44°14'24"W, 30.00 FEET TO THE CENTERLINE OF SAID (78TH) STREET; THENCE N17°40'30"W, 33.54 FEET TO THE POINT OF BEGINNING AND CONTAINING 7,275 SQUARE FEET (0.167 ACRES), MORE OR LESS.

TREKK
DESIGN GROUP, LLC
2858 SPRAGUE STREET
OMAHA, NE 68111
PH: (402) 339-2982

EXHIBIT "A"

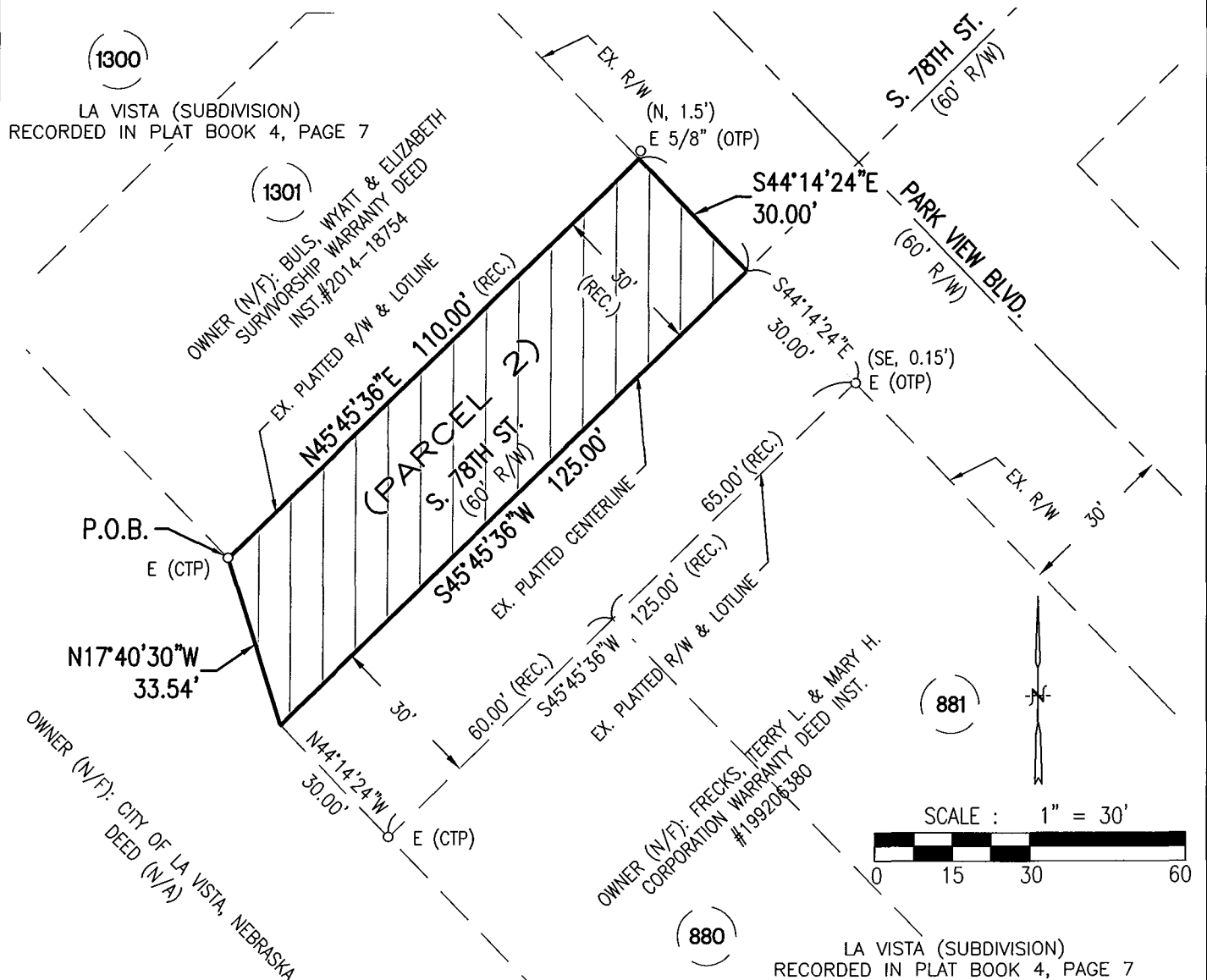
CITY OF LA VISTA
SARPY COUNTY, NEBRASKA

BOOK
PAGE

PROJECT NUMBER:
21-0196

SCALE
1"=30'

DATE
SEPT. 24, 2021



PROPERTY DESCRIPTION - (PARCEL 2)

THE WEST ONE-HALF (1/2) OF THAT PART OF THE PLATTED 60.00-FOOT WIDE SEVENTY-EIGHTH (78TH) STREET RIGHT-OF-WAY LYING SOUTH OF THE SOUTHERLY RIGHT-OF-WAY LINE OF PARK VIEW BOULEVARD, AS SHOWN BY LA VISTA, A SUBDIVISION, AS RECORDED IN PLAT BOOK 4, PAGE 7 OF THE RECORDS OF THE REGISTER OF DEEDS OF SARPY COUNTY, NEBRASKA, LOCATED IN THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 14 NORTH, RANGE 12 EAST OF THE 6TH PRINCIPAL MERIDIAN, LA VISTA, SARPY COUNTY, NEBRASKA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 1301 OF SAID LA VISTA (SUBDIVISION), SAID POINT BEING ON THE WESTERLY RIGHT-OF-WAY LINE OF SAID (78TH) STREET; THENCE WITH THE SAID WESTERLY RIGHT-OF-WAY LINE, N45°45'36"E, 110.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 1301 AND THE SOUTHERLY RIGHT-OF-WAY LINE OF PARK VIEW BOULEVARD; THENCE LEAVING SAID WESTERLY RIGHT-OF-WAY LINE, S44°14'24"E, 30.00 FEET TO THE PLATTED CENTERLINE OF SAID (78TH) STREET; THENCE WITH SAID PLATTED CENTERLINE, S45°45'36"W, 125.00 FEET; THENCE LEAVING SAID PLATTED CENTERLINE, N17°40'30"W, 33.54 FEET TO THE POINT OF BEGINNING AND CONTAINING 3,525 SQUARE FEET (0.081 ACRES), MORE OR LESS.

TREKK
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2858 SPRAGUE STREET
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EXHIBIT "B"

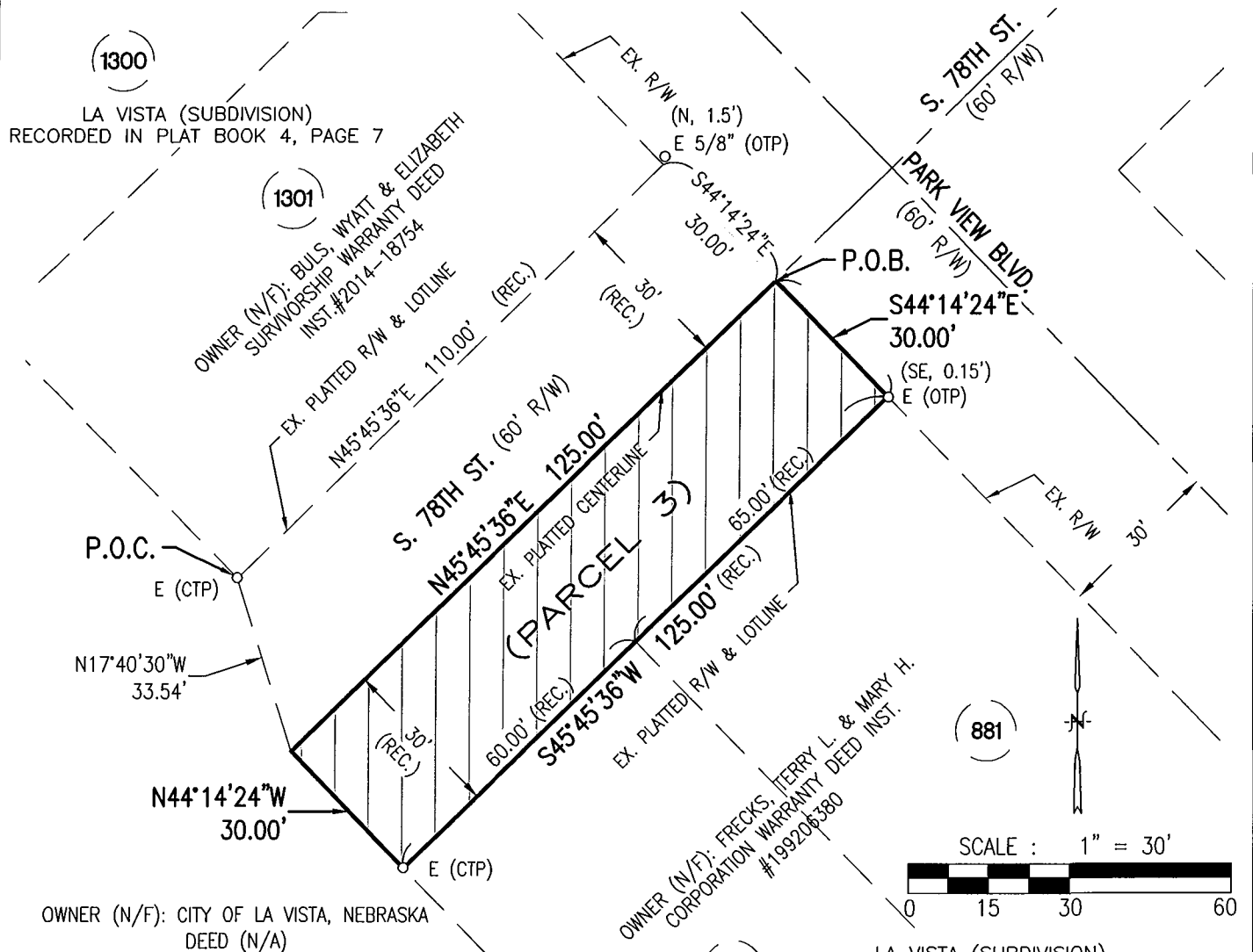
CITY OF LA VISTA
SARPY COUNTY, NEBRASKA

BOOK
PAGE

PROJECT NUMBER:
21-0196

SCALE
1"=30'

DATE
OCT. 7, 2021



PROPERTY DESCRIPTION - (PARCEL 3)

THE EAST ONE-HALF (1/2) OF THAT PART OF THE PLATTED 60.00-FOOT WIDE SEVENTY-EIGHTH (78TH) STREET RIGHT-OF-WAY LYING SOUTH OF THE SOUTHERLY RIGHT-OF-WAY LINE OF PARK VIEW BOULEVARD, AS SHOWN BY LA VISTA, A SUBDIVISION, AS RECORDED IN PLAT BOOK 4, PAGE 7 OF THE RECORDS OF THE REGISTER OF DEEDS OF SARPY COUNTY, NEBRASKA, LOCATED IN THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 14 NORTH, RANGE 12 EAST OF THE 6TH PRINCIPAL MERIDIAN, LA VISTA, SARPY COUNTY, NEBRASKA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 1301 OF SAID LA VISTA (SUBDIVISION), SAID POINT BEING ON THE WESTERLY RIGHT-OF-WAY LINE OF SAID (78TH) STREET; THENCE WITH THE SAID WESTERLY RIGHT-OF-WAY LINE, N45°45'36"E, 110.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 1301 AND THE SOUTHERLY RIGHT-OF-WAY LINE OF PARK VIEW BOULEVARD; THENCE LEAVING SAID WESTERLY RIGHT-OF-WAY LINE, S44°14'24"E, 30.00 FEET TO THE PLATTED CENTERLINE OF SAID (78TH) STREET AND THE POINT OF BEGINNING:

THENCE FROM THE POINT OF BEGINNING, S44°14'24"E, 30.00 FEET TO THE NORTHWEST CORNER OF LOT 881 OF SAID LA VISTA (SUBDIVISION) AND THE EASTERLY RIGHT-OF-WAY LINE OF SAID (78TH) STREET; THENCE WITH SAID EASTERLY RIGHT-OF-WAY LINE, S45°45'36"W, 125.00 FEET TO THE SOUTHWEST CORNER OF LOT 880 OF SAID LA VISTA (SUBDIVISION); THENCE LEAVING SAID EASTERLY RIGHT-OF-WAY LINE, N44°14'24"W, 30.00 FEET TO THE SAID PLATTED CENTERLINE OF (78TH) STREET; THENCE WITH SAID PLATTED CENTERLINE, N45°45'36"E, 125.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 3,750 SQUARE FEET (0.086 ACRES), MORE OR LESS.

TREKK
DESIGN GROUP, LLC
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PH: (402) 339-2982

EXHIBIT "C"

CITY OF LA VISTA
SARPY COUNTY, NEBRASKA

BOOK
PAGE

PROJECT NUMBER:
21-0196

SCALE
1"=30'

DATE
OCT. 7, 2021

EXHIBIT "D"

MANNER AND TERMS OF CONVEYANCE

Manner of Conveyance: Quitclaim Deeds of vacated right-of-way in two conveyances west and east of the approximate center line of such vacated right-of-way from the City to owners of properties abutting such vacated right-of-way, with reservation of easements and other rights.

Terms of Conveyance:

1) Legal Description(s):

West Parcel: The west one-half (1/2) of that part of the platted 60.00-foot wide seventy-eighth (78th) Street right-of-way lying south of the southerly right-of-way line of Park View Boulevard, as shown by La Vista, a subdivision, as recorded in plat book 4, page 7 of the records of the Register of Deeds of Sarpy County, Nebraska, located in the northwest quarter of Section 14, Township 14 North, Range 12 East of the 6th Principal Meridian, La vista, Sarpy County, Nebraska, and being more particularly described as follows: beginning at the southeast corner of Lot 1301 of said La Vista (subdivision), said point being on the westerly right-of-way line of said (78th) Street; thence with the said westerly right-of-way line, N45°45'36"E, 110.00 feet to the northeast corner of said Lot 1301 and the southerly right-of-way line of Park View Boulevard; thence leaving said westerly right-of-way line, S44°14'24"E, 30.00 feet to the platted centerline of said (78th) Street; thence with said platted centerline, S45°45'36"W, 125.00 feet; thence leaving said platted centerline, N17°40'30"W, 33.54 feet to the point of beginning and containing 3,525 square feet (0.081 acres), more or less.

East Parcel: The east one-half (1/2) of that part of the platted 60.00-foot wide seventy-eighth (78th) Street right-of-way lying south of the southerly right-of-way line of Park View Boulevard, as shown by La Vista, a subdivision, as recorded in plat book 4, page 7 of the records of the Register of Deeds of Sarpy County, Nebraska, located in the northwest quarter of section 14, township 14 north, range 12 east of the 6th Principal Meridian, La Vista, Sarpy County,

Nebraska, and being more particularly described as follows: commencing at the southeast corner of Lot 1301 of said La Vista (subdivision), said point being on the westerly right-of-way line of said (78th) Street; thence with the said westerly right-of-way line, N45°45'36"E, 110.00 feet to the northeast corner of said Lot 1301 and the southerly right-of-way line of Park View Boulevard; thence leaving said westerly right-of-way line, S44°14'24"E, 30.00 feet to the platted centerline of said (78th) Street and the point of beginning; thence from the point of beginning, S44°14'24"E, 30.00 feet to the northwest corner of Lot 881 of said La Vista (subdivision) and the easterly right-of-way line of said (78th) Street; thence with said easterly right-of-way line, S45°45'36"W, 125.00 feet to the southwest corner of Lot 880 of said La Vista (subdivision); thence leaving said easterly right-of-way line, N44°14'24"W, 30.00 feet to the said platted centerline of (78th) Street; thence with said platted centerline, N45°45'36"E, 125.00 feet to the point of beginning and containing 3,750 square feet (0.086 acres), more or less.

- 2) Consideration to be paid to City: Reimbursement of such engineering, legal, advertising, or other costs and expenses incurred by the City in connection with vacation or conveyance of such Property as determined by the City Administrator, Community Development Director, or her or his designee.
- 3) Method of Payment: Cash at closing.
- 4) Closing Date: As parties may agree.
- 5) Purchasers:
 - a. West Parcel: Wyatt & Elizabeth Buls, husband and wife; and
 - b. East Parcel: Terry & Mary Frecks, husband and wife

**VACATION AND CONVEYANCE OF EXCESS RIGHT-OF-WAY
S 78TH STREET WEST OF PARK VIEW BLVD**

Ordinance vacating right-of-way	City Council 11/16/2021
Publish ordinance	11/24/2021
Publish Notice of Real Estate Sale for 3 weeks immediately after passage and publication of ordinance	12/1, 12/8, 12/15
Passage of 30 days after publication of ordinance (without filing of remonstrance)	12/27/2021
Closing	12/28/2021 (or such later date as agreed)

NOTICE OF REAL ESTATE SALE

NOTICE IS HEREBY GIVEN that at an open and public meeting of the Mayor and the City Council of the City of La Vista held at 6:00 P.M. on November 16, 2021, the City exercised by ordinance its power to sell and convey real estate by directing by ordinance the conveyance of the following parcels of real estate by quitclaim deeds to abutting property owners on the terms specified:

West Parcel: The west one-half (1/2) of that part of the platted 60.00-foot wide seventy-eighth (78th) Street right-of-way lying south of the southerly right-of-way line of Park View Boulevard, as shown by La Vista, a subdivision, as recorded in plat book 4, page 7 of the records of the Register of Deeds of Sarpy County, Nebraska, located in the northwest quarter of Section 14, Township 14 North, Range 12 East of the 6th Principal Meridian, La vista, Sarpy County, Nebraska, and being more particularly described as follows: beginning at the southeast corner of Lot 1301 of said La Vista (subdivision), said point being on the westerly right-of-way line of said (78th) Street; thence with the said westerly right-of-way line, N45°45'36"E, 110.00 feet to the northeast corner of said Lot 1301 and the southerly right-of-way line of Park View Boulevard; thence leaving said westerly right-of-way line, S44°14'24"E, 30.00 feet to the platted centerline of said (78th) Street; thence with said platted centerline, S45°45'36"W, 125.00 feet; thence leaving said platted centerline, N17°40'30"W, 33.54 feet to the point of beginning and containing 3,525 square feet (0.081 acres), more or less.

East Parcel: The east one-half (1/2) of that part of the platted 60.00-foot wide seventy-eighth (78th) Street right-of-way lying south of the southerly right-of-way line of Park View Boulevard, as shown by La Vista, a subdivision, as recorded in plat book 4, page 7 of the records of the Register of Deeds of Sarpy County, Nebraska, located in the northwest quarter of section 14, township 14 north, range 12 east of the 6th Principal Meridian, La Vista, Sarpy County, Nebraska, and being more particularly described as follows: commencing at the southeast corner of Lot 1301 of said La Vista (subdivision), said point being on the westerly right-of-way line of said (78th) Street; thence with the said westerly right-of-way line, N45°45'36"E, 110.00 feet to the northeast corner of said Lot 1301 and the southerly right-of-way line of Park View Boulevard; thence leaving said westerly right-of-way line, S44°14'24"E, 30.00 feet to the

platted centerline of said (78th) Street and the point of beginning; thence from the point of beginning, S44°14'24"E, 30.00 feet to the northwest corner of Lot 881 of said La Vista (subdivision) and the easterly right-of-way line of said (78th) Street; thence with said easterly right-of-way line, S45°45'36"W, 125.00 feet to the southwest corner of Lot 880 of said La Vista (subdivision); thence leaving said easterly right-of-way line, N44°14'24"W, 30.00 feet to the said platted centerline of (78th) Street; thence with said platted centerline, N45°45'36"E, 125.00 feet to the point of beginning and containing 3,750 square feet (0.086 acres), more or less.

Purchasers: West Parcel: Wyatt & Elizabeth Buls, husband and wife; and
East Parcel: Terry & Mary Frecks, husband and wife

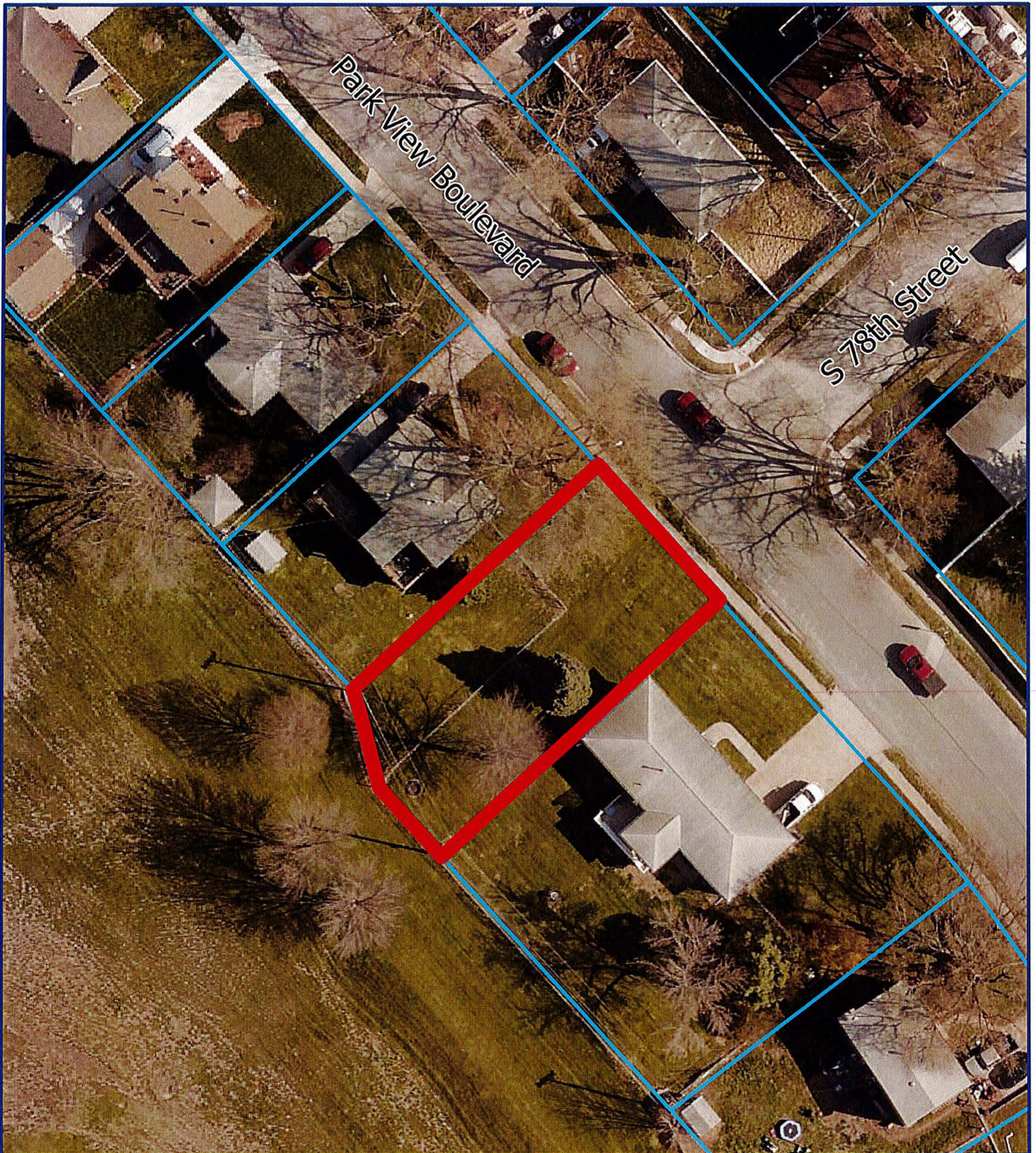
Purchase Price: Reimbursement of such engineering, legal, advertising, or other costs and expenses incurred by the City in connection with vacation or conveyance of such Property as determined by the City Administrator, Community Development Director, or her or his designee.

Method of Payment: Cash at closing

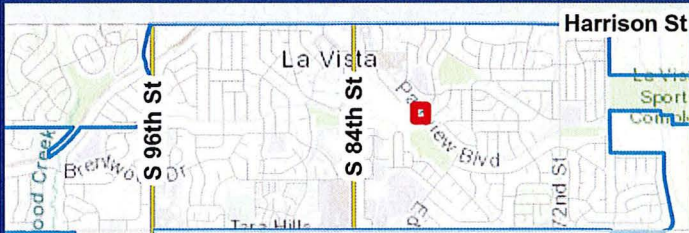
Closing Date: As parties may agree

The Parcels will be sold to the specified purchasers after 30 days have elapsed since the passage and publication of the ordinance authorizing and directing the sale, unless a valid and timely remonstrance petition against such sale is signed and filed in accordance with Neb. Rev. Stat. Section 16-202.


Pamela A. Buethe, CMC
City Clerk



Vicinity Map: 78th Street Right of Way Vacation



Legend

-  La Vista Parcels
-  Proposed Right-of-Way Vacation

