

CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
OCTOBER 19, 2010 AGENDA

Subject:	Type:	Submitted By:
REQUEST TO REVISE CUP — LOT 380, CIMARRON WOODS	◆ RESOLUTION ORDINANCE RECEIVE/FILE	ANN BIRCH COMMUNITY DEVELOPMENT DIRECTOR

SYNOPSIS

A resolution has been prepared to approve revisions to the Conditional Use Permit for Lot 380, Cimarron Woods (replatted as Lots 1 and 2, Cimarron Woods Replat Two) for the purpose of a multi-family residential development, generally located southwest of 96th and Harrison Street.

FISCAL IMPACT

None.

RECOMMENDATION

Approve.

BACKGROUND

On March 16, 2010, the City Council approved Resolution No. 10-026 which authorized the execution of a Conditional Use Permit for Pedcor Investments, LLC, to construct a multi-family residential development on Lot 380, Cimarron Woods (replatted as Lots 1 and 2, Cimarron Woods Replat Two). The resolution stated the Mayor was authorized to execute the CUP “in form and content submitted at this meeting”. Since that time, the applicant has proposed several revisions, including the names of two separate entities that will own the lots, and other modifications to allow for separate development of the two phases. Based on these changes and others (see red-line copy attached) the City Attorney recommended the changes be approved by the City Council. A resolution has been prepared for this purpose.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE EXECUTION OF A CONDITIONAL USE PERMIT FOR PEDCOR INVESTMENTS LLC FOR A MULTI-FAMILY RESIDENTIAL DEVELOPMENT GENERALLY LOCATED SOUTHWEST OF 96TH AND HARRISON STREET

WHEREAS, Pedcor Investments, LLC, on behalf of the property owner, Torco Development, Inc., applied for a conditional use permit for the purpose of having a multi-family residential development; and

WHEREAS, on March 16, 2010, the City Council approved Resolution No. 10-026 for this purpose; and

WHEREAS, since that time, the applicant has proposed several revisions to the conditional use permit which require approval by the City Council; and

WHEREAS, the Mayor and City Council of the City of La Vista are agreeable to the issuance of a revised conditional use permit.

NOW THEREFORE, BE IT RESOLVED, that the Conditional Use Permit presented at the October 19, 2010 City Council meeting for Pedcor Investments, LLC, be, and hereby is approved and the Mayor and City Clerk be and hereby are, authorized to execute same on behalf of the City with such revisions or amendments thereto that the City Administrator and City Attorney may determine necessary to carry out the intent of the City Council.

PASSED AND APPROVED THIS 19TH DAY OF OCTOBER 2010.

CITY OF LA VISTA

ATTEST:

Douglas Kindig, Mayor

Pamela A. Buethe, CMC
City Clerk

CUP Lot 380 Cimarron Woods

City of La Vista Conditional Use Permit

Conditional Use Permit for Cimarron Terrace Apartments — Phase 1

This Conditional Use Permit issued this _____ day of _____, 2010, by the City of La Vista, a municipal corporation in the County of Sarpy County, Nebraska (“City”) to, Pedcor Investments-2008-CXVIII, L.P., an Indiana limited partnership authorized to do business in Nebraska (“Pedcor Investments-2008” or Owner”), pursuant to the La Vista Zoning Ordinance.

WHEREAS, Pedcor Investments, A Limited Liability Company, a Wyoming limited liability company authorized to do business in Nebraska (“Pedcor Investments”) is an affiliated company and manager of the general partner of Pedcor Investments-2008. Pedcor Investments-2008 and Pedcor Investments together desire to acquire and develop Lot 380, Cimarron Woods Subdivision, consisting of 25.937 acres, more or less (“Lot 380”) which property is located outside of the corporate limits of the City but within the City’s zoning and platting jurisdiction, in a unified, compatible manner as a multi-family housing development.

WHEREAS, Pedcor Investments and Pedcor Investments-2008 (referred to herein together as “Pedcor” wish, Owner wishes to construct and operate a multiple family dwelling complex to be known as Cimarron Terrace Apartments to be constructed in two phases upon the following described tract of land within the City of La Vista’s zoning jurisdiction:

Lots 1 and 2, Cimarron Woods Replat Two, located in the N½ of Section 16, Township 14 North, Range 12 East of the 6th P.M. Sarpy County, Nebraska (the “Development Property”),

with Phase 1 to be constructed by Pedcor Investments-2008 on Lot 1 (the “Property”) and comprised of 84 units and 64 attached garages, and Phase 2 to be constructed by Pedcor Investments on Lot 2 and comprised of 192 units and 104 attached garages, as presented to the City Council with Pedcor Investment’s request on behalf of itself and Owner for replatting, planned unit development and conditional use permit. Pedcor Investments subsequently advised that, due to economics and market demands, it is possible that Pedcor Investments might incrementally develop Phase 2 units..

WHEREAS, Owner has applied for a conditional use permit for the purpose of constructing and operating Phase 1 of a multiple family dwelling complex on Lot 1 as described above; and

WHEREAS, the Mayor and City Council of the City of La Vista are agreeable to the issuance of a conditional use permit to the Owner for such purposes, subject to certain conditions and agreements as hereinafter provided (the “Permit”).

NOW, THEREFORE, BE IT KNOWN THAT subject to the conditions hereof, this Permit is issued to the Owner owner of the Property to use the Property hereto for the purposepurposes described above, said use hereinafter being referred to interchangeably as a “Permitted Use” or “Use”.

Conditions of Permit

The conditions to which the granting of this Permit is subject are as follows:

1. Development and operation of Phase 1 on Lot 1 is governed by this Permit. Pedcor Investments will apply for a conditional use permit for Phase 2 on Lot 2 when it is ready to proceed with that phase, the approval of which will not be unreasonably denied. The rights granted by this Permit are transferable and any breach of any terms¹ hereof shall cause Permit to expire and terminate subject to the rights of the Owner to cure such default or deficiency as set forth herein in this Agreement.
2. In respect to the proposed Use:
 - a. A site plan showing the Development's Property's boundaries, all existing and proposed easements, proposed structures, parking, access points, and drives ~~is shall be submitted to, and subject to approval of, the City and once approved by the City, shall be attached here~~ to and incorporated herein as Exhibit "A".
 - b. Architectural review of the building design, landscaping, and lighting has been completed and the foregoing plans are approved as shown on Exhibits "B" through ~~the~~ .
 - c. The Property shall be developed and maintained in accordance with the site plan (Exhibit "A") and all other Exhibits of this Agreement, as well as the Final Plat - Cimarron Woods Replat Two (Final Plat), Cimarron Terrace Planned Unit Development, and Subdivision Agreement applicable to Lots 1 and 2, Cimarron Woods Replat Two Subdivision, (Subdivision Agreement), as approved by the City and incorporated herein by this reference. Any modifications to the site plan must be submitted to the City's Chief Building Official for approval. Modification of any of the other document or Exhibit shall be subject to approval of the City, as directed by the City Administrator, unless otherwise expressly provided in the document or Exhibit to be modified.
 - d. As-built topographic surveys of storm water detention areas shall be required before certificates of occupancy² are issued for any building in Phase 1 of the project, with a requirement that any discrepancies from the approved detention plans be corrected, or certified as inconsequential, to the satisfaction of the City Engineer ~~in his sole discretion~~ prior to issuing such certificates.
 - e. An off-site wetlands mitigation area ~~has been or~~ will be acquired as identified in Exhibit of this Permit. No permits shall be issued by the City to commence any grading or work on the Property until Owner demonstrates to the satisfaction of the City Administrator that Owner has purchased the site or an alternative a sufficient off-site wetlands mitigation site satisfactory to the City Administrator.
 - f. No vehicle repair, other than emergency maintenance such as changing a tire, or inoperable, abandoned or storage of vehicles shall be allowed in the parking areas on the Property shown on Exhibit "A". The Owner shall have seventy-two (72) hours after notice to correct any violation or cause the removal of any such vehicle that is in violation. ~~(Can we narrow this down—what will be deemed vehicle repair?)~~
 - g. Owner shall obtain all required permits for the Use from the City of La Vista and shall comply with any additional requirements as determined by the Chief Building Official, including, but not limited to, building codes, fire codes and ADA requirements.
 - h. Owner shall comply (and shall ensure that all structures, appurtenances and improvements, and all activities occurring or conducted, on the Property at any time comply) with any applicable federal, state and/or local laws, rules or regulations, as amended or in effect from time to time, including, but not limited to, applicable environmental or safety laws, rules or regulations.
 - i. Owner hereby indemnifies the City against, and holds the City harmless from, any liability, loss, claim or expense whatsoever (including, but not limited to, reasonable attorney fees and court cost) arising out of or resulting from the acts, omissions or negligence of the Owner or its agents, employees, assigns, suppliers or invitees, including, but not limited to, any liability, loss, claim or expense arising out of or resulting from any violations of any applicable environmental or safety law, rule or regulation relating to the Owner's Use of the Property.
 - j. A drainage study for the Property Lot 380 has been completed, as referenced in the Subdivision

¹ ~~Materiality is addressed in 4a below; no need to insert individually throughout the agreement.~~

² ~~Reference to other certificates deleted, absent indication of certificates intended.~~

Agreement applicable to Lots 1 and 2, Cimarron Woods Replat Two Subdivision, the results of which show that peak runoff volumes of the Property, during and after development, resulting from 2-, 10-, 50 or 100 year storm events will be reduced below the historic runoff rate, due to construction of the detention basins depicted on the Storm Water Detention Plan attached hereto as Exhibit D. Owner agrees to cooperate comply with requirements related to drainage that are specified in said Subdivision Agreement, and take such further action with the District as necessary if peak runoff volumes from the Property are not reduced to levels shown in the drainage study.

k. Owner shall ensure that any clubhouse on the property is professionally staffed during open hours.

1. Owner agrees to cooperate and coordinate with the owner of Lot 2 to carry out Subdivider (as "Subdivider" is defined in the Subdivision Agreement) obligations under the Subdivision Agreement.

3. In respect to the Gateway Corridor Overlay District, building design has been approved per letter from the City's design review architect, Kevin Schluckebier, dated September 14, 2010.

4. The Owner's right to maintain the Use of the Property, as contemplated by this Permit, shall be based on the following conditions:

- a. An annual inspection to determine compliance with the conditions of this Permit. The Permit may be revoked upon a finding by the City that there is a material violation of the terms of this Permit if the violation continues after written notice from the City to Owner and opportunity to cure in the a reasonable time and manner described below. was given for Owner to cure such violation.
- b. The Use authorized by this Permit must be initiated within 1224 months after the date of the approval of this Permit otherwise such Permit shall become void. Construction of Notwithstanding the foregoing, it is understood and agreed that this is a phased project. As such, phase one of the project, consisting of 84 units and 64 garages and having the design, dimensions, construction and amenities set forth in the Owner's application(s) for Cimarron Woods Replat Two, this Permit and/or PUD-1 Planned Unit Development zoning by or on behalf of Owner, as approved, ("Application"); shall be commenced within 1224 months after the date of the approval of this Permit and completed with certificate of occupancy within 2418 months after commencement of construction, subject to such extension of time as granted by the Chief Building Official in the event Owner commences construction within the time specified in this Section 4(b) and diligently continues with construction thereafter, and completion within the time required in this Section 4(b) is delayed for causes beyond the reasonable control of Owner; otherwise such Permit shall become void. Construction of phase two of the project on Lot 2 shall be governed by the conditional use permit for phase two. otherwise such Permit shall become void. Phase two of the project, consisting of 192 units and 104 attached garages and having the design, dimensions, construction and amenities set forth in Owner's application, may be constructed after the completion of the first phase as economics and demand warrant and in accordance with a schedule approved by the City. In addition, it is understood and agreed that Subdivider, through administrative actions only if permitted under the zoning ordinances and regulations existing at the time, shall have the right to further subdivide the Property as necessary to create such other phases of the Property, subject to approval of the City Council.
- c. All obsolete or unused structures, accessory facilities or materials with an environmental or safety hazard shall be abated and/or removed from the Property at Owner's expense within twelve (12) months of cessation of the Use of the Property.

5. Notwithstanding any other provision herein to the contrary, this Permit, and all rights granted hereby, shall expire and terminate as to a Permitted Use hereunder upon the first of the following to occur:

- a. Owner's abandonment of the Permitted Use. There shall be a presumption that the project on the Property has been abandoned if the Owner fails to commence construction of phase one of the project within twenty four (24) months after the time provided approval of this Permit, unless otherwise approved by Section 4(b) above. the City.

- b. Cancellation, revocation, denial or failure to maintain any federal, state or local permit required for the Use, and such cancellation, revocation, denial or failure to maintain any federal, state or local permit required for the use is not cured in the time and manner described below ~~within a reasonable period of time~~, so long as curative rights are provided under laws, rules and regulations governing said permit, ~~and Owner is diligently pursuing correction of the same~~.
- c. Owner's construction or placement of a storage tank, structure or other improvement on the Property ~~premises~~ (except during construction of any phase of the project) not specified in this Permit and Owners failure to cure ~~correct~~ such breach in the time and manner described below ~~after~~ ~~within a reasonable period of time~~ after City's giving notice thereof.
- d. Owner's breach of any other term hereof and its failure to cure ~~correct~~ such breach in the time and manner described below ~~within a reasonable period of time~~ after City's giving notice thereof.

6. If construction of phase one has not been commenced within twelve (12)~~twenty four (24)~~ months from the date of this Permit, this Permit shall be null and void and all rights hereunder shall lapse; provided, however, ~~Owner shall have the right to file for an extension of time pursuant to the La Vista Zoning Ordinance.~~

7. In the event the Owner fails to promptly remove any safety ~~or~~ environmental or other hazard ~~or nuisance~~ from the Property, or upon the expiration or termination of this Permit the Owner fails to promptly remove any ~~permitted materials or any~~ remaining safety, environmental or other hazard ~~or nuisance~~, the City may, at its option (but without any obligation to the Owner or any third party to exercise said option) cause the same to be removed at Owner's cost (including, but not limited to, the cost of any excavation and earthwork that is necessary or advisable in connection with the removal thereof) and the Owner shall reimburse the City the costs incurred to remove the same. Owner hereby irrevocably grants the City, its agents and employees the right, provided notice is furnished to the Owner along with a reasonable time to remove or cure such hazard, to enter the Property and to take whatever action as is necessary or appropriate to remove ~~the structures or any such~~ environmental or safety hazards ~~or nuisances~~ in accordance with the terms of this Permit, and the right of the City to enter the Property as may be necessary or appropriate to carry out any other provision of this Permit.

8. If any provision, or any portion thereof, contained in this Permit is held to be unconstitutional, invalid, or unenforceable, the remaining provisions hereof, or portions thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

Miscellaneous

The conditions and terms of this Permit shall be binding upon owner, its successors and assigns.

- 1. Delay of City to terminate this Permit on account of breach of Owner of any of the terms hereof shall not constitute a waiver of City's right to terminate this Permit, unless the City has expressly waived said breach. A waiver of the right to terminate upon any breach shall not constitute a waiver of the right to terminate upon a subsequent breach of the terms hereof, whether said breach be of the same or different nature.
- 2. Cure Rights. Notwithstanding any other provision of this Permit to the contrary, Owner shall be entitled to notice and opportunity to cure a breach of this Permit as follows. City will notify the Owner of any breach of this Permit. Owner, which for purposes of taking action to cure a breach shall also include a limited partner of Pedcor Investments-2008-CXVIII, L.P. shall be permitted to cure any breach. Cure shall be commenced and completed as soon as possible and in all cases within thirty (30) days after City provides notice of breach; provided, however, in any case that cure cannot be completed within 30 days, additional time will be allowed, so long as cure is commenced within the time required in this Section 2 and diligently pursued and completed as soon as possible, and allowing additional times does not present

or increase risk of harm to persons or property. City shall have the right to terminate this Permit if a breach is not timely cured.

23. Nothing herein shall be construed to be a waiver or suspension of, or an agreement on the part of the City to waive or suspend, any zoning law or regulation applicable to the premises except to the extent and for the duration specifically authorized by this Permit.

34. Any notice to be given by City hereunder shall be in writing and shall be sufficiently given if sent by regular mail, postage prepaid, addressed as follows:

Contact Name and Address: ~~Force Development, Inc.~~
~~11205 South 150th Street, Suite 100~~
~~Omaha, Nebraska 68138~~
~~(402) 592-6942~~

To Owner:

And;

Pedcor Investments~~2008-CXVIII, L.P.~~
~~& Pedcor Investments, A Limited Liability Company~~
~~770 3rd Avenue, S.W.~~
~~Carmel, IN 46032~~
~~Attn: Thomas G. Crowe~~

Wachovia Affordable Housing
Community Development Corporation
MAC D1053-170
301 South College Street
Charlotte, NC 28288
Attention: Michael Loose: Asset Management

5. All documents referenced in this Permit shall be incorporated herein by said reference.

Effective Date:

This Permit shall take effect upon the filing hereof with the City Clerk a signed original hereof.

THE CITY OF LA VISTA

By _____
Douglas Kindig, Mayor

Attest:

Pamela A Buethe, CMC
Deputy City Clerk

CONSENT AND AGREEMENT

The undersigned does hereby consent and agree to the conditions of this permit and that the terms hereof constitute an agreement on the part of the undersigned to fully and timely perform each and every condition

and term hereof, and the undersigned does hereby warrant, covenant and agree to fully and timely perform and discharge all obligations and liabilities herein required by Owner to be performed or discharged.

Owner:

Pedcor Investments-2008-CXVII, L.P., an Indiana a-limited partnership

By: La Vista Housing Company, LLC, its general
partner

By: _____

Title: _____

By: Pedcor Investments, A Limited Liability
Company, its manager

By: _____

Thomas G. Crowe,
Executive Vice President

Date: _____

City of La Vista Conditional Use Permit

Conditional Use Permit for Cimarron Terrace Apartments – Phase 1

This Conditional Use Permit issued this _____ day of _____, 2010, by the City of La Vista, a municipal corporation in the County of Sarpy County, Nebraska (“City”) to, Pedcor Investments-2008-CXVIII, L.P., an Indiana limited partnership authorized to do business in Nebraska (“Pedcor Investments-2008” or “Owner”), pursuant to the La Vista Zoning Ordinance.

WHEREAS, Pedcor Investments, A Limited Liability Company, a Wyoming limited liability company authorized to do business in Nebraska (“Pedcor Investments”) is an affiliated company and manager of the general partner of Pedcor Investments-2008. Pedcor Investments-2008 and Pedcor Investments together desire to acquire and develop Lot 380, Cimarron Woods Subdivision, consisting of 25.937 acres, more or less (“Lot 380”) which property is located outside of the corporate limits of the City but within the City’s zoning and platting jurisdiction, in a unified, compatible manner as a multi-family housing development.

WHEREAS Pedcor Investments and Pedcor Investments-2008 (referred to herein together as “Pedcor”) wish to construct and operate a multiple family dwelling complex to be known as Cimarron Terrace Apartments to be constructed in two phases upon the following described tract of land within the City of La Vista’s zoning jurisdiction:

Lots 1 and 2, Cimarron Woods Replat Two, located in the N½ of Section 16, Township 14 North, Range 12 East of the 6th P.M. Sarpy County, Nebraska (the “Development”),

with Phase 1 to be constructed by Pedcor Investments-2008 on Lot 1 (the “Property”) and comprised of 84 units and 64 attached garages, and Phase 2 to be constructed by Pedcor Investments on Lot 2 and comprised of 192 units and 104 attached garages, as presented to the City Council with Pedcor Investment’s request on behalf of itself and Owner for replatting, planned unit development and conditional use permit. Pedcor Investments subsequently advised that, due to economics and market demands, it is possible that Pedcor Investments might incrementally develop Phase 2 units.

WHEREAS, Owner has applied for a conditional use permit for the purpose of constructing and operating Phase 1 of a multiple family dwelling complex on Lot 1 as described above; and

WHEREAS, the Mayor and City Council of the City of La Vista are agreeable to the issuance of a conditional use permit to the Owner for such purpose, subject to certain conditions and agreements as hereinafter provided (the “Permit”).

NOW, THEREFORE, BE IT KNOWN THAT subject to the conditions hereof, this Permit is issued to the Owner to use the Property hereto for the purpose described above, said use hereinafter being referred to interchangeably as a “Permitted Use” or “Use”.

Conditions of Permit

The conditions to which the granting of this Permit is subject are as follows:

1. Development and operation of Phase 1 on Lot 1 is governed by this Permit. Pedcor Investments will apply for a conditional use permit for Phase 2 on Lot 2 when it is ready to proceed with that phase, the approval of which will not be unreasonably denied. The rights granted by this Permit are transferable and any breach of any terms hereof shall cause Permit to expire and terminate subject to the rights of the Owner to cure such default or deficiency as set forth herein in this Agreement.
2. In respect to the proposed Use:
 - a. A site plan showing the Development's boundaries, all existing and proposed easements, proposed structures, parking, access points, and drives is attached hereto and incorporated herein as Exhibit "A".
 - b. Architectural review of the building design, landscaping, and lighting has been completed and the foregoing plans are approved as shown on Exhibits "B" through "M".
 - c. The Property shall be developed and maintained in accordance with the site plan (Exhibit "A") and all other Exhibits of this Agreement, as well as the Final Plat - Cimarron Woods Replat Two ("Final Plat"), Cimarron Terrace Planned Unit Development, and Subdivision Agreement applicable to Lots 1 and 2, Cimarron Woods Replat Two Subdivision, ("Subdivision Agreement"), as approved by the City and incorporated herein by this reference. Any modifications to the site plan must be submitted to the City's Chief Building Official for approval. Modification of any of the other document or Exhibit shall be subject to approval of the City, as directed by the City Administrator, unless otherwise expressly provided in the document or Exhibit to be modified.
 - d. As-built topographic surveys of storm water detention areas shall be required before certificates of occupancy are issued for any building in Phase 1 of the project, with a requirement that any discrepancies from the approved detention plans be corrected, or certified as inconsequential, to the satisfaction of the City Engineer prior to issuing such certificates.
 - e. An off-site wetlands mitigation area will be acquired as identified in Exhibit "N" of this Permit. No permits shall be issued by the City to commence any grading or work on the Property until Owner demonstrates to the satisfaction of the City Administrator that Owner has purchased the site or an alternative sufficient off-site wetlands mitigation site satisfactory to the City Administrator.
 - f. No vehicle repair, other than emergency maintenance such as changing a tire, or inoperable, abandoned or storage of vehicles shall be allowed in the parking areas on the Property shown on Exhibit "A". The Owner shall have seventy-two (72) hours after notice to correct any violation or cause the removal of any such vehicle that is in violation.
 - g. Owner shall obtain all required permits for the Use from the City of La Vista and shall comply with any additional requirements as determined by the Chief Building Official, including, but not limited to, building codes, fire codes and ADA requirements.
 - h. Owner shall comply (and shall ensure that all structures, appurtenances and improvements, and all activities occurring or conducted, on the Property at any time comply) with any applicable federal, state and/or local laws, rules or regulations, as amended or in effect from time to time, including, but not limited to, applicable environmental or safety laws, rules or regulations.
 - i. Owner hereby indemnifies the City against, and holds the City harmless from, any liability, loss, claim or expense whatsoever (including, but not limited to, reasonable attorney fees and court cost) arising out of or resulting from the acts, omissions or negligence of the Owner or its agents, employees, assigns, suppliers or invitees, including, but not limited to, any liability, loss, claim or expense arising out of or resulting from any violations of any applicable environmental or safety law, rule or regulation relating to the Owner's Use of the Property.
 - j. A drainage study for Lot 380 has been completed, as referenced in the Subdivision Agreement applicable to Lots 1 and 2, Cimarron Woods Replat Two Subdivision. Owner agrees to comply with requirements related to drainage that are specified in said Subdivision Agreement.
 - k. Owner shall ensure that any clubhouse on the property is professionally staffed during open hours.
 - l. Owner agrees to cooperate and coordinate with the owner of Lot 2 to carry out Subdivider (as "Subdivider" is defined in the Subdivision Agreement) obligations under the Subdivision Agreement.

3. In respect to the Gateway Corridor Overlay District, building design has been approved per letter from the City's design review architect, Kevin Schluckebier, dated September 14, 2010.
4. The Owner's right to maintain the Use of the Property, as contemplated by this Permit, shall be based on the following conditions:
 - a. An annual inspection to determine compliance with the conditions of this Permit. The Permit may be revoked upon a finding by the City that there is a material violation of the terms of this Permit if the violation continues after written notice from the City to Owner and opportunity to cure in the time and manner described below.
 - b. The Use authorized by this Permit must be initiated within 12 months after the date of the approval of this Permit otherwise such Permit shall become void. Construction of phase one, consisting of 84 units and 64 garages and having the design, dimensions, construction and amenities set forth in the application(s) for Cimarron Woods Replat Two, this Permit and/or PUD-1 Planned Unit Development zoning by or on behalf of Owner, as approved, ("Application") shall be commenced within 12 months after the date of the approval of this Permit and completed with certificate of occupancy within 24 months after commencement of construction, subject to such extension of time as granted by the Chief Building Official in the event Owner commences construction within the time specified in this Section 4(b) and diligently continues with construction thereafter, and completion within the time required in this Section 4(b) is delayed for causes beyond the reasonable control of Owner; otherwise such Permit shall become void. Construction of phase two of the project on Lot 2 shall be governed by the conditional use permit for phase two.
 - c. All obsolete or unused structures, accessory facilities or materials with an environmental or safety hazard shall be abated and/or removed from the Property at Owner's expense within twelve (12) months of cessation of the Use of the Property.
5. Notwithstanding any other provision herein to the contrary, this Permit, and all rights granted hereby, shall expire and terminate as to a Permitted Use hereunder upon the first of the following to occur:
 - a. Owner's abandonment of the Permitted Use. There shall be a presumption that the project on the Property has been abandoned if the Owner fails to commence construction of phase one within the time provided by Section 4(b) above.
 - b. Cancellation, revocation, denial or failure to maintain any federal, state or local permit required for the Use, and such cancellation, revocation, denial or failure to maintain any federal, state or local permit required for the use is not cured in the time and manner described below, so long as curative rights are provided under laws, rules and regulations governing said permit.
 - c. Owner's construction or placement of a storage tank, structure or other improvement on the Property (except during construction of any phase of the project) not specified in this Permit and Owners failure to cure such breach in the time and manner described below after City's giving notice thereof.
 - d. Owner's breach of any other term hereof and its failure to cure such breach in the time and manner described below after City's giving notice thereof.
6. If construction of phase one has not been commenced within twelve (12) months from the date of this Permit, this Permit shall be null and void and all rights hereunder shall lapse; provided, however, Owner shall have the right to file for an extension of time pursuant to the La Vista Zoning Ordinance.
7. In the event the Owner fails to promptly remove any safety, environmental or other hazard or nuisance from the Property, or upon the expiration or termination of this Permit the Owner fails to promptly remove any remaining safety, environmental or other hazard or nuisance, the City may, at its option (but without any obligation to the Owner or any third party to exercise said option) cause the same to be removed at Owner's cost (including, but not limited to, the cost of any excavation and earthwork that is necessary or advisable in connection with the removal thereof) and the Owner shall reimburse the City the costs incurred to remove the same. Owner hereby irrevocably grants the City, its agents and

employees the right, provided notice is furnished to the Owner along with a reasonable time to remove or cure such hazard, to enter the Property and to take whatever action as is necessary or appropriate to remove any such hazards or nuisances in accordance with the terms of this Permit, and the right of the City to enter the Property as may be necessary or appropriate to carry out any other provision of this Permit.

8. If any provision, or any portion thereof, contained in this Permit is held to be unconstitutional, invalid, or unenforceable, the remaining provisions hereof, or portions thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

Miscellaneous

The conditions and terms of this Permit shall be binding upon owner, its successors and assigns.

1. Delay of City to terminate this Permit on account of breach of Owner of any of the terms hereof shall not constitute a waiver of City's right to terminate this Permit, unless the City has expressly waived said breach. A waiver of the right to terminate upon any breach shall not constitute a waiver of the right to terminate upon a subsequent breach of the terms hereof, whether said breach be of the same or different nature.
2. Cure Rights. Notwithstanding any other provision of this Permit to the contrary, Owner shall be entitled to notice and opportunity to cure a breach of this Permit as follows. City will notify the Owner of any breach of this Permit. Owner, which for purposes of taking action to cure a breach shall also include a limited partner of Pedcor Investments-2008-CXVIII, L.P. shall be permitted to cure any breach. Cure shall be commenced and completed as soon as possible and in all cases within thirty (30) days after City provides notice of breach; provided, however, in any case that cure cannot be completed within 30 days, additional time will be allowed, so long as cure is commenced within the time required in this Section 2 and diligently pursued and completed as soon as possible, and allowing additional times does not present or increase risk of harm to persons or property. City shall have the right to terminate this Permit if a breach is not timely cured.
3. Nothing herein shall be construed to be a waiver or suspension of, or an agreement on the part of the City to waive or suspend, any zoning law or regulation applicable to the premises except to the extent and for the duration specifically authorized by this Permit.
4. Any notice to be given by City hereunder shall be in writing and shall be sufficiently given if sent by regular mail, postage prepaid, addressed as follows:

Contact Name and Address:

To Owner:

Pedcor Investments-2008-CXVIII, L.P.
& Pedcor Investments, A Limited Liability Company
770 3rd Avenue, S.W.
Carmel, IN 46032
Attn: Thomas G. Crowe

Wachovia Affordable Housing
Community Development Corporation
MAC D1053-170
301 South College Street

Charlotte, NC 28288
Attention: Michael Loose: Asset Management

5. All documents referenced in this Permit shall be incorporated herein by said reference.

6.

Effective Date:

This Permit shall take effect upon the filing hereof with the City Clerk a signed original hereof.

THE CITY OF LA VISTA

By _____
Douglas Kindig, Mayor

Attest:

Pamela A Buethe, CMC
Deputy City Clerk

CONSENT AND AGREEMENT

The undersigned does hereby consent and agree to the conditions of this permit and that the terms hereof constitute an agreement on the part of the undersigned to fully and timely perform each and every condition and term hereof, and the undersigned does hereby warrant, covenant and agree to fully and timely perform and discharge all obligations and liabilities herein required by Owner to be performed or discharged.

Owner:

PedcorInvestments-2008-CXVIII, L.P., an Indiana limited
partnership

By: La Vista Housing Company, LLC, its general
partner

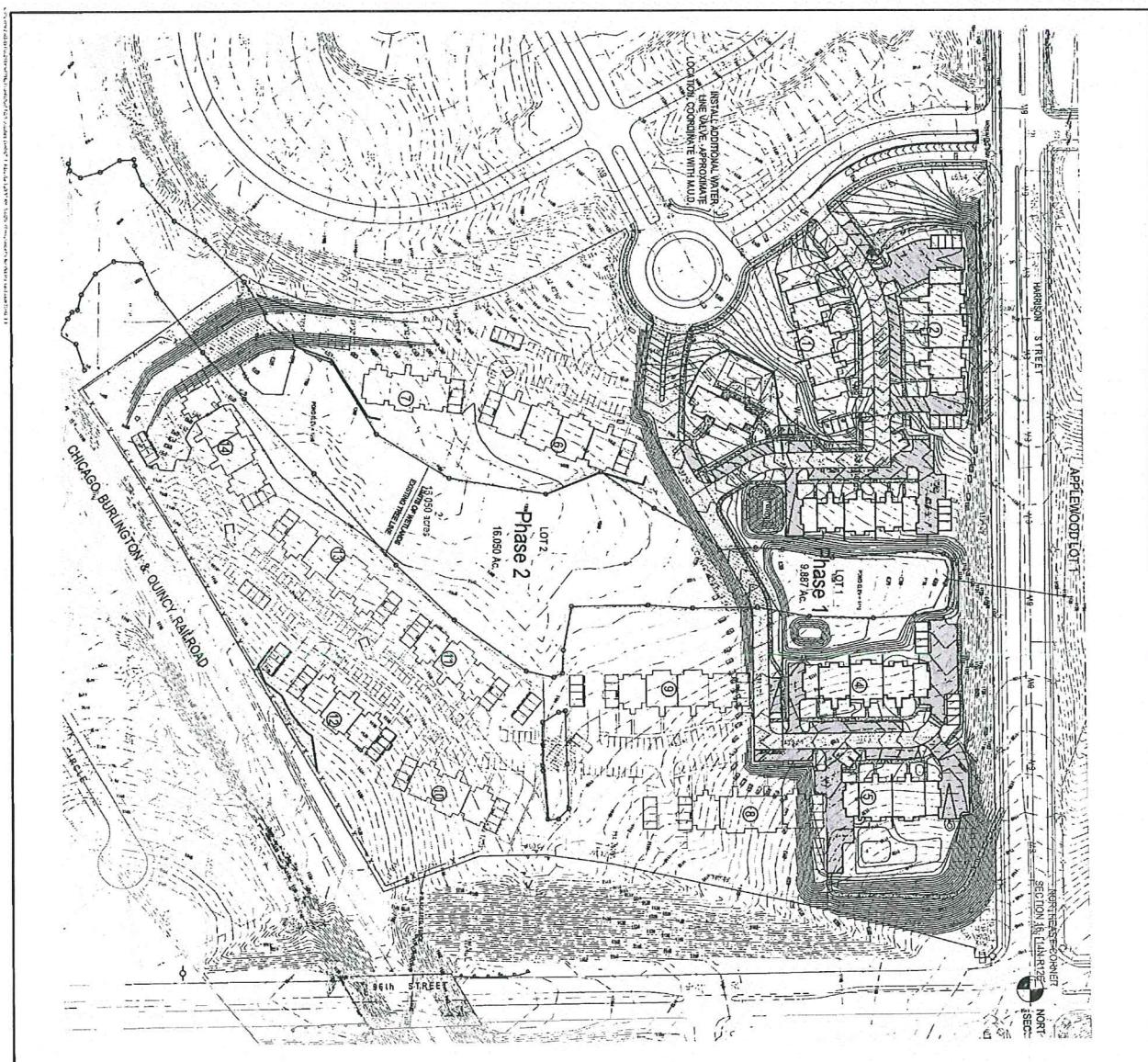
By: Pedcor Investments, A Limited Liability
Company, its manager

By:

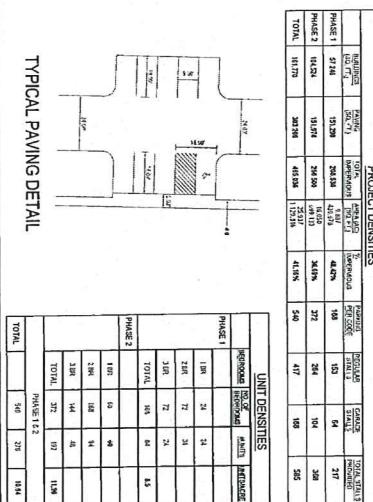
Thomas G. Crowe,
Executive Vice President

Date: _____

DRAFT



TYPICAL PAVING DETAIL



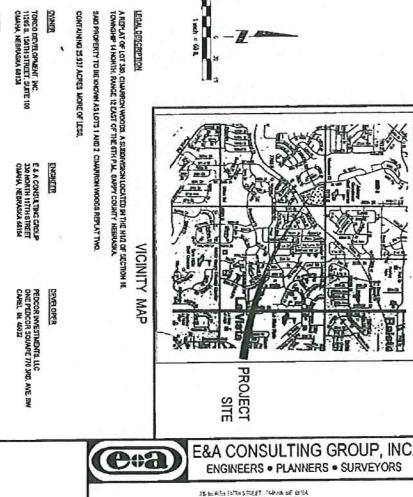
PROJECT DENSITIES

PROJECT	EXISTING AND PROPOSED ZONING (SF/AC.)		
	REGULAR	INDUSTRIAL	MIXED
1. EXISTING	100' (100')	100' (100')	100' (100')
2. PROPOSED	100' (100')	100' (100')	100' (100')
3. TOTAL	100' (100')	100' (100')	100' (100')

EXISTING AND PROPOSED ZONING (SF/AC.)

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EXISTING AND PROPOSED ZONING (SF/AC.)



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EXHIBIT

"A"



14 September 2010

Mr. Christopher Solberg, City Planner
City of La Vista
8116 Parkview Boulevard
La Vista, Nebraska 68128-2198

RE: Design Review
Cimarron Terrace Phase I
Sub-Area, Secondary Overlay of the Gateway Corridor District;
Lot 380 Cimarron Woods Subdivision - Phase I
BCDM Project No. 4638-01

Dear Chris:

Per your request, I have completed a design review of the above referenced project using the Architectural and Site Design Guidelines for the Sub-Area, Secondary Overlay of the Gateway Corridor District dated 2001.

Review comments for Landscape and Site Treatment and Building Design are included in this letter.
Revisions to this review are noted in underlined text. With Owner acceptance, this design review will be completed.

1. LANDSCAPE AND SITE TREATMENT:

- Plant Material:

Reply:

- **Acceptable**

- Site Lighting:

Reply:

- The proposed lighting cut sheet on sheet CL101 does not meet the dark sky component. The pole light shall be specified with a Louver Reflector LR. The specification shall be modified to be as follows (edit in bold):
 - CAH-150-S-MT-**LR5**-PT-BK-RAF-518-DB-BCM-5 BK
 - Additional discussion with Pacific Lighting & Standards Co. Enrique noted some items have changed. The dark sky compliant item in this line: CAG-150-S-MT-**RF5**-PT-BK-RAF-518-DB-BCM-5 BK
The attached cut sheet shows the differing styles.
 - This may impact the light photometric detail K16 sheet SL101
- If additional building lighting is to be used, please submit locations and fixture cuts. Light shown on elevations, but no fixture cut sheet submitted.

Mr. Christopher Solberg, City Planner
City of La Vista
Page 2

2. BUILDING DESIGN:

- Building Materials:

Reply:

- Material selection samples have not been provided with this submittal. The materials and colors approved with the previous 2008 submittal shall be assumed current; **no modifications of these materials shall be made without prior approval. A print submitted in 2008 is attached for reference.**

- Building Design:

Reply:

- Provide masonry (brick) wainscot at building perimeter. **Provided.**
- Brick shall be the primary material. Rear elevation requires additional brick as it is the main elevation visible from the public right of way. **Provided.**

If you have any questions on any of the comments listed above, please do not hesitate to contact me.

Sincerely,



Kevin Schluckebier

Kevin Schluckebier, AIA
BCDM, Inc.

KES/mmm
Attachment

c: File 4638-01, 1.0



Housing: Corrosion resistant, cast A356 aluminum alloy, .188" min. wall thickness.

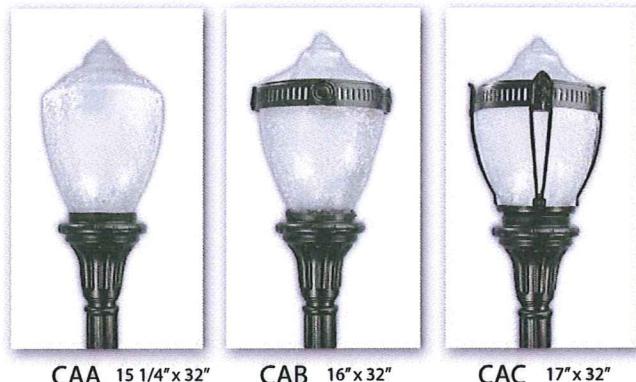
Acorn: UV stabilized clear textured polycarbonate or prismatic type 3 and 5 light distribution. available; consult factory.

Electrical: All electrical components are UL approved.

Ballast: High power factor - 20°C starting temperature. The ballast is removable as a unit for easy maintenance.

LED Engine: All LED light boards and drivers are separate and removable for easy maintenance and replacement

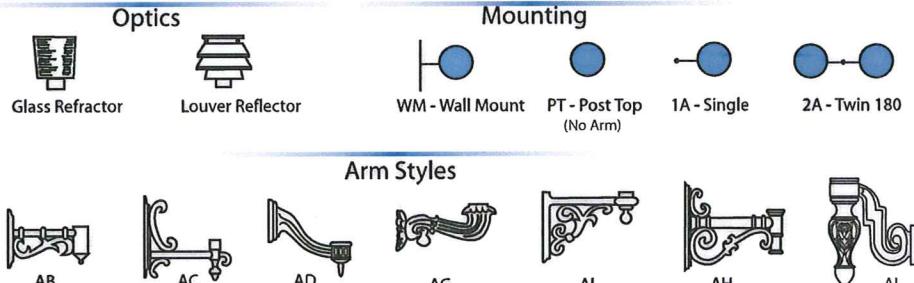
Finish: Polyester powder fuse coating is standard; other finishes are available upon request.



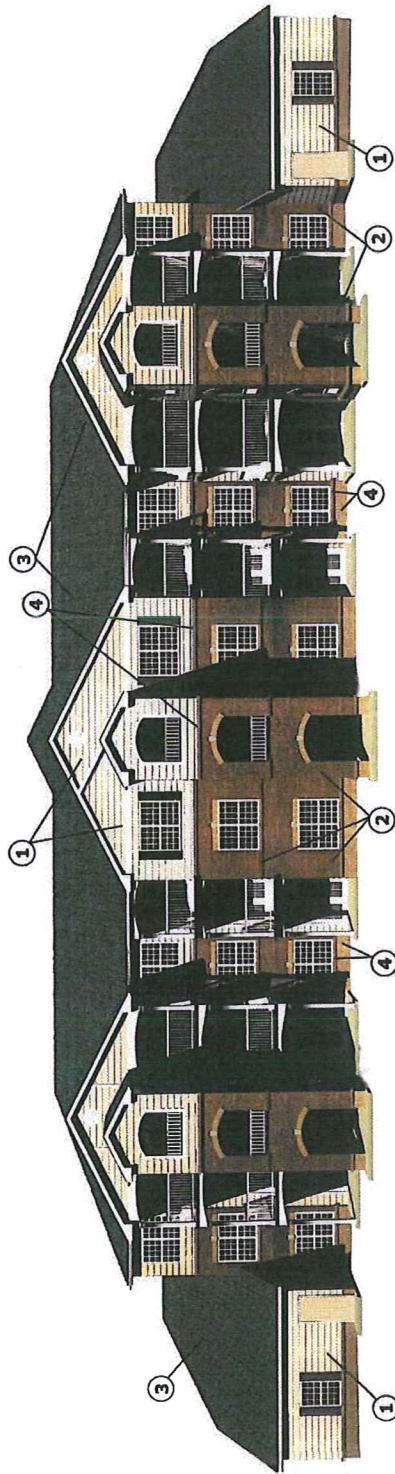
Ordering Information:

1. Model Number
2. Wattage
3. Lamp Type
 - H - Metal Halide
 - S - High Pressure Sodium
 - PS - Pulse Start
 - CF - Compact Fluorescent*
 - LED - Light-emitting diode
 - IND - Induction
4. Voltage
 - 120, 208, 240, 277, 480 and
 - MT (Multi Tap) - 120, 208, 240, 277
5. Optics
 - GR3 - Type 3 Glass Refractor
 - GR5 - Type 5 Glass Refractor
 - LR - Louver Reflector

6. Mounting
7. Arm Style
8. Finish
 - BK - Black
 - BZ - Bronze
 - GR - Green
 - VG - Verde Green
 - (Other color upon request)
9. Options
 - HS - House Shield
 - FS - Fuse
 - PC - Photo Cell



1. Mod. #	2. Wattage 3. Lamp Type	4. Voltage	5. Optics	6. Mounting 7. Arm Style	8. Finish	9. Options



LEGEND

- ① **SIDING:**
Mfg: James Hardie
Type: Fiber Cement Board
Color: Woodstock Brown
- ② **BRICKS:**
Mfg: Brick Craft
Type: Engineer
Color: Old Indiana
- ③ **SHINGLES:**
Mfg: GAF Timberline Series
Type: Dimensional
Color: Weather Wood
- ④ **BRICKS:**
Mfg: Brick Craft
Type: Engineer
Color: Sandalwood



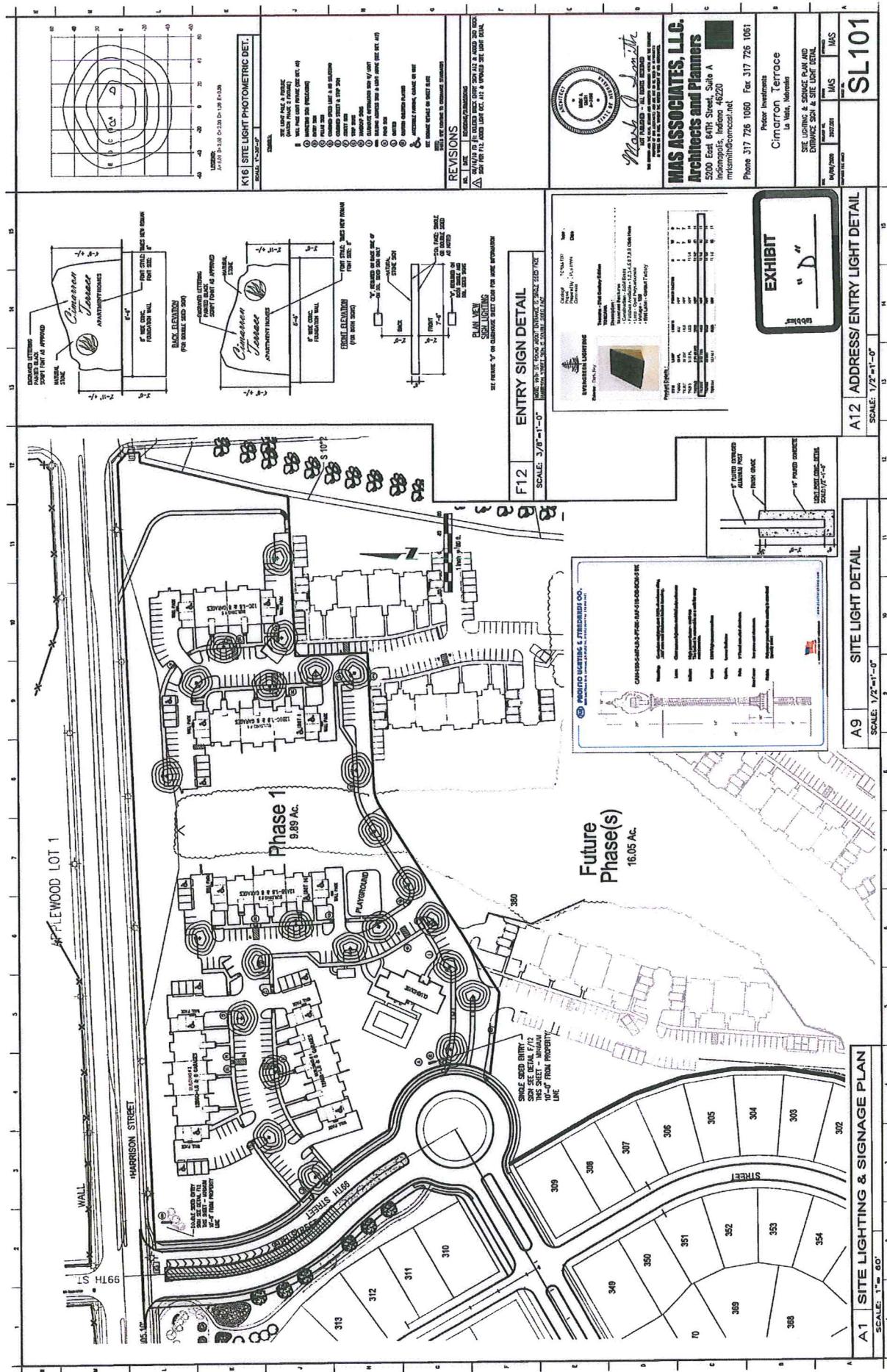
BUILDING 12A6B

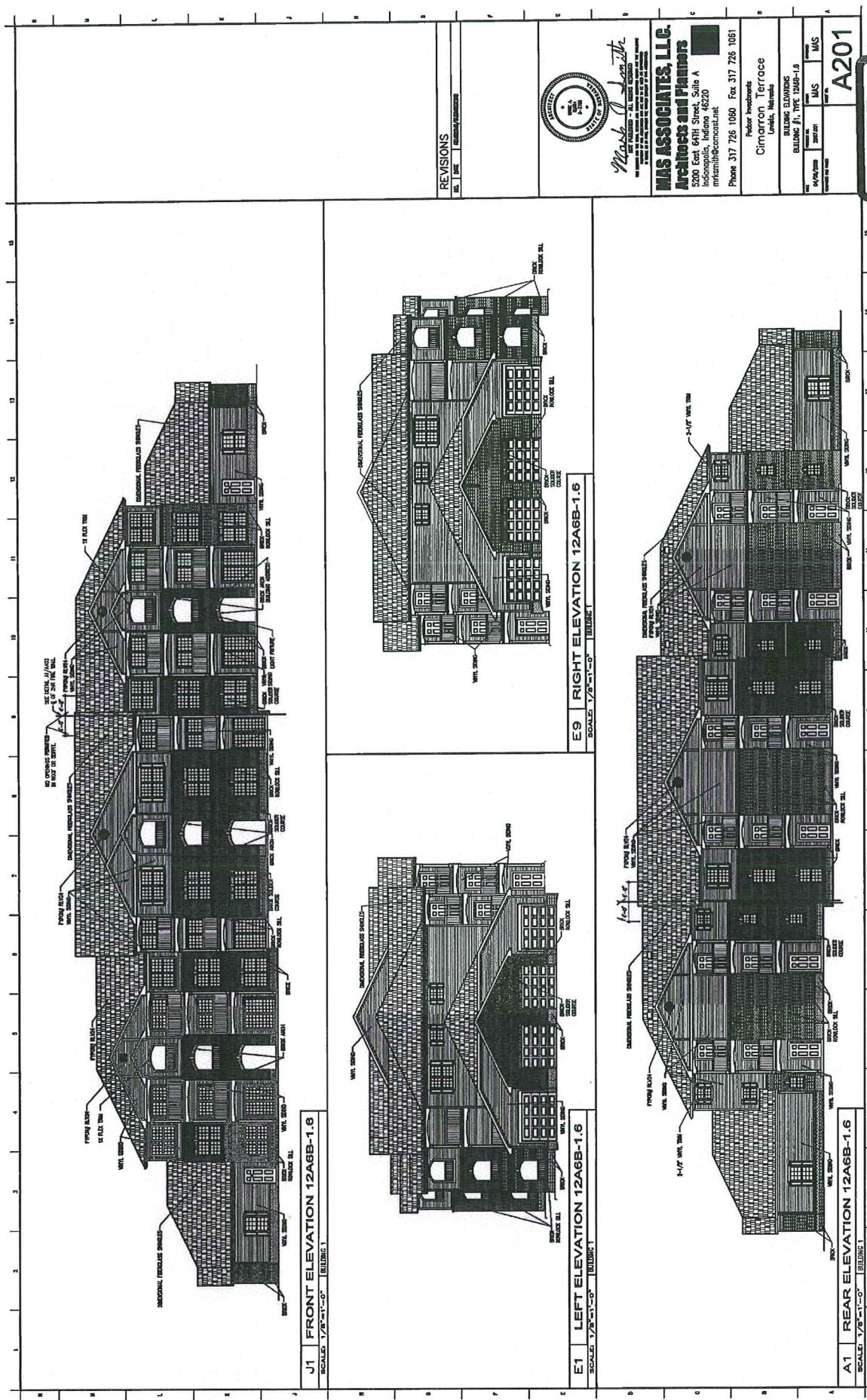
(1 & 2 Bedroom)

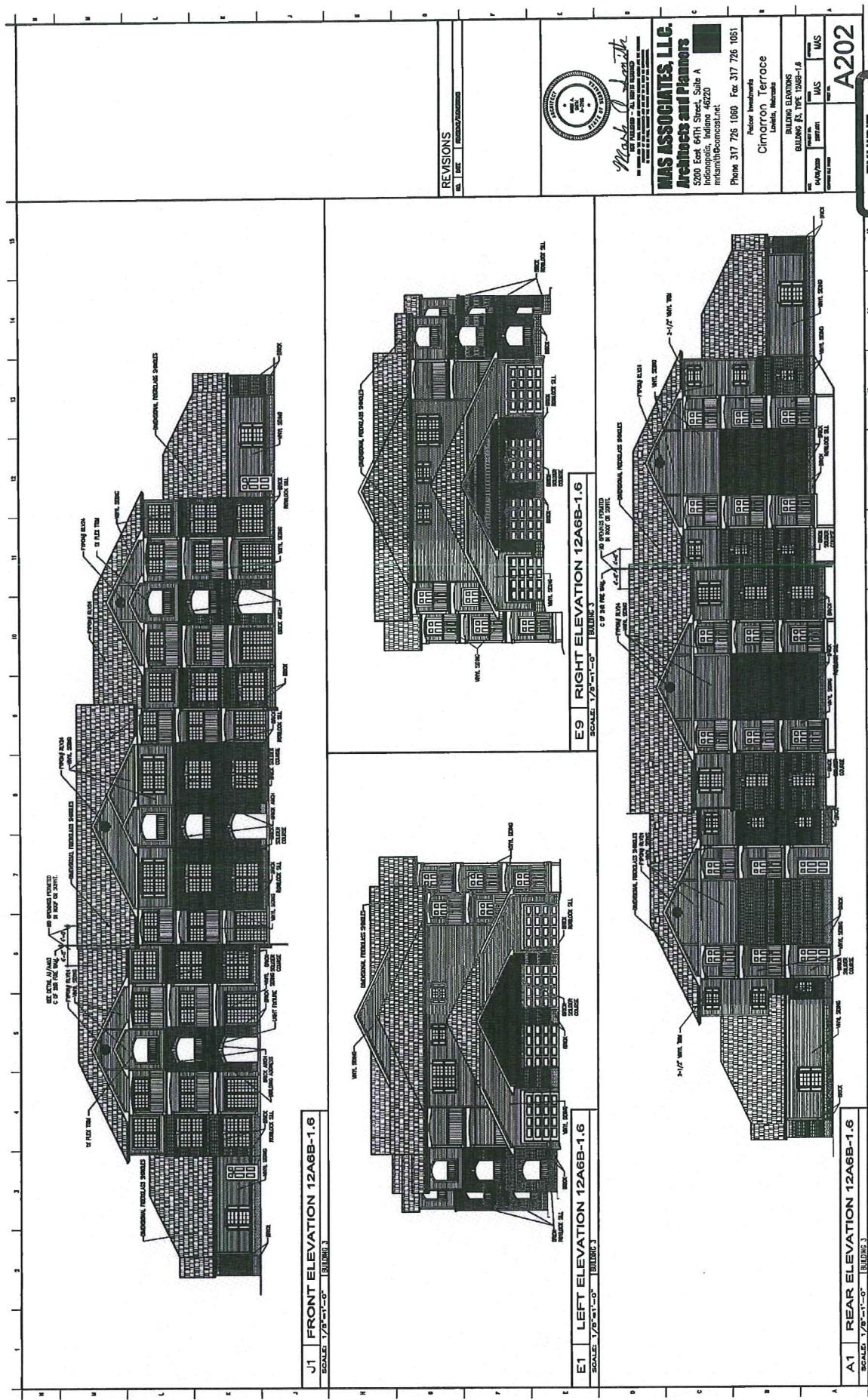
CIMARRON TERRACE APARTMENTS

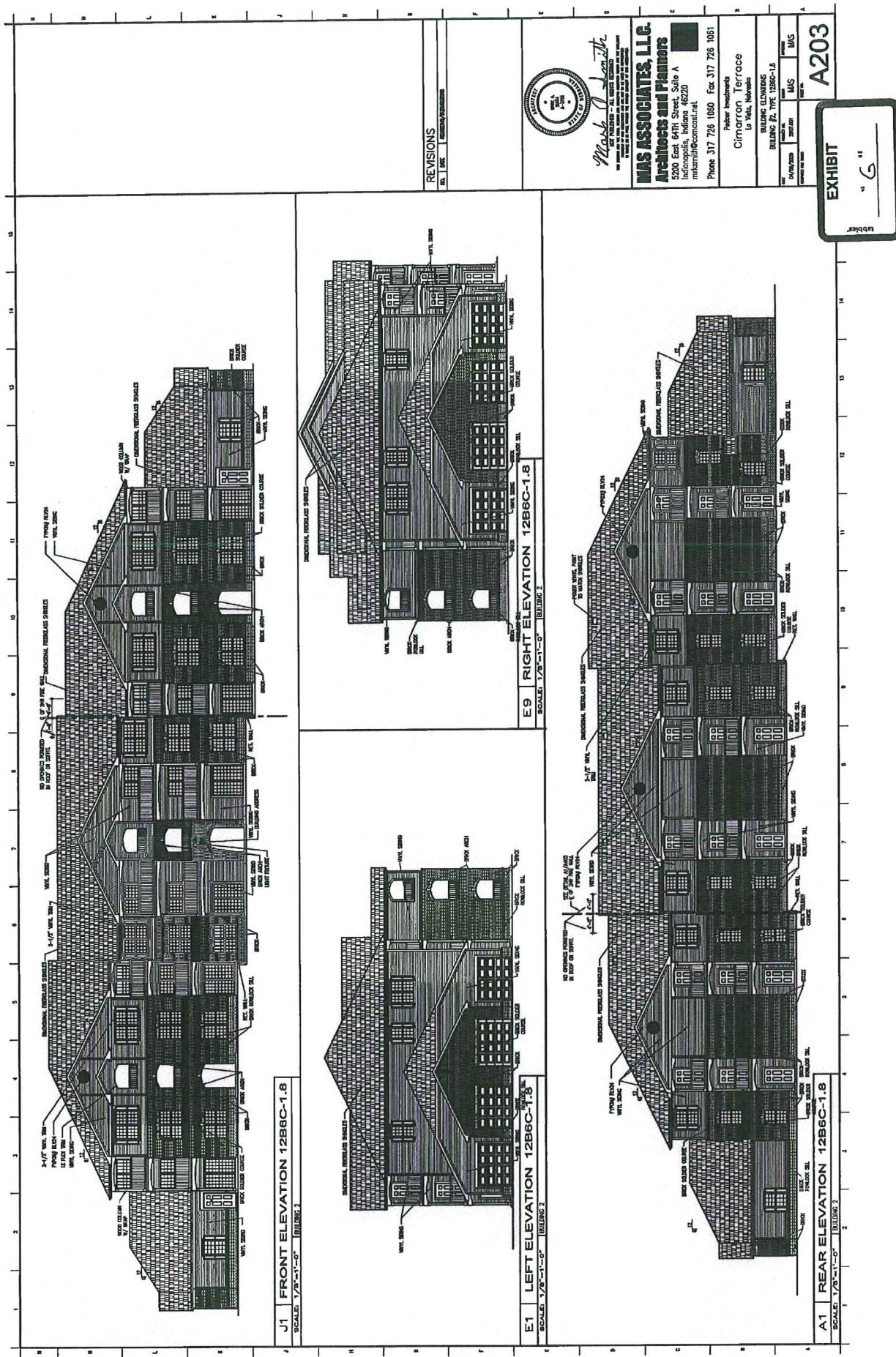
La Vista, Nebraska

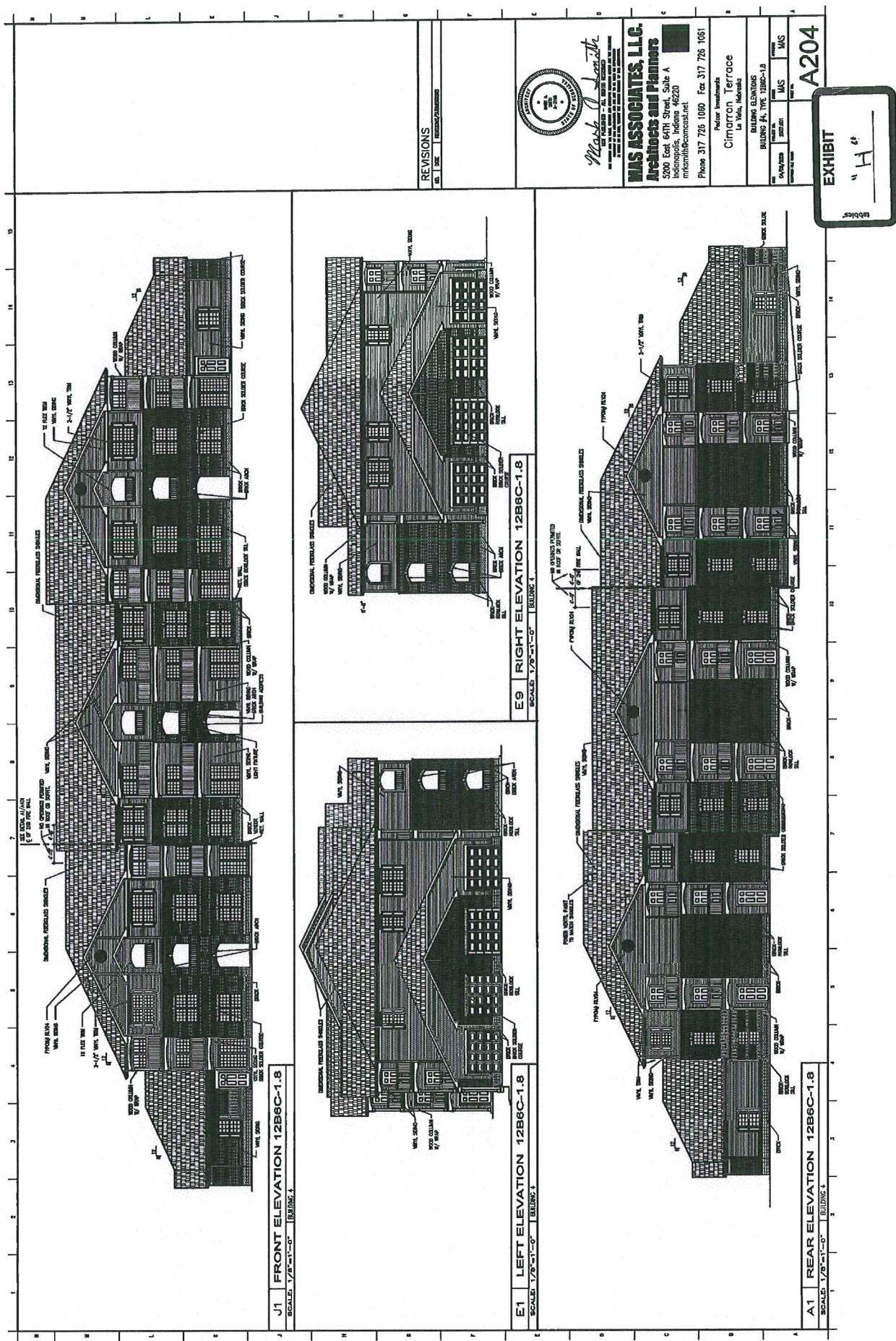
PEDCOR
INVESTMENTS
A Limited Liability Company

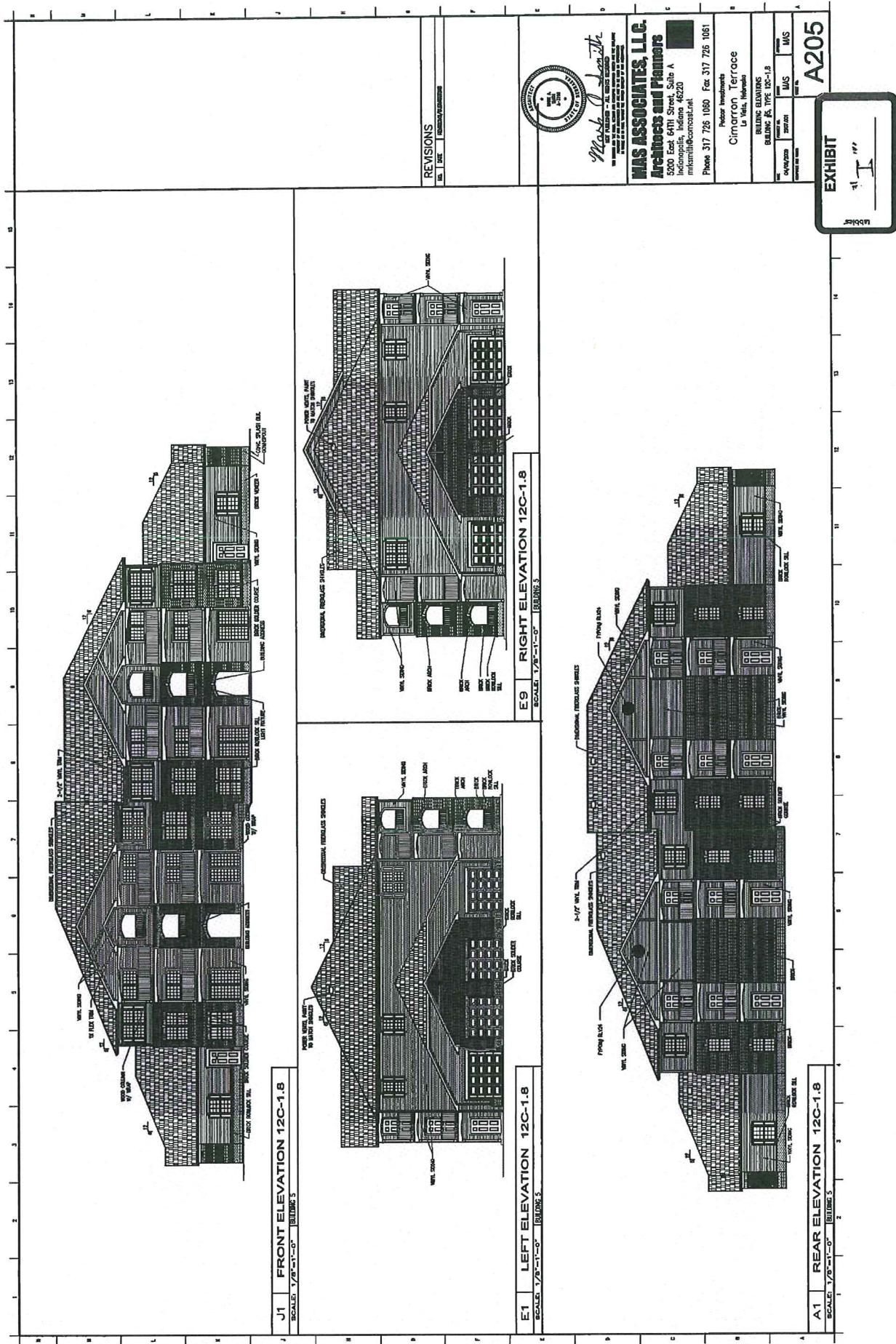


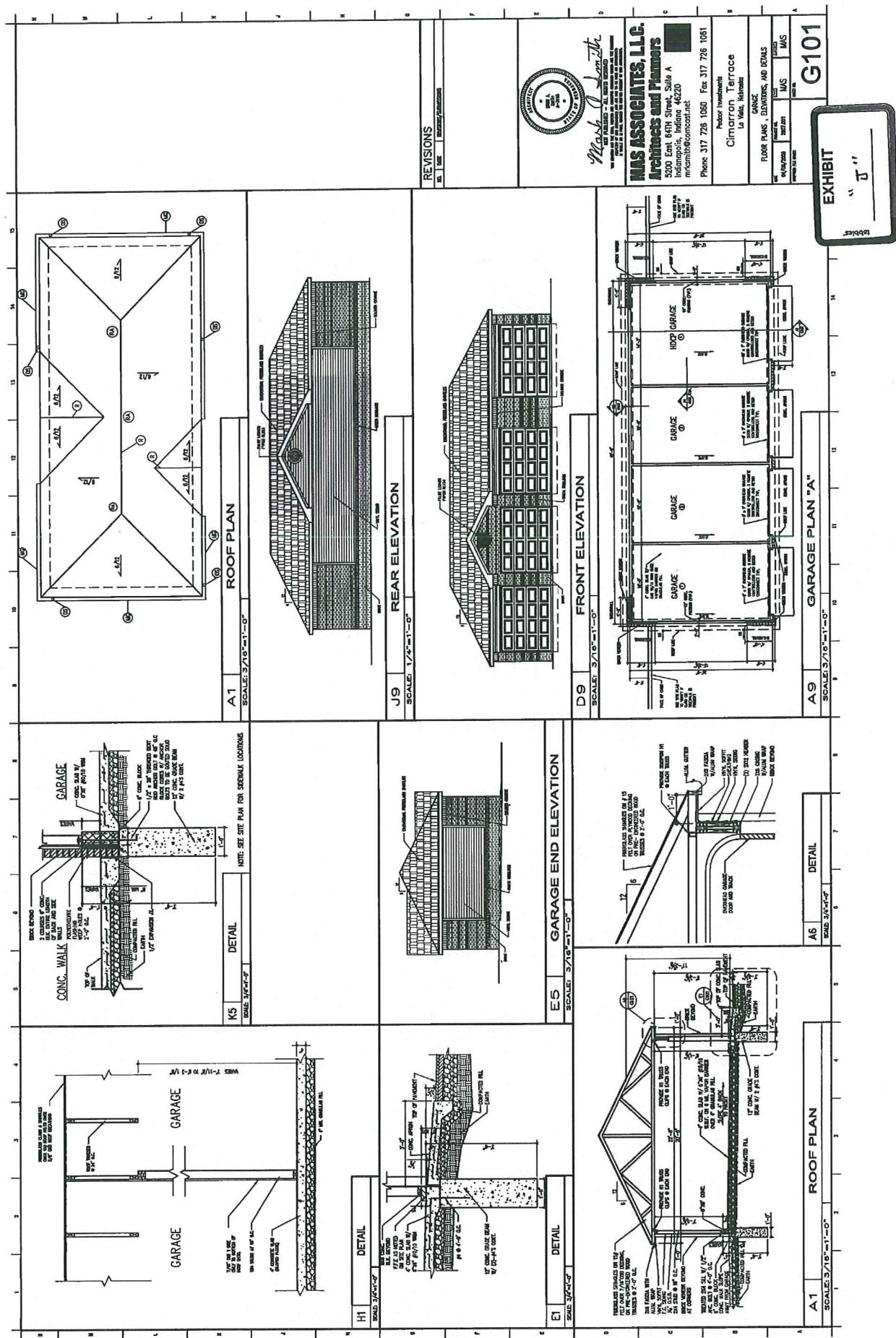


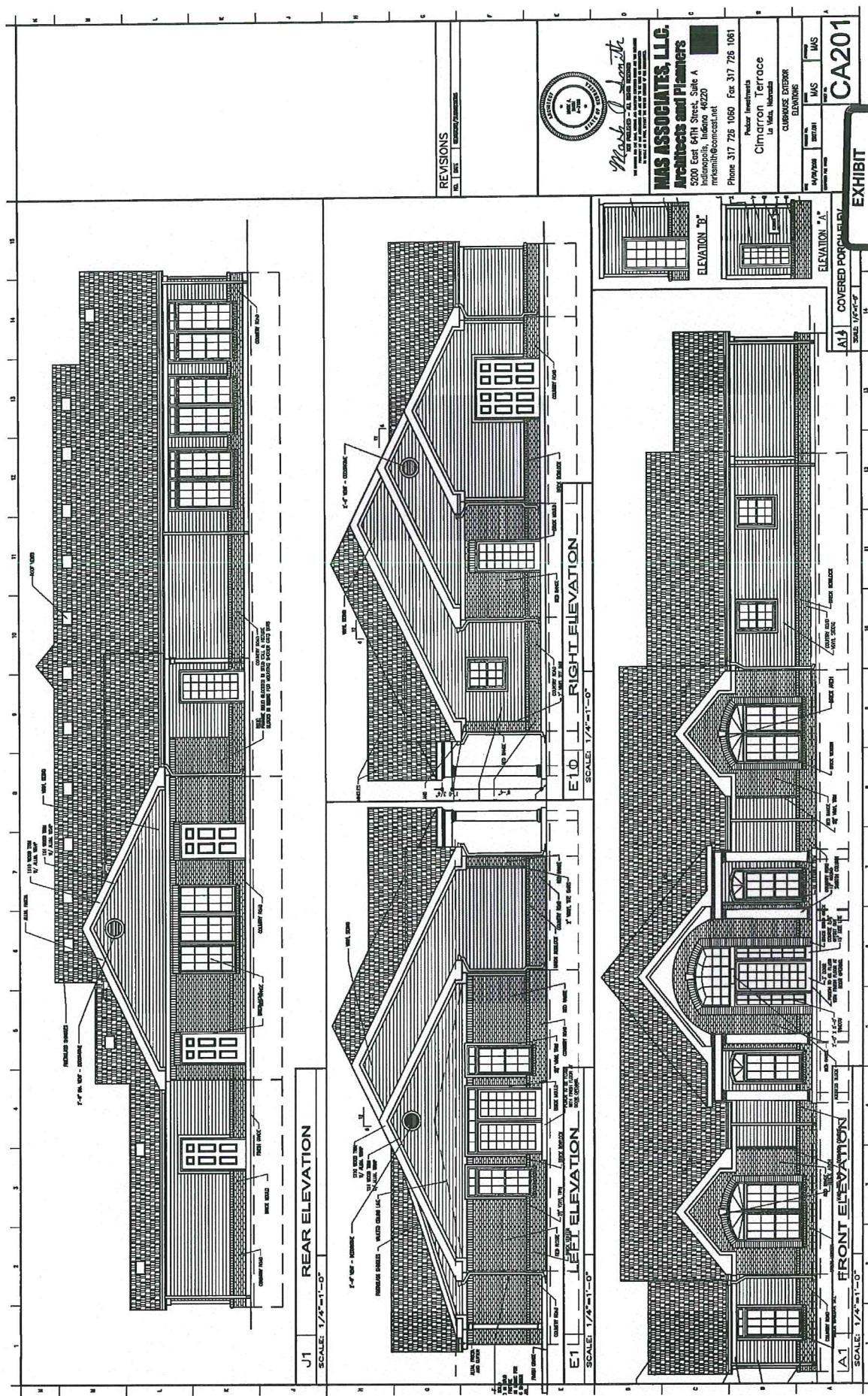


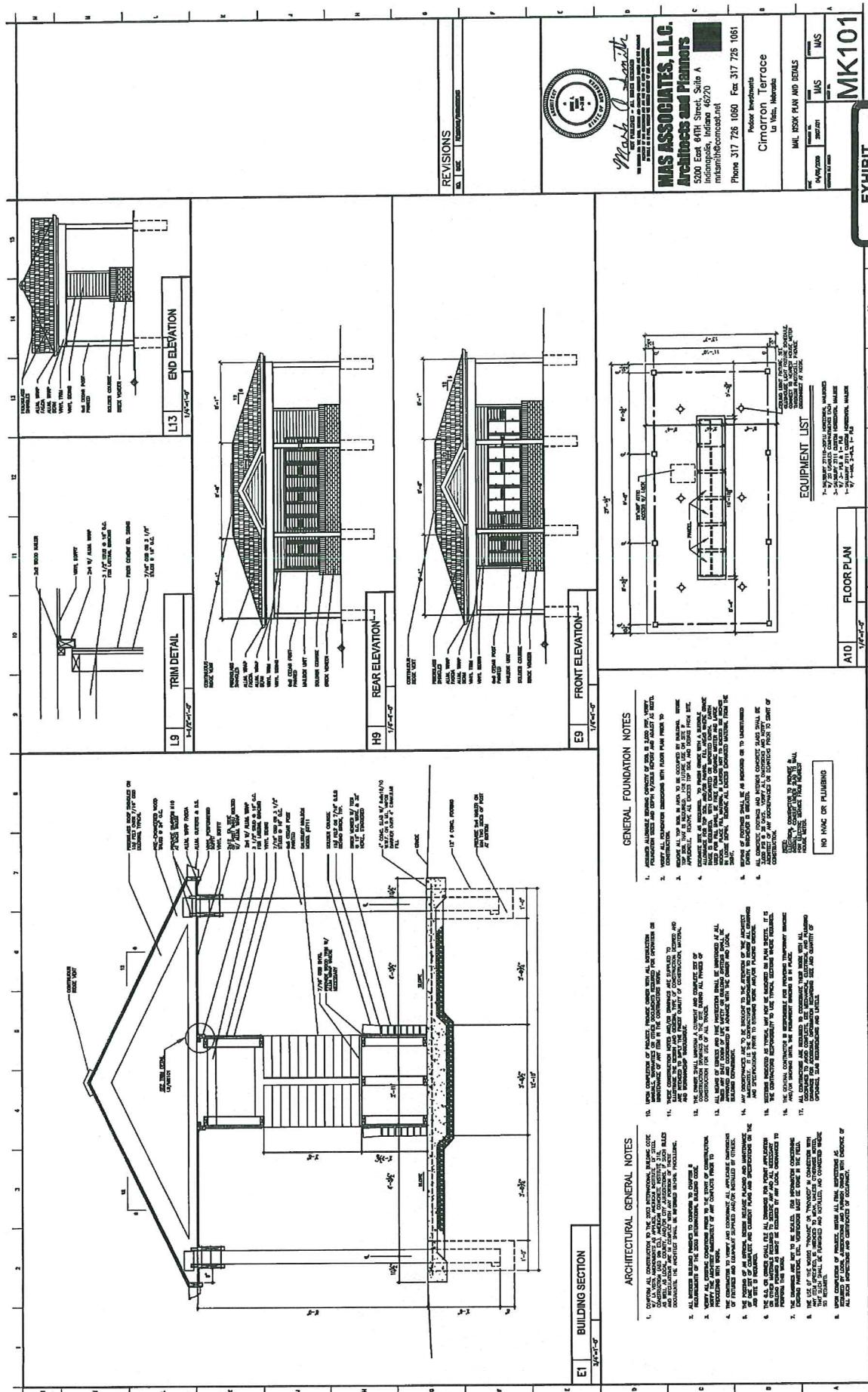






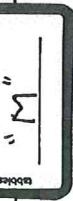








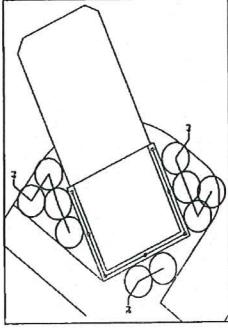
EXHIBIT



**PHASE I
PLANT SCHEDULE**

**PHASE II - INTERIOR
PLANT SCHEDULE**

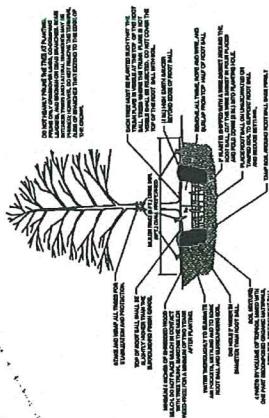
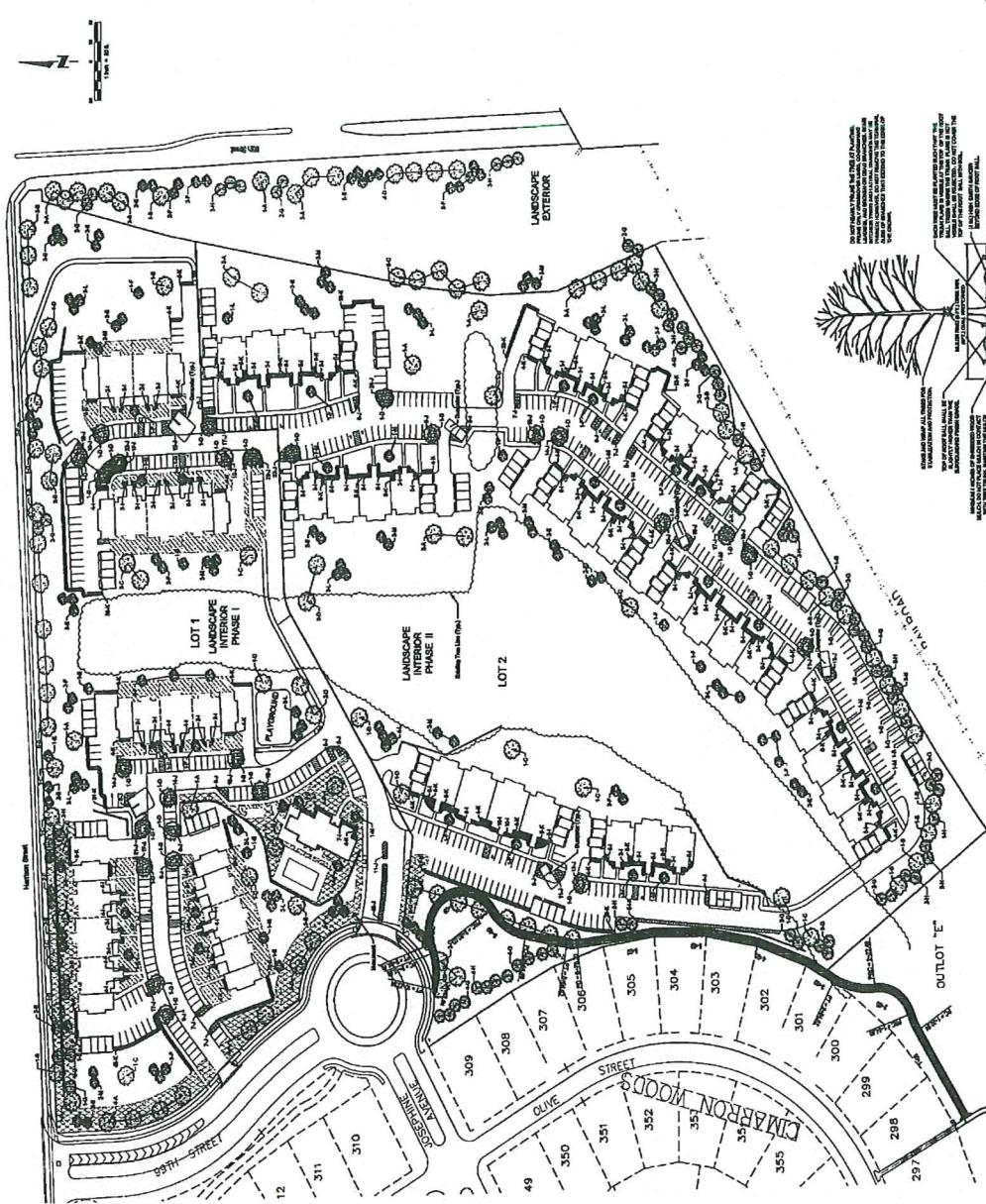
EXTERIOR
PLANT SCHEDULE



TYPICAL DUMPSTER SCREENING DETAIL



SHRUB & PERENNIAL PLANTING DETAIL



TREE PLANTING DETAIL - B & B TREE

