

CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
JUNE 5, 2012 AGENDA

Subject:	Type:	Submitted By:
APPLICATION FOR REZONING, FINAL PUD, CUP, REPLAT, WAIVER & SUBDIVISION AGREEMENT – LOT 2, BELLA LA VISTA (E OF 132 ND & CHANDLER)	◆ RESOLUTION (3) ◆ ORDINANCE RECEIVE/FILE	ANN BIRCH COMMUNITY DEVELOPMENT DIRECTOR

SYNOPSIS

A public hearing has been scheduled and resolutions and ordinances have been prepared to approve the rezoning, final planned unit development (PUD), conditional use permit (CUP), replat, waiver and subdivision agreement for approximately 36 acres located east of 132nd & Chandler Road.

FISCAL IMPACT

None.

RECOMMENDATION

Approval.

BACKGROUND

A public hearing has been scheduled to consider the rezoning from R-3 to R-3 PUD, final planned unit development plan, conditional use permit, replat, waiver and subdivision agreement application by Bella La Vista Housing Partners, LP, on approximately 36 acres currently platted as Lot 2, Bella La Vista, generally located east of 132nd and Chandler Road.

The property is currently zoned R-3 with the Gateway Corridor Overlay District. The rezoning of the property occurred in 2006 however did not include submittal of a detailed site plan as part of a PUD or Conditional Use Permit approval. On March 6, 2012, the City Council approved the preliminary PUD plan contingent on the removal of the proposed Phase 2 and removal of the connection of 130th Street to the development.

The final plans identify two lots, one for multi-family development and an outlot for future development. Phase 1 on proposed Lot 1 consists of 60 units in three buildings, with 30 garages and 112 surface parking stalls. Phase 1 will include access from 132nd Street with a new intersection at Chandler Road. Based on the Council's recommendation, an additional access via a connection to 130th Street is not proposed. A waiver has been requested to allow this street to remain a dead end at the southern boundary of the Millard Highlands South subdivision. Phase 2, or any further development of the balance of the property, will require submittal of additional plans. A detailed review of the application is contained in the attached staff report.

The Planning Commission held a public hearing on April 19, 2012, and recommended approval of the rezoning, final planned unit development plan, conditional use permit and replat for Lot 2, Bella La Vista subject to satisfactory resolution of items as identified in the staff report.

K:\APPS\City Hall\CNCLRPT\12file\12 Bella La Vista Rezon, Final PUD, CUP, Replat & Sub Agrmnt.Doc

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LA VISTA, NEBRASKA, AMENDING THE ZONING DISTRICT MAP OF THE CITY OF LA VISTA, NEBRASKA; TO PROVIDE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT; AND TO PROVIDE FOR THE PUBLICATION OF THIS ORDINANCE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA:

Section 1. In accordance with Section 5.15 of the La Vista Zoning Ordinance, the R-3 (Zoning District) zoning on the following described real estate, to wit:

LOT 2, BELLA LA VISTA, A SUBDIVISION LOCATED IN THE SOUTHWEST $\frac{1}{4}$ OF SECTION 18, TOWNSHIP 14 NORTH, RANGE 12 EAST OF THE 6TH P.M., SARPY COUNTY, NEBRASKA, GENERALLY LOCATED E OF 132ND STREET AND CHANDLER ROAD

is hereby overlaid with a PUD (Planned Unit Development) zone as indicated in the plan previously approved by the La Vista Planning Commission, concerning such described real estate. Said overlay does not change the underlying R-3 zoning on said real estate as authorized in the PUD plan. The Final PUD development plan as submitted by the owner(s), comprised of the Final Plat and Subdivision Agreement is hereby approved and shall be filed in the office of the City Clerk.

Section 2. That this Ordinance shall be in full force and effect from and after its passage, approval, and publication as provided by law.

PASSED AND APPROVED THIS 5TH DAY OF JUNE 2012.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

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 BELLA LA VISTA HOUSING PARTNERS, L.P., FOR A MULTI-FAMILY RESIDENTIAL DEVELOPMENT GENERALLY LOCATED EAST OF 132ND STREET AND CHANDLER ROAD

WHEREAS, Bella La Vista Housing Partners, L.P., applied for a conditional use permit for the purpose of a multi-family residential development on Lot 2, Bella La Vista; and

WHEREAS, on April 19, 2012, the Planning Commission held a public hearing and recommended approval of the conditional use permit for this purpose; and

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

NOW THEREFORE, BE IT RESOLVED, that the Mayor and City Council of the City of La Vista hereby authorize the execution of a Conditional Use Permit in form and content submitted at this meeting for Lot 2, Bella La Vista, subject to the satisfactory approval by the City's Design Review Architect, for Bella La Vista Housing Partners, L.P., 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 5TH DAY OF JUNE 2012.

CITY OF LA VISTA

ATTEST:

Douglas Kindig, Mayor

Pamela A. Buethe, CMC
City Clerk

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, DETERMINING CONDITIONS FOR APPROVAL OF THE REPLAT FOR LOT 2, BELLA LA VISTA, TO BE REPLATTED AS LOT 1 AND OUTLOT "A", BELLA LA VISTA REPLAT 1, A SUBDIVISION LOCATED IN THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 14 NORTH, RANGE 12 EAST OF THE 6TH P.M., IN SARPY COUNTY, NEBRASKA.

WHEREAS, the owners of the above described piece of property have made application for approval of a Replat for Lot 2, Bella La Vista, to be replatted as Lot 1 and Outlot "A", Bella La Vista Replat 1; and

WHEREAS, the City Administrator and the City Engineer have reviewed the replat; and

WHEREAS, on April 19, 2012, the La Vista Planning Commission held a public hearing and reviewed the replat and recommended approval subject to resolution of items identified by the city engineer and staff.

NOW THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of La Vista, Nebraska, that the plat for Lot 2, Bella La Vista, to be replatted as Lot 1 and Outlot "A", Bella La Vista Replat 1, a subdivision located in the Southwest $\frac{1}{4}$ of Section 18, Township 14 North, Range 12 East of the 6th P.M., Sarpy County, Nebraska, generally located east of 132nd Street and Chandler Road, be, and hereby is, approved subject to the resolution of the following item identified by the City Engineer and staff:

1. Approval of a waiver of Section 4.02 of the Subdivision Regulations, Design Standards for Streets.

PASSED AND APPROVED THIS 5TH DAY OF JUNE 2012.

CITY OF LA VISTA

ATTEST:

Douglas Kindig, Mayor

Pamela A. Buethe, CMC
City Clerk

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA APPROVING A SUBDIVISION AGREEMENT FOR LOT 1 AND OUTLOT "A", BELLA LA VISTA REPLAT 1 SUBDIVISION IN A FORM SATISFACTORY TO THE CITY ADMINISTRATOR AND CITY ATTORNEY.

WHEREAS, the City Council did on June 5, 2012, approve the replat for Lot 1 and Outlot "A", Bella La Vista Replat 1 Subdivision subject to certain conditions; and

WHEREAS, the Subdivider, Bella La Vista Housing Partners, L.P., has agreed to execute a Subdivision Agreement satisfactory in form to the City Attorney and City Administrator; and

NOW THEREFORE, BE IT RESOLVED, that the Subdivision Agreement presented at the June 5, 2012, City Council meeting for the Bella La Vista Replat 1 Subdivision 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 5TH DAY OF JUNE 2012.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk



**CITY OF LA VISTA
PLANNING DIVISION**

CASE NUMBER: 2012-PUD-01; 2012-CUP-02; 2012-SUP-02 FOR HEARING OF:
June 5, 2012
Report Prepared on: May 30, 2012

I. GENERAL INFORMATION

A. APPLICANT:

Bella La Vista Housing Partners, LP
416 East Third Street
Kansas City, MO 64106

B. PROPERTY OWNER:

Bella La Vista Housing Partners, LP
416 East Third Street
Kansas City, MO 64106

C. **LOCATION:** East of Chandler Road and 132nd Street

D. LEGAL DESCRIPTION: Lot 2, Bella La Vista

E. REQUESTED ACTION(S): Rezoning from R-3 to R-3 PUD, Final PUD Plan, Conditional Use Permit (CUP), and Replat of Lot 2, Bella La Vista

F. EXISTING ZONING AND LAND USE: R-3 – High Density Residential with the Gateway Corridor Overlay District, Vacant/Agricultural

G. PURPOSE OF REQUEST: Approval of a rezoning to R-3 PUD, Final PUD Plan, Conditional Use Permit (CUP), Replat, Subdivision Agreement, and Waiver of Section 4.02 of the Subdivision Regulations, to allow for a multi-family residential development.

H. SIZE OF SITE: 36.21 Acres

II. BACKGROUND INFORMATION

A. EXISTING CONDITION OF SITE: Existing Lot 2, Bella La Vista, is rolling terrain, sloping downward towards the south.

B. GENERAL NEIGHBORHOOD/AREA LAND USES AND ZONING:

1. **North:** R-1 Single-Family Residential; Millard Highlands South
2. **East:** C-3 Highway Commercial/Office Park; Southport West
3. **South:** C-3 Highway Commercial/Office Park; Bella Vista Lot 1

4. **West:** I-1 Light Industrial; Centech Business Park

C. RELEVANT CASE HISTORY:

1. Rezoning of the property from TA – Transitional Agriculture to R-3 – High Density Residential was approved May 16, 2006.
2. At their March 6, 2012 meeting, the City Council approved of the preliminary PUD contingent on the removal of the proposed Phase 2 and removal of the connection of 130th Street to the development.

D. APPLICABLE REGULATIONS:

1. Section 5.08 of the Zoning Regulations – R-3 High Density Residential
2. Section 5.15 of the Zoning Regulations – PUD Planned Unit Development (Overlay District)
3. Section 5.17 of the Zoning Regulations – Gateway Corridor District (Overlay District)
4. Article 6 of the Zoning Regulations – CUP – Conditional Use Permit
5. Section 3.08 of the Subdivision Regulations – Replats
6. Section 3.05.28 of the Subdivision Regulations – Subdivision Agreement
7. Section 4.02 of the Subdivision Regulations – Design Standards for Streets
8. Section 8.01 of the Subdivision Regulations – Granting of Waivers

III. ANALYSIS

A. COMPREHENSIVE PLAN: The Future Land Use Map of the Comprehensive Plan designates the area for high-density residential development.

B. OTHER PLANS: Not applicable.

C. TRAFFIC AND ACCESS:

1. The main access for the property will be the intersection of 132nd Street and Chandler Road.
2. The existing traffic study does not address the future traffic generation of the proposed Outlot A. The designation as an outlot will prevent building permits until the traffic impact of development on Outlot A, as well as other issues, are addressed when proposed development plans on this parcel are determined.

D. UTILITIES:

1. The property has access to water, sanitary sewer, gas, power and communication utilities along 132nd Street.

IV. REVIEW COMMENTS:

1. With approval of the Final PUD, the applicant will also need to have the Replat, Subdivision Agreement and Conditional Use Permit approved in order to commence development.
2. The proposed architectural design has been reviewed and approved. Only one item remains on the design review, the photometric plan and adjustments to lighting based on the plan. This will be completed prior to building permit approval.
3. The landscape plan complies with the Gateway Corridor District regulations, a requirement within the Conditional Use Permit. However, screening of the utility boxes that are mounted on the side of each building as well as any above grade utility boxes/meters will need to be approved through design review prior to building permit approval.
4. In order to develop in accordance with the Preliminary PUD Plan approved by City Council, a waiver of Section 4.02 of the Subdivision Regulations is needed which requires an extension of existing streets that abut the plat, with regard to the 130th Street dead end.
5. Due to the size of the parcel involved, staff has accepted the scale of the PUD site plan, though Section 5.15.10 of the Zoning Ordinance requires the plat to be drawn at least to 100 scale.
6. Chapter 154 of the Municipal Code requires a Post Construction Storm Water Management Plan (PCWSMP). A permit will be required through the Permix website that is utilized by all Papillion Creek Watershed Partnership communities. A PCWSMP and a draft Maintenance Agreement has been provided in the Subdivision Agreement. The PCWSMP will be reviewed in detail as part of the review process through the Permix web site, but the concept of using an extended detention basin to serve both lots is acceptable.

V. PLANNING COMMISSION RECOMMENDATION - Rezoning from R-3 to R-3 PUD and Final PUD:

Approval of Rezoning from R-3 to R-3 PUD and Final PUD Plan for Lot 2, Bella La Vista, subject to the satisfactory resolution of the following issues prior to City Council review:

1. Finalization of the landscape plan will need to be completed prior to the publication due date for the upcoming City Council meeting. (RESOLVED)

STAFF RECOMMENDATION:

Approval of Rezoning from R-3 to R-3 PUD and Final PUD Plan for Lot 2, Bella La Vista, subject to the satisfactory resolution of the following issues:

1. Screening of the utility boxes that are mounted on the side of each building as well as any above grade utility boxes/meters will need to be approved through design review prior to building permit approval

VI. PLANNING COMMISSION RECOMMENDATION – Conditional Use Permit:

Approval of a Conditional Use Permit for Lot 2, Bella La Vista, subject to the satisfactory resolution of the following issues prior to City Council review:

1. Finalization of the design review will need to be completed prior to the publication due date for the upcoming City Council meeting. **(RESOLVED)**

STAFF RECOMMENDATION:

Approval of a Conditional Use Permit for Lot 2, Bella La Vista, subject to the satisfactory resolution of the following issues:

1. Approval of photometric plan and related light fixture modifications will need to be completed prior to building permit approval.

VII. PLANNING COMMISSION RECOMMENDATION - Replat:

Approval of Replat for Lot 2, Bella La Vista, subject to the satisfactory resolution of the following issues prior to City Council review:

1. Satisfactory resolution of the issues regarding the Drainage Study discussed in Section IV(7) above as approved by the City Engineer. **(RESOLVED)**
2. Satisfactory final draft of the Subdivision Agreement including issues regarding the PCSMP in Section IV(6) above as approved by the City Attorney. **(RESOVED)**
3. Approval of a waiver of Section 4.02 of the Subdivision Regulations, Design Standards for Streets.

STAFF RECOMMENDATION:

Approval of Replat for Lot 2, Bella La Vista subject to the satisfactory resolution of the following issue:

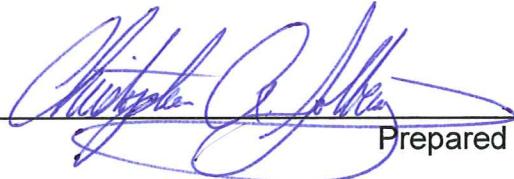
1. Approval of a waiver of Section 4.02 of the Subdivision Regulations, Design Standards for Streets.

VI. ATTACHMENTS TO REPORT:

1. Vicinity Map
2. Waiver Request Letter
3. Subdivision Agreement
4. Conditional Use Permit

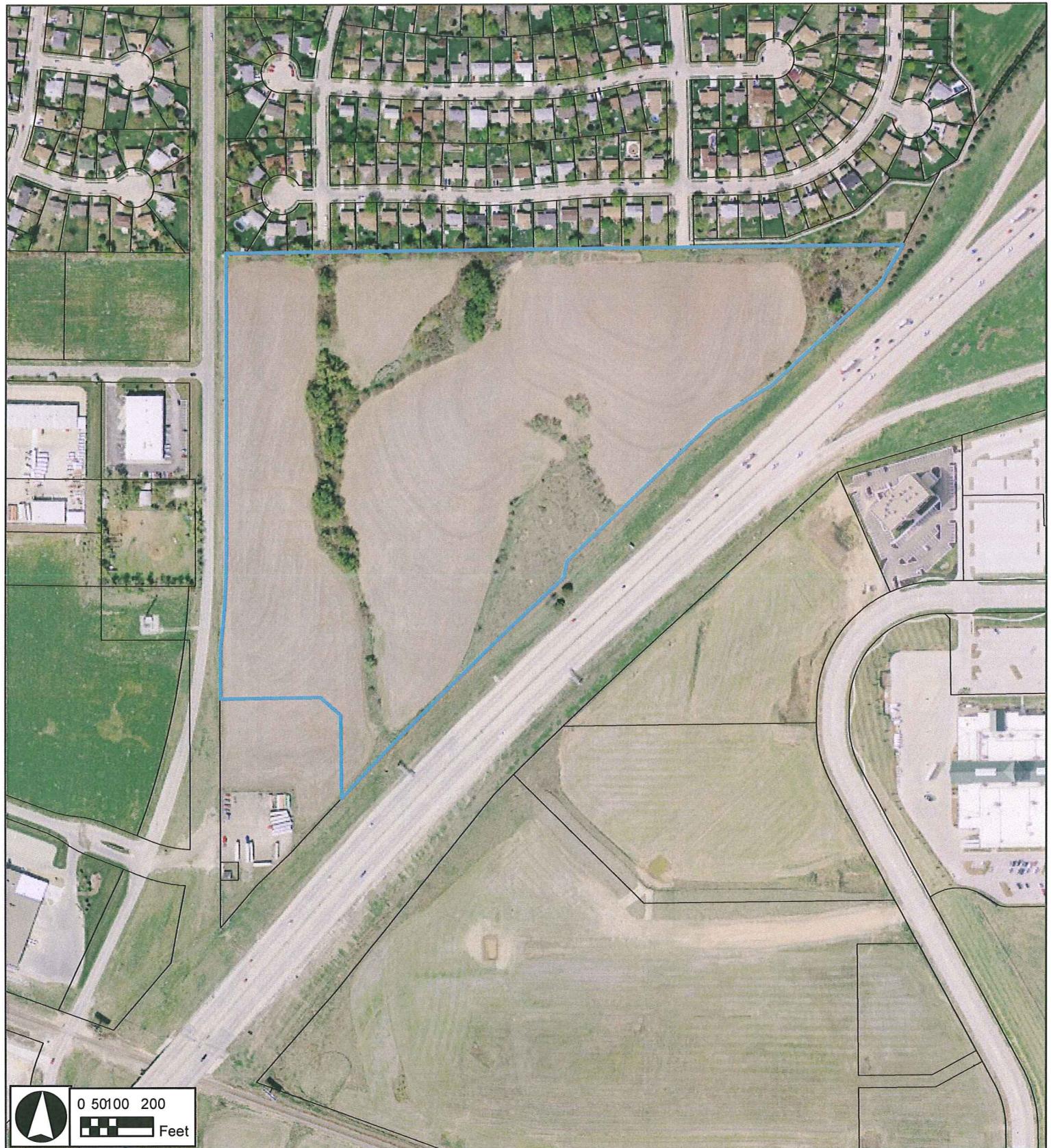
VII. COPIES OF REPORT SENT TO:

1. John Wygoski, Fauss-Wygo
2. Douglas S. Dreesen, P.E., Thompson, Dreesen, and Dorner
3. Patrick Sullivan, Adams & Sullivan, P.C.
4. Public Upon Request

 5/31/12
Prepared by:

 5-31-12 Alan Bencz
Community Development Director

Date



Bella La Vista

Final PUD, Rezoning to R-3 PUD, Conditional Use Permit, and Replat

April 12, 2012
CAS



March 27, 2012

Mr. Chris Solberg
City of LaVista
Planning Department
8116 Park View Blvd.
La Vista, NE 68128-2198



RE: Bella La Vista
Waiver Requests
TD2 File No. 1610-136.6

Mr. Solberg:

We are writing to request the following waivers:

Waiver of Article 4.02 of the Subdivision regulations requiring extension of existing streets that abut the plat for 130th Street. This is due to City Council request NOT to extend 130th Street into Bella La Vista.

Waiver of Article 5.15.10 of the Zoning Regulations requiring the plat to be drawn at least to 100 scale. This is due to the fact that the plat is legible at the scale presented.

Please contact the undersigned with any questions or if additional information is required.

Respectfully submitted,

THOMPSON, DREESSEN & DORNER, INC.

Douglas S. Dreessen, P.E.
Douglas S. Dreessen, P.E.

DSD/bam

DRAFT SUBDIVISION AGREEMENT
Lots 1 and Outlot A, Bella La Vista Replat 1
132nd and Chandler Streets
R-3, High Density Residential PUD
(Private Financing)

THIS SUBDIVISION AGREEMENT is made this 5th day of June, 2012, by and between BELLA LA VISTA HOUSING PARTNERS L.P., a Nebraska limited partnership, (hereinafter referred to as "BLV Housing" or "Subdivider"), and the CITY OF LA VISTA, a Municipal Corporation in the State of Nebraska (hereinafter referred to as "City").

WITNESSETH:

WHEREAS, BLV Housing is the legal owner of Lot 2, Bella La Vista Subdivision, consisting of 39.34 acres, more or less ("Lot 2") which property is located outside of the corporate limits of the City but within the City's zoning and platting jurisdiction; and

WHEREAS, BLV Housing desires to develop a portion of Lot 2 in a unified, compatible manner as a multi-family housing development. BLV Housing shall be referred to herein as "Subdivider"; and

WHEREAS, Subdivider desires to subdivide Lot 2 into two lots, "Lot 1" and "Outlot A," as more particularly depicted on the plat titled "Bella La Vista Replat 1" (the "Plat") attached hereto as Exhibit "A-1" (herein the "Subdivision") and develop Lot 1 into multi-family housing, with BLV Housing to own, develop and operate Lot 1 as Phase 1 having 3 buildings, 60 units, 30 detached garages and a clubhouse, all as presented to the City Council with the Subdivider's request for said Plat and related PUD Plan and conditional use permit.

WHEREAS, Subdivider desires to reserve Outlot A for possible future development of multi-family housing. This Subdivision Agreement only encompasses improvements required for development of Lot 1. Any proposed development of Outlot A shall require further applications, fees, analyses, reviews and approvals to, of and by the City in accordance with all applicable laws, rules and regulations as existing at the time, including, but not limited to, additional drainage and traffic studies, replats, conditional use permits, and amendments to the PUD Plan and this Subdivision Agreement with respect to additional improvements, future development and their integration on, with and into Outlot A, Lot 1 and/or surrounding areas.

WHEREAS, Subdivider has agreed to meet all conditions of the development and other requirements of the City's platting, development and zoning regulations as set forth in the City's Zoning Ordinance, Subdivision Regulations, PUD Plan, Conditional Use Permit, Building Code and applicable terms of this Agreement; and

WHEREAS, in order to utilize the Subdivision in the way it wishes, Subdivider must grade, create, construct and maintain certain topographic and surface conditions and provide for surface water detention within the Subdivision in accordance with all applicable requirements; and

WHEREAS, Subdivider has requested the City to approve the Plat, and to approve a connection of said Subdivision to existing sanitary sewer and storm drainage systems; and

WHEREAS, Subdivider, being the owner of all lands within the boundaries of the Subdivision, proposes that the Subdivider, at its cost and as provided herein, will build in or for the benefit of the Subdivision (i) all public improvements in accordance with requirements applicable to public improvements, and (ii) private infrastructure improvements identified in Exhibit "K" in accordance with requirements applicable to public right of way improvements, which private infrastructure improvements automatically and without further action or consideration of or to any party shall be and become public right of way improvements dedicated for public use if and when connected to public right of way improvements pursuant to any approved replat of Outlot A, or any part thereof, upon recording of said replat with the Sarpy County Register of Deeds ("Contingent Public Improvements"); and

WHEREAS, Subdivider requests platting of the Subdivision under the following provisions of the City of La Vista Zoning Ordinance: Section 5.08 (pertaining to R-3 High Density Residential District), Section 5.15 (pertaining to PUD), and Section 5.17.06 (Gateway Corridor Overlay District), and has agreed to meet all conditions of development and other requirements of said zoning as determined by the City; and

WHEREAS, the parties wish to agree upon the manner and extent to which private infrastructure and public improvements shall be constructed at Subdivider's cost within the Subdivision or serving the Subdivision and other matters pertaining to the development of the Subdivision and health, safety and welfare of the City, their inhabitants and the public.

NOW, THEREFORE, IT IS AGREED as follows:

1. Definitions

Unless a contrary intent is clearly indicated herein, the following words and phrases shall have the following meanings, regardless of whether or not capitalized:

- A. "Agreement" or "this Agreement" or "Subdivision Agreement" shall mean this document entitled "Subdivision Agreement" and all Exhibits and Supplemental Agreements hereto (see Section 13 "Recitals/Exhibits/Supplemental Agreements Summary").
- B. "Conditional Use Permit" shall refer to that certain conditional use permit issued by the City on June 5, 2012, which is attached hereto as Exhibit "B".
- C. The "construction cost" of an improvement shall mean the amount paid to the contractor, utility or entity installing the improvement or performing the work, together with all other direct labor and material costs incorporated into the construction of the improvement, and net of refunds, reimbursements and offsets thereto.
- D. The "cost" or "entire cost" of a type of improvement shall be deemed to include all construction costs, engineering fees, attorneys' fees, testing expenses, publication costs, financing costs, and other costs of achieving completion, acceptance and financing of the project or work and miscellaneous costs.
- E. "Detention Basin" or "Storm Water Detention Basin" shall mean a permanent structure to serve as temporary water holding basin, whether above or below

ground, to be constructed at the locations shown on Exhibit "C" attached hereto, or such alternative or substitute locations and accompanying plans and specifications as the City may approve in advance in writing.

- F. "District" shall mean Sanitary and Improvement District No. 104 of Sarpy County, Nebraska.
- G. "Improvements" or "Infrastructure" shall mean, to the extent located within the Subdivision or required herein for development of the Subdivision, or pertaining to Subdivision entrances, any and all facilities constructed or otherwise implemented for the purpose of providing access or services of any type or description to or from the Subdivision or serving facilities or properties within or serving the Subdivision, including but not limited to, ingress and egress to and from the Subdivision, and construction of paving, enhancements or reconstruction of existing paving and traffic signalization in conjunction therewith, and construction of storm sewers, sanitary sewers, including outfall sewer, and access thereto, drainage and drainage retention, culverting, street lighting, and any other item of infrastructure, together with utility systems and easements for any improvements where required.
- H. "Land Utilization and Preparation Costs." "Land Utilization and Preparation Costs" shall include, but not be limited to, all costs pertaining to, or arising out of, determination of feasibility, acquisition, reclamation, preparation, enhancement and/or utilization of land, and all engineering, legal, financing and contracted or other services related thereto or to the following:
 - (1) Soil and water tests, topographic surveys, geotechnical investigation and environmental studies and drainage studies, water drainageways and surface water retention and/or detention basins or facilities, surveying, staking and testing;
 - (2) Platting (preliminary and final), and including replattings;
 - (3) Excavation, filling, compaction, stabilization and testing thereof;
 - (4) Grading;
 - (5) Erosion and silt control, including installation and removal thereof;
 - (6) Environmental studies and permits required by Corps of Engineers or other governmental agencies having jurisdiction in the matter and costs of compliance with the terms of such permits and requirements thereof;
 - (7) Buffer zones and areas to be landscaped or beautified, including trees and other plantings therein or therefor;
 - (8) Traffic and other required studies;
 - (9) Such other costs incurred to utilize and/or prepare land to a City approved final grade, elevation, drainage control and soil condition ready for installation or construction of the public improvements authorized by this Agreement or to improve, enhance or beautify land.
- I. "Plat" or "the Plat," unless a contrary intent is indicated, shall mean the plat approved by the City Council, a copy of which is attached as Exhibit "A-1".

J. "Contingent Public Improvements" shall mean the private infrastructure improvements identified in Exhibit "K", which private infrastructure improvements shall be designed, acquired and constructed in accordance with requirements applicable to public right of way improvements, and without further action or cost of or to any party automatically shall be and become public right of way improvements dedicated for public use if and when connected to public right of way improvements pursuant to any approved replat of Outlot A, or any part thereof, upon recording of said replat with the Sarpy County Register of Deeds. Subdivider agrees to take any further action the City determines necessary or appropriate to dedicate any such improvements as public right of way improvements for public use.

K. "PUD Plan" shall mean the Planned Unit Development Plan for the Subdivision, including, but not limited to, the Planned Unit Development Site Plan and Planned Unit Development Landscape Plan attached as Exhibits "A" and "I".

L. "Subdivider's Engineer" shall mean Thompson, Dreessen & Dorner, Inc., Subdivider's engineer, which shall be the principal contact entity with the City in engineering matters.

M. "Subdivision" shall mean the 39.34 acres of land described in Exhibit "A-1" hereto.

N. "Subdivider" shall mean BLV Housing.

2. Construction/Installation of Improvements Authorized.

Subdivider and City agree (i) that the Subdivider, at its sole cost and in order to serve and enhance the value and utilization of Subdivider's lots, may (and shall, as a condition of approval and delivery of the Plat by the City and development of Lot 1) construct or install, or cause to be constructed or installed, the following types of improvements upon the property located within or immediately adjacent to the boundaries of the Subdivision and necessary water, sanitary sewer, and surface water drainage to or from existing or planned facilities as follows, and (ii) that no funds, assets, other resources or credit of the District shall be expended, loaned, applied or otherwise used by or for the benefit of the Subdivision or any such improvements, or any fee, cost or expense described or related to any matter described in this Agreement, except as otherwise may be expressly authorized in this Agreement, and Subdivider agrees not to seek or allow any involvement of the District in or with respect to the Subdivision or improvements in or for the benefit of the Subdivision without the prior written approval of the City:

A. Property Entrances/Exits Between Paving Line and Property Line, and Paving. Entrances/exits serving private property and paving shown in Exhibit "D" shall be installed at Subdivider expense.

B. Signalization and 132nd Street Improvements. Subdivider agrees that 132nd Street widening, signalization and related improvements determined by the City Engineer to be necessary for proposed development of Outlot "A" or any

part thereof shall be acquired, constructed and installed by the Subdivider when warranted as determined by the City Engineer, at the sole cost of Subdivider or through an interlocal agreement with other benefited parties. Such interlocal agreement shall be subject to the prior approval of the City.

C. Storm Water Detention.

1) A drainage study for the Subdivision based on development of Lot 1 has been completed and is attached hereto as Exhibit "J(1)" ("Drainage Study"), the results of which include projections regarding storm water drainage from the Subdivision after it is developed, including construction of storm water detention facilities within the Subdivision ("Projected Post-Development Drainage"). Subdivider certifies that the Drainage Study is current, accurate and complete and that actual drainage from the Subdivision during and after development of the Subdivision will not exceed Projected Post-Development Drainage; provided, however, that Subdivider shall not be responsible for increased drainage from the Subdivision caused by improvements upstream of the Subdivision that are initiated and completed after the Drainage Study was completed, are beyond the control of Subdivider and materially increase the amount of storm water drainage flowing into the Subdivision. Subdivider, at its cost, agrees to construct no later than the date(s) specified in subsection 11(A)(1) the storm water detention basins and associated storm sewer piping and related improvements in accordance with the Storm Water Detention Plan attached hereto as Exhibit "C". Subdivider, subject to a written agreement of the District and Subdivider in form and content satisfactory to the City Engineer, shall have the right to connect to the District's existing storm water system. Storm water detention facilities and improvements are a Land Utilization and Preparation Cost within the meaning of Section 1 hereof and shall be constructed at Subdivider's expense. If actual drainage from the Subdivision during or after development exceeds Projected Post-Development Drainage, Subdivider, at its cost, shall take such additional actions within the Subdivision as are necessary or appropriate to reduce actual drainage from the Subdivision to the Projected Post-Development Drainage levels, to the satisfaction of the City Engineer. Provided, however, that Subdivider shall not be responsible for increased drainage from the Subdivision caused by improvements upstream of the Subdivision that are initiated and completed after the Drainage Study was completed, are beyond the control of Subdivider and materially increase the amount of storm water drainage flowing into the Subdivision. Prior to issuance of any building permit, Subdivider shall adopt a Post Construction Storm Water Management Plan governing perpetual operation, maintenance and repair of storm water detention basins and facilities in the Subdivision specified in Exhibit "C," which Post Construction Storm Water Management Plan shall be in form and content attached hereto in Exhibit "J(2)," subject to such modifications as required by the City Administrator in consultation with the City Engineer. Subdivider at its cost shall maintain and repair all storm water detention facilities and appurtenances within the Subdivision.

2) As a condition of this Agreement becoming effective, the following shall be provided to the City at or before the time the Subdivider executes this Agreement: The Subdivider will present to the City Administrator for the benefit of the City binding contracts in full force and effect between the

Subdivider and contractors requiring the timely and orderly work and improvements required of Subdivider by this subsection 2C, satisfactory to the City Administrator. Any modification of any such contract shall be subject to prior approval of the City Administrator. Provided, however, that Subdivider, in lieu of providing to City such binding contracts, and in addition to any other requirement of this Agreement, shall have the option to provide an irrevocable letter of credit to the City in the amount of \$ _____.00 and in form and content satisfactory to the City Administrator, which amount represents one hundred ten percent (110%) of the estimated cost for said work and improvements required herein to be completed by the Subdivider, including but not limited to, all financing and soft costs. In the event Subdivider provides the foregoing letter of credit, the City shall promptly release such letter of credit to the Subdivider at such time as the Subdivider's Engineer provides as-constructed records, certificates of completion of said work and improvements and other required documentation, to the satisfaction of the City Engineer.

3) All work and improvements required of Subdivider in this Subsection 2C, and related designs, contracts, plans and documents, shall be subject to prior review and approval of the City Engineer.

D. Storm Sewer. The Subdivider shall cause the public storm sewer system (shown on Exhibit "H"), including storm sewers, inlets, manholes, junction boxes, flared end sections and other related appurtenances to be constructed within street right-of-way of the Subdivision, or functioning as a transporter of storm water within public storm sewer easements to points within or outside the Subdivision, as shown on Exhibit "H", attached hereto.

E. Sanitary Sewer. The Subdivider, subject to written agreement of the District and Subdivider in form and content satisfactory to the City Engineer, shall have the right to connect to the existing sanitary sewer system, and all connection fees, if any, shall be paid by Subdivider at the time the building permit is issued at the rates in effect at the time. The Subdivider at its cost shall install all sanitary sewers in accordance with the Sanitary Sewer Plan and Profile attached hereto as Exhibit "G" without the use of District's credit.

F. Contingent Public Improvements. Subdivider, at its sole cost, shall construct or cause the construction of the Contingent Public Improvements specified on Exhibit "K", which improvements automatically and at no cost to the City or District shall become dedicated public right of way improvements upon recording with the Sarpy County Register of Deeds an instrument replatting some of all of Outlot A, subject to approval of the City Engineer; and Subdivider, at its sole cost and at no cost to the City or any other person, agrees to take any further action as the City Engineer determines necessary or appropriate to dedicate said improvements as public right of way improvements for use by the public.

The exact design, location and dimensions of and detailed plans and specifications for each of the aforescribed improvements, as well as any improvements in street right-of-way or public easement or identified in Exhibit "K" as Contingent Public Improvements, are subject to prior approval by the City in advance of award of contract for construction or acquisition.

3. Allocation of Cost of Improvements

Subdivider and City agree that the cost of all improvements constructed by the Subdivider within or serving the Subdivision as authorized by Section 2, supra, or elsewhere in this Agreement shall be defrayed as follows:

- A. Paving. The cost of property entrances/exits serving private property and paving and related expenses shall be defrayed as follows: One hundred percent (100%) of the cost of property entrances/exits serving private property and paving as shown on Exhibit "D" and related improvements shall be paid as a Subdivider cost.
- B. Signalization and 132nd Street Improvements. Subdivider agrees that all costs of 132nd Street widening and signalization and related improvements by the Subdivider for proposed development of Outlot "A" or any part thereof shall be paid by Subdivider or through an interlocal agreement with other benefited parties, and shall be subject to City being provided letters of credit at such time and in such amount, form and content as satisfactory to the City Administrator. Any interlocal agreement shall have the prior approval of the City.
- C. La Vista Special Sewer/Drainage Fee. The City of La Vista imposes a special sewer/drainage fee. The total estimated fee for Lot 1 of the Subdivision at current rates is \$51,480, computed as follows:

Lot 1— 60units @ \$858 per unit:	\$ 51,480
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Payment by Subdivider shall be made at the time the building permit is issued and at the rates in effect at the time.

- D. Land Utilization and Preparation Costs. Land utilization and preparation costs as defined in Section 1 hereof shall be paid solely by Subdivider and no funds or credit of the District may be used in conjunction therewith.
- E. Storm Sewer. One hundred percent (100%) of the cost of all storm sewers constructed within or serving the Subdivision, including manholes, inlets and other appurtenances, as shown on Exhibit "H" shall be paid solely by Subdivider.
- F. Sanitary Sewer. One hundred percent (100%) of the cost of all sanitary sewers constructed within or serving the Subdivision, including manholes and other appurtenances, as shown on Exhibit "G" shall be paid solely by Subdivider.
- G. Contingent Public Improvements. Subdivider, at its sole cost, shall construct or cause the construction of the Contingent Public Improvements specified in Exhibit "K", and at the proper time shall take any further action as is necessary or appropriate to dedicate_said improvements as public right of way improvements for public use.
- H. Water and Electrical. All costs of causing the installation of water and electrical

distribution systems and the operation, maintenance and upkeep thereof within the Subdivision, including any contract charges, shall be paid by Subdivider.

- I. Other Improvements. All costs of all other work or improvements, including, but not limited to, grading, landscaping, wetlands mitigation, and extension, distribution or location of gas or other utilities, telephone or other communications or services to, on, in, over, under, within or with respect to the Subdivision, and the installation, construction, acquisition, operating or maintenance costs thereof, as applicable, shall be paid by Subdivider.
- J. Source of Funds. Attached hereto as Exhibit "F" is breakdown of the source and use of funds for the improvements described herein.

4. General Covenants of Subdivider

Subdivider, with respect to work and improvements described in this Agreement, including, but not limited to, Contingent Public Improvements, covenants, warrants, and agrees that:

- A. Compliance with City Construction Requirements. Subdivider will abide by and incorporate into all contracts for public improvements, including Contingent Public Improvements, the provisions required by the regulations and standards of the City pertaining to construction of public improvements in Subdivisions or within street right-of-way, and testing procedures therefore. All plans, specifications and contracts for such proposed improvements and proposed maintenance agreements for said improvements shall be submitted to the City for review and approval prior to commencement of the work.
- B. Preconstruction Requirements. Prior to recording of the Plat, Subdivider will (i) present to the City Administrator for the benefit of the City binding letters of credit in an amount of 110% of the total estimated costs of improvements required by this Agreement, including, but not limited to, Contingent Public Improvements, in form and content satisfactory to the City Administrator, or (ii) complete said improvements and provide as-constructed records, certificates of completion and other required documentation, to the satisfaction of the City Engineer.
- C. Administration. As regards to this Agreement and its implementation:
 - (1) No separate administrative entity nor joint venture, among the parties, is deemed created by virtue of this Subdivision Agreement.
 - (2) The administration of this Agreement shall be through the offices of the undersigned officers for their respective entities.
- D. Remedies. In addition to whatever rights of enforcement of the terms hereof are herein granted to any party, each party may avail itself of all other remedies it may have to enforce the terms hereof at law or equity. By way of specification and not by way of limitation, each of the parties expressly reserves the right to specifically enforce full compliance of the terms and conditions of this Agreement by mandatory or prohibitory injunction.

E. Covenants, Etc. All covenants and agreements of Subdivider set forth in this Agreement shall constitute covenants running with the land and shall be binding on Subdivider and all successors and assigns of Subdivider. The City shall have the right, but not the obligation, to enforce any and all such covenants.

F. Non-Discrimination. In the performance of this contract, neither the Subdivider nor the City, shall discriminate against any parties or persons on account of race, national origin, sex, age, disability, political or religious affiliations in violation of federal and state laws or local ordinances. This requirement shall apply to, and be included in, all contracts and subcontracts of the Subdivider for work or improvements described in this Agreement.

G. In the event the Subdivider records the Plat and, before commencing any improvements within or for the benefit of the Subdivision, Subdivider decides not to develop the Subdivision, the City and Subdivider shall take all actions necessary to vacate the Plat, and the PUD Plan, Subdivision Agreement and Conditional Use Permit shall be null and void, and any letters of credit provided by Subdivider pursuant to this Agreement shall be promptly released by the City and returned to Subdivider upon vacation of the Plat.

H. The Subdivider agrees to cooperate and use all reasonable good faith efforts to complete any and all improvements and/or work required of it hereunder in a timely and orderly manner so as not to delay recording of the Plat, receipt of building permits, development of the Subdivision, or obtaining of certificates of occupancy.

5 Construction Standards and Procedures

Subdivider further agrees that, as to all improvements, including Contingent Public Improvements, constructed by or on behalf of Subdivider or under their control or direction, that:

A. City Approvals. All improvements will be constructed in strict accordance with contracts, plans and specifications and locations approved in advance in writing by City's Engineer and in strict accordance with the City's policies and minimum standards and requirements of construction and testing procedures therefore, and directions of City Engineer, and that upon completion of construction thereof, Subdivider shall furnish to City a certificate from its consulting engineer so certifying.

B. Testing. Subdivider shall cause appropriate testing of materials and work finished in respect to the construction of improvements and shall furnish City's engineers with copies of test results. City's engineers may order additional paving core tests, sewer televising or other tests, the cost of which shall be paid by Subdivider to the party performing the testing procedures, which additional testing costs shall also be a cost of the improvement. Neither the Subdivider nor any other party shall be entitled to rely upon any inspections made by the City for any purpose whatsoever. The sole responsibility for proper inspection and certification as to completion remains with the Subdivider and its engineers.

C. Construction Record Drawings. Subdivider shall cause "Construction Record

Drawings", in reproducible form, and specifications for all such improvements that Subdivider shall have heretofore or hereafter constructed within the area to be developed to be furnished to City, in triplicate, promptly and without cost to the City. All such plans shall be submitted on reproducible mylar, except where the City agrees otherwise. The engineering costs attributable to the production of said "Construction Record Drawings" shall be an engineering fee within the meaning of Subsection 1-D, supra. Subdivider shall, prior to the Subdivider's advertising for bids for any improvement within the area to be developed, require Subdivider's Engineers to file with the City said Engineers' separate written assurance and agreement that said "Construction Record Drawings" will be prepared and filed with the City upon the completion of each improvement.

- D. Compliance With Law. All such improvements shall comply with all applicable federal and state laws and regulations in general and with all applicable ordinances and regulations of the City in reference to construction, use, operation and maintenance.
- E. Compliance with City Engineer Determinations. In the event that City's Engineers determine that there is anything in the construction, use, maintenance or operation of any such improvements which will, in the opinion of City's Engineers, be detrimental to any other improvement or utility constructed or to be constructed in the same street right-of-way or easement, Subdivider will, on notice thereof, promptly cause its engineers to jointly review and evaluate the problem with City's engineer and formulate a plan for corrective action acceptable to the City Engineer and Subdivider which shall be implemented by Subdivider at Subdivider's cost.
- F. Bonds. Subdivider shall require each contractor performing work on behalf of the Subdivider to furnish a performance and maintenance bond, and to warrant the work against any defects for a minimum of two years after completion, with Subdivider and City as joint and several obligees thereon, which bond and warranty shall be subject to the City approval as to surety, form and terms.
- G. Easements. Any easements required from Subdivider for public improvements hereunder by the City or its designee shall be provided at no cost to the City or its designee.
- H. Subdivider Improvements. Subdivider shall satisfy all requirements of this Section 5 with respect to any improvements required of Subdivider under this Subdivision Agreement; provided, however, to the extent permitted by applicable law, Subdivider shall not be required to provide performance and maintenance bonds pursuant to Subsection F above, though release of any letter of credit provided hereunder by Subdivider for public improvements shall be subject to completion of the improvements and submission of required documentation and project closeout satisfactory to the City Engineer, including documentation of full material and labor payment, lien waivers and warranties.

6. Sidewalks. Subdivider, at its sole cost and at no cost to the City, shall install or cause to be installed sidewalks along the east side of 132nd Street adjacent to Lot 1 within 3 years from the date of recording the Plat of the Subdivision. Such sidewalks shall be constructed at Subdivider's expense and the credit, and funds or other resources of the District shall not be used in conjunction therewith. All sidewalks, whenever installed, shall be constructed in accordance with the City sidewalk regulations and policies as they may from time to time exist, and shall be maintained at Subdivider's expense.

7. Maintenance of Improvements. Subdivider shall continuously and permanently maintain and keep in good repair, and reconstruct or replace if required of Subdivider herein or by applicable agreements, laws, rules or regulations, all improvements Subdivider constructs or makes or causes to be constructed or made with respect to development of the Subdivision, including, but not limited to, Contingent Public Improvements and landscaping. Not in limitation of any of the foregoing, all landscaping within the Subdivision shall be warranted by the landscape contractor for at least two growing seasons, and any replacement, repair or reconstruction shall be of equal or better maturity, type, quality and quantity, regardless whether or not the replacement, repair or reconstruction occurs within or after an applicable warranty period.

8. Sewer Connections. Before any connection from any premises to the sanitary sewer system of the District may be made, a permit shall be obtained for said premises and its connection from the proper department of the City, which permit shall be obtainable on the same terms, conditions, and requirements of the City applicable from time to time to permit property outside the City to connect to the sewer system of the City; it being expressly understood that the City reserves the right to collect all connection charges and fees as required by City ordinances or rules now or hereafter in force; all such connections shall comply with minimum standards prescribed by the City.

9. City Right of Disconnection. Notwithstanding any other provisions of this Agreement, City retains the right to disconnect the sanitary sewer of any industry, or other sewer user within the area to be developed, which is connected or discharging into the sanitary sewer system in violation of any applicable ordinances, statute, rule, or regulation.

10. Compliance With City Regulations, Etc. The Subdivider expressly agrees that it is and shall be:

- (1) Bound by and to any provisions of any ordinances, rules and regulations as existing or hereafter made and adopted by the City of La Vista applicable to sanitary and improvement districts whose sewers connect directly or indirectly with or into sewers or sewage systems of the City of La Vista; and
- (2) Bound by any terms and provisions which by ordinance, resolution, or rule exists or which the City of La Vista shall hereafter adopt or provide as being applicable to or required in contracts with sanitary and improvement districts or in order to permit or continue the discharge of any sewage from a sanitary and improvement district to flow into or through any part of the sewer or sewage system of the City of La Vista or sewer within its zoning or health jurisdiction.

11. Additional Special Covenants and Agreements. Subdivider further covenants and agrees as follows:

A. Storm Water Detention. In regards to storm water detention facilities:

- (1) Subdivider's construction of storm water detention basins and facilities

within the Subdivision shall be in accordance with Exhibit "C" attached hereto. Construction of storm water detention basins and facilities within Lot 1 shall be completed before a certificate of occupancy is issued for any building within Lot 1.

- (2) Any change of a location of a detention basin from that shown on Exhibit "C" shall require approval of the City Administrator, as will any relocation of the basin from its City approved location.
- (3) The detention basins shall be on private property. Subdivider at its cost shall be responsible for construction and continuous and permanent maintenance and repair of all detention basins and facilities located within the Subdivision.
- (4) Subdivider shall execute and deliver to City in form satisfactory to City an access easement to all detention basins authorizing the City, in its sole and absolute discretion to inspect such facilities and to require the Subdivider to clean, maintain and repair such facilities as may be needed. City's exercise of such rights or privileges shall be at City's absolute and sole discretion without liability to the City.
- (5) Any relocation of detention facilities will require release of an old easement and grant of a substitute easement in form satisfactory to City.

B. Annexation. Subdivider hereby agrees not to directly or indirectly fund or pursue, or encourage any other person to fund or pursue, any lawsuit or other action contesting annexation of the Subdivision, or any part thereof, by the City. Subdivider agrees that the City shall not be obligated to annex the Subdivision.

C. All publicly used roadways and driveways and other public improvements within the Plat, including Contingent Public Improvements, shall be constructed to City approved specifications. The City shall have access to, over and otherwise with respect to all such roadways, driveways and other improvements for any purpose it deems appropriate in the exercise of its general governmental powers, including, but not limited to, inspection, police, fire and rescue, and other public safety purposes, and for the exercise of all rights granted or reserved to City by this Subdivision Agreement.

D. Subdivider on a permanent and continuous basis shall provide for proper and continuous maintenance and upkeep within the Subdivision in accordance with ordinances, codes, rules and regulations from time to time adopted or amended by the City and setting forth requirements applicable to maintenance and upkeep of residential real property and related improvements, including, but not limited to, requirements applicable to multifamily housing, residential rental properties and landscaping. When replacement of landscaping is required, the replacement shall be of the same or better quality, maturity, type and quantity as the plants or materials originally required.

E. Before Subdivider directly or indirectly sells or otherwise transfers any interest in the property within the Subdivision, or any entity owning said property, such that after the sale or transfer Subdivider will not have exclusive ownership or control of all property within the Subdivision, Subdivider, before proceeding with such sale or

transfer, shall record a declaration of covenants, or other document having similar purpose and effect, running with all property within the Subdivision and in form and content satisfactory to the City, which document provides for ongoing coordinated, common maintenance, upkeep and repair of the property and structures and other improvements of the Subdivision, including, but not limited to common areas. This Subsection E shall not apply to the transfer of an interest pursuant to residential leases of individual units to tenants or initial transfer of a security interest in the property in conjunction with financing improvements of the Subdivision, though it would apply to any subsequent transfer incident to foreclosure of the security interest or otherwise.

- F. If Subdivider fails to timely and fully perform any responsibility set forth in Subsection D or E of this Section within thirty days after written notice from the City of such failure, the City, at its option, may itself take such curative or remedial action as it determines appropriate, or cause such action to be taken, and assess any cost thereof against the Subdivider or against the property of the Subdivision as a lien.
- G. Subdivider shall be responsible for ensuring compliance with requirements regarding erosion control when developing the Subdivision.
- H. Any City approval required under this Subdivision Agreement must be in writing to be effective.
- I. If any provision of this Agreement is determined unenforceable, the unenforceable provision shall be deemed stricken and the remainder of the Agreement shall be enforced.
- J. This Agreement shall be governed and construed in accordance with Nebraska law and the parties submit to the jurisdiction and venue of the District Court of Sarpy County to resolve any dispute hereunder, and agree not to challenge said jurisdiction or venue.
- K. Watershed Management Fees: The Subdivider shall pay City Watershed Management Fees with respect to development of Lot 1 of the Subdivision. This fee shall be computed as follows, based on the City's adopted fee rate that is in effect at the time the payment is made. At the rate in effect on the date of execution of this Agreement, the fee would be:

Lot 1, High-Density Multi-Family Residential Development	\$18,117.00
5.49± AC @ \$3,300/AC	

The aforesated fees are stated at the rates currently in effect and are subject to increase. The rates in effect at the time of issuance of the building permit, if greater than the aforesated rates, will be the rates to be paid. Payment must be made to City's Permits & Inspections Division before a building permit will be issued to construct improvements on Lot 1 and before the commencement of construction of any such improvements.

12. Agreements Herein Constitute Covenants Running with Land. This Subdivision Agreement and the agreements and understandings contained or incorporated herein constitute covenants running with the land and shall be binding upon the Subdivider and its successors, heirs, assigns, lenders, mortgagees and others gaining or claiming an interest or lien against any property within the Subdivision tract. This Agreement shall be subject to approval of the City Council and cannot be

changed without City Council approval and a written amendment executed by a proper City official.

13. Recitals/Exhibits/Supplemental Agreements Summary. The recitals set forth on pages 1 and 2 above are incorporated herein by reference and made a part of this Agreement. Except as otherwise noted, the following attached Exhibits were prepared by Thompson, Dreessen & Dorner, Inc. engineers for Subdivider. The Exhibits (Exhibits "A" thru "K") are attached hereto and made a part of this Subdivision Agreement and are incorporated herein by this reference as follows:

Exhibit "A":	Planned Unit Development Site Plan
Exhibit "A-1":	Plat
Exhibit "B":	Conditional Use Permit
Exhibit "C":	Storm Water Detention Plan
Exhibit "D":	Paving Plan
Exhibit "E":	Intentionally Omitted
Exhibit "F":	Sources and Uses
Exhibit "G":	Sanitary Sewer Plan and Profile
Exhibit "H":	Storm Sewer Plan and Profile
Exhibit "I":	Planned Unit Development Landscape Plan
Exhibit "J":	Schedule of Supplemental Agreements or Documents: (1) Drainage Study (2) Post Construction Storm Water Management Plan
Exhibit "K":	Contingent Public Improvements

IN WITNESS WHEREOF, we, the parties hereto, by our respective duly authorized agents, hereto affix our signatures the day and year first above written.

Owner:

Bella La Vista Housing Partners, L.P., a Nebraska limited partnership

By: Bella La Vista Housing Corporation, general partner

Garrison Hassenflu,
President
Date:

ACKNOWLEDGMENT OF NOTARY

On this _____ day of June, 2012, before me a Notary Public, duly commissioned and qualified in and for said County, appeared Garrison Hassenflu personally known by me to be the President of Bella La Vista Housing Corporation, general partner of Bell La Vista Housing Partners L.P., a Nebraska Limited Partnership, and the identical person whose name is affixed to the foregoing Subdivision Agreement, and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said general partner and limited partnership.

WITNESS my hand and Notarial Seal the day and year last above written.

Notary Public

ATTEST:

CITY OF LA VISTA.

Pamela Buethe, City Clerk

Douglas Kindig, Mayor

ACKNOWLEDGMENT OF NOTARY

STATE OF NEBRASKA)
) ss.
COUNTY OF _____)

On this _____ day of June, 2012, before me a Notary Public, duly commissioned and qualified in and for said County, appeared Douglas Kindig, personally known by me to be the Mayor of the City of La Vista and Pamela Buethe, to me personally known to be the City Clerk of the City of La Vista, the identical persons whose names are affixed to the foregoing Subdivision Agreement, and they acknowledged the execution thereof to be their voluntary act and deed.

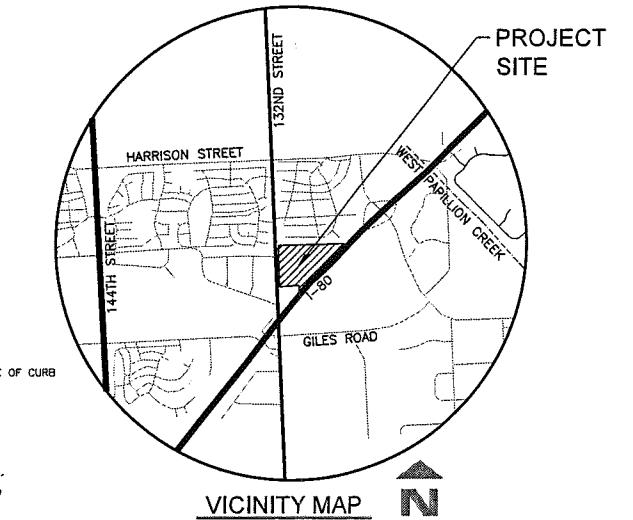
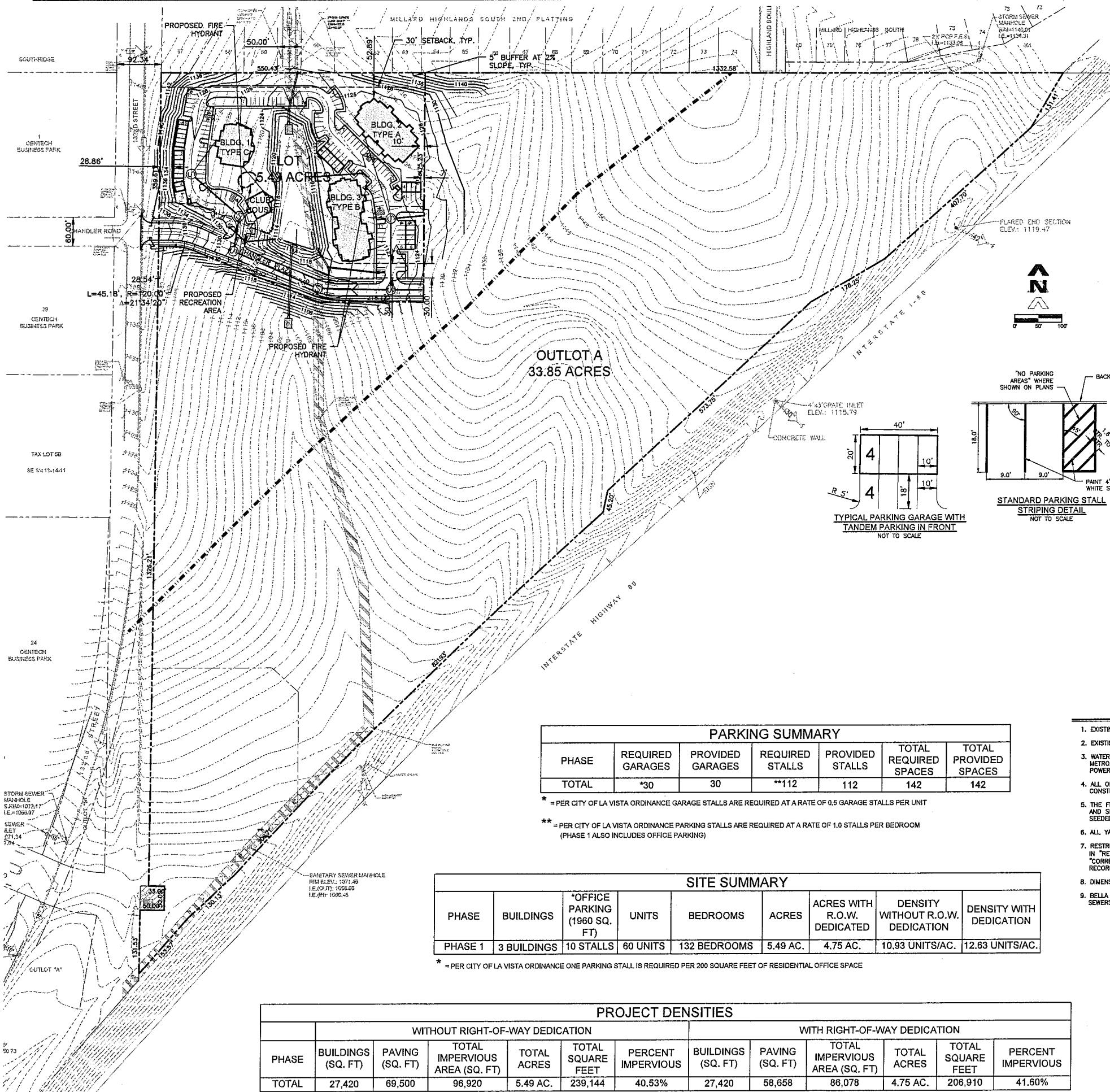
WITNESS my hand and Notarial Seal the day and year last above written.

Notary Public

BELLA LA VISTA REPLAT 1

LOT 1 AND OUTLOT A

BEING A REPLATTING OF LOT 2, BELLA LA VISTA,
A SUBDIVISION IN SARPY COUNTY, NEBRASKA



SUBDIVIDER

BELLA LA VISTA HOUSING PARTNERS, LP
416 EAST 3rd STREET
KANSAS CITY, MISSOURI 64106

ENGINEER

THOMPSON, DREESSEN & DORNER, INC.
10836 OLD MILL ROAD
OMAHA NEBRASKA 68154

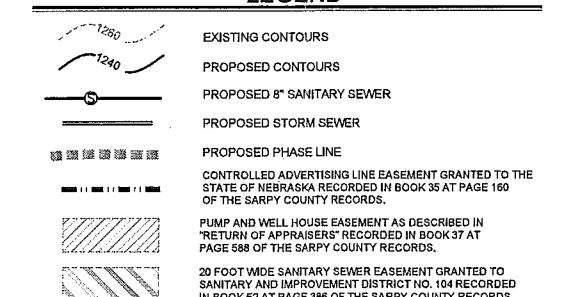
LEGAL DESCRIPTION

LOT 2, BELLA LA VISTA, A SUBDIVISION IN
SARPY COUNTY, NEBRASKA.

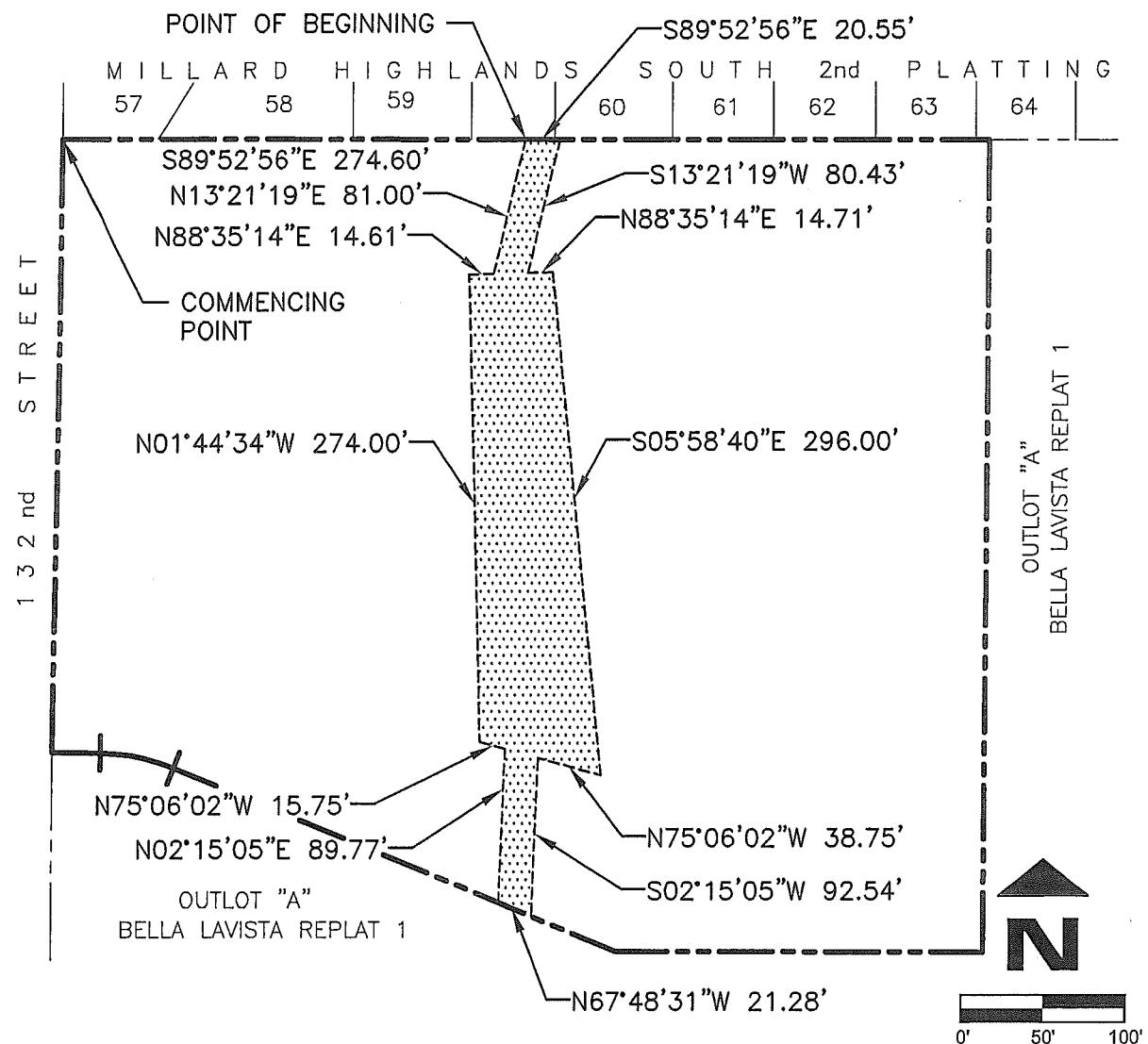
NOTES

- EXISTING AND PROPOSED CONTOURS ARE SHOWN AT 2 FOOT INTERVALS AND ARE BASED ON USGS DATUM.
- EXISTING ZONING IS R-3. PROPOSED ZONING IS R-3 PUD.
- WATER WILL BE PROVIDED BY METROPOLITAN UTILITIES DISTRICT. GAS WILL BE PROVIDED BY METROPOLITAN UTILITIES DISTRICT OR BLACK HILLS ENERGY. POWER WILL PROVIDED BY OMAHA PUBLIC POWER DISTRICT.
- ALL ON-SITE IMPROVEMENTS SHALL BE CONSTRUCTED IN PHASES TO COINCIDE WITH BUILDING CONSTRUCTION.
- THE FINAL GRADING PLAN WILL BE PREPARED IN ACCORDANCE WITH THE CITY OF LA VISTA SOIL EROSION AND SEDIMENT CONTROL MANUAL. ALL PHASE AREAS NOT UNDER CONSTRUCTION SHALL BE PERMANENTLY SEEDED AND MAINTAINED UNTIL SUCH TIME CONSTRUCTION OF THE PHASE BEGINS.
- ALL YARD SETBACKS SHALL ADHERE TO R-3 ZONING DISTRICT REGULATIONS.
- RESTRICTION AGAINST DIRECT ACCESS TO AND FROM SUBJECT PROPERTY ONTO INTERSTATE 80 DESCRIBED IN "RETURN OF APPRAISERS" RECORDED IN MISC. BOOK 22 AT PAGE 197 AND CORRECTED BY "CORRECTION AGREEMENT" RECORDED IN MISC. BOOK 53 AT PAGE 749 BOTH OF THE SARPY COUNTY RECORDS.
- DIMENSIONS SHOWN IN PARENTHESIS PERTAIN TO EASEMENTS.
- BELLA LA VISTA HOUSE PARTNERS, LP WILL PROVIDE MAINTENANCE OF COMMON AREA FACILITIES SUCH AS SEWERS AND PRIVATE ROADWAY.

LEGEND



Revision Dates		
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LEGAL DESCRIPTION

THAT PART OF LOT 1, BELLA LA VISTA REPLAT 1, A SUBDIVISION IN SARPY COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS, COMMENCING AT THE NW CORNER OF SAID LOT 1; THENCE S89°52'56"E (ASSUMED BEARING) 274.60 FEET ON THE NORTH LINE OF SAID LOT 1 TO THE POINT OF BEGINNING; THENCE CONTINUING S89°52'56"E 20.55 FEET ON THE NORTH LINE OF SAID LOT 1; THENCE S13°21'19"W 80.43 FEET; THENCE N88°35'14"E 14.71 FEET; THENCE S05°58'40"E 296.00 FEET; THENCE N75°06'02"W 38.75 FEET; THENCE S02°15'05"W 92.54 FEET TO THE SOUTH LINE OF SAID LOT 1; THENCE N67°48'31"W 21.28 FEET ON THE SOUTH LINE OF SAID LOT 1; THENCE N02°15'05"E 89.77 FEET; THENCE N75°06'02"W 15.75 FEET; THENCE N01°44'34"W 274.00 FEET; THENCE N88°35'14"E 14.61 FEET; THENCE N13°21'19"E 81.00 FEET TO THE POINT OF BEGINNING.

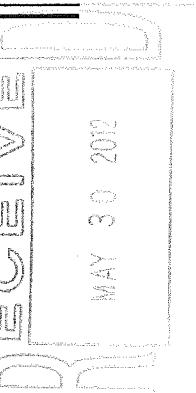


EXHIBIT B
CITY OF LAVISTA
CONDITIONAL USE PERMIT

EXHIBIT B

CONDITIONAL USE PERMIT FOR BELLA LA VISTA APARTMENTS – PHASE 1

(Phase 1 - Lot 1, Bella La Vista Replat 1)

This Conditional Use Permit issued this 5th day of June, 2012 by the City of La Vista, a municipal corporation in the County of Sarpy County, Nebraska ("City") to, Bella La Vista Housing Partners, L.P., a Nebraska limited partnership authorized to do business in Nebraska ("Bella La Vista Housing" or "Owner"), pursuant to the La Vista Zoning Ordinance.

WHEREAS, Bella La Vista Housing is the legal owner of Lot 2, Bella La Vista Subdivision, consisting of 39.34 acres, more or less ("Lot 2"), which property is located outside of the corporate limits of the City but within the City's zoning and platting jurisdiction. Bella La Vista Housing desires to develop a portion of Lot 2 in a unified, compatible manner as a multi-family housing development.

WHEREAS, Bella La Vista Housing, subject to recording with the Sarpy County Register of Deeds an approved replat of Lot 2 into two lots, Lot 1 and Outlot A, Bella La Vista Replat 1, Sarpy County, Nebraska, shall construct and operate a multiple family dwelling complex to be known as Bella La Vista Apartments upon the following described tract of land within the City of La Vista's zoning jurisdiction:

Lot 1, Bella La Vista Replat 1, Sarpy County, Nebraska (the "Property"),

being approximately 5.49 acres, and which complex will be comprised of 3 buildings, 60 units, 30 detached garages and a clubhouse, as presented to the City Council with Bella La Vista Housing's request for replatting, planned unit development and conditional use permit. Outlot A, Bella La Vista Replat 1, shall be reserved for possible future development of additional multi-family housing.

WHEREAS, Owner has applied for a conditional use permit for the purpose of constructing and operating a multiple family dwelling complex on the Property 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 for the purpose described above, said use hereinafter being referred to interchangeably as a "Permitted Use" or "Use".

Conditions of the Permit

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

1. Development and operation on the Property is governed by this Permit. Any proposed development of Outlot A shall require further applications, analyses, reviews and approvals to, of and by the City, including, but not limited to, additional drainage and traffic studies, replats, conditional use permits, and amendments to the applicable planned unit development plan and subdivision agreement. 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 in this Permit.
2. In respect to the proposed Use:
 - a. A site plan showing the Property'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 in Exhibits " " through " ".
 - 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 Bella La Vista Replat 1 ("Final Plat"), Planned Unit Development Plan ("PUD") and Subdivision Agreement applicable to the Property, ("Subdivision Agreement"), as approved by the City and incorporated herein by this reference. Any modifications to the site plan must be submitted to the Chief Building Official for approval. Modification of any 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. There shall be no construction traffic on Highland Boulevard related to development on Lot 1 or Outlot A of Bella La Vista Replat One.
 - e. As-built topographic surveys of storm water detention areas shall be required before certificates of occupancy are issued for any building on the Property, 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.
 - f. No vehicle repair (other than emergency maintenance such as changing a tire), inoperable or abandoned vehicles, 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.
 - 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 building codes, fire codes, ADA requirements, and 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 has been completed, as referenced in the Subdivision Agreement applicable to Lot 1 and Outlot A, Bella La Vista Replat1, with respect to the proposed Use on Lot 1. 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. If at any time any part of Bella La Vista Replat 1 is owned by any person or entity other than Owner, all owners shall cooperate and coordinate 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, BCDM Architects, dated _____
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 only upon a finding by the City that there is a material violation of the material terms of this Permit if the violation occurs 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 the improvements on the Property, consisting of 60 units, 30 garages, and a "clubhouse" and having the design, dimensions, construction and amenities set forth in application(s) for Bella La Vista Replat 1, this Permit and PUD 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 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 cause beyond the reasonable control of Owner; otherwise such Permit shall become void.
 - 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 the buildings 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 Owner's failure to cure such breach in the time and manner described below after City's giving notice thereof.
 - d. Owner's breach of other terms hereof and its failure to cure such breach in the time and manner set forth below.
6. If construction of the improvements on the Property 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 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 terms hereof in accordance with 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 Bella La Vista Housing Partners, 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 time 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 City hereunder shall be in writing and shall be sufficiently given if sent by regular mail, postage prepaid, addressed as follows:

To Owner:

Bella La Vista Housing Partners, L.P.
A Limited Partnership
416 E. Third Street
Kansas City, MO 64016

5. All recitals at the beginning of this document and exhibits or other documents referenced in this Permit shall be incorporated herein by 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
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:

Bella La Vista Housing Partners, L.P., a Nebraska limited partnership

By: Bella La Vista Housing Corporation, general partner

By:

Garrison Hassenflu,
President
Date: _____

