BOARD OF COUNTY COMMISSIONERS SARPY COUNTY, NEBRASKA

APPROVE CHANGE OF ZONE

APPLICANT: Rodney and Maureen Nielsen
CHANGE OF ZONE FROM AG, AGRICULTURAL DISTRICT TO AGD, AGRICULTURE DEVELOPMENT DISTRICT, (Lot 1 Nielsen Addition)

WHEREAS, pursuant to Neb. Rev. Stat. § 23-104, 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, 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; and,

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

WHEREAS, the Sarpy County Planning Department staff has reviewed the application for a Change of Zone from AG, Agricultural District to AGD, Agricultural Development District for compliance with the Sarpy County Comprehensive Plan and the Sarpy County Zoning Regulations on the property generally located southeast of 108th and Platteview Road and legally described as follows, hereinafter “the Property”:

Part of the NW ¼ of the SW ¼, Section 21, Township 13 North, Range 12 East of the 6th P.M., Sarpy County.

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

I. This Change of Zoning application has been submitted concurrently with an application for a Preliminary Plat at Resolution 2018-237.

II. A Preliminary Plat shall become void after 12 months from the date of such approval unless the County Board has approved either (1) all of, or a portion of the Preliminary Plat as a Final Plat, or (2) a 12 month extension of the Preliminary Plat approval. Final Plats and Extension requests for the Preliminary Plat approval must be acted upon by the County Board no later than 12 months from the date of the Resolution approving said Preliminary Plat.
III. A public hearing regarding the Change of Zone Application was held before the Sarpy County Planning Commission on July 17, 2018 and further, the Planning Commission gave their recommendation.

IV. A public hearing regarding the Change of Zone Application was held by this Board.

V. Notice of each of the Public Hearings described above was published at least ten (10) days prior to each respective public hearing and the proof of publication has been filed in the Office of the Sarpy County Clerk.

VI. The Planning Department staff made a recommendation as noted in the attached Exhibit “A”, which includes the Planning Department Report.

VII. 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 AG, Agricultural District to AGD, Agricultural Development District on the Property legally described above with the following conditions:

1. The Change of Zone shall only take effect on the Property, or with approval of a phased development on a portion of the Property, upon
   (A) the Sarpy County Board’s approval of a Final Plat of the Property or a Final Plat of a portion of the Property and
   (B) the subsequent timely filing of said Final Plat with the Sarpy County Register of Deeds.

2. If a Final Plat of the Property, or a Final Plat of a portion of the Property, is not timely filed with the Sarpy County Register of Deeds, Sarpy County’s approval of the Change of Zone application shall be withdrawn without further action by Sarpy County and the approval for this Resolution 2018-236 shall be void.

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 14th day of August, 2018.

Attest

Sarpy County Board Chairman

County Clerk

Resolution CZ – Aug 2018
Lot 1 Nielsen Addition
Sarpy County Board of Commissioners  
Exhibit “A”  
Planning Department Report  
County Board Meeting Date: August 14, 2018

<table>
<thead>
<tr>
<th>Subject</th>
<th>Type</th>
<th>By</th>
</tr>
</thead>
<tbody>
<tr>
<td>Change of Zone, Preliminary Plat and Final Plat Application for a residential subdivision to be known as Nielsen Addition located southeast of 108th Street and Platteview Road</td>
<td>Public Hearings and Resolutions</td>
<td>Donna Lynam, CFM Assistant Director, Planning &amp; Building</td>
</tr>
</tbody>
</table>

I. **GENERAL INFORMATION**

A. **APPLICANT:**
   Rodney and Maureen Nielsen  
   15484 S 108th Street  
   Springfield, NE 68059

B. **PROPERTY OWNER:**
   Rodney and Maureen Nielsen  
   15484 S 108th Street  
   Springfield, NE 68059

C. **SUBJECT PROPERTY LOCATION:** Subject property is located southeast of 108th and Platteview Road.

D. **LEGAL DESCRIPTION:** Part of the NW ¼ of the SW ¼, Section 21, Township 13 North, Range 12 East of the 6th P.M., Sarpy County.

E. **SUBJECT PROPERTY SIZE:** approximately 10 acres

F. **EXISTING FUTURE LAND USE AND ZONING DESIGNATIONS:**
   - Future Land Use Designation: Residential Estates  
   - Zoning: AG (Agricultural).

G. **REQUESTED ACTION(S):** Approval of a Change of Zone from AG (Agricultural District) to AGD (Agricultural Development District) and a Preliminary and Final Plat of a one-lot subdivision to be known as Nielsen Addition.

II. **BACKGROUND INFORMATION**

A. **EXISTING CONDITION OF SITE:** Existing farmstead with dwelling and farm structures.
B. GENERAL VICINITY – FUTURE LAND USE (FLU) AND CURRENT ZONING (CZ)

<table>
<thead>
<tr>
<th>DIRECTION FROM SUBJECT PROPERTY</th>
<th>FUTURE LAND USE DESIGNATION (reference attached map)</th>
<th>CURRENT ZONING DESIGNATION (reference attached map)</th>
<th>SURROUNDING DEVELOPMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>NORTH</td>
<td>Residential Estates</td>
<td>RS-100/HC Overlay</td>
<td>Tillable farm ground</td>
</tr>
<tr>
<td>SOUTH</td>
<td>Residential Estates</td>
<td>AG/RE2</td>
<td>Martin Marietta Rock Quarry</td>
</tr>
<tr>
<td>EAST</td>
<td>Residential Estates</td>
<td>AG</td>
<td>Tillable farm ground</td>
</tr>
<tr>
<td>WEST</td>
<td>Residential Estates</td>
<td>AG</td>
<td>Tillable farm ground</td>
</tr>
</tbody>
</table>

AG = Agricultural (20 plus acres)
RE2 = Residential Estates (2 plus acres)
RS-100 = Single Family Residential (10,000 sq ft lots)
HC Overlay = Highway Corridor Overlay

C. RELEVANT CASE INFORMATION:

- The applicant is proposing to split the existing farmstead from the 75 acre farm.
- The proposed 10 acre parcel will include the existing dwelling and all farm structures, along with existing pond.
- The property is currently served with private septic and well, propane gas and OPPD for power.
- Parcel will have access from 108th Street.
- The dwelling on the parcel, constructed in 1968, does not currently meet the 100’ set back required in AG zoning. The residential structure is a legal non-conforming use as the required setback was 35 feet when it was constructed. With the dedication of the additional right-of-way and the change of zoning, the dwelling will have a new set back of 28’ which will not meet the AGD zoning set back requirement of 70’. Thus the structure is grandfathered as a legal non-conforming structure and will be subject to the non-conforming use regulations as it was previously.

III. APPLICABLE REGULATIONS

A. SARPY COUNTY COMPREHENSIVE PLAN

- CHAPTER 3: Land Use & Growth Management
  Future Land Use – Map 12 Future Land Use Map classifies this site as Residential Estates. The proposed development would be consistent with this future land use designation.
  Future Land Use – Growth Management – Map 13 Growth Management Zones designates this site as being within the Rural Development Zone. The Residential Estate land use area is intended to accommodate large lot residential development. It is intended to accommodate continued low density development in rural areas. Generally, these areas are not currently served by municipal utilities, and are not planned to be served in the future. As current conditions provide, these areas are best served with individual wells and septic systems. Residential Estate areas are generally located along the periphery of communities and the county where land use is less dense, sharing similar qualities with neighboring Agricultural land use areas.
  Characteristics of the RE category include:
    - Location in areas where public utilities are not available,
    - Location in areas determined to have unique or sensitive natural areas, including
- Stream corridors, tree stands, wetlands, and natural habitat areas.
- The larger lots allow for greater potential to preserve natural amenities through the use of conservation easements and common open space,
- Accessory buildings may be allowed at a scale between typical suburban development and farm buildings,
- Uses within this area include single-family residential in accordance with appropriate zoning districts, churches, parks/recreation/open space, and associated accessory uses.
- **Development Density** – *Figure 19 Residential Development Decision Matrix* allows densities greater than 5 acres per unit with individual well and septic systems being provided. The proposed plat meets this requirement.
- **Conservation Provisions** – *Map 14 Environmentally Sensitive Areas* identifies Environmentally Sensitive areas that should be preserved as open space in the form of platted outlots designated as conservation easements. The policies in this area of the Comprehensive Plan apply to subdivisions comprised of lots smaller than 20 acres in size. Area of this site is man-made pond which is being preserved.

CHAPTER 4 – Infrastructure
- The site is outside of any areas planned for future public wastewater services.
- **Wellhead Protection Area** – *Map 16 Sarpy County Wellhead Protection Areas* indicates that the site is located outside of any well head protection areas.

CHAPTER 5 – Transportation
- **Federal Roadway Functional Classification** – *Map 17 Sarpy County Federal Roadway Functional Classification* identifies 108th Street as a Minor Collector roadway.
- **Anticipated Full Buildout Street Network** – *Map 21 Sarpy County Anticipated Full Buildout Street Network* shows 108th Street as a minor collector.
- Proposed access points to the site:
  - The property is served with one access driveway from 108th Street.
  - Fifty feet of right-of-way is being dedicated for 108th Street along the frontage of the proposed lot.

B. APPLICABLE REGULATIONS:
- Section 10, AGD (Agricultural Development District- 10 acre minimum lot size)
  - 10.1.7 – Single family dwellings, as proposed by this application, are a Principal Permitted Use
  - 10.3.1 – Accessory Buildings (existing farm structures) are allowed as Principal Permitted and Accessory uses.
  - 10.4.1 – Minimum Height and Lot Requirements:
    - Lot Area – 10 acres minimum
    - Lot Width – 300 foot (measured at the front yard setback line)
    - Front Yard Setback – 70 feet
    - Side Yard Setback – 50 feet
    - Side Yard Street Setback – N/A
    - Rear Yard Setback – 50 feet
    - Maximum Height – 35 feet

The final plat submitted meets the requirements with the exception of the existing single-family dwelling which is a legal non-conforming structure and is subject to the non-conforming use regulations.
B. OTHER AGENCY REVIEW/COMMENTS: The applications were sent to various jurisdictional agencies and departments within Sarpy County that may have an interest. No comments were received as of the date of this report.

C. GENERAL COMMENTS:

- **Change of Zone**
  - Proposed zoning of AGR is compatible with the Residential Estates land use designation in the Comprehensive Plan.

- **Preliminary/Final Plat**
  - The preliminary plat and final plat for one ten-acre parcel is in compliance with the zoning regulations and comprehensive plan.
  - The dwelling on the parcel will be subject to the non-conforming use regulations, as it does not meet the required front-yard setback requirements for the proposed zoning.

IV. PLANNING COMMISSION RECOMMENDATION:

The Planning Commission held public hearings on these applications at their July 17, 2018 meeting and recommended **APPROVAL** to the County Board by a 10-0 vote.

**MOTION:** Malmquist moved, seconded by Lichter, to recommend **Approval** of the Change of Zone from AG (Agricultural) to AGD (Agricultural Development District) for the proposed Nielsen Addition, to become effective with the filing of the Final Plat. This recommendation is being made as the Change of Zone meets the requirements of the Sarpy County Comprehensive Plan, Zoning, and Subdivision Regulations, but the existing dwelling on the parcel shall be subject to the non-conforming use regulations. **Ballot:** Ayes – Torczon, Sotak, Davis, George, Whitfield, Ackley, Giff, Korth, Malmquist, and Lichter. Nays: None. Abstain: None. Absent: Huddleston. **Motion carried.**

**MOTION:** Malmquist moved, seconded by Lichter, to recommend **Approval** of the Preliminary Plat of a subdivision to be known as Nielsen Addition, as the Preliminary Plat meets the requirements of the Sarpy County Comprehensive Plan, Zoning, and Subdivision Regulations, but the existing dwelling on the parcel shall be subject to the non-conforming use regulations. **Ballot:** Ayes – Torczon, Sotak, Davis, George, Whitfield, Ackley, Giff, Korth, Malmquist, and Lichter. Nays: None. Abstain: None. Absent: Huddleston. **Motion carried.**

**MOTION:** Malmquist moved, seconded by Lichter, to recommend **Approval** of the Final Plat of a subdivision to be known as Nielsen Addition, as the Final Plat meets the requirements of the Sarpy County Comprehensive Plan, Zoning, and Subdivision Regulations, but the existing dwelling on the parcel shall be subject to the non-conforming use regulations. **Ballot:** Ayes – Torczon, Sotak, Davis, George, Whitfield, Ackley, Giff, Korth, Malmquist, and Lichter. Nays: None. Abstain: None. Absent: Huddleston. **Motion carried.**

V. STAFF RECOMMENDATIONS:

Staff recommends **APPROVAL** of the Change of Zone from AG (Agricultural) to AGD (Agricultural Development District) for the proposed Nielsen Addition, to become effective with the filing of the Final Plat. Staff makes this recommendation as the Change of Zone meets the requirements of the Sarpy County Comprehensive Plan, Zoning, and Subdivision Regulations, but the existing dwelling on the parcel shall be subject to the non-conforming use regulations.

Staff recommends **APPROVAL** of the Preliminary Plat of a subdivision to be known as Nielsen Addition, as the Preliminary Plat meets the requirements of the Sarpy County
Comprehensive Plan, Zoning, and Subdivision Regulations, but the existing dwelling on the parcel shall be subject to the non-conforming use regulations.

Staff recommends **APPROVAL** of the Final Plat of a subdivision to be known as Nielsen Addition, as the Final Plat meets the requirements of the Sarpy County Comprehensive Plan, Zoning, and Subdivision Regulations, but the existing dwelling on the parcel shall be subject to the non-conforming use regulations

VI. **ATTACHMENTS TO REPORT:**
1. Preliminary Plat Exhibit
2. Final Plat Exhibit
3. Vicinity Map - Current Zoning (showing subject property area)
4. Future Land Use Map of the Sarpy County Comprehensive Plan (showing subject property area)

VII. **COPIES OF REPORT SENT TO:**
1. Rodney and Maureen Nielsen (applicant)
2. Gary Tinkham w/Tinkham Land Surveying Inc.(Consultant)
3. Public Upon Request
Vicinity Map - Current Zoning

15917 S 108th Street –
Part of NW1/4 of the SW1/4, 21-13N-12E
Nielsen Addition, Lot 1
STATE OF NEBRASKA

County of Sarpy

Being duly sworn, upon oath, Laura Estep-Bronk deposes and says that she is a Sales Representative or Ron Petak deposes and says that he is the Executive Editor 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, July 4, 2018

Gretna Breeze
Bellevue Leader
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.

Ron Petak
Executive Editor

Laura Estep-Bronk
Sales Representative

Today's Date
Signed in my presence and sworn to before me:

Notary Public

GENERAL NOTARY - State of Nebraska
ELIZABETH M WHITE
My Comm. Exp. December 22, 2019

Printer's Fee: $31.75
Customer Number: 40638
Order Number: 0002106286

Notice is hereby given that a regular meeting of the Sarpy County Planning Commission will be on Tuesday, July 17, 2018, at 7:00 P.M. in the Sarpy County Board Room, Sarpy County Administration. A Public Hearing will be held on the following applications:

Rodney and Maureen Nielsen have submitted applications for consideration of a Change of Zone from AG to AGD and a Preliminary Plat and Final Plat of a subdivision to be known as Nielsen Addition, Lot 1, being a platting of Part of the NW ¼ of the SW ¼, Sec 21, Twp 13 North, Rng 12 East, of the 6th P.M., Sarpy County, NE. Generally located northeast of 108th and Plattview Road.

Boyert Young Equities XIV, LLC has submitted an application for consideration of a Final Plat for Phase V of Remington Ridge, Lots 309 – 328 and Outlots J – L, for tract of land located in part of the SW ¼ of the SE ¼ and part of the NW ¼ of the SE ¼, Sec 18, Twp 14 North, Rng 11 East, of the 6th P.M., Sarpy County, NE. Generally located northwest of 192nd Street and Grimes Road.

Michael Thomson has submitted an application for consideration of a Special Use Permit to allow a Home Occupation I (Major) in the RS-72 Single Family Residential District for home based firearm sales at 10113 Emilie Street, legally described as Lot 256, Millard Park, as surveyed, plotted and recorded in Sarpy County, NE. Generally located southeast of 162nd Avenue and Harrison Street.

CCHT, LLC has submitted an application for consideration of a Text Amendment to the Sarpy County Zoning Regulations, Section 20 - BD General Business District, to add "Assisted Living Facility" under 20.2

Permitted Special Uses.
CCHT, LLC has submitted an application for consideration of a Special Use Permit in the BG, General Business District to allow an Assisted Living Facility at 19003 Edna Street, legally described as Lot 1, Sugar Creek Neighborhood Center Replat 1, as surveyed, plotted and recorded in Sarpy County, NE. Generally located southeast of 192nd Street and Harrison Street.

An agenda for the meeting, kept continually current, is available for inspection at the Sarpy County Planning Department office, Sarpy County Administration Bldg., 1210 Golden Gate Drive, Papillion, NE 68046.
STATE OF NEBRASKA  
}  
County of Sarpy  
}  

Being duly sworn, upon oath, Laura Estep-Bronk deposes and says that she is a Sales Representative or Ron Petak deposes and says that he is the Executive Editor 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, August 1, 2018  
Gretna Breeze  
Bellevue Leader  
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.

Ron Petak  
Executive Editor  

OR  
Laura Estep-Bronk  
Sales Representative

Today's Date  
Signed in my presence and sworn to before me:

Notary Public

A GENERAL NOTARY - State of Nebraska  
ELIZABETH M. WHITE  
My Comm. Exp. December 22, 2018

Printer's Fee  
$27.34  
Customer Number:  
40638  
Order Number:  
0002111328