

BOARD OF COUNTY COMMISSIONERS
SARPY COUNTY, NEBRASKA

RESOLUTION: SPECIAL USE PERMIT FOR 370 EXPRESS

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 Special Use Permits; and

WHEREAS, Rebecca Horner, Planning Director has reviewed 370 Express' application for a Special Use Permit for Retail Alcohol Sales for compliance with the Sarpy County Comprehensive Plan and the Sarpy County Zoning Regulations on the property legally described as follows:

Tax Lot 11 located in the Southeast Quarter of Section 27, Township 14N,
Range 11E of the 6th P.M., 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 Special Use Permit Application was held before the Sarpy County Planning Commission on April 15, 2009 and further, the Planning Commission gave their recommendation.

- II. A public hearing regarding the Special Use Permit 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 Special Use Permit 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 Special Use Permit for Retail Alcohol Sales on the above described property.

Dated this 21st day of April, 2009.

Moved by Tom Richards seconded by Rusty Hike, that
the above Resolution be adopted. Carried.

YEAS:

NAYS:

ABSENT:

Rusty Hike
Rich Jensen
Tom Richards
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 21, 2009

Exhibit A

Subject	Type	By
This is a request for a Special Use Permit for Retail Alcohol Sales on property legally described as Tax Lot 11 located in the Southeast Quarter of Section 27, Township 14N, Range 11E of the 6 th P.M., Sarpy County	Resolution and public hearing	Rebecca Horner, Planning Director

This is a request for approval of a special use permit for retail alcohol sales generally located west of Highway 370 and Sapp Brothers Drive associated with an existing service station, 370 Express.

- History of Request
 - Planning Department staff received a request for a liquor permit for the Highway 370 Express. It was determined that a special use permit is required to operate retail alcohol sales.

- Comprehensive Development Plan & Zoning
 - The Comprehensive Plan shows the area as Business Park. (Figure 5.1)
 - Highway 370 is classified as a Rural Principal Arterial and Sapp Brothers Drive is a local commercial road in the Functional Road Classification (Figure 6.1).
 - The existing zoning is BG, General Business. The existing zoning is in conformance with the Comprehensive Plan land use designation.

- Special Use Permit
 - The BG district allows for Retail Alcohol Sales as a Permitted Special Use.
 - The proposed retail alcohol sales are to be located in a light industrial/commercial area as part of a convenience store/service station adjacent to a highway. There do not appear to be any adjacency issues with the proposed use.
 - The convenience store and service station has been operating at this location since 2001.
 - Surrounding uses are undeveloped open park space, light industrial and commercial.

- Planning Commission Action
 - The Planning Commission voted (9-1) to recommend approval of the special use permit on April 15, 2009.

- Whitfield moved, seconded by Torczon, to approve the request for special use permit for retail alcohol sales due to compatibility with adjacent uses, conforming with the zoning regulations and is consistent with the comprehensive plan of Sarpy County. Ayes – Bliss, Dunbar, Gonzalez, Gross, Stuart, Torczon, Wear, Wees, Whitfield Nays: Marquardt, Abstain – none. Absent – Fenster Motion Carried.

- Recommendation
 - Recommend approval to the request for a Special Use Permit for Retail Alcohol sales due to compatibility with adjacent zoning/uses, conformance with zoning regulations and consistent with the Comprehensive Development Structure Plan.

Respectfully submitted by:



Rebecca Horner
Planning Director

Additional Information

SARPY COUNTY BOARD OF COMMISSIONERS

APRIL 21, 2009

SPECIAL USE PERMIT

370 EXPRESS



SARPY COUNTY PLANNING

• 1210 GOLDEN GATE DRIVE PAPPILLION, NE 68046.
• PHONE: 402-593-1555 • FAX: 402-593-1558 • E-MAIL: PLANNING@SARPY.COM

MAR 13 2009

SARPY COUNTY
PLANNING DEPARTMENT

SPECIAL USE PERMIT APPLICATION

<p>In order for your application to be considered COMPLETE, please answer all applicable questions and provide the following:</p> <ol style="list-style-type: none"> 1. Submit complete Special Use Permit Application 2. Submit Non-Refundable Fee of \$250.00 made payable to Sarpy County Treasurer 3. 25 full sized site plan drawings (Folded) 4. 1 reduced size site plan drawing (8.5 x 11) 5. Detailed operational plans 	<p>PLANNING STAFF USE ONLY:</p> <p>APPLICATION NO.: <u>SUP 09 - 0001</u></p> <p>DATE RECEIVED: <u>3/13/09</u></p> <p>CP DESIGNATION: <u>Business Park</u></p> <p>ZONING DESIGNATION: <u>BG</u></p> <p>FEE: <u>\$ 250</u> RECEIPT NO. _____</p> <p>RECEIVED BY: <u>lbt</u></p> <p>NOTES: _____</p>
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APPLICANT INFORMATION:

NAME: 370 Express E-MAIL: N/A

ADDRESS: 11108 Sapp Bros. Drive CITY/STATE/ZIP: Omaha NE 68138

MAILING (IF DIFFERENT) ADDRESS: same CITY/STATE/ZIP: _____

PHONE: 402-332-5571 FAX: 402-332-5571

PROPERTY OWNER INFORMATION: (If multiple owners, attach separate sheet)

Please check box if attaching separate sheet with owner information.

NAME: _____ E-MAIL: _____

ADDRESS: _____ CITY/STATE/ZIP: _____

MAILING (IF DIFFERENT) ADDRESS: _____ CITY/STATE/ZIP: _____

PHONE: _____ FAX: _____

ENGINEER INFORMATION: N/A

NAME: _____ E-MAIL: _____

ADDRESS: _____ CITY/STATE/ZIP: _____

MAILING (IF DIFFERENT) ADDRESS: _____ CITY/STATE/ZIP: _____

PHONE: _____ FAX: _____

A4

PROJECT DESCRIPTION: (Describe the project in detail, including physical features of the site, proposed improvements, proposed uses or business, operating hours, number of employees, anticipated customers, etc. – Attach additional sheets if necessary.) **PLEASE NOTE:** A detailed project description is essential to the reviewing process of this request.

See attached.

PROJECT SITE INFORMATION: Complete each section in its entirety. If a question is not applicable to your project, please indicate this to show that each question has been carefully considered.

ASSESSOR'S PARCEL NUMBER: N/A 016431268

ADDITIONAL PARCEL NUMBERS N/A

LEGAL DESCRIPTION: (Describe property to wit:)

See attached

GENERAL PROPERTY LOCATION: Northwest corner of Hwy 370 & Scapp Bros Drive
in Omaha, NE.

ADDITIONAL INFORMATION: Please use this space to provide any other information you feel is appropriate for the County to consider during review of your application. Attach extra sheets if necessary.

PLEASE NOTE THE FOLLOWING PROCEDURES:

1. The Planning Commission will hold a public hearing and make a recommendation to the County Board.
2. County Board will hold a public hearing and make a final decision on the Special Use Permit.
3. All necessary agreements will be recorded with the Sarpy County Register of Deeds, the cost of which will be borne by the Special Use Permit applicant or the property owner.

I, the undersigned, understand a sign will be posted on my property and will remain until the public hearing process at the Planning Commission and County Board is complete. I further understand the Special Use Permit process as stated above and I authorize County Staff to enter the property for inspection related to the specific request during this process.

Danny Edwards
Owner Signature (or authorized agent)

3-11-09
Date

Danny Edwards
Owner Signature (or authorized agent)

3-11-09
Date

PROPERTY OWNER INFORMATION:

Danny L. Edwards
17616 Troon Circle
Omaha, NE. 68136
PHONE: 402-891-8140
E-MAIL: sandeinc@cox.net
FAX: 402-891-7113

Nancy L. Edwards
17616 Troon Cr.
Omaha, NE. 68136
PHONE: 402-891-8140
E-MAIL: sandeinc@cox.net
FAX: 402-891-7113

PROJECT DESCRIPTION:

370 Express convenience store is requesting a special use permit for the sale of beer, wine, and distilled spirits (Class D liquor license). This license is for off sale only.

PROJECT DESCRIPTION:

370 Express is a convenience store located at the northwest corner of Highway 370 and Sapp Bros. Drive. This business has been in operation since August of 2001. There are a total of five gasoline dispensers on the property, one of which also dispenses diesel fuel. The store itself is approximately 3800 sq. ft. and includes a sales area, walk in cooler, kitchen, coffee bar, fountain area, two restrooms and a storage area. We have a total of 4 full time and 1 part time employees. Our hours of operation are 6am-10pm M-F and 7am-9pm SAT-SUN. Our customer base includes much of the surrounding businesses, interstate travelers, and commuters traveling to work along highway 370.

**SARPY COUNTY
PLANNING COMMISSION
STAFF REPORT
APRIL 15, 2009
SPECIAL USE PERMIT
370 EXPRESS
SUP 09-0001**

I. GENERAL INFORMATION

A. APPLICANT:

370 Express
11108 Sapp Bros. Drive
Omaha, NE 68138

B. PROPERTY OWNER:

Danny & Nancy Edwards
17616 Troon Circle
Omaha, NE 68136

C. LOCATION:

Hwy 370 & Sapp Bros. Drive

D. LEGAL DESCRIPTION:

Tax Lot 11 located in the SE ¼ of Section 27 Township 14 and Range 11 of the 6th P.M. Sarpy County, Nebraska.

E. REQUESTED ACTION:

- To approve a Special Use Permit to obtain a class D liquor license permitting the sale of beer, wine and distilled spirits for off sale only.

F. EXISTING ZONING AND LAND USE:

BG, General Business improved with a service station.

G. SIZE OF SITE:

1 acre, more or less.

II. BACKGROUND INFORMATION

Planning Department staff received a request for a liquor permit for the Highway 370 Express. It was determined that a special use permit is required to operate retail alcohol sales.

A. COMPREHENSIVE PLAN SPECIFICATIONS:

The Comprehensive Plan shows the area as Business Park. (Figure 5.1)
Highway 370 is classified as a Rural Principal Arterial and Sapp Brothers Drive is a local commercial road in the Functional Road Classification (Figure 6.1).

B. EXISTING CONDITION OF SITE:

The lot is located off Highway 370 and Sapp Brothers Drive. The site is developed with a service station.

C. GENERAL VICINITY AND LAND USE:

- The area north of the site is zoned IL, BG and AG and developed with light industrial uses and open space.
- The area south of the site is zoned BG, General Business and developed with commercial uses.
- The area west is zoned AG and used as open space for the creek.
- The area east is zoned BHS and developed with highway commercial uses.

D. RELEVANT CASE HISTORY:

The convenience store and service station has been operating at this location since 2001.

E. APPLICABLE REGULATIONS:

Zoning Regulations and Comprehensive Plan.

III. ANALYSIS AND DEVELOPMENT ALTERNATIVES

STAFF COMMENTS:

A. REQUEST:

1. This is a request to approve a special use permit for retail alcohol sales.

B. LAND USE/COMPREHENSIVE PLAN:

1. The Comprehensive Plan indicates the area as Business Park.

C. GENERAL:

1. The BG district allows for Retail Alcohol Sales as a Permitted Special Use.

2. The proposed retail alcohol sales are to be located in a light industrial/commercial area as part of a convenience store/service station adjacent to a highway. There do not appear to be any adjacency issues with the proposed use.

IV. RECOMMENDATION:

1. Recommend approval to the request for a Special Use Permit for Retail Alcohol sales due to compatibility with adjacent zoning/uses, conformance with zoning regulations and consistent with the Comprehensive Development Structure Plan.

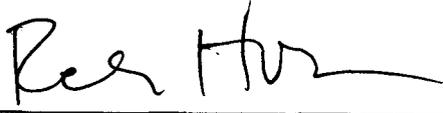
V. COPIES OF REPORT TO:

Applicant
Public upon request

VI. ATTACHMENTS:

Application
Site Plan
Aerial

Report prepared by:



A handwritten signature in cursive script, appearing to read "Rebecca Horner", written over a horizontal line.

Rebecca Horner, Planning Director

Michelle Alfaro

From: Nicole O'Keefe
Sent: Friday, March 27, 2009 9:45 AM
To: Michelle Alfaro
Subject: RE: Zoning Review - Special Use Permit - 370 Express

I recall that the applicant has already applied for a liquor license. It would be significant to know whether or not the applicant has it yet or when the applicant expects to receive it.

Nicole O'Keefe
Deputy County Attorney, Sarpy County
1210 Golden Gate Drive
Papillion, NE 68046
Phone: 402-593-2230
Fax: 402-593-4359
nokeefe@sarpy.com

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From: Michelle Alfaro
Sent: Friday, March 20, 2009 4:20 PM
To: Mark Wayne; Brian Hanson; Nicole O'Keefe; Tom Lynam; Eric Herbert; Nikki Lampe; Grint, Amanda; Laster, Lori; Jeff Davis; Mark Stursma; 'MBaker@ci.la-vista.ne.us'; 'donna@cityofgretna.com'; 'kathleencityofspringfield@yahoo.com'; cshewchuk@bellevue.net; firechief@cityofgretna.com; cchevalier@esu3.org
Cc: Michelle Alfaro
Subject: Zoning Review - Special Use Permit - 370 Express

Hello,

Please review the attached request for a special use permit and provide comments no later than **Friday, March 16, 2009.**

Thank you,

Michelle Alfaro
Planning Assistant
Sarpy County Planning Department
1210 Golden Gate Drive,
Papillion, NE 68046
Office: 402-593-1555
Fax: 402-593-1558

 Please don't print this e-mail unless it is necessary



March 23, 2009

MAR 25 2009

**SARPY COUNTY
PLANNING DEPARTMENT**

Ms. Rebecca Horner, Director
Sarpy County Planning Department
1210 Golden Gate Drive
Papillion, Nebraska 68046

RE: 370 Express Special Use Permit

Dear Ms. Horner:

The District has reviewed the Application for Special Use Permit for 370 Express convenience store, located at 11108 Sapp Brothers Drive in Sarpy County, Nebraska dated March 11, 2009. The District has no comments for this application.

If you have any questions or concerns, I can be contacted at 444-6222 or at llaster@papionrd.org.

Sincerely,

Lori Ann Laster
Stormwater Management Engineer

Cc: Danny & Nancy Edwards, Applicant, 17616 Troon Circle, Omaha, NE 68136
Amanda Grint, PMRNRD

Z:\laster\My Documents\Permit-Zoning Reviews\Sarpy County\Reach 8-11\370 Express.doc

Reach: 8-11

All

Michelle Alfaro

From: Tom Lynam
Sent: Monday, March 23, 2009 9:45 AM
To: Michelle Alfaro
Subject: RE: Zoning Review - Special Use Permit - 370 Express

Michelle:

No comment on this Special Use Permit.

Tom Lynam

From: Michelle Alfaro
Sent: Friday, March 20, 2009 4:20 PM
To: Mark Wayne; Brian Hanson; Nicole O'Keefe; Tom Lynam; Eric Herbert; Nikki Lampe; Grint, Amanda; Laster, Lori; Jeff Davis; Mark Stursma; 'MBaker@ci.la-vista.ne.us'; 'donna@cityofgretna.com'; 'kathleencityofspringfield@yahoo.com'; cshewchuk@bellevue.net; firechief@cityofgretna.com; cchevalier@esu3.org
Cc: Michelle Alfaro
Subject: Zoning Review - Special Use Permit - 370 Express

Hello,

Please review the attached request for a special use permit and provide comments no later than **Friday, March 16, 2009.**

Thank you,

Michelle Alfaro
Planning Assistant
Sarpy County Planning Department
1210 Golden Gate Drive,
Papillion, NE 68046
Office: 402-593-1555
Fax: 402-593-1558

 Please don't print this e-mail unless it is necessary

Michelle Alfaro

From: Donna Lynam [Donna@cityofgretna.com]
Sent: Friday, March 20, 2009 4:26 PM
To: Planning Department
Subject: 370 Express Special Use Permit

The City of Gretna has no comments on this application for a Special Use Permit for 370 Express.

Donna Lynam

Zoning Admin/Building Insp

City of Gretna

P O Box 69

Gretna, NE 68028

(402)332-3336 x202

donna@cityofgretna.com

MAR 20 2009

SARPY COUNTY
PLANNING DEPARTMENT

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 8, 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.

Kirk Hoffman

Shon Barenklau
Publisher

OR

Kirk Hoffman
Business Manager

Today's Date 04-06-2009

Signed in my presence and sworn to before me:

Kimberly A. Dickman

Notary Public

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

Printer's Fee \$ 24.82

Customer Number: 000947

Order Number: 11991760

SARPY COUNTY
DEPARTMENT OF PLANNING
Sarpy County Courthouse
12710 Golden Gate Drive
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 21, 2009 at 3:00 P.M. in the Sarpy County Board Room, Sarpy County Administration, Papillion, Nebraska.
370 Express, 11108 Sapp Bros Drive, requests approval of a Special Use Permit for retail alcohol sales on the following described property, to wit: Tax Lot 11 a tax lot in the SE 1/4 of Section 27 Township 14 and Range 11 of the 6th P.M. Sarpy County, Nebraska. (Hwy 370 & Sapp Bros Drive)
Robert E. Bollish, 12760 S 234th Street, requests approval of a Special Use Permit for a private barn for animals on the following described property, to wit: Lot 2 Riverview Acres II and Lot 1 Riverview Acres, all located in the SW 1/4 of Section 3 Township 13 and Range 10 of the 6th P.M. Sarpy County, Nebraska. (234th & Capohart Road)
Donald W. Gray, 18201 S 432nd Street, requests approval of a Special Use Permit for a residence and recreational vehicle sales and service on the following described property, to wit: Lot 15, Villa Springs in the SW 1/4 of Section 31 Township 13 and Range 12 of the 6th P.M. Sarpy County, Nebraska. (132nd & Buffalo Rd)
Ray Anderson, 9501 S 145th Street, requests approval of a Change of Zone from IL (Light Industrial) to BG (Business Office)

County Zoning Regulations
11991760; 4/8

AFFIDAVIT OF PUBLICATION

State of Nebraska}

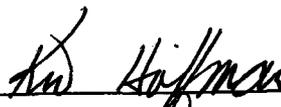
ss.

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

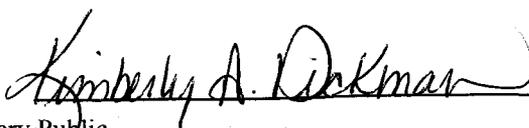
And that said newspaper is a legal newspaper under the statutes of the State of Nebraska. The above knowledge.


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 \$ 29.10

Customer Number: 000947

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, April 15, 2009, at 7:00 P.M. in the Sarpy County Board Room, Sarpy County Administration, Papillion, Nebraska.

370 Express, 11108 Sapp Bros Drive, requests approval of a Special Use Permit for retail alcohol sales on the following described property, to wit: Tax Lot 11, a tax lot in the SE 1/4 of Section 27 Township 14 and Range 11 of the 6th P.M. Sarpy County, Nebraska. (Hwy 370 & Sapp Bros Drive)

Robert E. Bollish, 12760 S 234th Street, requests approval of a Special Use Permit for a private barn for animals on the following described property, to wit: Lot 2 Riverview Acres II and Lot 1 Riverview Acres, all located in the SW 1/4 of Section 3 Township 13 and Range 10 of the 6th P.M. Sarpy County, Nebraska. (234th & Capehart Road)

Donald W. Gray, 18201 S. 132nd Street, requests approval of a Special Use Permit for a residence and recreational vehicle sales and service on the following described property, to wit: Lot 15, Villa Springs in the SW 1/4 of Section 31 Township 13 and Range 12 of the 6th P.M. Sarpy County, Nebraska. (132nd & Buffalo Rd)

Ray Anderson, 9501 S. 145th Street, requests approval of a Change of Zone from IL (Light Industrial) to BG (General Business) and a Special Use Permit for retail alcohol sales on the following described property, to wit: Lot 7 Lakeview South, in the SE 1/4 of Section 23 Township 14 and Range 11 of the 6th P.M. Sarpy County, Nebraska. (I-80 & Hwy 50)

Shawn M. Schmidt, 812 Tipperary Drive, requests approval of a Change of Zone from AG (Agricultural) to AGR (Agricultural Residential), a Preliminary and Final Plat to be known as Olivo Estates II located on the following described property, to wit: Government Lot 4, located in the NW 1/4 of Section 27 Township 13 Range 12 of the 6th P.M. Sarpy County, Nebraska. (96th & Mitchell Road)

Sarpy County requests a Text Amendment to Section 40, Signs, of the Sarpy County Zoning Regulations.

11991118; 4/1