

BOARD OF COUNTY COMMISSIONERS
SARPY COUNTY, NEBRASKA

APPROVE CHANGE OF ZONE

APPLICANT: NS-HWY 370 LLC; CHANGE OF ZONE FROM RG-25,
TO RG-15, GENERAL RESIDENTIAL

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, Scott Bovick, Deputy County Administrator has reviewed NS-Hwy 370 LLC's application for a Change of Zone from RG-25 to RG-15, General Residential for compliance with the Sarpy County Comprehensive Plan and the Sarpy County Zoning Regulations on the property generally located at the northwest corner of 168th Street and Highway 370 and legally described as follows:

Lot 1, Ballena Replat 1, 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 September 21, 2011 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

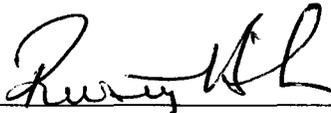
required by Neb. Rev. Stat. §23-164 (Reissue 2007), and the proof of publication has been filed in the Office of the Sarpy County Clerk.

- IV. The Deputy County Administrator has made a recommendation as noted in the attached Exhibit "A".
- 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-25 to RG-15 for the property described above.

The above Resolution was approved by a vote of the Sarpy County Board of Commissioners at a public meeting duly held in accordance with applicable law on the

18th day of October, 2011.



Sarpy County Board Chairman



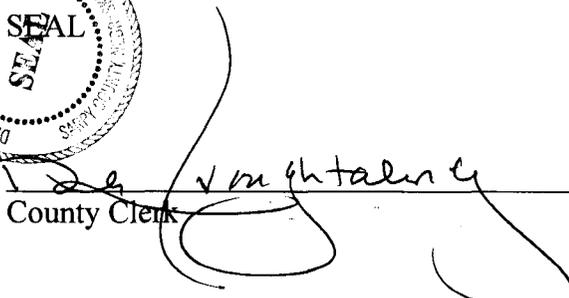

County Clerk

EXHIBIT 'A'

**SARPY COUNTY
COUNTY BOARD
STAFF REPORT
OCTOBER 18, 2011
CHANGE OF ZONE – CZ 11-0012**

I. GENERAL INFORMATION

- A. APPLICANT:** NS-Hwy 370, LLC
6336 Pershing Drive
Omaha, NE 68110
- B. ENGINEER:** E&A Consulting Group, Inc.
- C. LOCATION:** 16895 Oakmont Drive, located on the northwest corner of 168th Street and Hwy 370
- D. LEGAL DESCRIPTION:** Lot 1, Ballena Replat 1, Sarpy County, NE
- E. REQUESTED ACTION:** To approve a change of zone from RG-25 to RG-15.
- F. EXISTING ZONING AND LAND USE:** RG-25, and currently has two apartment buildings comprising 60 total units.
- G. SIZE OF SITE:** 3.92 acres, more or less

II. BACKGROUND INFORMATION

- A. COMPREHENSIVE PLAN SPECIFICATIONS:** The Comprehensive Plan shows the site as Urban Residential (Figure 5.1), it is located in the Urban Services Policy District and Development Tier, and is to be served with urban services (Figure 4.5, 4.6, Comprehensive Development Plan).
- B. EXISTING CONDITION OF SITE:** Developed with two apartment buildings containing 60 units.
- C. GENERAL VICINITY AND LAND USE:** The lot immediately to the west of Lot 1 (Lot 2, Ballena Replat 1) is zoned RG-15. The northeast corner of the Hwy 370/168th Street intersection is BG, the southeast and southwest corners are AG – Agricultural but are projected to be commercial.
- D. RELEVANT CASE HISTORY:** Lot 1 was zoned BG when originally platted in 1998 (at the same time Lot 2 was zoned RG-15). In 2001, the zoning on Lot 1 changed from BG to RG-25 to allow the current apartments to be constructed. In 2007, when the County adopted new zoning regulations, zoning district RG-25 was eliminated. Therefore, the owner cannot comply with RG-25 zoning regulations since the district no longer exists.

- E. APPLICABLE REGULATIONS:** Zoning Regulations and Comprehensive Plan.

III. ANALYSIS AND DEVELOPMENT ALTERNATIVES

STAFF COMMENTS:

A. GENERAL:

1. After researching the history of the property, staff was able to confirm that Lot 1 is currently zoned RG-25 and Lot 2 is currently zoned RG-15.
2. The RG-25 zoning district was eliminated in 2007 when the new Zoning Regulations were adopted, so a new zoning designation is required for the property.

3. The new owner NS-Hwy 370, LLC has purchased both Lot 1 and Lot 2 and would like the zoning to be the same for both properties to be in conformance with the zoning regulations and to consolidate the lots into one property through an administrative re-plat. The owner may consider constructing an additional building in the middle of the four buildings in the future.

IV. RECOMMENDATION:

Planning Commission, September 21, 2011: Labart moved, seconded by Lichter, to recommend approval of the Change of Zone from RG-25 to RG-15 for Lot 1, Ballena Replat 1 as the proposed zoning conforms to the Sarpy County Comprehensive Plan. Ballot: Ayes – Bliss, Mohr, Fenster, Labart, Lichter, Stuart, Vanek, Torczon, Wear and Whitfield. Nays – none. Abstain – none. Absent – Thompson. Motion carried (10-0)

Recommend to approve the Change of Zone from RG-25 to RG-15 as the proposed zoning conforms to the Comprehensive Plan of Sarpy County.

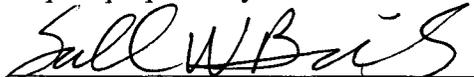
V. COPIES OF REPORT TO:

Applicant, Public upon request

VI. ATTACHMENTS:

Application, including a letter from the owner's representative, Comments, Aerial map

Report prepared by:



Scott Bovick, Deputy County Administrator

Report reviewed by Planning Consultants Steve Jensen and Tom Blair

ADDITIONAL INFORMATION

SARPY COUNTY BOARD OF COMMISSIONERS

October 18, 2011

CHANGE OF ZONE

FROM RG-25 to RG-15

Lot 1, Ballena Replat 1

(Tiburon View Apartments – 168th & Hwy 370)

NS-Hwy 370, LLC



E&A CONSULTING GROUP, INC.
ENGINEERING • PLANNING • FIELD SERVICES

330 NORTH 117TH STREET
OMAHA, NE 68154-2509

www.eacg.com

PHONE: (402) 895-4700
FAX: (402) 895-3599

August 19, 2011

Sarpy County
Planning Building Department
Cindy Gilbert
1210 Golden Gate Drive
Papillion, NE 68046

RE: Change of Zone RG-25 to RG-15
Tiburon View Apartments
E&A Job#: P2011.166.003

Dear Cindy,

On behalf of E&A Consulting Group's client, NS – HWY 370, LLC we hereby request the approval of a change of zone from RG – 25 to RG – 15 for Lot 1 Ballena Replat 1. We request the change of zone based on the following findings of facts:

1. The zoning district for Lot 1 Ballena Replat 1 (RG – 25) is no longer a zoning district within the Sarpy County Zoning Regulations. Therefore, Lot 1 Ballena Replat 1 is currently not in conformance with the Sarpy County Zoning Regulations.
2. There are only two zoning districts that Lot 1 Ballena Replat 1 can be rezoned to; RG – 35 and RG – 15.
3. Based on the zoning requirements of RG – 35, Lot 1 Ballena Replat 1 currently has too many units located on the lot to fit within the RG – 35 zoning district. The current unit count for Lot 1 Ballena Replat 1 is sixty (60). The RG – 35 zoning district requires a lot square footage of 10,000 square feet plus 3,500 square feet for each unit located on the lot. The total lot area required for RG – 35 based on those requirements and sixty (60) units is 220,000 square feet. Lot 1 Ballena Replat 1 has a lot area of 170,776 square feet. Therefore, Lot 1 Ballena Replat 1 can not be rezoned to RG – 35 as this would create a non-conformance use within the Sarpy County Zoning Code; which does not comply with the code.

4. Based on the zoning requirements for RG – 15, Lot 1 Ballena Replat 1 can be rezoned to RG – 15. The RG – 15 zoning district lot area requirement is 10,000 square feet plus 1,500 square feet for each unit located on the lot. The current unit count for Lot 1 Ballena Replat 1 is sixty (60). The total lot area required for RG – 15; based on the above requirements and sixty (60) units is 100,000 square feet. Lot 1 Ballena Replat 1 has a lot area of 170,776 square feet. Therefore, Lot 1 Ballena Replat 1 can be rezoned to RG – 15 and will be in conformance with the Sarpy County Zoning Code.

Based on these finding of facts, we request the Change of Zone from RG – 25 to RG – 15 for Lot 1 Ballena Replat 1 be approved to bring this lot into conformance with the Sarpy County Zoning Regulations.

We appreciate your time and attention to this matter. Please contact me at 402-895-4700 or at jthiellen@eacg.com for any additional comments or questions regarding this request.

Sincerely,

E & A CONSULTING GROUP, INC

Jason Thiellen
Planning Dept. Manager

Enclosures:

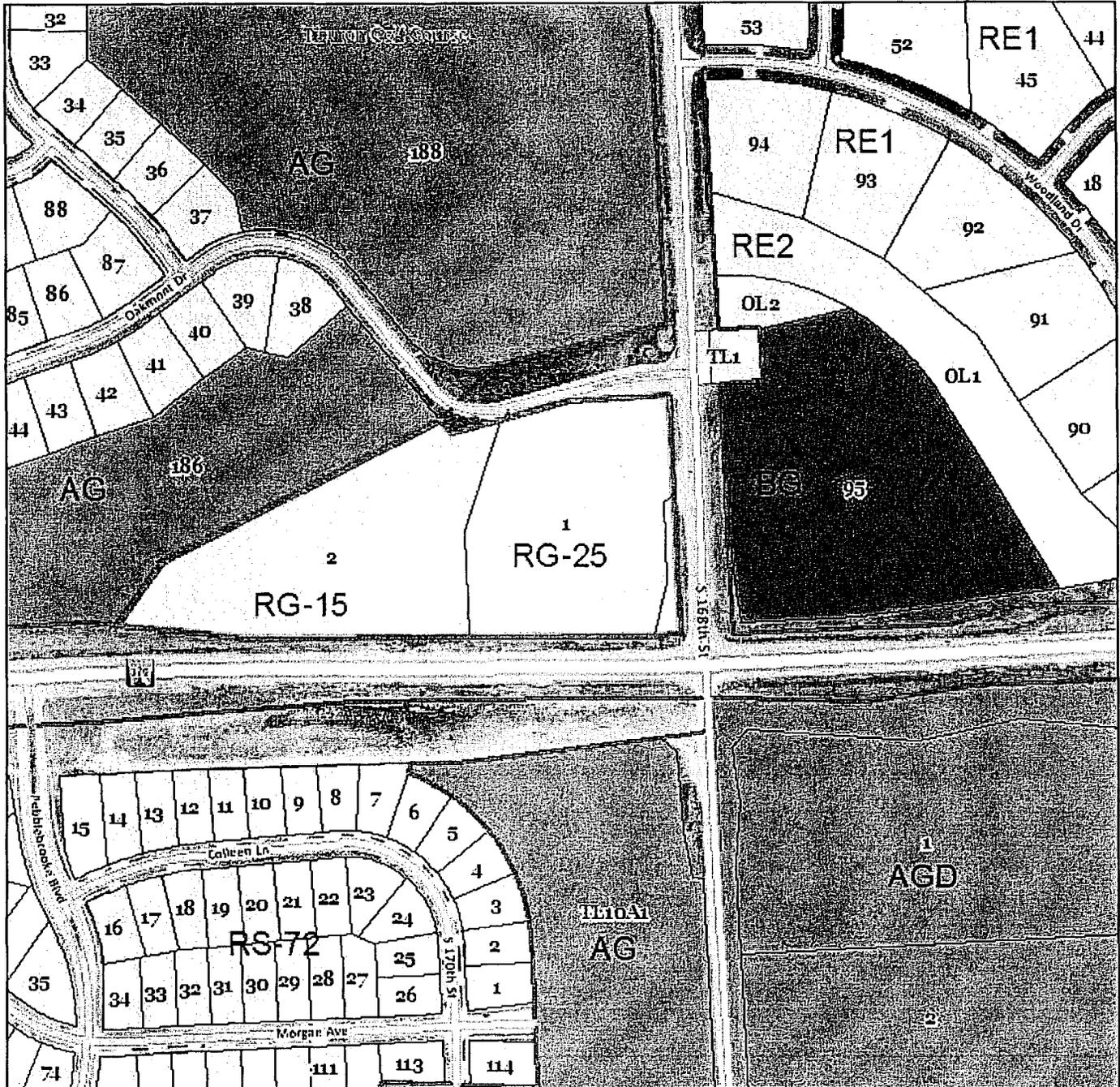
Check for \$200
Lot Exhibit 'A'

Cc. Jerry Banks



E&A CONSULTING GROUP, INC.
ENGINEERING • PLANNING • FIELD SERVICES

Sarpy County, Nebraska



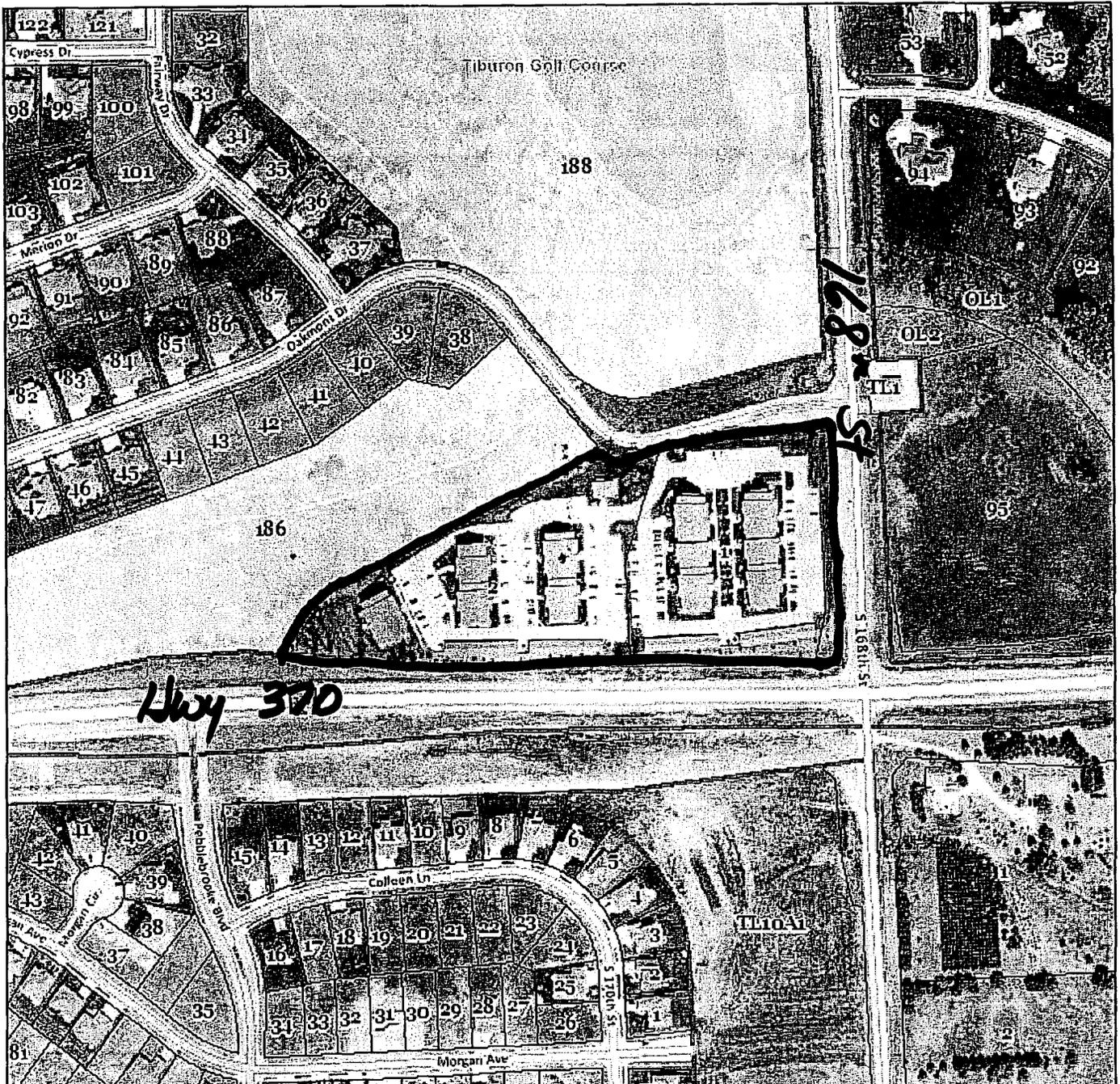
Name	BALLENA REPLAT 1	Vacated	Active
Subdivision #	60819		

Disclaimer: This data is for informational purposes only, and should not be substituted for a true titles search, property appraisal, survey, or for zoning district verification. Sarpy County and the Sarpy County GIS Coalition assume no legal responsibility for the information contained in this data.

Map Scale
1 inch = 288 feet

9/14/2011

Sarpy County, Nebraska



Name	BALLENA REPLAT 1	Vacated	Active
Subdivision #	60819		

Disclaimer: This data is for informational purposes only, and should not be substituted for a true titles search, property appraisal, survey, or for zoning district verification. Sarpy County and the Sarpy County GIS Coalition assume no legal responsibility for the information contained in this data.

Map Scale
1 inch = 288 feet

9/14/2011



SARPY COUNTY PLANNING

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

CHANGE OF ZONE 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 Change of Zone Application2. Submit Non-Refundable Fee of \$200.00 made payable to Sarpy County Treasurer3. Copy of Deed on file with Register of Deeds (showing applicant as owner)4. 25 full size site plan drawings (folded)5. 1 reduced size sit plan drawing (8.5 x 11)6. Detailed operational plans	<p>PLANNING STAFF USE ONLY:</p> <p>APPLICATION NO.: _____</p> <p>DATE RECEIVED: _____</p> <p>CP DESIGNATION: _____</p> <p>ZONING DESIGNATION: _____</p> <p>FEE: \$ _____ RECEIPT NO. _____</p> <p>RECEIVED BY: _____</p> <p>NOTES: _____</p>
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APPLICANT INFORMATION: CHECK BOX IF TEXT AMENDMENT APPLICATION

NAME: E & A Consulting Group, Inc. E-MAIL: jthiellen@eacg.com

ADDRESS: 330 N. 117th Street CITY/STATE/ZIP: Omaha, NE 68154

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

PHONE: 402.895.4700 FAX: 402.895.3599

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

Please check box if attaching separate sheet with owner information.

NAME: NS-HWY 370, LLC E-MAIL: jerry.banks@lozier.biz

ADDRESS: 6336 Pershing Drive CITY/STATE/ZIP: Omaha, NE 68110

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

PHONE: 402.457.8589 FAX: 402.457.8187

ENGINEER INFORMATION:

NAME: E & A Consulting Group, Inc. E-MAIL: jthiellen@eacg.com

ADDRESS: 330 N. 117th Street CITY/STATE/ZIP: Omaha, NE 68154

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

PHONE: 402.895.4700 FAX: 402.895.3599

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 cover letter.

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: 011564219

ADDITIONAL PARCEL NUMBERS N/A

N/A

LEGAL DESCRIPTION: *(Describe property to wit:)*

Lot 1, Ballena Replat 1

GENERAL PROPERTY LOCATION: NW corner of 169th & Hwy 370

ACRES: 3.92

CURRENT ZONING: RG-25

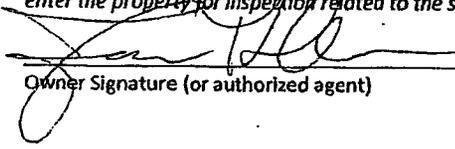
REQUESTED ZONING: RG-15

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 Change of Zone 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.


Owner Signature (or authorized agent)

8/09/11
Date

Owner Signature (or authorized agent)

Date

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**, legal newspapers of general circulation in Sarpy County, Nebraska, and published herein; that said newspaper has been established for more than one year last past; that it has a bona-fide paid subscription list of more than three hundred; that to this personal knowledge, the advertisement, a copy of which is hereto attached, was printed in the said newspaper once each week, the first insertion having been on:

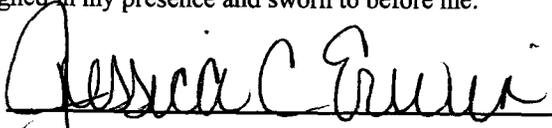
Wednesday, October 5, 2011
Bellevue Leader
Gretna Breeze
Papillion Times
Springfield Monitor

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

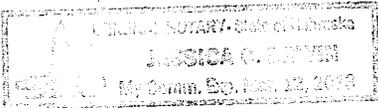


Shon Barenklau OR Kirk Hoffman
Publisher Business Manager

Today's Date 10-04-2011
Signed in my presence and sworn to before me:



Notary Public



Printer's Fee \$ 17.97
Customer Number: 40638
Order Number: 0001434454

**SARPY COUNTY
DEPARTMENT OF PLANNING**

Sarpy County Courthouse
1210 Golden Gate Drive
Papillion, Nebraska 68046
Phone (402) 593-1555
Fax (402) 593-1558
Scott Bovick, Deputy County
Administrator/Planning 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, October 18, 2011, at 3:00 P.M. in the Sarpy County Board Room, Sarpy County Administration, Papillion, Nebraska.
NS-Hwy 370, LLC, 6336 Pershing Drive, Omaha, requests approval of a Change of Zone from RG-25 to RG-15 on the property legally described as Lot 1, Ballena Replat 1, located in Section 28, T14N, R11E of the 6th P.M., Sarpy County, Nebraska.
Linoma Lighthouse, LLC, 1442 Silver St, Ashland, Nebraska, requests approval of a Preliminary and Final Plat for a subdivision to be known as Linoma Lighthouse Subdivision on property legally described as Tax Lot "C1" and Tax Lot "C2" in the S1/2 of Section 29, T13N, R10E of the 6th P.M., Sarpy County, Nebraska.
An agenda for the meeting, kept continually current, is available for inspection at the Sarpy County Planning Department office.
1434454: 10/5

OCT 12 2011

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, legal newspapers of general circulation in Sarpy County, Nebraska, and published therein; that said newspaper has been established for more than one year last past; that it has a bona-fide paid subscription list of more than three hundred; that to this personal knowledge, the advertisement, a copy of which is hereto attached, was printed in the said newspaper once each week, the first insertion having been on:

Wednesday, September 7, 2011 Bellevue Leader
Gretna Breeze
Papillion Times
Springfield Monitor

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

[Signature of Kirk Hoffman]
Shon Barenklau OR Kirk Hoffman
Publisher Business Manager

Today's Date 09-06-2011
Signed in my presence and sworn to before me:

[Signature of Notary Public]
Notary Public
GENERAL NOTARY - State of Nebraska
JESSICA G. EDWIN
My Comm. Exp. Mar. 12, 2013

Printer's Fee \$ 25.68
Customer Number: 40638
Order Number: 0001422847

SEP 15 2011

SARPY COUNTY
PLANNING DEPARTMENT

SARPY COUNTY DEPARTMENT OF PLANNING
Sarpy County Courthouse
1210 Golden Gate Drive
Papillion, Nebraska 68046
Phone (402) 599-1559
Fax (402) 599-1558
Scott Bovick, Deputy County Administrator
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, September 21, 2011, at 7:00 P.M. in the Sarpy County Board Room, Sarpy County Administration, Papillion, Nebraska.
NS-Hwy 370, LLC, 6336 Pershing Drive, Omaha, requests approval of a Change of Zone from RG-25 to RG-15 on the property legally described as Lot 4, Ballena Replat, located in Section 28, T14N, R11E of the 6th P.M., Sarpy County, Nebraska.
Linoma Lighthouse, LLC, 1442 Silver St, Ashland, Nebraska, requests approval of a Preliminary and Final Plat for a subdivision to be known as Linoma Lighthouse Subdivision on property legally described as Tax Lot "C1" and Tax Lot "C2" in the S1/2 of Section 29, T13N, R10E of the 6th P.M., Sarpy County, Nebraska.
CR Investments, Inc., 14002 L Street, Omaha, request approval of a Revised Preliminary and Final Plat for a subdivision to be known as Sunridge West on property legally described as the NW1/4 of the NE1/4 of Sec 17, T14N, R11E of the 6th P.M., Sarpy County, Nebraska.
Rogers Development, Inc., 8250 Grover St., Omaha, requests approval of a Change of Zone from AG to BG (General Business) and RG-15 (General Residential) and a Preliminary Plat for a subdivision to be known as Pebblebrooke on property legally described as Tax Lot 10A except right-of-way in Part of the NE1/4 of Section 33, T14N, R11E of the 6th P.M., Sarpy County, Nebraska.
An agenda for the meeting, kept continually current, is available for inspection at the Sarpy County Planning Department office.
1422847-9/7