

FACTSHEET

TITLE: **CHANGE OF ZONE NO. 3392**, from AGR Agricultural Residential to R-3 Residential, requested by Aspen Builders, on property generally located at S.W. 27th Street and West "A" Street.

STAFF RECOMMENDATION: Approval, subject to a revised legal description.

ASSOCIATED REQUESTS: Preliminary Plat No. 02028, Aspen Ridge 1st Addition (03R-112).

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: Consent Agenda: 04/02/03
Administrative Action: 04/02/03

RECOMMENDATION: Approval, subject to a revised legal description (5-0: Carlson, Larson, Schwinn, Steward and Taylor voting 'yes'; Duvall, Krieser, Newman and Bills-Strand absent).

FINDINGS OF FACT:

1. This change of zone request and the associated preliminary plat for 30 residential lots were heard at the same time before the Planning Commission.
2. The staff recommendation to approve the change of zone request, subject to a revised legal description, is based upon the "Analysis" as set forth on p.4-5, concluding that the proposal is consistent with the 2025 Comprehensive Plan. The associated plat develops Outlot C of the Aspen Ridge Preliminary Plat; however, the plat shows lots within the LDN 70 noise contour and does not comply with Chapter 27.58 of the Zoning Ordinance. Therefore, the staff recommendation requires a revised legal description on the change of zone which leaves a minimum of three acres zoned AGR that includes all of the area above the LDN 70 noise contour.
3. On April 2, 2003, this application appeared on the Consent Agenda of the Planning Commission and was opened for public hearing. No one came forward to speak.
4. On April 2, 2003, the Planning Commission agreed with the staff recommendation and voted 5-0 to recommend approval, subject to a revised legal description.
5. The revised legal description submitted by the applicant on April 23, 2003, is acceptable and is found on p.7.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: April 28, 2003

REVIEWED BY: _____

DATE: April 28, 2003

REFERENCE NUMBER: FS\CC\2003\CZ.3392

APPLICANT: Robert Benes
Aspen Builders
6120 Village Dr. Suite "B"
Lincoln, NE 68516
(402) 423-6811

OWNER: same as applicant

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

EXISTING ZONING: AGR, Agriculture Residential and R-3, Residential.

EXISTING LAND USE: Undeveloped

SURROUNDING LAND USE AND ZONING:

North: R-3, Residential and AGR, Agriculture Residential
South: R-3, Residential
East: R-3, Residential
West: H-4, General Commercial and AGR, Agriculture Residential

COMPREHENSIVE PLAN SPECIFICATIONS:

The 2025 Comprehensive Plan shows this area as Urban residential.

The S.W. 27th St. & West "A" St. subarea plan shows this area as Urban residential.

"Encourage different housing types and choices, including affordable housing throughout each neighborhood for an increasingly diverse population." (F-18)

Guiding Principles for New Neighborhoods include: (F67)

1. Similar housing types face each other: single family faces single family.
2. Pedestrian orientation; shorter block lengths, sidewalks on both sides of all roads.

The city of Lincoln's Airport Environs Noise District and Airport Zoning Regulations have been established to ensure the balance between the airport operations and the surrounding land use. (F-123)

The Lincoln Airport Authority will assess the existing and future noise impacts, noise contours for the Airport environment in a Part 150 Airport Noise Compatible Planning Study. These results could effect the development patterns in southwest and northwest Lincoln and other parts of the County. (F-123)

HISTORY:

Date when preliminary plat was submitted:	December 24, 2002
Date when Planning Director’s letter was sent:	January 16, 2003
Date when revised preliminary plat was submitted:	February 28, 2003

- April 9, 2001 Aspen Ridge Preliminary Plat was accepted by City Council.
- April 16, 2001 Change of Zone #3258 from AGR to R-3 was approved by City Council
- April 16, 2001 Change of Zone #3303 from AGR to R-3 was approved by City Council

Changed from AA Rural and Public Use District to AGR Agriculture Residential District with the 1979 zoning update.

UTILITIES: Utilities are available in W. Washington St. and W. Garfield St.

TOPOGRAPHY: Nearly level, slight slope from west to east.

TRAFFIC ANALYSIS: All of the streets are classified as local streets. S.W. 27th Street is a rural gravel road. S.W. 27th Street needs to be paved to urban standards.

PUBLIC SERVICE: The nearest fire station is Station #13 located at approximately Coddington Ave. and West “A” St.
Roper Elementary school is located at Coddington Ave. and W. South St.

ANALYSIS:

1. This is a request to preliminary plat 30 residential lots and request a change of zone from AGR to R-3.
2. This preliminary plat covers Outlot “C”, the last phase of Aspen Ridge Preliminary Plat.
3. This area is located within the Airport Environs Noise District. An Avigation and Noise Easement was filed on this property with the original preliminary plat.
4. A portion of this plat lies above the LDN 70 noise contour. Residential development is not allowed above the LDN 70 line. Section 26.11.105 of the Land Subdivision Ordinance states “All platting and subdivision of land within the Airport Environs District shall be conditioned upon compliance with all terms and conditions of Chapter 27.58.”
5. The area above the LDN 70 line should remain as an Outlot and remain AGR zoning.
6. AGR zoning requires a 3 acre minimum lot size.

7. The Lincoln Airport Authority is currently conducting a Noise Compatibility Study. The study is scheduled to be completed and approved by the Lincoln Airport Authority by mid summer 2003. The study then must be accepted by the F.A.A. After the F.A.A. has accepted the study, the study must then be made part of the Lincoln Zoning Ordinance.
8. The applicant is requesting a waiver to street trees on S.W. 27th Street. This same waiver was granted with the original preliminary plat. There is an existing tree mass along S.W. 27th Street. Due to the existing tree mass, this waiver is acceptable.

If the Planning Commission chooses to recommend approval and conditional approval of the application, the following conditions are suggested.

CONDITIONS:

Change of Zone Conditions

After the applicant completes the following instructions and submits the documents and plans to the Planning Department office and the plans are found to be acceptable, the application will be scheduled on the City Council's agenda:

1. Revise the boundary of the change of zone to leave a minimum of three acres zoned AGR that includes all of the area above the LDN 70 noise contour.

Prepared by:

Tom Cajka
Planner

**CHANGE OF ZONE NO. 3392
and
PRELIMINARY PLAT NO. 02028,
ASPEN RIDGE 1ST ADDITION**

**CONSENT AGENDA
PUBLIC HEARING AND ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION:**

April 2, 2003

Members present: Steward, Carlson, Larson, Taylor and Schwinn; Krieser, Newman, Bills-Strand and Duvall absent.

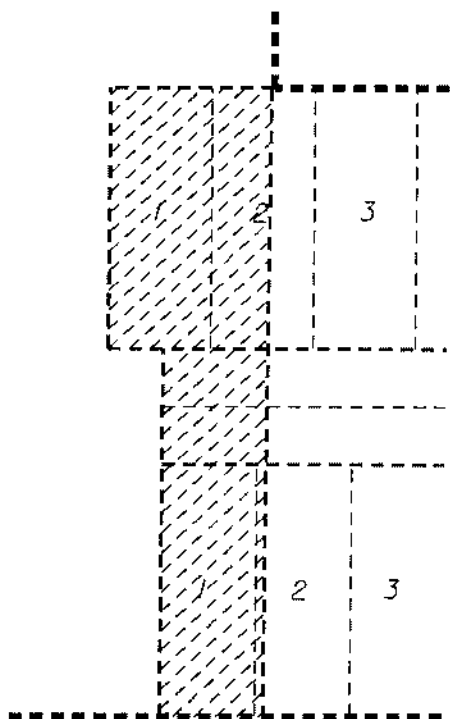
The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 3392 and PRELIMINARY PLAT NO. 02028, ASPEN RIDGE 1ST ADDITION; FINAL PLAT NO. 02002, ROLLING MEADOWS 1ST ADDITION; FINAL PLAT NO. 02015, WILDERNESS RIDGE 5TH ADDITION; FINAL PLAT NO. 02033, PINE LAKE HEIGHTS SOUTH 7TH ADDITION; FINAL PLAT NO. 03001, ALLEGRINI TERRACE ADDITION; STREET AND ALLEY VACATION NO. 03004; and WAIVER NO. 03003.**

Larson moved to approve the Consent Agenda, seconded by Steward and carried 5-0: Carlson, Larson, Schwinn, Steward and Taylor voting 'yes'; Duvall, Krieser, Newman and Bills-Strand absent.

Note: This is final action on the Rolling Meadows 1st Addition Final Plat No. 02002, the Wilderness Ridge 5th Addition Final Plat No. 02015, the Pine Lake Heights South 7th Addition Final Plat No. 02033, and the Allegrini Terrace Addition Final Plat No. 03001, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

APR 23 2003

PLANNING DEPARTMENT



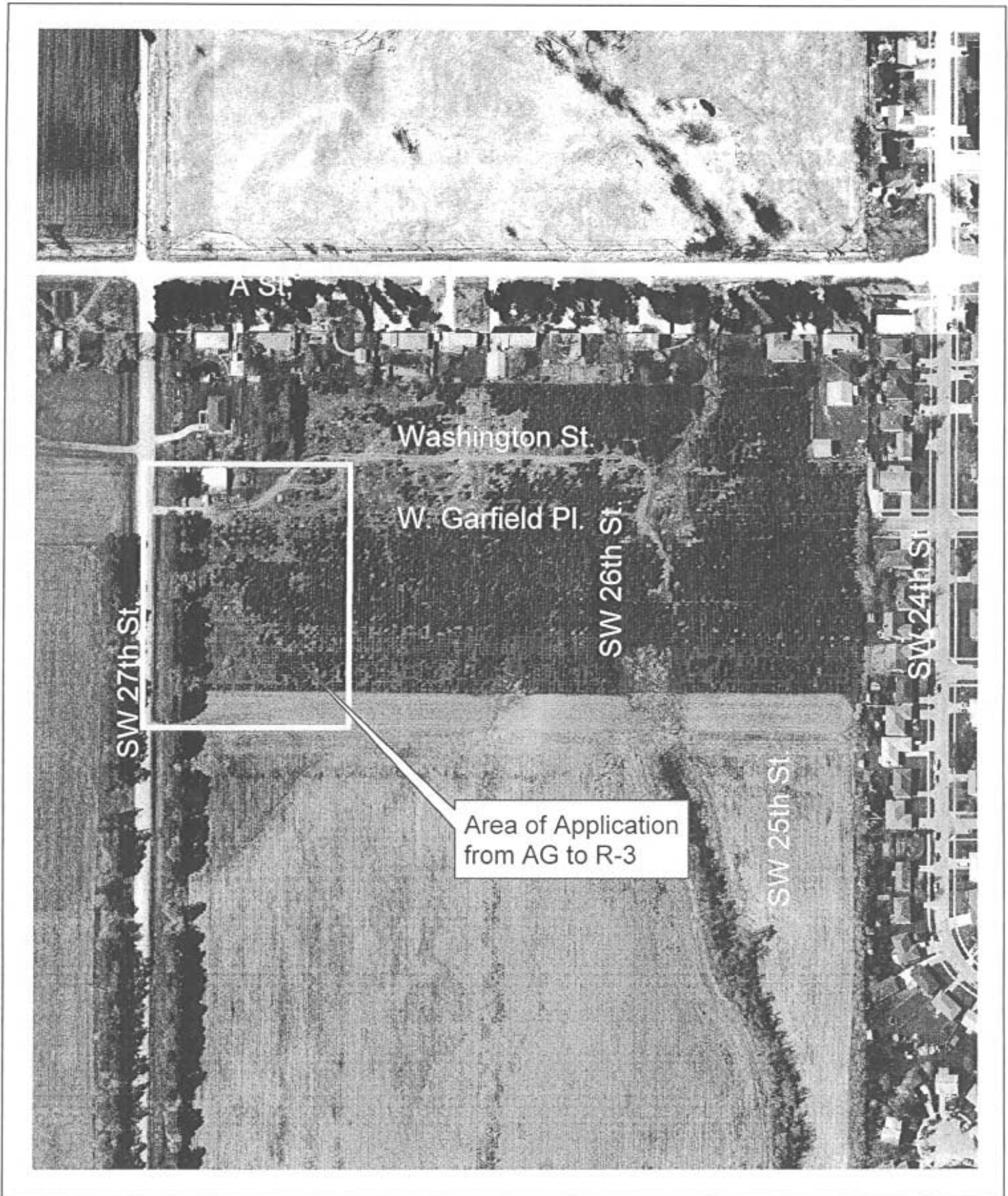
INDICATES AREA OF
CHANGE OF ZONE
FROM AGR TO R-3

CHANGE OF ZONE DETAIL

(Not to Scale)

CHANGE OF ZONE LEGAL DESCRIPTION

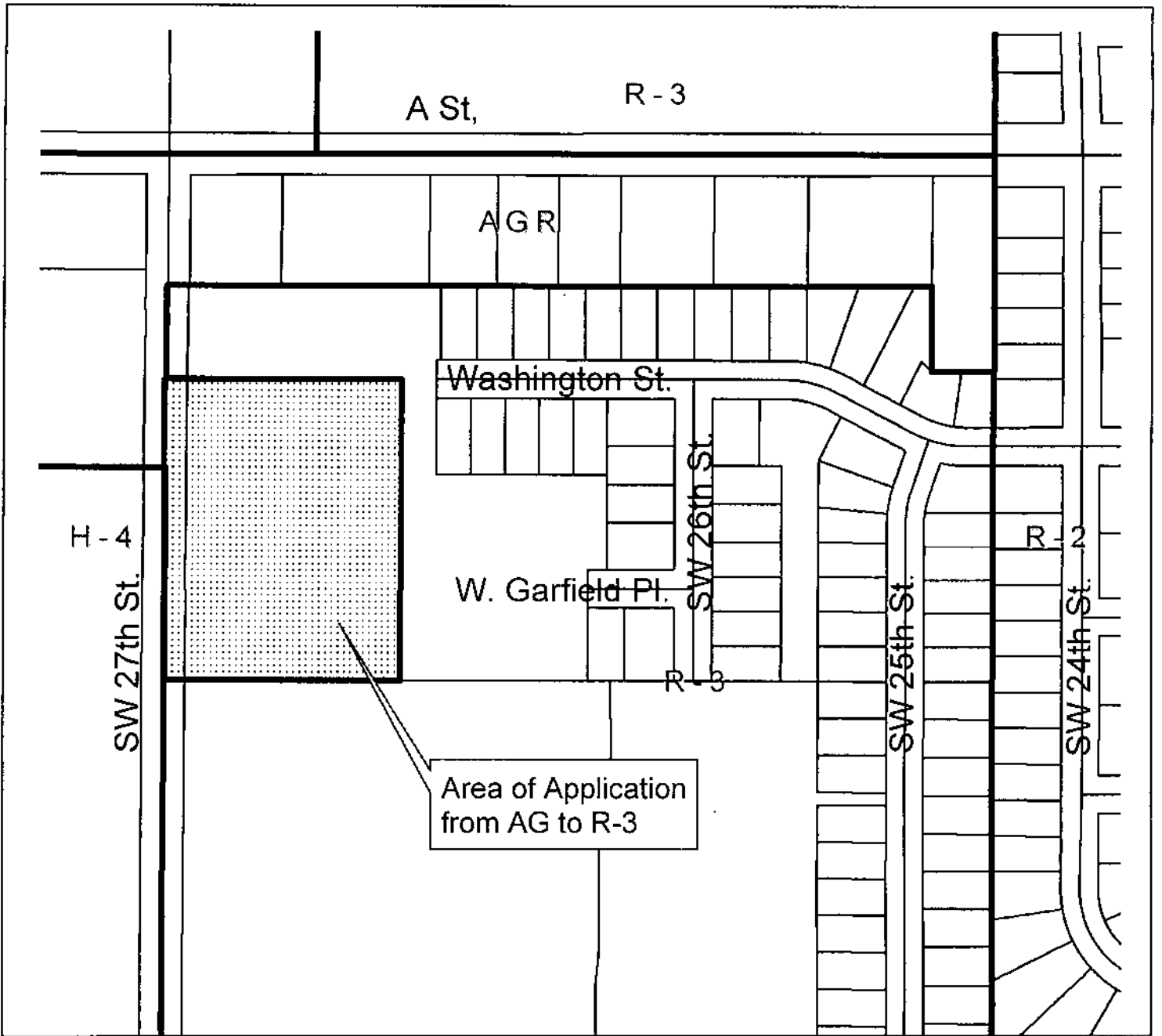
A tract of land located in the Northwest Quarter of Section 33, T 10 N, R 6 E of the 6th P.M, Lancaster County, Nebraska, more particularly described as follows:
Commencing at the northwest corner of said northwest quarter and extending thence
S 00° 17' 42" W, 820.44 feet;
Thence S 89° 59' 43" E, 320.85 feet to the point of beginning;
Thence continuing on said bearing 54.15 feet;
Thence N 00° 17' 42" E, 325.00 feet;
Thence N 89° 59' 43" W, 84.80 feet;
Thence S 00° 00' 17" W, 135.00 feet;
Thence S 89° 59' 43" E, 29.00 feet;
Thence S 00° 00' 17" W, 190.00 feet to the point of beginning containing 0.50 acres
(21,782 S.F.) more or less.



**Change of Zone #3392
Aspen Ridge 1st Add.**



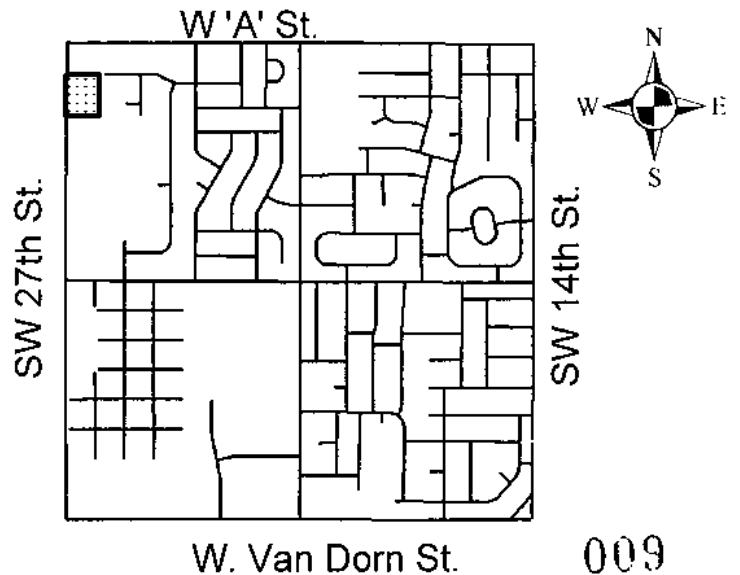
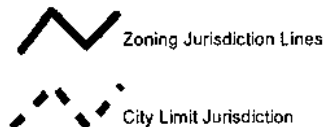
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**Change of Zone #3392
Aspen Ridge 1st Add.
Zoning:**

**One Square Mile
Sec. 33 T10N R6E**

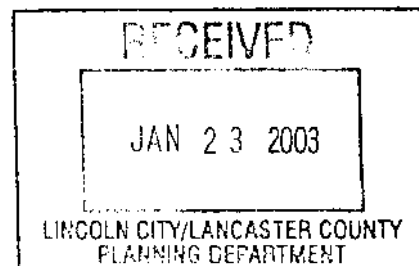
- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned 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





January 22, 2003

Mr. Tom Cajka, Project Planner
City-County Planning
555 So. 10th
Lincoln, NE 68508



Subject: Lincoln Airport, Lincoln, NE
Preliminary Plat: Aspen Ridge Second Addition

Mr. Cajka:

We have reviewed Mr. Ponstingl's December 20 letter and attached preliminary plat. At this time we feel it is premature to move forward with any re-zoning or plat amendments within the 70Ldn as proposed.

At this time, our noise study is several months away from completion. While "draft" documents have been provided to our Public Advisory Committee showing reduced noise contours, we are still in the process of finalizing those documents for submission to the FAA. Not until the FAA has reviewed and accepted our work will the contours be fully and finally defined.

We appreciate the developers desire to move ahead so that he can proceed in a timely manner in the event the contours change but we have some misgiving about allowing him to make investments in infrastructure developments in the hope that the noise contours will be revised. While he may understand that he is taking a risk, we are concerned that once he has made an investment in building the infrastructure required for future residential lots he is going to be very reluctant to accept any changes in zone to other than what he has planned.

I have attached a draft copy of exhibit 5B from the study. Please note that this piece of property is directly under the most heavily traveled approach and departure path to the airport. We believe to make this zone change and approve the plat change in light of this information would be a disservice not only to the developer but more importantly to any future homeowners.


Mr. Tom Cajka
January 22, 2003
Page 2

We understand that people are anxious to move forward in the hopes that additional property can be developed. But we would also encourage everyone to understand that we are in a situation with unique environmental circumstances and we would appreciate the opportunity to complete our study prior to making decisions that may influence it's outcome.

Once again, the Airport Authority would advise against any deviation from existing noise contours and zoning regulations until the completion of our study.

Sincerely,

AIRPORT AUTHORITY

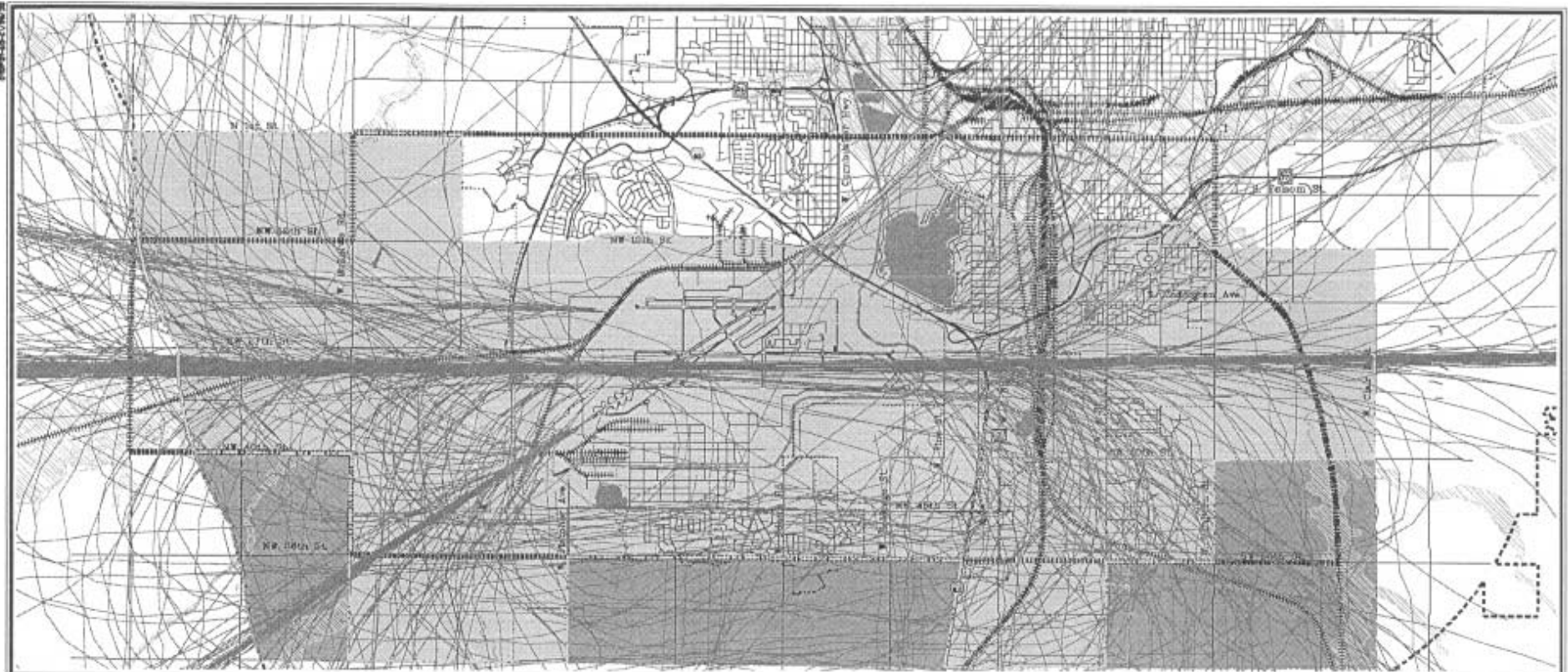


Jon L. Large, P.E.
Deputy Director of Engineering

JLL/lb

Enclosures

cc: Dave Fitz, Coffman Associates
Duncan Ross, City-County Planning



LEGEND

- Airport Property
- Municipal Boundaries
- Extra-territorial Jurisdiction
- Railroad Tracks
- Study Area
- Floodplains
- ▨ Airport Environs Noise District
- ▩ Airport Environs Noise District Boundary Adjustments
- Radar Flight Track Data (Does not include General Aviation or Overflights)

Source: Base Information and Map
City of Lincoln Geographic
Information System, May 2002.
Coffman Associates Analysis.



0 2000
SCALE IN FEET

DRAFT

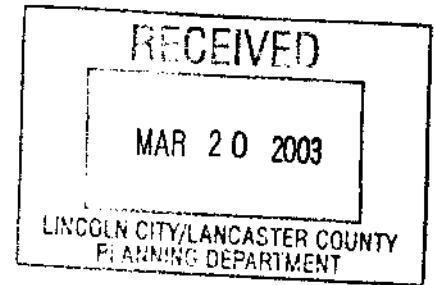
Lincoln Airport

Exhibit 5B
AIRPORT ENVIRONS NOISE
DISTRICT BOUNDARIES

Lincoln Airport Authority

March 19, 2003

Mr. Tom Cajka, Project Planner
City-County Planning
555 So. 10th
Lincoln, NE 68508



Subject: Lincoln Airport, Lincoln, NE
Preliminary Plat, Aspen Ridge – 2nd Addition

Mr. Cajka:

As we have reviewed your March 17 fax concerning additional notes on the preliminary plat, we feel, as we expressed in our January 22 letter, that it is premature to move forward with any plat amendments proposing residential development within the 70Ldn.

As we said in our earlier letter, our noise study is still several months away from completion. To date we have submitted proposed contours to the FAA for review. Not until the FAA has reviewed and accepted our work will the contours be fully and finally defined.

To move forward at this point with preliminary plans for development without knowing where our study is going is imprudent in our opinion. We feel that as soon as you allow one developer to get his plat approved, notes or not, it will open the door for any other developer who has an idea of what might or might not happen, to get their plat approved as well.

We also are very concerned about infrastructure development. In conversations with you, you have indicated that with approval of the preliminary plat the developer could move forward with all infrastructure developments, including water, sewer, storm sewer and street paving. We have serious concerns that as soon as the developer has made any investment in infrastructure he will have a case for moving ahead with development, regardless of the outcome of the study. We do not need a situation in which developers are pressuring either you or I to move forward with a development because they have made an investment, regardless of what the ordinance, or notes on a plat, say. We certainly would not look forward to a situation where the outcome of our study, which we hope will be of benefit to the whole city, is influenced because we allowed a single developer to invest money in improvements in an area he knew was not available for residential development.

Mr. Tom Cajka
March 19, 2003
Page 2

A question I continue to ask myself is why does this need to happen right now? Six to twelve months ago, this would not have been entertained by your staff. The ordinance says we don't allow residential within the 70Ldn and it would not have been shown. That is still the case today. No law, no ordinance, no statute has changed to allow residential development inside the 70. As far as we are concerned this should not even be a question. When the ordinance changes, then we will all get together and follow it, as I believe we should today. Lets stay with what the ordinance says, until it changes.

The developer obviously recognized this when he submitted his original plat. On that plat all of the area inside the 70Ldn was shown as an outlot. In the absence of a change, we believe this is a situation he should continue to plan on.

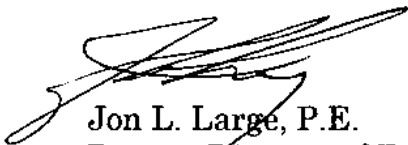
If, indeed, contours are accepted and we can move forward with a change to the location of the lines, we believe then is the time to revise the outlot to a different use. We realize this will require the developer to come back once again, but remember, in the beginning, there was no potential to develop that area as residential at all. It seems to us he should be pleased there is even the potential for developing this area, even if it does mean another trip for him.

As we said before, we don't have any problem with development of residential units between the 65 and 70 as long as they meet the criteria of the ordinance. But to even give the impression of condoning residential development inside the 70 would be a mistake on our part today.

Once again, the Airport Authority would object to any deviation from existing noise contours and zoning regulations until the completion of our study.

Sincerely,

AIRPORT AUTHORITY



Jon L. Large, P.E.
Deputy Director of Engineering

JLL/lb

cc: Mike Johnson, Legal Counsel