

BOARD OF COUNTY COMMISSIONERS
SARPY COUNTY, NEBRASKA

RESOLUTION CHANGE OF ZONE

APPLICANT: EBD HOLDINGS LLC/SUNRIDGE WEST; CHANGE OF ZONE FROM
RG-35, GENERAL RESIDENTIAL & AG, AGRICULTURAL TO RD-50 PTD, TWO
FAMILY RESIDENTIAL PLANNED TOWNHOUSE DEVELOPMENT

WHEREAS, pursuant to Neb. Rev. Stat. § 23-104 (Reissue 2007), the County has the power to do all acts in relation to the concerns of the County necessary to the exercise of its corporate powers; and,

WHEREAS, pursuant to Neb. Rev. Stat. § 23-103 (Reissue 2007), the powers of the County as a body are exercised by the County Board; and,

WHEREAS, the County Board of Commissioners has the authority to adopt a Zoning Regulation, which shall have the force and effect of law pursuant to Neb. Rev. Stat. § 23-114 (Reissue 2007); and,

WHEREAS, said Zoning Regulations require the County Board of Commissioners to approve Change of Zone Applications; and

WHEREAS, Rebecca Horner, Planning Director has reviewed EBD Holdings LLC's application for a Change of Zone from RG-35, General Residential & AG, Agricultural to RD-50 PTD, Two Family Residential Planned Townhouse Development for compliance with the Sarpy County Comprehensive Plan and the Sarpy County Zoning Regulations on the property legally described as follows:

Part of Tax Lot 2 and part of Tax Lot 12A, all located in the NE ¼ of Section 17,
T14N, R11E of the 6th PM in Sarpy County, NE.

NOW, THEREFORE, BE IT RESOLVED BY THE SARPY COUNTY BOARD OF COMMISSIONERS that this Board makes the following findings of fact:

- I. A public hearing regarding the Change of Zone Application was held before the Sarpy County Planning Commission on November 19, 2008 and further, the Planning Commission gave their recommendation.
- II. A public hearing regarding the Change of Zone Application was held by this Board.
- III. Notice of each of the Public Hearings described above was published at least once in the ten (10) day period immediately prior to each respective public hearing as required by Neb. Rev. Stat. §23-164 (Reissue 1997), and the proof of publication has been filed in the Office of the Sarpy County Clerk.
- IV. The Planning Director has made a recommendation as noted in the attached Exhibit "A", which Exhibit "A" includes the Planning Director report.
- V. The Change of Zone Application is in compliance with the Comprehensive Development Plan.

FURTHER BE IT RESOLVED THAT this Board in light of the above recited findings of fact, after due deliberation and consideration, approves the Change of Zone from RG-35, General Residential & AG, Agricultural to RD-50 PTD, Two Family Residential Planned Townhouse Development on the above described property.

Dated this 5th day of May, 2009.

Moved by Rich Jansen seconded by Rusty Hike, that
the above Resolution be adopted. Carried.

YEAS:

NAYS:

ABSENT:

Rusty Hike
Rich Jansen
Tommy Jones
Tommy Jones
Patrick J. Thomas

none

none

ABSTAIN:

none



Debra J. Houghtaling
County Clerk

Approved as to form:

[Signature]
County Attorney

Sarpy County Board of Commissioners Report
April 14, 2009

Subject	Type	By
Change of Zone from RG-35 to RD-50 PTD Preliminary Plat for Sunridge West described as Part of Tax Lot 2 and part of Tax Lot 12A, all located in the NE ¼ of Section 17, T14N, R11E of the 6 th PM in Sarpy County, NE.	Resolution and public hearing	Rebecca Horner, Planning Director

This is a request for approval of a change of zone from RG-35 to RD-50 Planned Townhouse Development and a preliminary plat at approximately 184th and Harrison for 64 townhouse lots, 25 single family lots and three outlots.

- Change of Zone
 - The Comprehensive Development Structure Plan indicates this area as Urban Residential. RD-50 is in conformance with the Urban Residential designation.
 - This is a request to change the zoning from RG-35, General Residential to RD-50, Two-Family Residential with a Planned Townhouse Development overlay.
 - The Planned Townhouse Development provides for innovations in the platting of lots and sublots and in the siting of buildings.
 - The overall density meets the RD-50 requirements.
 - The project includes a park which is centrally located in the development.
- Preliminary Plat
 - The proposed plat includes 64 townhouse lots, 25 single family lots and three outlots. Outlot A is reserved for a park and is located near the center of the plat. Outlots B and C are reserved for drainage.
 - The proposed plat provides additional right of way dedication along Harrison Street as well as good street connectivity within the plat to the west and south of the project area for adjacent future development.
 - The plat needed to address the storm water management regulations prior to scheduling to the County Board. The Natural Resources District is satisfied with the resubmitted storm water management documents and has no objections to the request.
 - Sidewalks will be provided along both sides of all streets and along the south side of Harrison Street.
 - The plat meets the minimum design standards outlined in the Subdivision Regulations.
 - The development proposes to take access to Emiline Street which adjoins Harrison Street. The County Surveyor did not indicate any traffic issues with the proposed request.
- Subdivision Agreement
 - A subdivision agreement is required and will be provided to the applicant for review.
- Planning Commission Action
 - On October 29, 2008, The Planning Commission made a motion to amend the agenda and table the item to November 19, 2008. The Planning Commission voted unanimously (7-0) on November 19, 2008
- ~~**Bliss moved, seconded by Gonzalez to recommend approval of Change of Zone from RG-35 to RD-50 PTD contingent upon the comments provided by the Planning Director. Ballot: Bliss, Gonzalez, Gross, Krebs, Torczon, Wees, and Whitfield. Nays – none. Abstain – none. Absent – Dunbar, Fenster, Marquardt and Wear. Motion Carried.**~~
- ~~**Krebs moved, seconded by Gross to recommend approval of the Preliminary Plat for Sunridge West contingent upon resolution of staff comments prior to scheduling to County Board as it meets the zoning and subdivision regulations of Sarpy County. Ballot: Bliss, Gonzalez, Gross, Krebs, Torczon, Wees, and Whitfield. Nays – none. Abstain – none. Absent – Dunbar, Fenster, Marquardt and Wear. Motion Carried**~~
- Recommendation Change of Zone
 - The zoning request is in conformance with the Comprehensive Plan and the site plan for the planned townhouse development overlay addresses the minimum standards outlined in the Zoning Regulations.
 - For the above stated reasons, I recommend approval to the change of zone from RG-35 to RD-50 with a Planned Townhouse Development overlay as shown in the attached site plan on the preliminary plat.

- Recommendation Preliminary Plat

- The preliminary plat addresses the minimum design standards required in the Subdivision Regulations.
- The request is in conformance with the Zoning Regulations and Comprehensive Plan.
- **For the above stated reasons, I recommend approval to the preliminary plat. #**

Respectfully submitted by:
Rebecca Horner, Planning Director

Additional Information

SARPY COUNTY BOARD OF COMMISSIONERS

MARCH 24, 2009

CHANGE OF ZONE

EBD HOLDINGS

SUNRIDGE WEST



Sunridge West
Change of Zone and Preliminary Plat

1 inch = 300 feet



**SARPY COUNTY
PLANNING COMMISSION
STAFF REPORT
OCTOBER 29, 2008 AGENDA
CHANGE OF ZONE FROM RG-35 TO RD-50 PTD
PRELIMINARY PLAT SUNRIDGE WEST
CZ- PP-08-0050**

I. GENERAL INFORMATION

A. APPLICANT:

EBD Holdings, LLC
1125 S. 103rd Street
Omaha, NE 68124

B. PROPERTY OWNER:

EBD Holdings, LLC

C. LOCATION:

184th and Harrison Street

D. LEGAL DESCRIPTION:

Part of Tax Lot 2 and Tax Lot 12A all located in the NE ¼ of Section 17,
Township 14N, Range 11E of the 6th prime meridian, Sarpy County, NE.

E. REQUESTED ACTION:

- To approve a change of zone from RG-35 to RD-50 PTD.
- To approve a preliminary plat for 95 lots to be known as Sunridge West.

F. EXISTING ZONING AND LAND USE:

Undeveloped, AG, Agricultural.

G. SIZE OF SITE:

14.5 acres, more or less.

II. BACKGROUND INFORMATION

A. COMPREHENSIVE PLAN SPECIFICATIONS:

The Comprehensive Plan shows the area as Urban Residential. (Figure 5.1)

The neighborhood unit organizes urban density that relates to residential areas, neighborhood parks and schools, and commercial or multi-use centers. (Page 79)

"A civic heart of the neighborhood, including a neighborhood park of at least ten acres and a potential school site. Diagrammatically, the civic heart is located as close to the center of the neighborhood as possible, although topography, development design and land availability may cause its location to vary". (Page 79)

Harrison Street is classified as a Rural Major Collector in the 2003 Functional Road Classification (Figure 6.1). Harrison Street is presently a two lane road.

B. EXISTING CONDITION OF SITE: Undeveloped.

C. GENERAL VICINITY AND LAND USE:

Single Family Residential, Omaha zoning to the north.
Undeveloped, zoned RG-35 to the south.
Townhouses, zoned RD-50 to the east.
Undeveloped, zoned RG-35 and AG to the west.

D. RELEVANT CASE HISTORY:

Sunridge preliminary plat to the east was approved in 2003.

E. APPLICABLE REGULATIONS:

Zoning Regulations, Subdivision Regulations and Comprehensive Plan.

III. ANALYSIS AND DEVELOPMENT ALTERNATIVES

STAFF COMMENTS:

A. REQUEST: This is a request to approve a change of zone and preliminary plat for single family and townhouse dwellings.

B. LAND USE/COMPREHENSIVE PLAN: The Comprehensive Plan indicates the area as Urban Residential. The requested zoning will extend the existing land use pattern from the east and combine single family dwellings on the western edge of the plat.

C. GENERAL:

1. Change of Zone:

- a. The proposed zoning is RD-50-PTD, Residential district. The RD-50 district provides for "single and two family residential developments in areas with adequate public facilities and supporting uses near population centers" (Page 31, zoning regulations) with a Planned Townhouse Development overlay.
- b. The lots range in area from 3,500 square feet to approximately 7,000. The minimum lot area for RD-50 is 5,000 square feet, however the Planned Townhouse Development overlay allows the developer flexibility provided that the overall area averages 5,000 square feet per lot. The average lot area is approximately 6,500 square feet.

2. Preliminary Plat:

- a. This is a request for 95 single family and townhouse dwellings in a planned townhouse development. The Planned Townhouse Development is an overlay created "to be appended to a residential zone so as to provide for innovations in the platting of lots and sublots, and in the siting of buildings" (page 65, Zoning Regulations).

- b. The plat proposes to include both lots and sublots. Sublots are lots to be used for a "single townhouse unit" (Page 5, Subdivision Regulations). All land not platted into sublots shall be held by a condominium association, home owner's association, or other entity responsible for care and maintenance. (page 65, Zoning Regulations).
- c. Before approving a planned townhouse development the Planning Commission and County Board must make the following findings:

The proposed modification as to the siting of buildings and platting of sublots:

- i. Will be in the public interest;
 - ii. The request is in harmony with the purposes of this regulation;
 - iii. Will not adversely affect nearby properties;
 - iv. That no building will be closer to any boundary lot line than permitted in the primary zone;
 - v. That the overall density of the development does not exceed that permitted in the primary zone; and
 - vi. That an amount of open space equivalent to that specified in the primary zone will be provided.
- d. The overall density is in conformance with the RD-50 district; however the plat does not designate any community open space. The owners of the sublots will not be able to take advantage of any of the offset density provided in the single family lots. The plat needs to include some type of community recreation component through a park site.
 - e. In order to verify that the above required findings are met, additional information must be provided with the plat as indicated in the following comments:
 - f. Section 29.6.1 of the Subdivision Regulations requires that a detailed site plan be included. Presently the center block shows 39 sublots. This would leave one townhouse unit without a necessary subplot for connection. Townhouse is defined as "a building that has single family dwelling units erected in a row as a single building on adjoining sublots, each unit having an outdoor entrance and being separated from the adjoining unit or units by a party wall or walls" (page 180, Zoning Regulations). A detailed site plan, as required, will allow verification that all sublots will be used for a single townhouse unit. This will also allow staff to verify that Sublots 12 and 13 have enough space for the required setbacks and are not too encumbered by the 20 foot wide storm sewer and drainage way easement that runs along the property line of both lots.
 - g. The plat indicates additional right of way dedication along Harrison Street.
 - h. Street names need to be revised as recommended by the street naming professional in the County GIS Department.
 - i. Direct vehicular access to Harrison Street is restricted.
 - j. Sidewalks need to be shown along both sides of all streets including Harrison Street or noted on the plat. Sidewalks shall be a minimum of 4' in width.

- k. The utility plan notes sanitary and storm sewer but does not address water or fire hydrant locations. The plat needs to be revised to show hydrant spacing to meet minimum requirements of the fire district.
- l. The eastern block length is longer than the maximum 800 feet, however the existing block length in the abutting block to the east prevents additional road and pedestrian connectivity.
- m. The plat does not provide a road connection to the west. A connection must be provided to ensure the proper connectivity to future development to the west. Additionally, the westernmost block is shown longer than the maximum 800 foot length and must be shortened. The road connection to the west will shorten the block length within the minimum design standards as required by the Subdivision Regulations.
- n. Setbacks are to be shown or noted on the plat. In cases where lots may have multiple frontages, setbacks need to be shown on the drawing.
- o. A landscape plan was not provided and is required.
- p. Street profiles and a description of proposed curbs, gutters, street surfacing and street substructure information are required for review.
- q. A County Board approval block must be included on the drawing for signature by the chairperson.

3. General

- a. Comments have not been received by the Natural Resources District and revisions may be necessary.
- b. A subdivision agreement is required prior to scheduling to County Board.

IV. RECOMMENDATION: Recommend approval to the change of zone from RG-35 to RD-50-PTD.

Recommend approval to the preliminary plat for Sunridge West provided that staff comments are resolved prior to scheduling to the County Board.

V. COPIES OF REPORT TO:

Applicant
Public upon request

VI. ATTACHMENTS:

Application
Site Plan
Aerial

Report prepared by:



Rebecca Horner, Planning Director

SARPY COUNTY Planning and Building Department

Application for Zoning and/or Platting

INSTRUCTIONS: Please see detailed instructions on completing this form.

APPLICATION FOR: (Pursuant to Section _____ of the Sarpy County Zoning Ordinances and/or Section _____ of the Subdivision Regulations)

- Change of Zone from RG-35 & AG to RD-50-PTD
- Preliminary Plat: _____
- Final Plat: _____
- Other: _____

Legal Description (describe property to wit):

PART OF T.L.2., A TAX LOT IN THE NE 1/4 OF SEC.17 AND ALSO PART OF T.L. 12A, A TAX LOT IN SAID NE 1/4 OF SEC.17, ALL IN T14N, R1E OF THE 6TH P.M., SARPY COUNTY, NE.

Property Owner or Business Name:

EBD HOLDINGS, LLC

Address: 1125 S. 103RD STREET

City, St, Zip: OMAHA, NE 68124

Phone: _____

Developer's Name:

SAME AS ABOVE

Address: _____

City, St, Zip: _____

Phone: _____

Engineer's Name:

E & A CONSULTING GROUP

Address: 330 N. 117TH STREET

City, St, Zip: OMAHA NE 68154

Phone: 402-895-4700

General Property Location:
184TH & HARRISON STREET

FEES: A non-refundable filing fee of \$ _____ is required upon submission of application to the Department of Planning and Building.

An application for a Change of Zone shall be accompanied by a certified copy of the Deed or other instrument on file in the office of the Register of Deeds.

I/We, the undersigned, do hereby acknowledge that I/We do fully understand and agree to comply with the provisions of the above stated section of the Sarpy County Zoning Ordinance and/or Subdivision Regulations:

Signature of Owner or Legal Representative

DATE

Signature of Owner or Legal Representative

DATE

REVIEWED BY: Sarpy County Attorney

DATE

SEE ATTACHED RESOLUTION FOR PLANNING COMMISSION RECOMMENDATION and COUNTY BOARD ACTION

SARPY COUNTY Planning and Building Department

Application for Zoning and/or Platting

INSTRUCTIONS: Please see detailed instructions on completing this form.

<p>APPLICATION FOR: (Pursuant to Section _____ of the Sarpy County Zoning Ordinances and/or Section _____ of the Subdivision Regulations)</p> <p> <input type="checkbox"/> Change of Zone from <input checked="" type="checkbox"/> Preliminary Plat: <u>SUNRIDGE WEST</u> <input type="checkbox"/> Final Plat: _____ <input type="checkbox"/> Other: _____ </p> <p>Legal Description (describe property to wit):</p> <p>PART OF T.L.2., A TAX LOT IN THE NE 1/4 OF SEC. 17 AND ALSO PART OF T.L. 12A, A TAX LOT IN SAID NE 1/4 OF SEC. 17, ALL IN T14N, R11E OF THE 6TH P.M., SARPY COUNTY, NE.</p>	<p>Property Owner or Business Name:</p> <p><u>EBD HOLDINGS, LLC</u></p> <p>Address: <u>1125 S. 103RD STREET</u> City, St, Zip: <u>OMAHA, NE 68124</u> Phone: _____</p> <hr/> <p>Developer's Name:</p> <p><u>SAME AS ABOVE</u></p> <p>Address: _____ City, St, Zip: _____ Phone: _____</p> <hr/> <p>Engineer's Name:</p> <p><u>E & A CONSULTING GROUP</u></p> <p>Address: <u>330 N. 117TH STREET</u> City, St, Zip: <u>OMAHA NE 68154</u> Phone: <u>402-895-4700</u></p>
<p>General Property Location: <u>184TH & HARRISON STREET</u></p>	<p>FEES: A non-refundable filing fee of \$ _____ is required upon submission of application to the Department of Planning and Building.</p>
<p><u>An application for a Change of Zone shall be accompanied by a certified copy of the Deed or other instrument on file in the office of the Register of Deeds.</u></p> <p><i>I/We, the undersigned, do hereby acknowledge that I/We do fully understand and agree to comply with the provisions of the above stated section of the Sarpy County Zoning Ordinance and/or Subdivision Regulations:</i></p>	
<p>_____ Signature of Owner or Legal Representative</p>	<p><u>8/27/08</u> DATE</p>
<p>_____ Signature of Owner or Legal Representative</p>	<p>_____ DATE</p>
<p>_____ REVIEWED BY: Sarpy County Attorney</p>	<p>_____ DATE</p>
<p>SEE ATTACHED RESOLUTION FOR PLANNING COMMISSION RECOMMENDATION and COUNTY BOARD ACTION</p>	

October 15, 2008



Rebecca Horner
Sarpy County Planning and Building
1261 Golden Gate Drive, Suite 2E
Papillion, NE 68046

OCT 15 2008

RE: Sunridge West- Rezoning and Preliminary Plat

SARPY COUNTY
PLANNING DEPARTMENT

Dear Ms. Horner:

The District has reviewed the Preliminary Plat, Preliminary Grading and Utilities, and Drainage Basin Plan for a proposed residential subdivision of approximately 14.6 acres located at 184th & Harrison Street. The following recommendations are provided:

- The District recommends that low impact development techniques be utilized to control the first half inch of stormwater runoff for water quality improvements.
- A drainage study showing no net increase in peak discharges for the 2, 10 and 100 year storm events should be submitted for review. Each potential discharge point from the project should be analyzed.
- Several areas appear to have potential drainage issues and will need consideration. There could be some increase in runoff from the backyards of the proposed lots on the west side that may impact the adjacent property owner. Land uses should be determined and peak flows analyzed for existing and proposed conditions. Also, a plan should be considered for Sublots 1-12 where the stormwater will need to flow around the proposed structures to reach the street. A channel or drainage easement may be necessary. Please analyze these situations.
- Please submit erosion control plans, storm sewer plans and storm sewer calculations for review. Details and calculations for any storm sewer outlets should also be provided.

The information requested above should be submitted for review by the District prior to plat approval. If you have any questions you may contact me at 444-6222 or at agrint@papionrd.org.

Sincerely,


Amanda Grint, PE, CFM
Water Resources Engineer

Cc: Gerry Bowen, PMRNRD

AFFIDAVIT OF PUBLICATION

State of Nebraska}

ss.

County of Sarpy}

Being duly sworn, upon oath, Shon Barenklau deposes and says that he is the Publisher or Kirk Hoffman deposes and says that he is the Business Manager of the **Bellevue Leader, Papillion Times, Gretna Breeze and Springfield Monitor**, a legal newspaper with a bonafided circulation of 300 copies published in Bellevue, Papillion, Gretna and Springfield, Nebraska; and said newspaper has been published for at least 52 consecutive weeks prior to publication of attached notice; that said publications are of general circulations; that the attached notice was published 1 times on:

Wednesday, April 1, 2009

And that said newspaper is a legal newspaper under the statutes of the State of Nebraska. The above facts are within my personal knowledge.

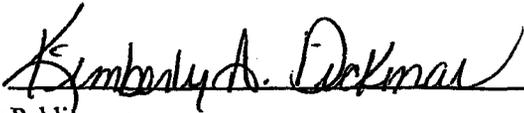


Shon Barenklau
Publisher

 Kirk Hoffman
Business Manager

Today's Date 03-31-2009

Signed in my presence and sworn to before me:



Notary Public

KIMBERLY A. DICKMAN
General Notary
State of Nebraska
My Commission Expires Mar 27, 2012

Printer's Fee \$ 15.40

Papillion, Nebraska 68046
Phone (402) 593-1555
Fax (402) 593-1558
Rebecca Homer, Director
NOTICE OF PUBLIC HEARING
SARPY COUNTY BOARD OF COMMISSIONERS
Notice is hereby given that a regular meeting of the Sarpy County Board of Commissioners will be held on Tuesday, April 14, 2009 at 3:00 P.M. in the Sarpy County Board Room, Sarpy County Administration, Papillion, Nebraska.
EBD Holdings Inc. 1125 S. 103rd Street, requests approval of a Change of Zone from RG-35 General Residential to RD-50-RTD (Two-Family Residential District, Planned Townhouse Development) and AG (Agricultural) and a Preliminary Plat and to be known as Sunridge West on the following described property, to wit: Tax Lot 2, A Tax Lot in the NE 1/4 of Section 17 and part of the Tax Lot 12A, a Tax Lot in said NE 1/4 of Section 17, all in the Township 14N, Range 11E of the 6th P.M. Sarpy County, Nebraska (184th & Harrison Street)
1198113-4/1

OCT 16 2008

AFFIDAVIT OF PUBLICATION

SARPY COUNTY
PLANNING DEPARTMENT

State of Nebraska}

ss.

County of Sarpy}

Being duly sworn, upon oath, Shon Barenklau deposes and says that he is the Publisher or Paul Swanson deposes and says that he is the Marketing Director of the **Bellevue Leader, Papillion Times, Gretna Breeze and Springfield Monitor**, a legal newspaper with a bonafided circulation of 300 copies published in Bellevue, Papillion, Gretna and Springfield, Nebraska; and said newspaper has been published for at least 52 consecutive weeks prior to publication of attached notice: that said publications are of general circulations: that the attached notice was published 1 times on:

Wednesday, October 15, 2008

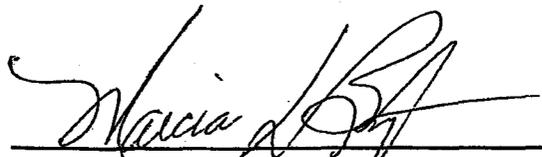
And that said newspaper is a legal newspaper under the statutes of the State of Nebraska. The above facts are within my personal knowledge.



Shon Barenklau OR Paul Swanson
Publisher Marketing Director

Today's Date 10-14-2008

Signed in my presence and sworn to before me:



Notary Public

GENERAL NOTARY - State of Nebraska
MARCIA L. BRYANT
My Comm. Exp. Feb. 12, 2010

SARPY COUNTY
DEPARTMENT OF PLANNING
Sarpy County Courthouse
1210 Golden Gate Drive
Papillion, Nebraska 68046
Phone (402) 593-1556
Fax (402) 593-1568
Rebecca Horner, Director

NOTICE OF PUBLIC HEARING
SARPY COUNTY
PLANNING COMMISSION

Notice is hereby given that a regular meeting of the Sarpy County Planning Commission will be held on Wednesday, October 22, 2008 at 7:00 P.M. in the Sarpy County Board Room, Sarpy County Administration, Papillion, Nebraska.

Boyer Young Development Company, 0719 Giles Road, requests approval of a Preliminary Plat, Change of Zone from AG/Agricultural to RD-59, Two-Family Residential District, and Comprehensive Plan Amendment to be known as White's Creek on Tax Lots 8 & 9 located in the SW 1/4 of Section 17, Township 14N, Range 11E of the 6th P.M., Sarpy County, Nebraska (182nd & Giles)

Hocky, 182nd & C, 4419 S. 190th Street, requests approval of a Special Use Permit to be known as Pawnee's Wildlife Daycare on the following described property to wit: Lots 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 located in the Northwest Quarter of Section 17, Township 14N, Range 11E of the 6th P.M., Sarpy County, Nebraska (180th & Edna Street)

Western Land Company, LLC, 40580 S. 14th Street, Omaha, requests approval of a Final Plat to be known as White's Southpointe, being a platting of Tax Lot 10 of the SE 1/4 of Section 17, Township 14N, Range 11E of the 6th P.M., Sarpy County, Nebraska (180th & Edna Street)

EBB Holdings Inc., 1125 S. 103rd Street, requests approval of a Preliminary Plat and Change of Zone from RG-35, General Residential to RD-50-PTD, Two-Family Residential District 7) Planned Townhouse Development and AG/Agricultural to be known as Sunridge West on the following described property to wit: portion of Tax Lot 2, A tax lot in the NE 1/4 of Section 17 and part of the Tax Lot 12A, a Tax Lot in said NE 1/4 of Section 17, all in the Township 14N, Range 11E of the 6th P.M., Sarpy County, Nebraska (184th & Harrison Street)

Gretna Rural Fire District, PO BOX 185, Gretna, Nebraska, requests approval of Preliminary Plat, Final Plat and change of zone from AG/Agricultural to RS-100, Single-Family Residential to be known as Gretna Rural Fire located on the following described property to wit: a parcel of land a portion of the SW 1/4 of the NW 1/4 of Section 27, Township 14N, Range 11E of the 6th P.M., Sarpy County, Nebraska (south of Cornhusker Road east of 169th Street)

David Grant requests a text amendment to the Highway Corridor Overlay District.

Sarpy County Planning Department
Rebecca Horner, Director
September 17, 2008
11975652-10/15

Printer's Fee \$ 36.38
Customer Number: 000947
Order Number: 11975652

MEMORANDUM

May 7, 2009

TO: Sarpy County Clerk, Planning Department
RE: Sunridge West, Change of Zone
FROM: Nicole O'Keefe, Deputy Sarpy County Attorney

There appears to be an issue with the approval of the Change of Zone on Sunridge West. The publicized legal notices for both the planning commission meeting and the county board meeting state that the subject property will be changed from RG-35, General Residential to RD-50-PTD, Two Family Residential District/Planned Townhouse Development, and AG, Agricultural. While in fact, the land will change from RG-35, General Residential & AG, Agricultural to RD-50 PTD, Two Family Residential District/Planned Townhouse Development. Additionally, the planning commission and the county board specifically approved the change of zone from RG-35, General Residential to RD-50-PTD, Two Family Residential District/Planned Townhouse Development. Essentially, this matter breaks down into two legal issues. Each will be addressed separately below.

The first issue is whether or not the publicized notices fulfill the Open Meetings Act requirements. The Open Meetings Act requires that agenda items be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. Neb. Rev. Stat. §84-1411 (Reissue 2008). The publications made it clear that the applicant is requesting a change of zone on the subject property. While it is not ideal that AG, agricultural was listed as what the subject property will be changed to rather than being changed from, in this instance, the error does not appear to be fatal because the correct zoning of what the subject property was to be changed to was listed and the requirement is truly the reasonable notice of the matters to be considered. After reading the publications, a reasonable person would likely have concluded that at a minimum, the subject property was going to be discussed as to a change of zone. Thus it is my opinion that the Open Meetings Act was not violated in this instance.

The second issue is whether or not the lack of mention of AG, Agricultural in the motions of the planning commission and the county board affected the change of zone to RD-50-PTD, Two Family Residential District/Planned Townhouse Development. In a change of zone, mentioning what the zoning of the subject property will become is the most important. Both motions clearly stated that the subject property was to be changed to RD-50-PTD. In this instance, the lack of mention of AG in either motion is not consequential.

Based on the above reasoning, the subject property appears to have been rezoned to RD-50-PTD and this matter does not need to return to the planning commission or the county board.