

FACTSHEET

TITLE: WAIVER NO. 06009, requested by GEICO Development, to waive the design standards and subdivision ordinance requirements for stormwater associated with Use Permit No. 04008, on property generally located at S. W. 17th Street and West A Street.

STAFF RECOMMENDATION: Denial.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 12/20/06
Administrative Action: 12/20/06

RECOMMENDATION: Denial (8-0: Cornelius, Esseks, Taylor, Carroll, Strand, Larson, Krieser and Carlson voting 'yes'; Sunderman absent).

FINDINGS OF FACT:

1. The purpose of this waiver request is set forth in the applicant's submittal letter (p.19). The associated Use Permit No. 04008 was approved by the City Council with the condition to make corrections to the satisfaction of the Public Works and Utilities Department. Those conditions of approval required an agreement or flowage easement to be obtained on adjacent land showing that each property owner is in agreement with the increased stormwater depths on their property. The applicant has been unable to comply with that condition of approval.
2. The staff recommendation to deny this waiver request is based upon the "Analysis" as set forth on p.3-4, concluding that approval of this waiver request would result in increased ponding of stormwater, which would have a negative impact on the properties to the south.
3. The staff presentation is found on p.5.
4. The testimony on behalf of the applicant by Peter Katt is found on p.5-6, who contends that no one is in jeopardy of having their basements flooded, no matter what occurs. The developer is willing to agree to build an embankment on the south property line to solve the problem. However, the design of an embankment should require some provisions for draining the area behind the embankment in the neighbors' back yards, and these provisions have not yet been investigated. Additional information submitted by the applicant is found on p.21-26.
5. Testimony in opposition is found on p.6-7, and the record consists of a letter in opposition from the West A Neighborhood Association (p.28) and a petition in opposition signed by the property owners who will be affected: 1700, 1710, 1720, 1730 and 1732 W. Washington Street.
6. On December 20, 2006, the Planning Commission agreed with the staff recommendation and voted 8-0 to recommend denial (Sunderman absent). See Minutes, p.8.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: January 2, 2007

REVIEWED BY: _____

DATE: January 2, 2007

REFERENCE NUMBER: FS\CC\2007\WVR.06009

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for DECEMBER 20, 2006 PLANNING COMMISSION MEETING

PROJECT #: Waiver #06009

PROPOSAL: Waive design standards and subdivision ordinance requirements for stormwater associated with Use Permit #04008 GEICO Development.

LOCATION: S.W. 17th St. and West "A" St.

LAND AREA: 1.0 acre, more or less

CONCLUSION: The approval of this waiver request would result in increased ponding of stormwater which would have a negative impact to the properties to the south.

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

LEGAL DESCRIPTION: Outlot "A", New Century Estates, located in the NE 1/4 of Section 33, Township 10 North, Range 6 East, Lancaster County, Nebraska

EXISTING ZONING: RT-Residential Transition

EXISTING LAND USE: Undeveloped

SURROUNDING LAND USE AND ZONING:

North:	R-2 Residential	Single family/two-family residential
South:	R-2 Residential	Single family/two-family residential
East:	R-2 Residential	Single family/two-family residential
West:	B-2 Neighborhood Business	Shopping Center

HISTORY:

August 8, 2006 Comments from Public Works and Utilities Department Engineering Services and Watershed Management were faxed to the consultant, ESP

July 13, 2006 Revised plans for Use Permit #04008 were submitted to the Planning Department.

May 18, 2006 A letter was sent from the Planning Department to ESP asking for revised plans with corrections per Planning Commission of Use Permit #04008 to be submitted.

October 12, 2005 The Lincoln-Lancaster County Planning Commission approved Use Permit #04008 with conditions.

October 29, 1993 New Century Estates final plat was approved by the Planning Director.

August 30, 1993 New Century Estates preliminary plat was adopted by City Council.

COMPREHENSIVE PLAN SPECIFICATIONS:

UTILITIES: All utilities are available

TRAFFIC ANALYSIS: West "A" St. is a two lane asphalt rural cross section road and is classified as a minor arterial in the 2025 Comprehensive Plan. The 2030 Comprehensive Plan identifies West "A" St. from S.W. 40th St. to Coddington Ave. as a proposed project for 2 lanes + turn lanes. This project does not include the area of West "A" St. abutting the GEICO property.

ANALYSIS:

1. This application is a request for a waiver to design standards for stormwater. The proposed grading & drainage plan shows stormwater depths on the properties to the south will increase. Since this proposal will expand flooding on adjacent land an agreement or flowage easement must be obtained and submitted to Public Works and Utilities showing that each property owner is in agreement with the increased stormwater depths on their property.
2. The applicant has indicated that they have been unable to obtain an agreement from the abutting property owners. The requirement to obtain an agreement was addressed by Public Works & Utilities Watershed Management in their September 29, 2005 memo. (see attached)
3. The owner submitted a use permit to develop the outlot and the use permit was approved with conditions by the Planning Commission on October 12, 2005. The owner has been unable to meet the condition for stormwater runoff and thus is requesting this waiver.
4. The subject property was reserved for open space and recreation with New Century Estates preliminary plat. Resolution A-75657, approving New Century estates preliminary plat, states that Outlot A shall be permanently reserved as open space and "Open play Area" for this development and shall not be changed without full review by the City.
5. The outlot was never developed into a recreational area and has remained undeveloped. The original developer of New Century Estates is the current property owner of the outlot and is requesting the waiver.
6. Public Works and Utilities Department does not support this waiver. The approval of this waiver would result in increased ponding on adjacent properties to the south. The additional ponding will occur during rain events with a frequency of 5 years or greater with the greatest impact occurring from the 100 year storm event.

Prepared by:

Tom Cajka
Planner

DATE: December 6, 2006

APPLICANT: Lyle Loth
ESP
601 Old Cheney Rd. Suite "A"
Lincoln, NE 68512
(402) 421-2500

OWNER: GEICO Development
2251 W. Pleasant Hill Rd.
Lincoln, NE 68523
(402) 430-6977

CONTACT: same as applicant

WAIVER NO. 06009

PUBLIC HEARING BEFORE PLANNING COMMISSION:

December 20, 2006

Members present: Cornelius, Taylor, Esseks, Carroll, Strand, Larson, Krieser and Carlson; Sunderman absent.

Staff recommendation: Denial.

Ex Parte Communications: None.

Staff presentation:

1. Tom Cajka of Planning staff presented this application to waive the design standard for stormwater associated with the use permit for Geico Development. The use permit was approved, with conditions, by the Planning Commission in October of 2005. The applicant has met all of the conditions, with the exception of the design standard for stormwater. The development would increase runoff on adjacent properties to the south.

2. Devin Biesecker, Public Works & Utilities, explained that historically, the stormwater on the proposed development site flowed across this property before crossing A Street at the northeast corner. Based on the drainage study submitted by the applicant, the proposed development would add fill to this site and increase ponding on the lots to the south. Both in the 5-year and 100-year events, the drainage study shows an increase of just under one foot. The properties to the south will have one foot more of water than what they are seeing today in the 5-year and 100-year event.

Cajka further explained that the condition of approval on the use permit was to revise the plan to eliminate this increase or get an agreement from the abutting property owners to the south. The applicant has been unable to get that agreement and thus the reason for this waiver request.

Proponents

1. Peter Katt appeared on behalf of **Geico Development**, and provided a history on the property in question. This property was originally developed as a residential development and showed pictures of the area that was left as open green space. Subsequently, the property to the west was developed as a shopping center. There is no way for the water to properly drain to get back to the drainage tube as a result of the shopping center development. Geico went through the process of what to do to fix the problem and make the property productive. After several years and after spending \$15,000, the plan was developed that was approved in October of 2005, which was a combination of actually dedicating a little over half of the site to detention, providing adequate drainage to get it across and through and have it be maintainable, and developing a small office building to offset the costs and put it into productive use. As a part of those discussions, it was the developer's understanding that there was a recognition that there would be a slight increase in the ponding elevation in a 100-year event. The issue that staff came back with was to delineate that and "make sure you don't harm anybody," which the developer did. Katt stressed that no one is in jeopardy of having their basements flooded, no matter what occurs.

Katt acknowledged that, in general, one should not run stormwater onto a neighbor's property, but it is not an absolute rule and that is why the ordinance allows for waivers. Katt believes that this is an appropriate place for the waiver to exist.

Katt then referred to the photograph depicting the existing condition of the ponding created by the city when it approved the commercial property to the west. The city has done nothing. How valuable is this standard if it can be used for some and not for others? This developer is asking for the ability to waive the requirement. The other potential solution that the developer offered is to build an embankment or a dike on their south property line to prevent this developer's overflow and that of the city. The staff did not like that solution. If that were a solution, this developer would be willing to agree to build an embankment on the south property line to solve the problem. The developer also tried to contact all of the neighbors to get an easement for the stormwater.

Opposition

1. Bill Vocasek, President of the **West A Neighborhood Association**, read a letter into the record in opposition on behalf of the West A Neighborhood Association. Geico Development has asked the five affected neighbors to sign an easement and be paid \$250.00. The property in question had been set aside as a detention cell as part of the original plat for New Century Estates in 1993, at which time there were concerns expressed by the West A Neighborhood Association about drainage problems. Nothing has changed, but additional development has created additional storage requirements in the area. The owners of 1700, 1710, 1720, 1730 and 1732 West Washington are in opposition to this waiver and the record consists of a petition in opposition signed by these five affected property owners. They are also concerned for the property owner on the east side of this development.

2. William Hergott, past President of the **West A Neighborhood Association**, board member for 18 years, and one of the property owners affected at 1710 West Washington, testified in opposition. He has actually witnessed the water rise in the back yards. He is in favor of this development, but there is a water problem. The property owners affected have witnessed stormwater during normal rainfall coming within feet of some homes. If this waiver is granted, who will be responsible in the event of the 5-year to 15-year flood? The property owner at 1732 West Washington had water in his basement window under current conditions. If the building goes on this property, the retention pond will be directly behind 1732 West Washington. Hergott stressed that the development is an improvement to the area, but he is opposed to this waiver.

Strand asked whether Hergott would be opposed to a structure to hold the water back. Hergott would not be opposed to a structure, but if a structure is built, where does the water drain? There is already a problem on West Washington. He believes the developer is seeking this waiver because of the cost involved in correcting the problem.

Esseks inquired whether Hergott would still be opposed if there were a way to evacuate the stormwater from his property and still have an embankment. Hergott would not be opposed if there is a way, but it requires grading and people's yards will be affected. A retaining wall only holds the water and it will have to drain somewhere.

Esseks confirmed that the expectation on the Hergott property at 1710 West Washington was that the water would drain to the north and that is why this land was left undeveloped. Hergott agreed, but he does want to see the property developed.

3. Randy Cecrle, 1633 West A Street, testified in opposition. There was a considerable redesign of the plan, which he appreciated. The ponding was moved from the east side, which was close to his side, over to the west side for reasons of water problems in his basement. He has seen the water flow over A Street. Snow removal is a problem. He would hope that there could be some level of redesign with some berm or some dike on the south end of the drainage area. He also suggested that the developer consider working with the owners of the shopping center (B&J Partnership) to try to move some of the ponding further up into the ditches or expanded detention areas. The hole from the drainage tubes referred to by Mr. Katt was not dug until after the plan was approved in October of 2005.

Staff Questions

Esseks wondered whether he is correct in assuming that the residential development to the east and south could not have been approved without this area of stormwater detention being set aside. Cajka believes that was two different developments. The five properties to the south were developed with New Century Estates, which left the subject property as an outlot to be open space and recreation. The stormwater runoff does drain to the north toward A Street. The berming on the south was discussed with Public Works and he does not believe it was acceptable. If they bermed it, they would have to figure out a way to not block the drainage.

Esseks wondered why there is water getting into this area from the west. Dennis Bartels of Public Works explained that we have to keep the water going downhill. This outlot being redeveloped was historically where the water drained from well over 100 acres to the culvert under A Street. This valley that has been filled to build the office building and the detention pond was the historical drainage area. It is physically impossible to keep all the water on your property. It is not unusual if the ditch is on private property.

Esseks wondered whether the city has made it worse by allowing drainage from the commercial development to the west. Bartels explained that when the shopping center was developed, that developer's professional engineer submitted a drainage plan, including some stormwater detention. According to their calculations, that drainage plan met the standard of the day, which has since changed. Their calculations were based on the standards in existence at that point in time, and their calculations showed that they did not increase the flow to this ditch (this outlot). The calculations and the map were based on calculations presented to Public Works by Mr. Geiger's engineer. We knew there were drainage concerns in this general vicinity. There has been a problem for a long time. The general guidance was to develop it if the development does not make the problem worse. It was assumed that it would make it worse on the neighbor's property and they were required to show it – it was .8 foot and Public Works determined that it was not satisfactory. Thus, the reason for this waiver request.

Response by the Applicant

Katt indicated that he does not know exactly what the neighbors said. They want the development but they don't. This is a problem property that we need to fix. His client has been very proactive in trying to find a reasonable solution, given the existing facts and given what he has to deal with. Over \$15,000 of engineering fees were paid to Flatwater Group to study the problem. The real source of the problem is the undersized city culvert under A Street. The water can't get through fast enough. The city has a legal obligation to pass this stormwater through its road network and it has an undersized culvert. If

the city would make the culvert big enough, this whole thing would drop down. Drainage is a problem in West A and has been for a long time. Katt suggested that this proposal improves the situation. As it sits today, water backs up on these lots if nothing is done. This waiver means that water will sit for 20 minutes at most, in a 100-year event. He thinks that is a reasonable request. They can construct a berm and stop the water. Surface water, under Nebraska Law, is a common enemy that anyone can defend against. It will make their back yard soggy. We could fill their yards up. All of the solutions require cooperation from the neighbors. We think the best way to resolve this is to waive the stormwater requirement for this incremental small area and allow this development to go forward.

ACTION BY PLANNING COMMISSION:

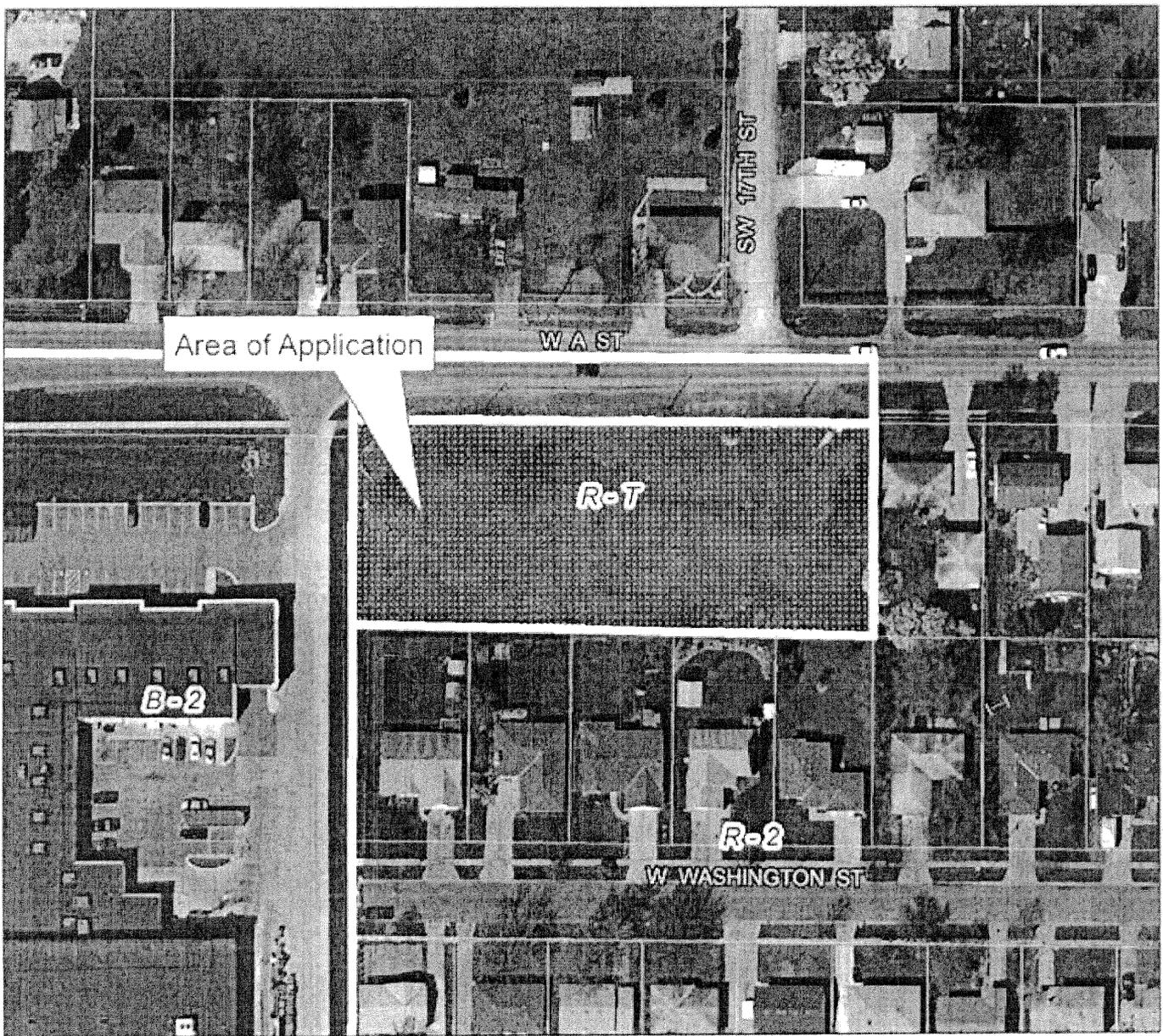
December 20, 2006

Carroll moved to deny, seconded by Esseks.

Carroll noted that when the original development set aside this land for green space, the discussion of flooding was then and it hasn't changed to now. We should not waive something that the developer agreed to when he developed the houses. It does severely push water onto property owners that it should not do.

Esseks hopes that the developer, the city and the property owner association can get together and solve the problem. Let's make every effort possible to achieve the goal. But he certainly cannot agree to enlarging an area where there is going to be standing stormwater, even for a short time. That would be a terrible precedent to set.

Motion to deny carried 8-0: Cornelius, Taylor, Esseks, Carroll, Strand, Larson, Krieser and Carlson voting 'yes'; Sunderman absent. This is a recommendation to the City Council.



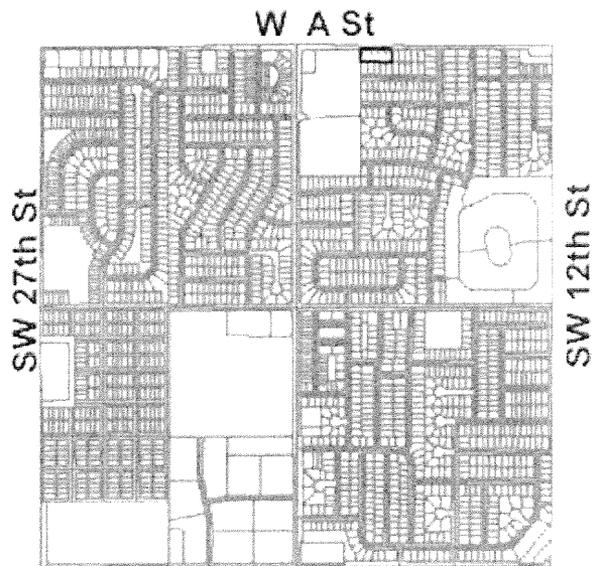
2005 aerial

Waiver #06009
SW 17th & W A St

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

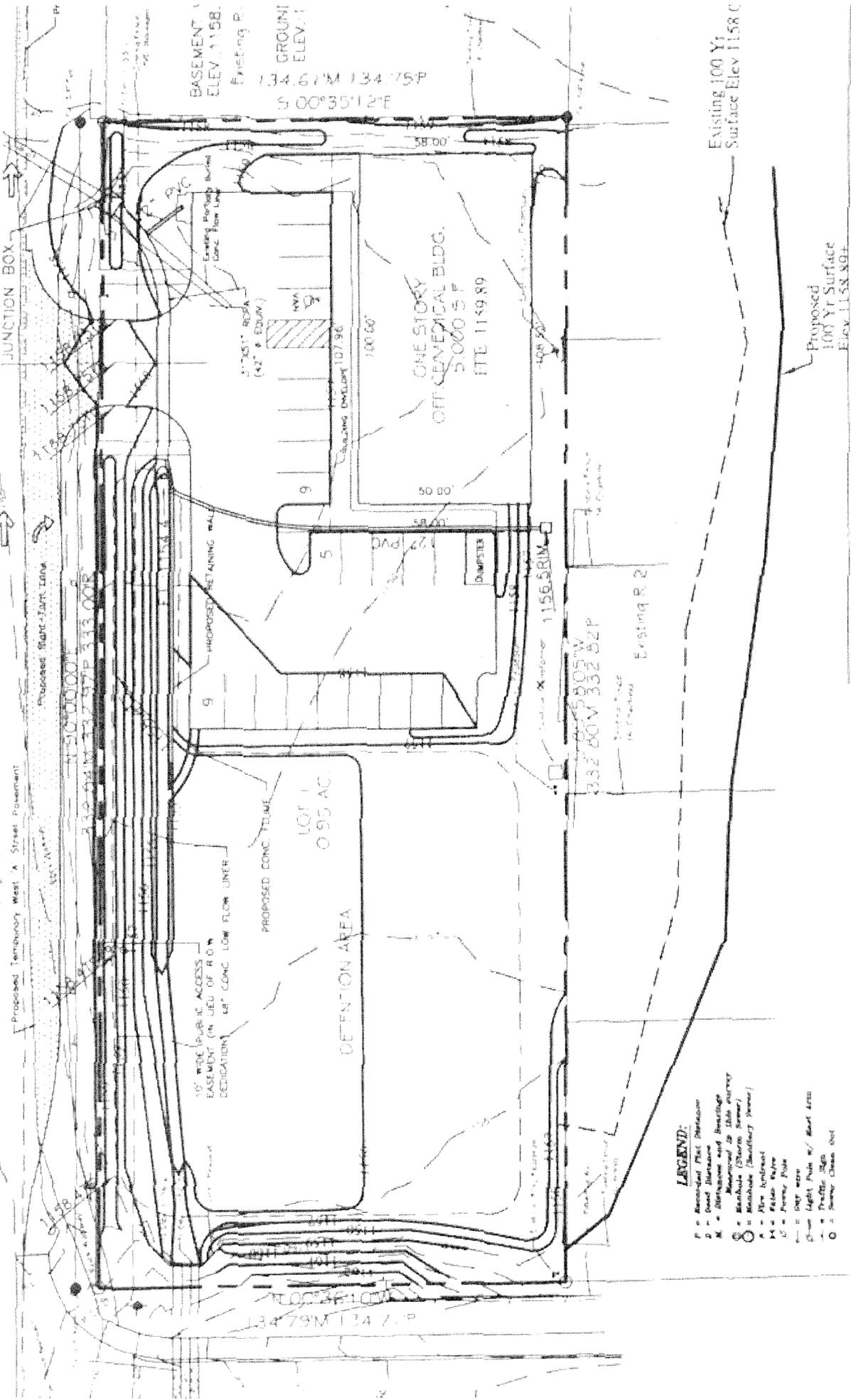
One Square Mile
 Sec. 33 T10N R06E



W Van Dorn St

009

WEST "A"



LEGEND:

- P = Proposed 100 Yr Surface
- E = Existing 100 Yr Surface
- K = Sand Inlet and Drainage
- M = Manhole (Storm Sewer)
- N = Manhole (Sanitary Sewer)
- PL = Flow Inlet
- RV = Relief Valve
- Z = Storm Valve
- = Duct
- = Light Pole w/ Road Arm
- = Traffic Sign
- = Storm Check Valve

Grading and Drainage Plan





CITY OF LINCOLN
NEBRASKA
MAYOR COLEEN J. SENG
www.ci.lincoln.ne.us

PUBLIC WORKS AND
UTILITIES DEPARTMENT

Memorandum

Date: 12/1/2006

To: Tom Cajka

From: Devin Biesecker

Subject: Geico Development Addition

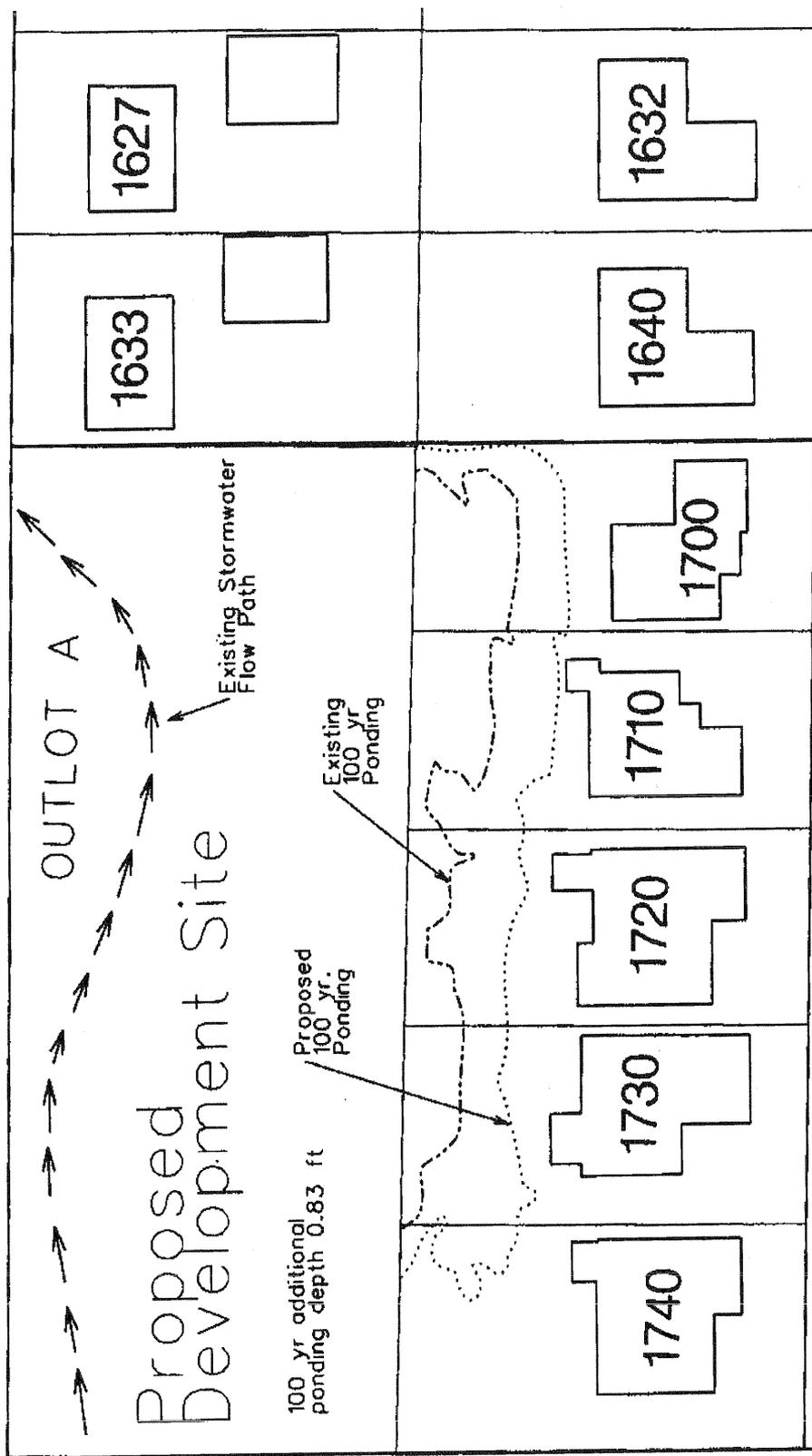
cc: Chad Blahak, Ben Higgins, Nicole Fleck-Tooze

Below are Watershed Management's comments for the proposed Geico Development Addition.

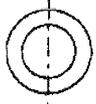
Watershed Management does not support the request for a waiver of the stormwater design standards. The development as proposed results in increased ponding of stormwater which impacts adjacent properties to the south. Additional ponding will occur during rain events with a frequency of 5 years or greater with the greatest impact occurring from the 100 year storm event (see the attached drawing). Stormwater depths will increase on these properties approximately 0.9 feet for the 5 year thru the 100 year storm events. For reference the attached drawing also shows the existing 100 year ponding limits on the properties to the south. Note: Both the existing and proposed 100 year ponding limits were drawn from elevations submitted with the drainage study for this development.

The previous Use Permit, 04008, was approved on October 12, 2005 with the condition that agreements be obtained from the affected property owners and it is our understanding that the property owners were unwilling to provide agreements.

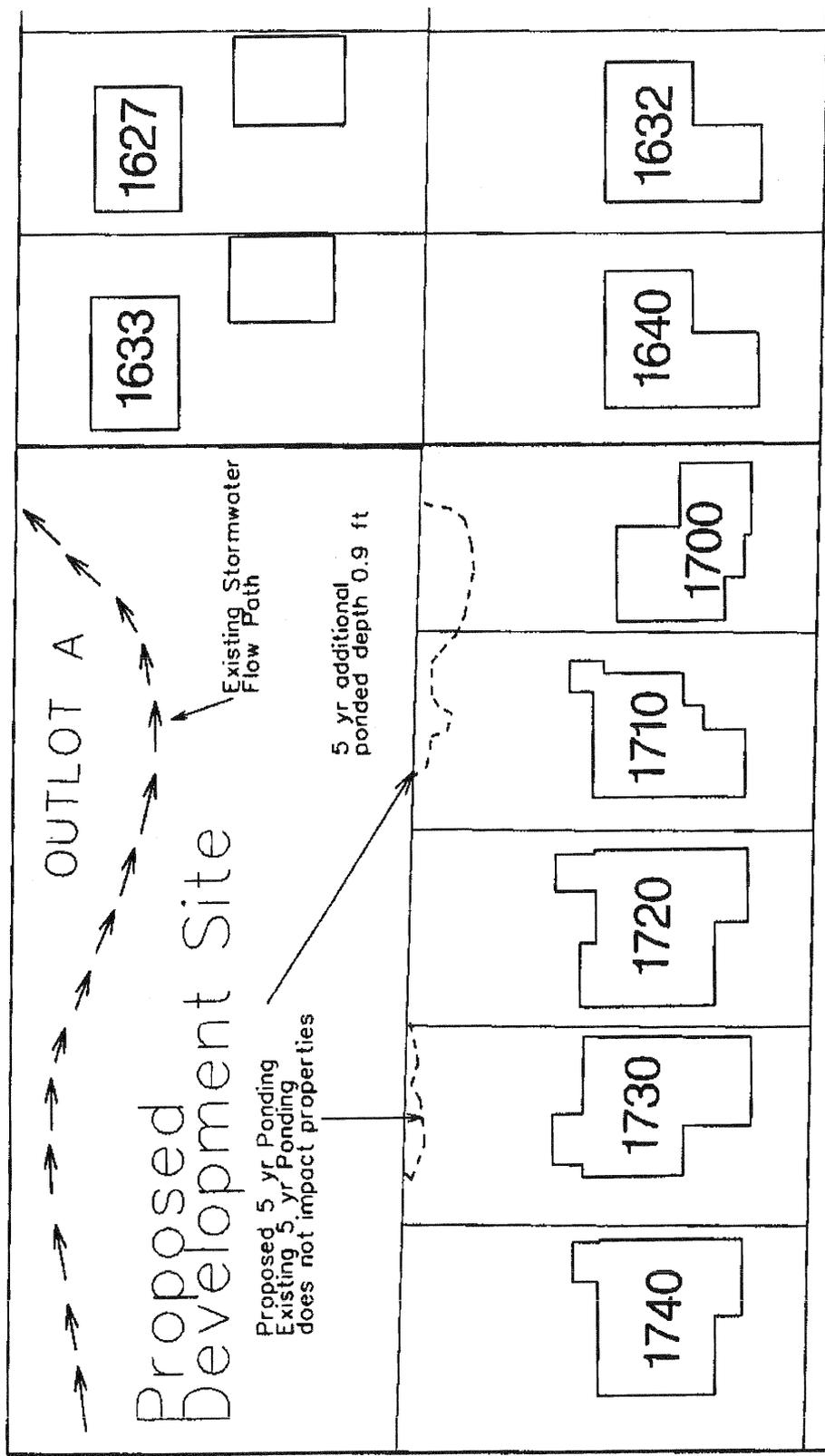
West 'A' Street



W. Washington St.



West 'A' Street



W. Washington St.

Memorandum

To: Tom Cajka, Planning Department
From: Chad Blahak, Public Works and Utilities
Subject: Geico Development Addition WRV #06009
Date: December 4, 2006
cc: Dennis Bartels

Engineering Services has reviewed the waiver of storm water requirements to the Geico Development Addition UP #04008, located south of West A Street at SW 17th Street, and has the following comments:

- 1 Public Works does not recommend approval of the requested waiver. The drainage report submitted by the developers engineer indicates that the proposed development will increase the 100yr storm elevation such that the existing properties to the south are significantly impacted.

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Memorandum

To: Tom Cajka, Planning Department

From: Chad Blahak, Public Works and Utilities
Dennis Bartels Public Works and Utilities

Subject: Geico Development Addition UP #04008

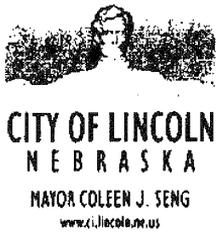
Date: August 8, 2006

cc:

Engineering Services has reviewed the re-submitted plans for the Geico Development Addition UP #04008, located south of West A Street at SW 17th Street, and has the following comments:

- 1 Some of the proposed paving required to provide the left turn lane is labeled as future improvements. All paving required to provide the temporary turn lane needs to be shown as current improvements.
- 2 The Tech Memo from the Flatwater Group indicates a 100yr elevation of 1158.89'. It is shown on the grading plan that the window elevation of the house to the east of this plat is 1158.49'. A berm, referenced in the submittal letter, is proposed to protect the property to the east from the proposed 100yr storm elevation. However, it appears from the grading plan that the top of the berm is shown an elevation lower than the 100yr elevation. Also, it needs to be shown that the lot drainage for the existing property to the east will remain adequate once this berm is constructed. The existing lot drainage for the lot to the east is to the west into the existing storm sewer extension.

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**PUBLIC WORKS AND
UTILITIES DEPARTMENT**

Memorandum

Date: 7/28/2006

To: Tom Cajka

From: Devin Biesecker

Subject: Geico Development

cc: Ben Higgins, Chad Blahak

Below are Watershed Management's comments for the Geico Development near West 'A' and Coddington.

1. The hydrologic study shows that stormwater impacts due to the overtopping of 'A' Street have been eliminated. It is also shown on the plans that structures on the south side of this property will not be impacted by stormwater. However, due to the grading for this proposed amendment stormwater depths on the properties to the south will increase. An agreement or flowage easement must be obtained and submitted to Public Works and Utilities showing that each property owner is in agreement with the increased stormwater depths on their property.
2. The plans show a basement window elevation for the house on the east side of this proposed development below the proposed 100 year water surface elevation. A berm is shown on the proposed plan that will prevent the 100 year water surface on the proposed development from reaching the window. Local drainage from the property to the east may be effected by the berm. A plan must be submitted which shows that local drainage from this property will not effected by any of the proposed grading on this site.

*From staff report
10.12-05*

Memorandum

To: Tom Cajka, Planning Department

From: Chad Blahak, Public Works and Utilities
Dennis Bartels Public Works and Utilities

Subject: Geico Development Addition UP #04008

Date: September 28, 2005

cc:

Engineering Services has reviewed the re-submitted plans for the Geico Development Addition UP #04008, located south of West A Street at SW 17th Street, and has the following comments:

- 1 The site plan and grading plan need to be revised to show the required temporary turn lanes and associated grading in West A Street for the proposed entrance drive as stated in the Public Works memo dated December 29, 2004. This developer is responsible for the cost and construction of the turn lanes.
- 2 It is likely that the future grades for West A Street in this location will be raised to provide drainage for the future urban curb and gutter section. The existing section of West A Street frontage shown with 0% slope will not exist with curb and gutter. The site grading and proposed sidewalk needs to be revised to meet the future grades.
- 3 The Tech Memo from the Flatwater Group indicates a 100yr elevation of 1158.89'. It is shown on the grading plan that the window elevation of the house to the east of this plat is 1158.49'. Information needs to be provided showing that the existing house is protected from the 100yr flood. Also, it needs to be shown that the lot drainage for the existing property to the east is will remain adequate.
- 4 The rim elevation for proposed grate inlet near the southwest corner of the proposed building is shown to be 1155.5' which would require a less than 1154.5' flow line with the 12" pipe shown. The flow line of the storm sewer that this 12" pipe would drain to is shown to be 1154.4' which would indicate negative slope for the pipe. Revisions need to be made to the plans showing that the area to the south of the proposed building can be drained. There is existing LES facilities in the area that may need to be raised as a result.

From Staff Report
10-12-05



**PUBLIC WORKS AND
UTILITIES DEPARTMENT**

Memorandum

Date: 9/29/2005

To: Tom Cajka

From: Devin Biesecker

Subject: Geico Development

cc: Ben Higgins, Chad Blahak

Below are Watershed Management's comments for the Geico Development near West 'A' and Coddington.

1. The hydrologic study shows that stormwater impacts due to the overtopping of 'A' Street have been eliminated. It is also shown on the plans that structures on the south side of this property will not be impacted by stormwater. However, based on the City of Lincoln 2 foot contours, stormwater depths on these properties will increase. An agreement or flowage easement must be obtained and submitted to Public Works and Utilities showing that each property owner is in agreement with the increased stormwater depths on their property.
2. The plans show a basement window elevation for the house on the east side of this proposed development below the proposed 100 year water surface elevation. A plan must be submitted showing that this house is not impacted by a 100 year event. The plan must also show that local drainage from this property will not be effected by any of the proposed grading on this site.



LYLE L. LOTH, P.E./L.S.

Suite A - 601 Old Cheney Road
Lincoln, NE 68512

Phone (402) 421-2500
Fax (402) 421-7096

Email: lyle@espeng.com

November 8, 2006

Mr. Marvin Krout, AICP
Director of Planning
City of Lincoln/ Lancaster County
555 South 10th Street
Lincoln, NE 68508

RE: GEICO DEVELOPMENT ADDITION
USE PERMIT #04008

Dear Marvin,

On behalf of Geico Development, we are requesting the above mentioned Use Permit be presented to the Planning Commission and City Council with a waiver of the storm water requirements. The Use Permit was approved by the City Council with the condition to make corrections to the satisfaction of the Public Works and Utilities Department. We have been working on satisfying the conditions and believe it is requiring us to ask for a waiver.

The approximate existing residence locations to the south of the property have been shown on the Grading Plan along with the existing and proposed 100 year water surface elevations. The existing residence to the east of the property does show a basement window elevation lower than the 100 year water surface elevation. The window in question has a window well around it. The actual ground elevation is higher than the 100 year water surface elevation.

The temporary turn lane and additional temporary paving required to acquire a left turn lane in West 'A' Street has been called out to be installed by the developer. At the time West 'A' Street is improved, all the pavement will need to be removed and re-installed as per the street design of the City of Lincoln.

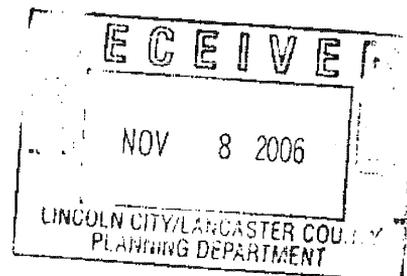
Please feel free to contact me if you have any further questions.

Sincerely,

A handwritten signature in black ink that reads 'Lyle L. Loth'.

Lyle L. Loth

Cc: Larry Geiger- Geico Development
Enclosures: 5 Copies of Sheets 1 through 4 of 4



019



LYLE L. LOTH, P.E./L.S.

Suite A - 601 Old Cheney Road
Lincoln, NE 68512

Phone (402) 421-2500
Fax (402) 421-7096

Email: lyle@espeng.com

November 20, 2006

Mr. Marvin Krout, AICP
Director of Planning
City of Lincoln/ Lancaster County
555 South 10th Street
Lincoln, NE 68508

RE: GEICO DEVELOPMENT ADDITION
USE PERMIT #04008

Dear Marvin,

On behalf of Geico Development, we are requesting the above mentioned Use Permit be presented to the Planning Commission and City Council with a waiver of the storm water requirements. The Use Permit was approved by the City Council with the condition to make corrections to the satisfaction of the Public Works and Utilities Department.

On November 8th, we submitted a letter referring to the other comments from the City departments and copies of the revised plans. Please refer to those plans with this application for a waiver.

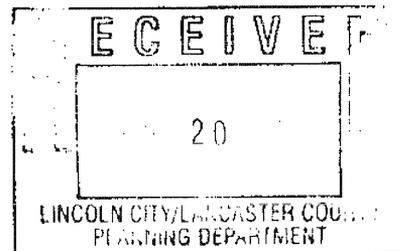
Please feel free to contact me if you have any further questions.

Sincerely,

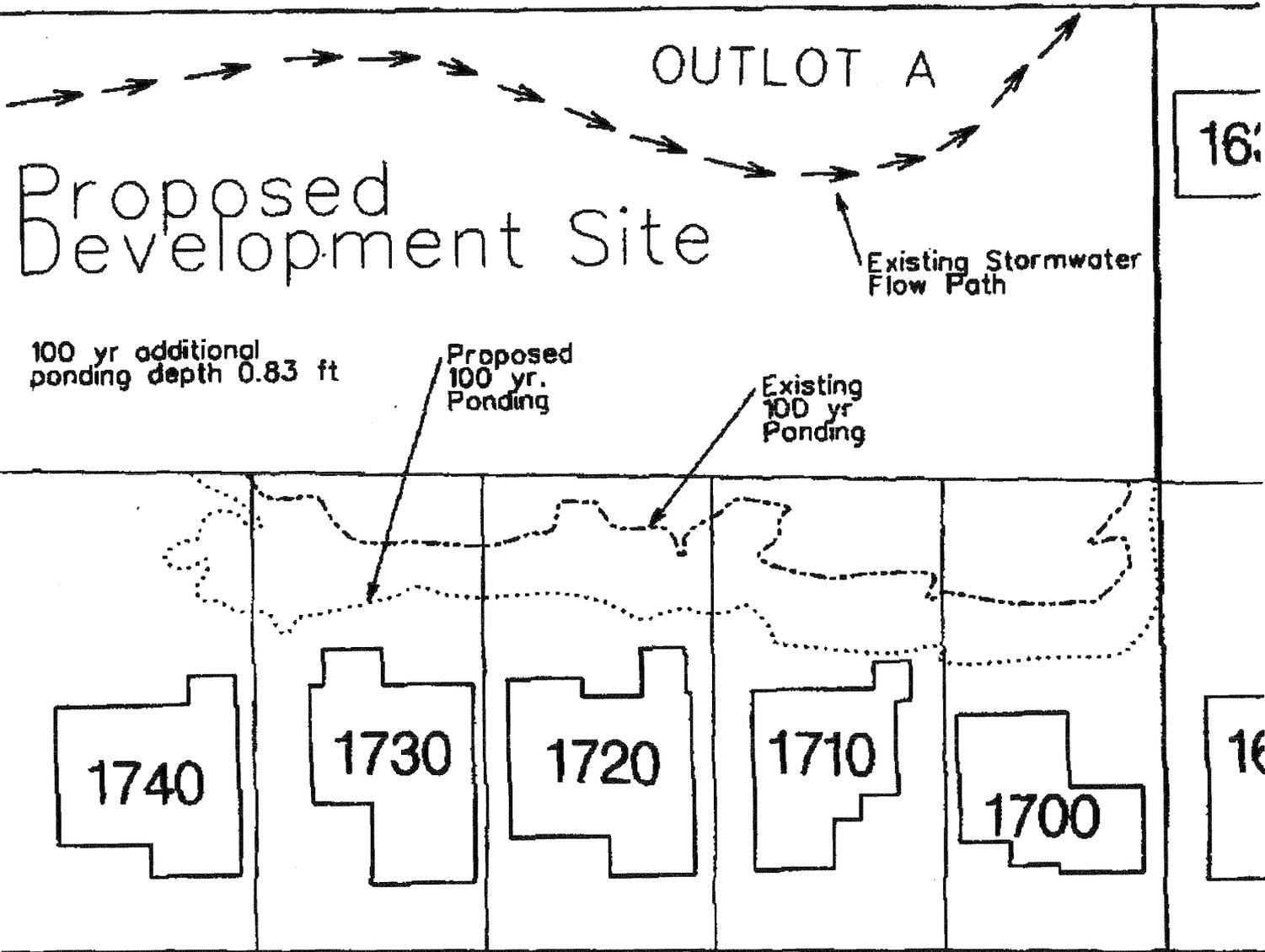
Marcia L. Kinning

Cc: Larry Geiger- Geico Development
Peter Katt

Enclosures: Waiver Application
Application Fee of \$125.00
Legal Description



West 'A' Street



W. Washington St.

Geico Development, INC



2251 W. Pleasant Hill Rd. ◆ Lincoln, Nebraska 68523
Phone (402) 430-6977 ◆ Fax 402 423-7057

The following is a history of contacts attempted with the 5 owners with no success. Basically, no one was really interested. Bill Hergot was the most interested, but his concern was based on the fact he could buy flood insurance. National flood insurance is available to anyone.

1700 W. Washington

Sent letter 11/7/2006. No response.
Mailed second letter asking for unlisted phone number. No response.
Left note on door 11/14/2006. No response

1710 W. Washington

Sent letter 11/7/2006
Called 11/7/2006. Met to talk about situation. No commitment.
Called 11/9/2006. Wanted flood insurance info. Thought since he could get flood insurance he needed it. Anyone can but National Flood Insurance.

1720 W. Washington

Sent letter 11/7/2006
Called 11/9/2006
Visited 11/10/2006, was too busy to talk.
Called back 11/13/2006, no response

1730 W. Washington

Sent letter 11/7/2006
Called 11/9/2006, made appointment for 11/10/2006
Visited 11/10/2006 to discuss request. No commitment, no resistance.

1732 W. Washington

Sent letter 11/7/2006
Called 11/9/2006. No response.
Met son 11/10/2006, was told family member would call. No response.

Geico Development, INC



2251 W. Pleasant Hill Rd. ◆ Lincoln, Nebraska 68523
Cell 430 6977 ◆ Phone & Fax 402 423-7057

November 7th, 2006

Melissa Segura & Maciel Mendoza
1700 W Washington Street
Lincoln, NE 68522

Subject: New Century Out Lot "A" Development

I would like to talk to you about the letter I sent to you Monday, but I could not find a phone number for you in the phone book. Please give me a call.

I would also like to talk to you about what kind of fence you would prefer when we develop the lot. This fence would be at no cost to you, I just want to make sure you have a say in what kind of fence we put up in your area to best enhance your property. I have talked to Bill Hergott about his wishes and I would like to get your input.

Respectfully,

Geico Development, INC.

Geico Development, INC



2251 W. Pleasant Hill Rd. ♦ Lincoln, Nebraska 68523
Phone (402) 430-6977 ♦ Fax 402 423-7057

November 6th, 2006

Bill & Susan Hergott
1710 W. Washington Ave.
Lincoln, NE 68522

Subject: Request For Easement

I greatly appreciate you allowing the surveyors access to your backyard. As a result of the survey work we have discovered a situation I need to make you aware of, and I need to ask for your help.

When the City of Lincoln allowed the shopping center to be built the city relied on and did not question the storm water calculations supplied by the engineers working for the shopping center. Their calculations were wrong. The extensive and exhaustive surface water studies I have had to supply conclude, with no doubt, the shopping center during a "100 year storm event" will raise the storm water level substantially in our area. This new level is much more than it would have before the shopping center was built and this is a direct violation of city watershed laws.

The definition of a "100 Year Storm" is a storm that may occur once every 100 years, or a 1% chance each year a storm may produce enough rain to meet or exceed a 100 year rain event.

The development we are planning will also increase the depth of a 100 year storm by .8 of a foot, or 9.6 inches of water. The attached engineering map shows the "before & after" water levels. The green line is "after" the new building is built, and the pink line is "before". It averages out to be approximately 3-10 feet of additional area your back yard *may* be impacted during a 100 year storm. There is no threat to your home. It must be clearly stated again, there is no danger of your home being flooded during this 100 year event even after the office building is finished. The lowest elevation of your basement window is at least 2 feet higher than West A street and the water will flow over West A before it reaches your home.

It is important to realize the duration the water on your yard during a 100 year storm is calculated to be approximately 20 minutes. Your backyard is only going to see the "crest of the wave" for a few minutes. It will not be flooded for hours or days during a 100 year storm event.

The City Watershed Management Department has asked me to obtain an easement from each of the affected homeowners for that portion of the storm water created by the new office building during a 100 year storm. (the yellow hashed marked area only) I could appeal this requirement and seek a waiver from the City Counsel, however, I thought it would be best to inform you and work with each of you to come up with a solution.

The biggest problem as I see it is the City has required 100% participation all 5 neighbors. Trying to get 5 independent thinking Nebraska families to agree on any one thing is like trying to heard cats

with a flashlight, but I thought I would ask you to look at the options and maybe we can come up with a solution everyone can live with and we can move forward with this project for the betterment of the entire area. The zoning change has been approved for this lot so it will be developed.

I will be contacting you and your neighbors in the near future to see which way you would like to proceed. If you have any questions or concerns feel free to call any time. If you are willing to sign the easement for \$250 let me know right away so we know who is in favor of this option.

As always if you have any questions feel free to call.

Respectfully Yours,

Larry Geiger
Geico Development, INC.



West A

Neighborhood Association

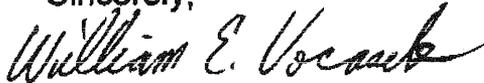
December 19, 2006

Dear Lincoln Planning Commission Members:

As President of the West "A" Neighborhood Association I have been contacted by neighbors on the proposed development at SW 17th and West A Street. The 5 neighbors affected along the North side of West Washington showed me a letter that they received that was dated November 6, 2006. The letter that was for a request for easement, the easement that was a requirement from the Planning Department dated September 28, 2005. The developer, Geico Development Inc. has asked the neighbors to sign the easement in return he offered \$250.00 as stated in the November 6, 2006 letter. In the letter the City has required 100% participation of all 5 neighbors, he went on to say that zoning change has been approved for this lot so it will be developed. The developer also went on to say that their plan will increase the depth of the 100 year storm by .8 of a foot which is 9.6". They calculated that it would impact on average 3 - 10 feet of additional area in the back yards. The developer clearly stated that there is no danger of the homes being flooded during the 100 year event. it also stated that the lowest elevation of the basement window is at least 2 feet higher than West A Street and that the water would flow over A Street before it reaches the homes. With this in mind Tom Cajka in a Memorandum dated September 28, 2005 stated that it is likely that the future grading plan for West A Street in this location will be raised to provide drainage for future urban curb and gutter section. Additionally the property in question had been set aside as a detention cell as a part of the original plat for New Century Estates in 1993 and the fact sheet dated August 16, 1993sated that the President of the West A Neighborhood Association had opposition of waiver for sidewalks and also stated concerns of drainage as it was a problem then. Nothing has changed in fact additional

development has created additional storage requirements in the area, in 1993 this property was created to be permanent open space and was stated that it shall not be changed without full review by the city. The drainage that this property was set aside to serve is drainage from Coddington, A Street, and also West Washington which has 3 – 4" drainage tubes which currently cause flooding on West Washington Street. Mr. Geiger approached the Neighborhood Association making assurances that he would work with us to make certain that it would be a development that we would be proud of, to date the property has not been maintained in regards to mowing of the grass and lack of snow removal on the sidewalk along A Street and this has been an ongoing problem since the original development. This issue may not seem very important, however to the neighborhoods affected by a decision like this it is a very important issue as it may cause a very negative impact on their property. This letter is to address the issues that affect the 5 neighbors on the North side of West Washington. These addresses are 1700, 1710, 1720, 1730, and 1732 West Washington. We also have concerns for the property owner on the East side of this development. Thank you for your continue support of the neighborhoods throughout the city.

Sincerely,



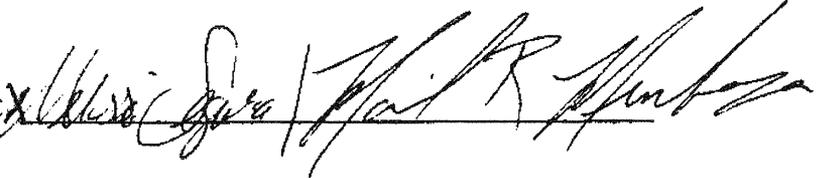
William E. Vocasek
West "A" President

December 5, 2006

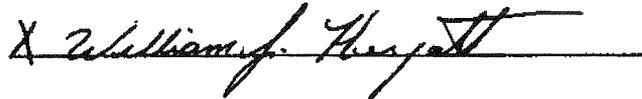
Dear Lincoln Planning Commission Members:

The Neighbors listed below after discussing the proposed easement are in opposition of any waiver concerning storm water. Each neighbor has had the choice of either signing in opposition or not signing. The concerns have been expressed through the West A Neighborhood Association. We have witnessed the storm water concern during normal rainfall and have had water backed up into our back yards with it coming only feet away from our homes. We are extremely concerned with the waiver dealing with the water and how it might negatively affect us in the future. We also are concerned if the waiver is granted who will be responsible and liable in the event that our home are flooded because of the waiver. Thank you for your consideration in this matter.

1700 W. Washington Street

X 

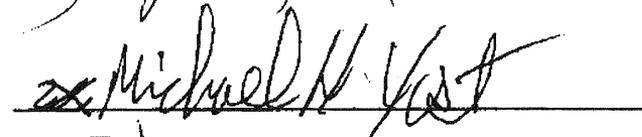
1710 W. Washington Street

X 

1720 W. Washington Street

X 

1730 W. Washington Street

X 

1732 W. Washington Street

X 