

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
MARCH 4, 2014 AGENDA**

Subject:	Type:	Submitted By:
RIGHT OF WAY VACATION AND CONVEYANCE — 107 TH STREET, GERTRUDE TO APPROXIMATELY 425' NORTH	RESOLUTION ◆ ORDINANCE RECEIVE/FILE	ANN BIRCH COMMUNITY DEVELOPMENT DIR.

SYNOPSIS

An ordinance has been prepared to approve the vacation of a portion of public right-of-way on 107th Street, from Gertrude Street north 425 feet. This, in the near term, will facilitate a planned addition to the Rotella's facility, and in the long term the property is proposed to be incorporated into the Rotella's Italian Bakery Inc. campus. The vacated right of way will continue to be open for public pedestrian and vehicular use until the City decides it is no longer needed.

FISCAL IMPACT

The City will retain proceeds of the sale, estimated to be \$7,800.

RECOMMENDATION

Approval of the vacation and conveyance subject to the filing of an Administrative Plat with the Register of Deeds and the sale of the property and execution of the easement and maintenance agreement.

BACKGROUND

The City of La Vista received a request by Rotella's Italian Bakery Inc. , in conjunction with a planned addition to its facility, to vacate a portion of the 107th Street right-of-way (approximately 0.59 acres) which is adjacent to Lot 28A, Oakdale Park. The owners have also requested the ability to purchase the parcel, and ultimately intend to incorporate it into the overall campus of the bakery. The vacated right of way will remain open for public pedestrian and vehicular use until the City determines it is no longer needed. The City will continue to provide ordinary maintenance as other public streets (i.e. snow removal and patching) during this time.

An ordinance has been prepared to vacate and convey to Rotella's that portion of the 107th Street right-of-way as shown on Exhibit A. The ordinance provides that easement rights for utilities, sewers, telecommunications, cable, etc. in the vacated portion will continue. A notice of the sale and the terms of the sale, Exhibit B, will be published in the newspaper for three consecutive weeks following passage and publication of the ordinance. 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 a deed in which the City quitclaims its interest in the vacated right-of-way to Rotella's Italian Bakery, Inc., subject to reserved rights and easements described.

ORDINANCE NO. ____

AN ORDINANCE VACATING, AND RESERVING AND RETAINING TITLE IN THE CITY TO, AND DIRECTING THE SALE AND CONVEYANCE OF, A PART OF THE SOUTH 107TH STREET RIGHT-OF-WAY LOCATED IN THE NW ¼ OF SECTION 16, 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 the South 107th Street right-of-way located in the NW ¼ of Section 16, Township 14 North, Range 12 East of the 6th P.M., Sarpy County, Nebraska, more particularly described or depicted in Exhibit A, attached hereto and incorporated herein by this reference, ("Property"), and said Property is hereby vacated and City reserves and retains title thereto for sale and conveyance thereof as directed in Section 2 below.

Section 2. Upon request and payment of adequate consideration and such administrative costs and fees incurred by the City in connection with the vacation, sale and conveyance of the Property, and, the City shall provide a quitclaim deed selling and conveying the Property to Rotella's Italian Bakery Inc. ("Rotella's"), subject to the rights, conditions and limitations set forth in this Section 2 below and Rotella's recording with the Sarpy County Register of Deeds an administrative plat of the Property in form and content satisfactory to the City Engineer, and in accordance with the manner and terms of conveyance specified in Exhibit B attached hereto and incorporated herein by this reference, 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 continue in perpetuity and be binding on Rotella's and all successors or assigns of Rotella's or the Property.

- a. In addition to any reserved rights provided elsewhere in this Ordinance, any instrument of conveyance, other document or applicable law, the following rights, conditions and limitations shall be reserved in perpetuity to the City of La Vista with respect to the Property:
 - i. the right to maintain, operate, repair, replace, extend and renew sewers and other improvements now existing in, on, over, under or across the Property;
 - 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 the Property to accomplish the above and any related or similar purposes at any and all times.
- b. All or any vegetation now or hereafter upon the Property, including, but not limited to, trees, shrubs and crops, and all or any improvements and structures now or hereafter upon the Property, including, but not limited to, buildings, walls, fences, drives, paving and walks, may be damaged or removed by or as authorized by the City as necessary or appropriate in the exercise of the rights herein reserved without any requirement of restoration or compensation to any person.

Such conveyance shall be executed by the Mayor and City Clerk, who are hereby authorized to take such action. Prior to such conveyance, Rotella's shall execute and deliver to the City an Easement and Maintenance Agreement in form and content acceptable to the City Engineer.

Section 3. The City Clerk is hereby authorized and directed to publish notice of the sale of the Property specified in Exhibit A 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.

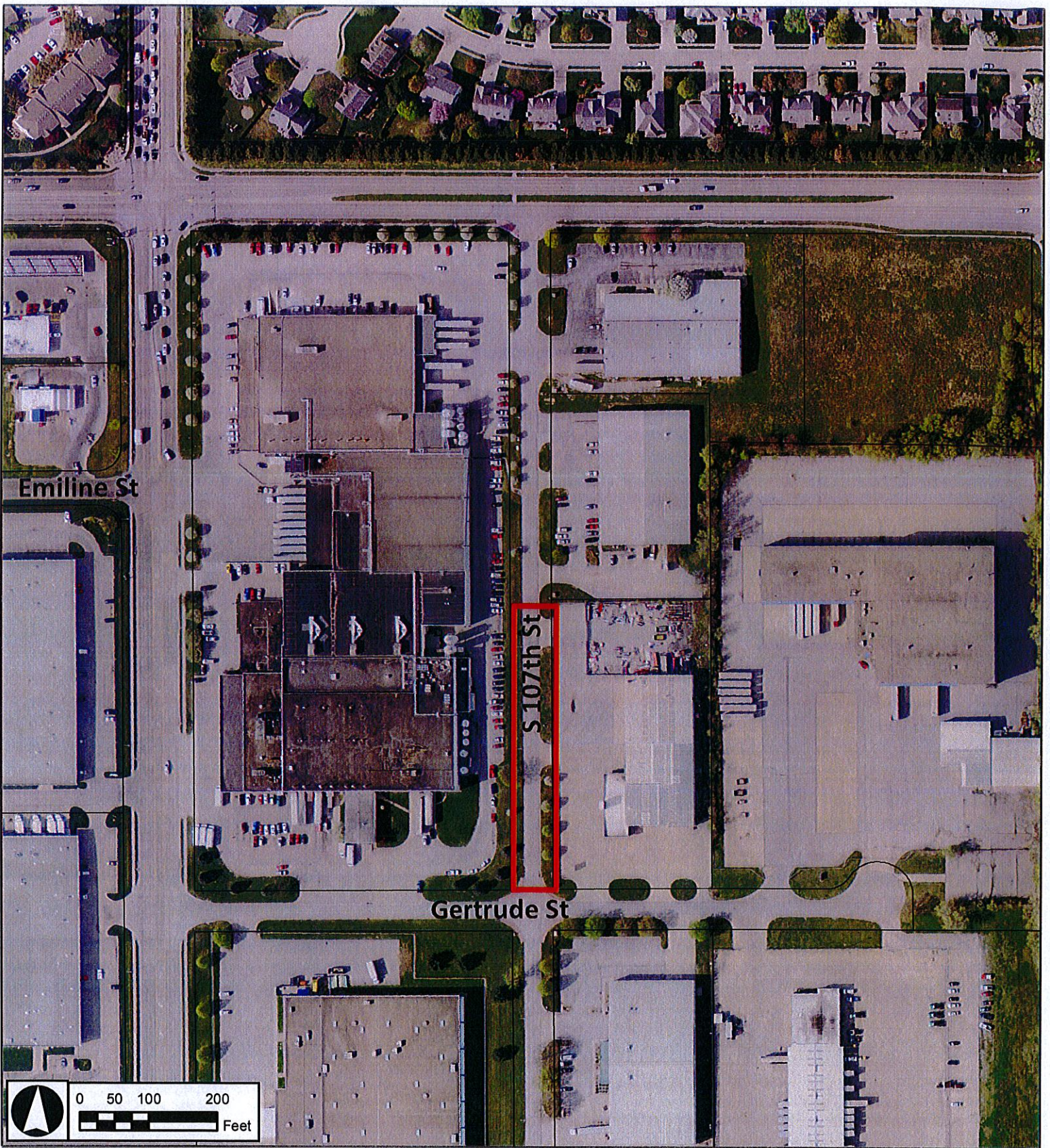
PASSED AND APPROVED THIS 4TH DAY OF MARCH, 2014.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Bueth, CMC
City Clerk



Aerial Location map

Right of Way Vacation

February 24, 2014
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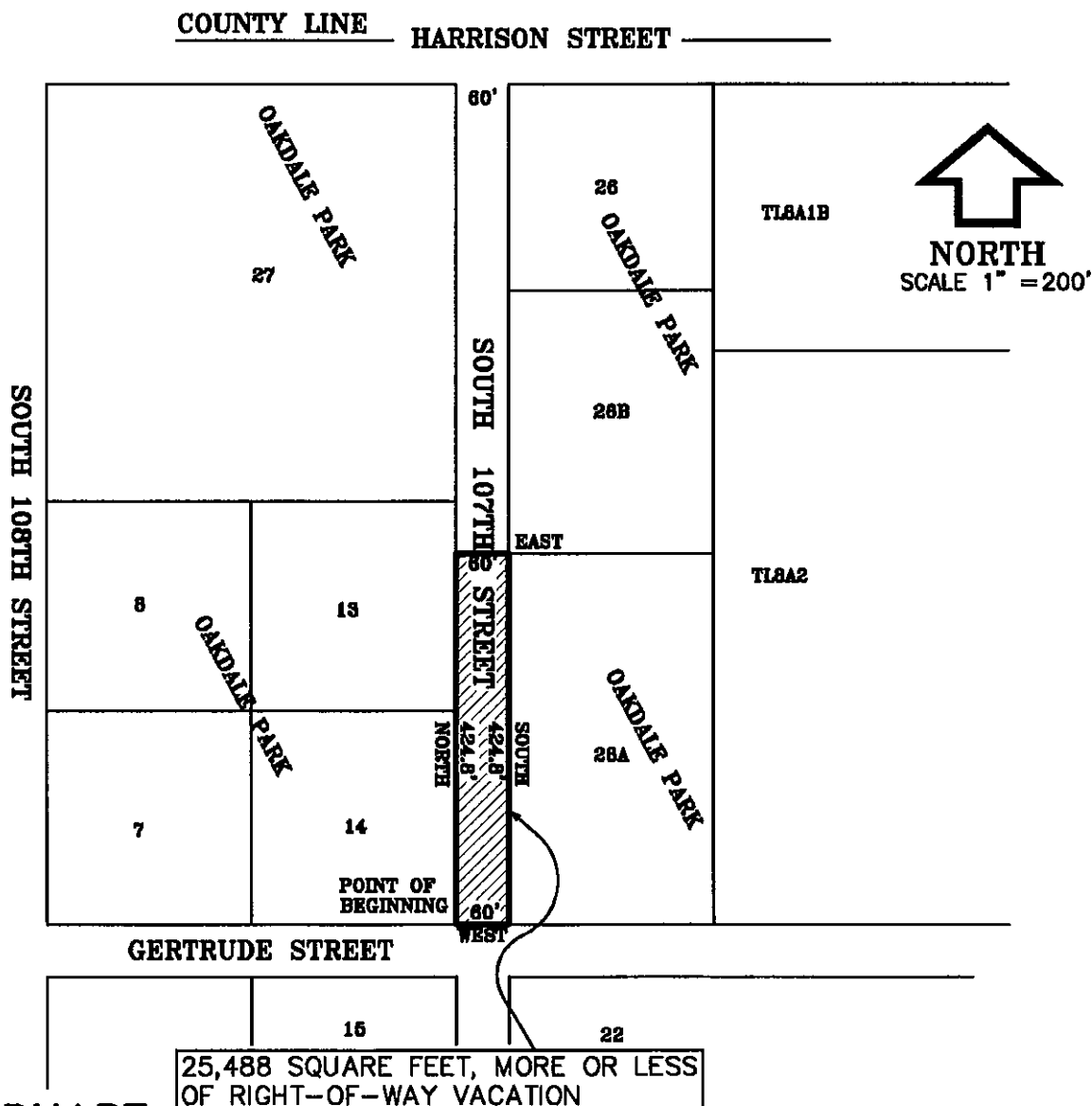


Date: 1/17/14

DESCRIPTION & SKETCH**LEGAL DESCRIPTION:**

A PORTION OF SOUTH 107 TH STREET RIGHT-OF-WAY LYING SOUTH OF THE EASTERLY PROJECTION OF THE NORTH LINE OF LOT 28A OF OAKDALE PARK, A SUBDIVISION, AND NORTH OF THE NORTH RIGHT-OF-WAY LINE OF GERTRUDE STREET, SARPY COUNTY, NEBRASKA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEAST CORNER OF LOT 14, OAKDALE PARK, AS SURVEYED, PLATTED AND RECORDED IN SARPY COUNTY, NEBRASKA. THENCE NORTH ALONG THE EAST LINE OF SAID LOT 14 AND THE EAST LINE OF LOT 13, A DISTANCE OF 424.8 FEET TO A POINT OF INTERSECTION WITH THE WESTERLY PROJECTION OF THE NORTH LINE OF LOT 28A, OAKDALE PARK; THENCE EAST ALONG SAID WESTERLY PROJECTED NORTH LINE, A DISTANCE OF 60 FEET TO THE NORTHWEST CORNER OF SAID LOT 28A; THENCE SOUTH ALONG THE WEST LINE OF SAID LOT 28A, A DISTANCE OF 424.8 FEET TO THE SOUTHWEST CORNER OF SAID LOT 28A; THENCE WEST, A DISTANCE OF 60 FEET TO THE POINT OF BEGINNING. CONTAINING 25,488 SQUARE FEET, MORE OR LESS.



**EHRHART
GRIFFIN &
ASSOCIATES**

ENGINEERING

PLANNING

LAND SURVEYING

3552 Farnam Street • Omaha, Nebraska 68131 • 402 / 551-0631

EXHIBIT "B"

MANER AND TERMS OF SALE

Manner of Sale: Quitclaim Deed from City to landowner abutting vacated right-of-way, with reservation of easements and other rights.

Terms of Sale:

1) Legal Description:

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2) Consideration to be paid to City: \$7,800 (\$9,600 appraised value less \$1,800 paid to City for cost of appraisal), plus City legal and advertising fees.

3) Method of Payment: Cash at closing.

4) Closing Date: As parties may agree.

5) Purchaser: Rotella's Italian Bakery, Inc.