



CITY OF LA VISTA

CERTIFICATE OF APPRECIATION

A CERTIFICATE OF APPRECIATION PRESENTED TO KYLE RAPPOLD, of the La Vista Public Works Department, FOR 5 YEARS OF FAITHFUL AND EFFICIENT SERVICE TO THE CITY OF LA VISTA.

WHEREAS, *Kyle Rappold*, has served the City of La Vista since June 1, 2004, and

WHEREAS, *Kyle Rappold's* input and contributions to the City of La Vista have contributed to the success of the City.

NOW, THEREFORE BE IT RESOLVED, that this Certificate of Appreciation is hereby presented to *Kyle Rappold* on behalf of the City of La Vista for 5 years of service to the City.

DATED THIS 2ND DAY OF JUNE, 2009.

Douglas Kindig, Mayor

Ronald Sheehan
Councilmember, Ward I

Brenda L. Carlisle
Councilmember, Ward I

Mike Crawford
Councilmember, Ward II

Terrilyn Quick
Councilmember, Ward II

Mark D. Ellerbeck
Councilmember, Ward III

Alan W. Ronan
Councilmember, Ward III

Kelly R. Sell
Councilmember, Ward IV

Anthony J. Gowan
Councilmember, Ward IV

ATTEST:

Pamela A. Buethe, CMC
City Clerk





CITY OF LA VISTA

CERTIFICATE OF APPRECIATION

A CERTIFICATE OF APPRECIATION PRESENTED TO **BRADY SMALL**, of the **La Vista Public Works Department**, FOR 10 YEARS OF FAITHFUL AND EFFICIENT SERVICE TO THE CITY OF LA VISTA.

WHEREAS, *Brady Small*, has served the City of La Vista since June 1, 1999, and

WHEREAS, *Brady Small's* input and contributions to the City of La Vista have contributed to the success of the City.

NOW, THEREFORE BE IT RESOLVED, that this Certificate of Appreciation is hereby presented to *Brady Small* on behalf of the City of La Vista for 10 years of service to the City.

DATED THIS 2ND DAY OF JUNE, 2009.

Douglas Kindig, Mayor

Ronald Sheehan
Councilmember, Ward I

Brenda L. Carlisle
Councilmember, Ward I

Mike Crawford
Councilmember, Ward II

Terrilyn Quick
Councilmember, Ward II

Mark D. Ellerbeck
Councilmember, Ward III

Alan W. Ronan
Councilmember, Ward III

Kelly R. Sell
Councilmember, Ward IV

Anthony J. Gowan
Councilmember, Ward IV

ATTEST:

Pamela A. Buethe, CMC
City Clerk





CITY OF LA VISTA

CERTIFICATE OF APPRECIATION

A CERTIFICATE OF APPRECIATION PRESENTED TO SCOTT STOPAK, of the La Vista Recreation Department, FOR 15 YEARS OF FAITHFUL AND EFFICIENT SERVICE TO THE CITY OF LA VISTA.

WHEREAS, Scott Stopak, has served the City of La Vista since May 24, 1994, and

WHEREAS, Scott Stopak's input and contributions to the City of La Vista have contributed to the success of the City.

NOW, THEREFORE BE IT RESOLVED, that this Certificate of Appreciation is hereby presented to Scott Stopak on behalf of the City of La Vista for 15 years of service to the City.

DATED THIS 2ND DAY OF JUNE, 2009.

Douglas Kindig, Mayor

Ronald Sheehan
Councilmember, Ward I

Brenda L. Carlisle
Councilmember, Ward I

Mike Crawford
Councilmember, Ward II

Terrilyn Quick
Councilmember, Ward II

Mark D. Ellerbeck
Councilmember, Ward III

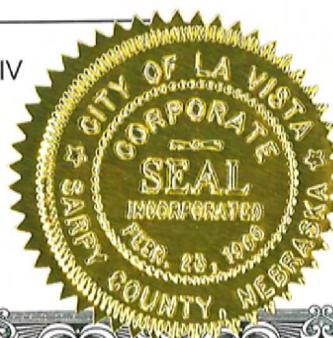
Alan W. Ronan
Councilmember, Ward III

Kelly R. Sell
Councilmember, Ward IV

Anthony J. Gowan
Councilmember, Ward IV

ATTEST:

Pamela A. Buethe, CMC
City Clerk





CITY OF LA VISTA

CERTIFICATE OF APPRECIATION

A CERTIFICATE OF APPRECIATION PRESENTED TO KEVIN POKORNY, of the La Vista Police Department, FOR 20 YEARS OF FAITHFUL AND EFFICIENT SERVICE TO THE CITY OF LA VISTA.

WHEREAS, Kevin Pokorny, has served the City of La Vista since May 16, 1989, and

WHEREAS, Kevin Pokorny's input and contributions to the City of La Vista have contributed to the success of the City.

NOW, THEREFORE BE IT RESOLVED, that this Certificate of Appreciation is hereby presented to Kevin Pokorny on behalf of the City of La Vista for 20 years of service to the City.

DATED THIS 2ND DAY OF JUNE, 2009.

Douglas Kindig, Mayor

Ronald Sheehan
Councilmember, Ward I

Brenda L. Carlisle
Councilmember, Ward I

Mike Crawford
Councilmember, Ward II

Terrilyn Quick
Councilmember, Ward II

Mark D. Ellerbeck
Councilmember, Ward III

Alan W. Ronan
Councilmember, Ward III

Kelly R. Sell
Councilmember, Ward IV

Anthony J. Gowan
Councilmember, Ward IV



ATTEST:

Pamela A. Buethe, CMC
City Clerk

MINUTE RECORD

No. 729—REFFIELD & COMPANY, INC., OMAHA

LA VISTA CITY COUNCIL MEETING May 19, 2009

A meeting of the City Council of the City of La Vista, Nebraska was convened in open and public session at 7:00 p.m. on May 19, 2009. Present were Councilmembers: Sell, Ronan Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Absent: None. Also in attendance were City Attorney McKeon, City Engineer Kottmann, City Clerk Buethe, Library Director Iwan, Police Chief Lausten, Fire Chief Uhl, Assistant Recreation Director Karlson, Public Works Director Soucie, and Building and Grounds Director Archibald.

A notice of the meeting was given in advance thereof by publication in the Times on May 7, 2009. Notice was simultaneously given to the Mayor and all members of the City Council and a copy of the acknowledgment of the receipt of notice attached to the minutes. Availability of the agenda was communicated to the Mayor and City Council in the advance notice of the meeting. All proceedings shown were taken while the convened meeting was open to the attendance of the public. Further, all subjects included in said proceedings were contained in the agenda for said meeting which is kept continuously current and available for public inspection at City Hall during normal business hours.

Acting Mayor Gowan called the meeting to order and led the audience in the pledge of allegiance.

Acting Mayor Gowan made an announcement of the location of the posted copy of the Open Meetings Act for public reference.

Acting Mayor Gowan made an announcement regarding the new agenda policy statement providing for expanded opportunity for public comment on agenda items.

PROCLAMATIONS – EMERGENCY MEDICAL SERVICES WEEK; NATIONAL PUBLIC WORKS WEEK

Acting Mayor Gowan presented a proclamation for Emergency Medical Services Week to Fire Chief Uhl and a proclamation for National Public Works Week to Public Works Director Soucie.

SERVICE AWARDS – DONAL FISCHER, ROB WITT, VICKI WHITTAKER – 5 YEARS

Acting Mayor Gowan presented service awards to Donal Fischer and Vicki Whittaker for 5 years of service to the City. Rob Witt was unable to attend.

A. CONSENT AGENDA

1. APPROVAL OF THE AGENDA AS PRESENTED
2. APPROVAL OF CITY COUNCIL MINUTES FROM MAY 5, 2009
3. APPROVAL OF PLANNING COMMISSION MINUTES FROM APRIL 16, 2009
4. APPROVAL OF LA VISTA/METROPOLITAN COMMUNITY COLLEGE CONDOMINIUM OWNERS ASSOCIATION, INC FROM MAY 4, 2009
5. APPROVAL OF CIVIL SERVICE COMMISSION MINUTES FROM MAY 12, 2009
6. MONTHLY FINANCIAL REPORT - APRIL 2009
7. PAY REQUEST NO. 1 FROM EDAW – 84TH STREET REDEVELOPMENT VISION - \$11,995.20
8. APPROVAL OF CLAIMS

Councilmember Ellerbeck made a motion to approve the consent agenda. Seconded by Councilmember Carlisle. Councilmember Sheehan reviewed the claims for this period and reported that he found everything to be in order. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

A ADVERTISING & SUPPLY, Equipment	521.00
A C NELSEN RV WORLD, Vehicle Maint.	209.86
ABE'S PORTABLES, Rental	135.00
ACCURATE TESTING, Equipment Repair	401.00
ACTION BATTERIES, Vehicle Supplies	55.05
AI SQUARED, Supplies	114.00
ALAMAR UNIFORMS, Wearing Apparel	48.23
ALLIED ELECTRONICS, Bldg & Grnds	71.84
AMERICAN LEGAL, Contract Services	250.00
ANN TROE, Printing	640.00

MINUTE RECORD

No. 729—REFFIELD & COMPANY, INC., OMAHA

May 19, 2009

ARAMARK UNIFORM, Contract Services	260.53
ASPHALT & CONCRETE MATERIALS, Street Maint.	104.92
BAKER & TAYLOR BOOKS, Books	1,446.49
BAKER, MARCUS, Travel	422.40
BARONE SECURITY SYSTEMS, Contract Services	648.00
BENNETT REFRIGERATION, Bldg & Grnds	547.16
BENNINGTON EQUIPMENT, Vehicle Maint.	645.40
BENSON RECORDS, Contract Services	53.16
BETTER BUSINESS EQUIPMENT, Rentals	42.72
BLACK HILLS ENERGY, Utilities	989.62
BRENTWOOD AUTO WASH, Vehicle Maint.	132.00
BRODART, Books	11.40
CAMPBELL, KIRK, Refund	120.00
CARDMEMBER SERVICE, Travel/Supplies/Training	6,517.84
CENTER POINT PUBLISHING, Books	122.82
CITY OF OMAHA, Contract Services	75,248.58
CJ'S HOME CENTER, Vehicle Maint/Bldg & Grnds	907.00
COCA-COLA, Concessions	723.70
COMMERCIAL TURF AND TRACTOR, Maintenance	1,015.00
COMP CHOICE, Professional Services	255.50
COX, Contract Services	178.72
D & D COMMUNICATIONS, Repair	393.00
DATASPAN, Contract Services	574.80
DEMCO, Supplies	174.83
DIGITAL INTELLIGENCE, Equipment	1,261.00
DON'S PIONEER UNIFORMS, Wearing Apparel	733.80
DOUGLAS PRODUCTS AND PACKAGING, Supplies	4,200.00
DULTMEIER SALES & SERVICE, Vehicle Maint/Equip.	54.74
ELECTRIC SPECIALTIES, Contract Services	120.00
ELECTRONIC ENGINEERING, Vehicle Maint/Bldg & Grnds	484.41
FASTENAL, Traffic Signs	23.95
FEDEX KINKO'S, Printing	23.88
FOLLETT SOFTWARE, Supplies	164.05
FORT DEARBORN LIFE INSURANCE, Employee Benefits	2,572.50
GALL'S, Wearing Apparel	10.95
GCR OMAHA TRUCK TIRE CENTER, Vehicle Supplies	313.00
GENUINE PARTS COMPANY, Vehicle Maint/Supplies	1,292.13
GIESSINGER, EVA, Refund	40.00
GRAYBAR ELECTRIC, Bldg & Grnds	49.34
GREENKEEPER, Supplies	537.00
H & H CHEVROLET, Vehicle Maint.	105.00
HAMILTON COLOR LAB, Planning	535.00
HIGHSMITH CO, Supplies	166.20
HOST COFFEE SERVICE, Concession	20.00
HUNTER, APRIL, Refund	40.00
HY-VEE, Supplies	135.47
INDUSTRIAL SALES, Bldg & Grnds	298.72
J Q OFFICE EQUIPMENT, Supplies	341.01
JEFFUS, COREY, Refund	40.00
JOHNSON CONTROLS, Bldg & Grnds	1,363.60
JOHNSTONE SUPPLY, Bldg & Grnds	187.76
LANGLEY ANIMAL HOSPITAL, Contract Services	117.00
LAUGHLIN, KATHLEEN, Payroll Withholdings	372.00
LEAGUE ASSN OF RISK MGMT, Insurance	430.00
LINWELD, Supplies/Bldg & Grnds	456.93
LODES, CHRIS, Contract Services	142.50
LOGAN CONTRACTORS SUPPLY, Street Maint.	3,061.08
LOU'S SPORTING GOODS, Supplies	49.42
MAACO, Vehicle Maint.	419.96
METRO LANDSCAPE MATERIALS, Maintenance	1,400.00
METRO COMM COLLEGE, Utilities/Phone/Contract Services	10,194.79
MICHAEL TODD AND COMPANY, Vehicle Maint.	191.68
MID AMERICA PAY PHONES, Phone	100.00
MID CON SYSTEMS, Vehicle Maint.	145.31
MIDWEST TAPE, Media	41.72
MILLER BRANDS, Concessions	152.50
MILLER PRESS, Printing	62.00

MINUTE RECORD

No. 729—REDFIELD & COMPANY, INC., OMAHA

May 19, 2009

MOORE WALLACE, Printing	458.60
MULHALL'S, Tree	279.99
NATIONAL NEIGHBORHOOD WATCH, Supplies	46.50
NATIONAL SAFETY COUNCIL, Travel	165.00
NEBRASKA LANDSCAPE SOLUTIONS, Supplies	2,998.16
NEBRASKA LIBRARY COMMISSION, Training	479.23
NEBRASKA NATIONAL BANK, Cart Lease	660.00
NEBRASKA TURF PRODUCTS, Supplies	3,829.00
NEWMAN TRAFFIC SIGNS, Sign	126.43
NLA PUBLIC LIBRARY SECTION, Training	15.00
NORTHERN WATER WORKS SUPPLY, Equipment	504.00
NRPA-VIRGINIA, Dues	370.00
NUTS AND BOLTS, Vehicle Maint.	154.38
OABR PRINT SHOP, Printing	4,695.11
OFFICE DEPOT, Supplies	654.19
OMAHA COMPOUND, Bldg & Grnds	497.10
OMAHA WINNELSON, Bldg & Grnds	257.01
OMAHA WORLD HERALD, Advertising	341.75
OMB EXPRESS POLICE SUPPLY, Wearing Apparel	71.96
ON YOUR MARKS, Professional Services	316.49
OPPD, Utilities	38,337.55
ORIENTAL TRADING, Supplies	90.22
PAPILLION SANITATION, Contract Services	212.11
PARAMOUNT LINEN & UNIFORM, Uniform Cleaning	390.21
PAYLESS, Supplies	196.89
BUETHE, PAM, Travel/Pool/Supplies	484.87
POKORNY, KEVIN, Travel	100.00
POWER PLAN, Vehicle Maint.	203.99
PRECISION INDUSTRIES, Vehicle Maint.	63.96
PREMIER-MIDWEST BEVERAGE, Concessions	178.10
PRINCIPAL LIFE-FLEX SPENDING, Employee Benefits	186.75
QUALITY BRANDS, Concessions	389.30
SAFETY-KLEEN CORPORATION, Contract Services	314.13
SAM'S CLUB, Supplies/Concessions	261.03
SAPP BROS, Vehicle Supplies	6,844.09
SARPY COUNTY LANDFILL, Cleanup	62.10
SMOOTHER CUT ENTERPRISES, Contract Services	600.00
STANDARD HEATING AND AIR, A/C	5,190.00
SUN COUNTRY DISTRIBUTING, Bldg & Grnds	26.89
SUN LIFE & HEALTH INSURANCE, Payroll Withholdings	1,898.38
SUN SOURCE, Vehicle Maint.	635.27
SUPERIOR SIGNALS, Vehicle Maint.	121.00
SUTPHEN CORPORATION, Vehicle Maint.	301.62
THOMPSON DREESSEN & DORNER, Professional Services	19,374.68
TRACTOR SUPPLY CREDIT PLAN, Supplies	189.95
TURF CARS, Electric Cart	419.45
U S ASPHALT COMPANY, Street Maint.	1,530.49
UPS, Postage	10.26
VITALSIGNS, Sign Maint.	1,225.00
WASTE MANAGEMENT, Contract Services	917.46
WATKINS CONCRETE BLOCK, Street Maint.	81.00

REPORTS FROM CITY ADMINISTRATOR AND DEPARTMENT HEADS

Police Chief Lausten informed Council that the La Vista Police Department participated in the Annual Law Enforcement Torch Run for the Special Olympics last week running 7 miles of the course.

Councilmember Quick inquired about the Kindle book readers and whether that would be something the library would have. Library Director Iwan stated that the readers are costly but she will continue to monitor the price to try to fund some in a future year's budget.

B. RESOLUTION – AWARD CONTRACT – GOLF COURSE CART PATHS

Councilmember Crawford introduced and moved for the adoption of Resolution No. 09-046: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AWARDING A CONTRACT TO TAB CONSTRUCTION COMPANY, OMAHA,

MINUTE RECORD

NEBRASKA, FOR INSTALLATION OF CONCRETE CART PATHS AT THE GOLF COURSE IN AN AMOUNT NOT TO EXCEED \$10,588.90.

WHEREAS, the City Council of the City of La Vista has determined that the proposed construction improvements are necessary; and

WHEREAS, the FY 2008/09 Capital Improvement budget provides funding for the proposed project.

WHEREAS, the Public Works Department solicited bids and recommends that a contract be awarded to TAB Construction Company, as the low qualified bidder; and

WHEREAS, Subsection (C) (9) of Section 31.23 of the La Vista Municipal code requires that the City Administrator secure council approval prior to authorizing any purchases over \$5,000.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and City Council of La Vista, Nebraska, that a contract be awarded to TAB Construction Company, Omaha, Nebraska, for installation of concrete cart paths at the Golf Course in an amount not to exceed \$10,588.90, and that the Mayor is hereby authorized to execute said contract and the City Clerk is further directed to attest to the same.

Seconded by Councilmember Sell. Public Works Director Soucie stated that concrete is cheaper than asphalt at this time and more durable. Acting Mayor Gowan asked if there was anyone here to speak on this agenda item. There being no one, Acting Mayor Gowan asked for the vote. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

C. RESOLUTION – AWARD CONTRACT – GOLF COURSE POND WATER TRANSFER SYSTEM

Councilmember Carlisle introduced and moved for the adoption of Resolution No. 09-047: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AWARDING A CONTRACT TO MORRELL WATER SERVICES, OMAHA, NE, FOR INSTALLATION OF A POND WATER TRANSFER SYSTEM AT THE GOLF COURSE IN AN AMOUNT NOT TO EXCEED \$6,640.00.

WHEREAS, the City Council of the City of La Vista has determined that the proposed construction improvements are necessary; and

WHEREAS, the FY 2008/09 Capital Improvement budget provides funding for the proposed project.

WHEREAS, Morrell Water Services completed Phase I of the irrigation system overhaul and is familiar with the entire operation; and

WHEREAS, Subsection (C) (9) of Section 31.23 of the La Vista Municipal code requires that the City Administrator secure council approval prior to authorizing any purchases over \$5,000.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and City Council of La Vista, Nebraska, that a contract be awarded to Morrell Water Services, Omaha, Nebraska, for installation of a pond water transfer system at the Golf Course in an amount not to exceed \$6,640.00, and that the Mayor is hereby authorized to execute said contract and the City Clerk is further directed to attest to the same.

Seconded by Councilmember Sheehan. Public Works Director Soucie stated that this was scheduled originally in last years construction season but when they picked up the pump they found that it required three phase power instead of a one phase, therefore more money was needed to put in the power. With the cost savings in electricity from having the three phase it will pay for itself in three to four years. Acting Mayor Gowan asked if there was anyone here to speak on this agenda item. There being no one, Acting Mayor Gowan asked for the vote. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

MINUTE RECORD

D. RESOLUTION – AUTHORIZATION TO ADVERTISE FOR BIDS – MOWING TRACTORS

Councilmember Quick introduced and moved for the adoption of Resolution No. 09-048: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AUTHORIZING THE ADVERTISMENT FOR BIDS FOR TWO 4-WHEEL DRIVE FRONT MOWERS WITH 72" MOWER DECK, CAB, SNOW BLADE, SNOW BLOWER, WINTER WHEEL PACKAGE, AND LIGHT PACKAGE FOR THE PUBLIC WORKS DEPARTMENT.

WHEREAS, the City Council has determined that the proposed mower purchases are necessary; and

WHEREAS, the FY 2008/09 General Fund Budget provides funding for the proposed purchases; and

WHEREAS, the Public Works Park Superintendent has prepared specifications for the proposed equipment.

NOW, THEREFORE BE IT RESOLVED, that City Administrator is hereby authorized to advertise for bids for purchase of two 4-Wheel Drive Front Mowers with 72" mower deck, cab, snow blade, snow blower, winter wheel package, and light package; in accordance with specifications prepared by the Public Works Park Superintendent and said bids are to be opened and publicly read aloud at 2:00 p.m. at La Vista City Hall, 8116 Park View Blvd., La Vista, Nebraska, on June 4, 2009.

Seconded by Councilmember Carlisle. Public Works Director stated that the cost of these mowers and attachments has gone up in the last twelve months. The bids will be for the tractors with and without the extra equipment. Acting Mayor Gowan asked if there was anyone here to speak on this agenda item. There being no one, Acting Mayor Gowan asked for the vote. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

E. RESOLUTION – AUTHORIZATION TO LEASE - GOLF CARTS

Councilmember Crawford introduced and moved for the adoption of Resolution No. 09-049: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE LEASE-TO-OWN OF NINE ELECTRIC CLUB CAR GOLF CARS FOR LA VISTA FALLS GOLF COURSE FROM NEBRASKA NATIONAL BANK, KEARNEY, NEBRASKA, IN AN AMOUNT NOT TO EXCEED \$27,923.00 OVER 48 MONTHS.

WHEREAS, the City Council has deemed that a need exists to purchase additional golf cars for La Vista Falls Golf Course; and

WHEREAS, the City did appropriate funds in the FY08/09 Golf Fund budget for said lease-to-own; and

WHEREAS the Finance Director and Golf Course Manager have obtained suitable financing for this lease through Nebraska National Bank, Kearney, Nebraska; and

WHEREAS, Subsection (C) (9) of Section 31.23 of the La Vista Municipal Code requires that the City Administrator secure Council approval prior to authorizing any purchase over \$5,000.00.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of La Vista, Nebraska, do hereby authorize the lease-to-own agreement for nine Electric Club Car Golf Cars for La Vista Falls Golf Course from Nebraska National Bank, Kearney, Nebraska, in an amount not to exceed \$27,923.00 and in form and content satisfactory to the City Administrator.

Seconded by Councilmember Quick. Assistant Recreation Director Karlson stated that these will replace 9 of the same type of cars which were purchased in 2002. Acting Mayor Gowan asked if there was anyone here to speak on this agenda item. There being no one, Acting Mayor Gowan asked for the vote. Councilmembers voting aye: Ronan, Sell, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

F. RESOLUTION – APPLICATION FOR ADDITION TO LIQUOR LICENSE – BEYOND GOLF LLC DBA BEYOND GOLF

Councilmember Ellerbeck introduced and moved for the adoption of Resolution No. 09-050: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA

MINUTE RECORD

No. 729—REFFIELD & COMPANY, INC., OMAHA

May 19, 2009

RECOMMENDING TO THE NEBRASKA LIQUOR CONTROL COMMISSION, APPROVAL OF THE APPLICATION FOR ADDITION TO THE CLASS C LIQUOR LICENSE FOR BEYOND GOLF LLC DBA BEYOND GOLF, LA VISTA, NEBRASKA.

WHEREAS, Beyond Golf LLC dba Beyond Golf, 12040 McDermott Plaza, Suite 300, La Vista, Sarpy County, Nebraska, has applied to the Nebraska Liquor Control Commission for an addition to their Class C Liquor License to add an outdoor area, and

WHEREAS, the Nebraska Liquor Control Commission has notified the City of said application, and

WHEREAS, the City has adopted local licensing standards to be considered in making recommendations to the Nebraska Liquor Control Commission, and

WHEREAS, said licensing standards have been considered by the City Council in making its decision.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of La Vista, Nebraska, hereby recommend to the Nebraska Liquor Control Commission approval of the application for the addition to the Class C Liquor License submitted by Beyond Golf LLC dba Beyond Golf, 12040 McDermott Plaza, Suite 300, La Vista, NE.

Seconded by Councilmember Sell. Councilmember Sheehan asked if there would be problems with alcohol being handed through the fence since it is a more secluded area. Police Chief Lausten stated that it is the responsibility of the owner and employees to monitor the area. Should something happen, the establishment could face penalties and possibly lose its liquor license. Acting Mayor Gowan asked if there was anyone here to speak on this agenda item. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

G. RESOLUTION – STANDARD OPERATION POLICY – POOL HOURS OF OPERATION

Councilmember Carlisle introduced and moved for the adoption of Resolution No. 09-051: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, APPROVING CHANGES TO AN EXISTING COUNCIL POLICY STATEMENT.

WHEREAS, the City Council has determined that it is necessary and desirable to create Council Policy Statements as a means of establishing guidelines and direction to the members of the City Council and to the city administration in regard to various issues which regularly occur; and

WHEREAS, a Council Policy Statement entitled Municipal Pool: Hours of Operation, Opening, Closing and Returns has been reviewed and changes to this Council Policy Statement for Normal Hours of Operation are recommended by the Recreation Director to the City Administrator.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of La Vista, Nebraska, do hereby approve the changes to Council Policy Statement entitled Municipal Pool: Hours of Operation, Opening, Closing and Returns, and do further hereby direct the distribution of said Council Policy Statement to the appropriate City Departments.

Assistant Recreation Director Karlson stated that there are 7 guards and 2 managers on duty when the pool is open and with the lower number of patrons between 8:00 p.m. and 9:00 p.m. it would be a cost savings of about \$6,200.00 to close for that last hour. Councilmember Quick asked if it was advertised for the longer hours for the pool passes which have already been sold. Karlson stated he would check on this. Councilmember Crawford stated that we should leave the hours if people were told the longer hours. Councilmember Sheehan stated the pool should be left open in his opinion. Acting Mayor Gowan called for a second to the motion three times. There being no second the motion failed.

COMMENTS FROM THE FLOOR

Acting Mayor Gowan asked if anyone from the audience would like to address the Council. There was no one who wished to address the Council.

MINUTE RECORD

No. 729—REFFIELD & COMPANY, INC., OMAHA

May 19, 2009

COMMENTS FROM MAYOR AND COUNCIL

Council discussed the walking tour for the Vision 84 project stating that there was a good turnout both days and they saw 84th Street in a completely different way when walking in comparison to driving a vehicle. Many good observations and suggestions were heard from citizens and business owners during these tours.

At 7:28 p.m. Councilmember Sheehan made a motion to adjourn the meeting. Seconded by Councilmember Crawford. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

PASSED AND APPROVED THIS 2ND DAY OF JUNE 2009.

CITY OF LA VISTA

ATTEST:

Anthony Gowan, Acting Mayor

Pamela A. Buethe, CMC
City Clerk

K:\VAPPS\CITYHALL\09 COUNCIL MINUTES\May 19, 2009

Invoice

MAY 15 2009

Ann Birch
 City of La Vista
 8116 Park View Boulevard
 La Vista, NE 68128-2198
 United States

May 12, 2009
 Project No: 08030111.01
 Invoice No: 2

Project 08030111.01 84th Street Redevelopment Vision

Description of Services: 1st working group meeting; stakeholder interviews; newsletter #1; targeted outreach.

Professional Services from April 4, 2009 to May 1, 2009

Fee

Billing Phase	Fee	Percent Complete	Earned	Previous Fee Billing	Current Fee Billing
Project	42,840.00	61.00	26,132.40	11,995.20	14,137.20
Startup/Inventory/Analysis					
Initial Outreach	51,724.00	21.00	10,862.04	0.00	10,862.04
Developing A Vision	52,822.00	0.00	0.00	0.00	0.00
Vision Plan Preparation	24,559.00	0.00	0.00	0.00	0.00
Vision Plan Refinement	27,844.00	0.00	0.00	0.00	0.00
Total Fee	199,789.00		36,994.44	11,995.20	24,999.24
		Total Fee			24,999.24

Total this Invoice \$24,999.24

Outstanding Invoices

Number	Date	Balance
1	4/23/09	11,995.20
Total		11,995.20



05-71-0830.01

Consent Agenda
 6-7-09

Remit payment to EDAW Inc. Dept 9269-03. Los Angeles California 90084-9269. Tel 970.484.6073
 Wire payment to Wells Fargo Bank. 420 Montgomery Street. San Francisco California 94104. Routing #121000248 (Domestic)
 Swift #WFBISUS6S (Intl). Acct #4030013163

When making payment, please reference itemized amount by invoice number and EDAW job number. Payment terms net 30 days.
 A 1.5% per month finance charge will be assessed on all past due accounts.

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1 Bank of Nebraska (600-873)

46024 Payroll Checks
Thru 4603846039 Gap in Checks
Thru 96436

96437	5/20/2009	4123 EDAW INCORPORATED	11,995.20	**MANUAL**
96438	5/26/2009	615 MILLER BRANDS OF OMAHA INC	292.70	**MANUAL**
96439	5/26/2009	1270 PREMIER-MIDWEST BEVERAGE CO	283.00	**MANUAL**
96440	5/26/2009	1194 QUALITY BRANDS OF OMAHA	893.20	**MANUAL**
96441	5/27/2009	3702 LAUGHLIN, KATHLEEN A, TRUSTEE	372.00	**MANUAL**
96442	6/02/2009	2997 A.S.P. ENTERPRISES INC	80.00	
96443	6/02/2009	762 ACTION BATTERIES UNLTD INC	1,043.23	
96444	6/02/2009	571 ALAMAR UNIFORMS	119.98	
96445	6/02/2009	1823 ALKAR BILLIARDS	170.72	
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96447	6/02/2009	3158 AMERICAN RED CROSS	51.95	
96448	6/02/2009	4108 APPLE INCORPORATED	6,281.00	
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96450	6/02/2009	536 ARAMARK UNIFORM SERVICES INC	238.24	
96451	6/02/2009	636 ART FAC GRAPHICS LTD	698.65	
96452	6/02/2009	188 ASPHALT & CONCRETE MATERIALS	80.52	
96453	6/02/2009	706 ASSOCIATED FIRE PROTECTION	85.00	
96454	6/02/2009	201 BAKER & TAYLOR BOOKS	688.09	
96455	6/02/2009	929 BEACON BUILDING SERVICES	6,437.00	
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96459	6/02/2009	196 BLACK HILLS ENERGY	21.77	
96460	6/02/2009	4051 BOLEY, ANN	100.00	
96461	6/02/2009	4115 BROWNING, EILEEN	978.00	
96462	6/02/2009	3760 BUETHE, PAM	165.25	
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96465	6/02/2009	2285 CENTER POINT PUBLISHING	261.21	
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96470	6/02/2009	3421 COPQUEST INCORPORATED	385.70	
96471	6/02/2009	2102 CREIGHTON EMS EDUCATION	2,344.00	
96472	6/02/2009	23 CUMMINS CENTRAL POWER LLC #410	505.76	
96473	6/02/2009	3136 D & D COMMUNICATIONS	245.67	
96474	6/02/2009	3107 DAVIDSON TITLE INC	162.70	
96475	6/02/2009	1432 DEETER FOUNDRY INCORPORATED	450.00	
96476	6/02/2009	77 DIAMOND VOGL PAINTS	267.50	
96477	6/02/2009	3892 DILLON BROS HARLEY DAVIDSON	221.95	
96478	6/02/2009	364 DULTMEIER SALES & SERVICE	67.16	
96479	6/02/2009	632 EASTERN LIBRARY SYSTEM	20.00	

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96483	6/02/2009	3334	EDGEWEAR SCREEN PRINTING	1,086.00			
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96486	6/02/2009	4121	ENNIS PAINT INCORPORATED	882.30			
96487	6/02/2009	3463	FARQUHAR, MIKE	100.00			
96488	6/02/2009	3159	FASTENAL COMPANY	13.75			
96489	6/02/2009	3460	FEDEX	25.21			
96490	6/02/2009	439	FIREGUARD INC	192.51			
96491	6/02/2009	142	FITZGERALD SCHORR BARMETTLER	.00	**CLEARED**	**VOIDED**	
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96494	6/02/2009	1344	GALE	53.90			
96495	6/02/2009	35	GOLDMAN, JOHN G	85.00			
96496	6/02/2009	3508	GRAPHIC IMAGINATION INC	33.87			
96497	6/02/2009	285	GRAYBAR ELECTRIC COMPANY INC	191.76			
96498	6/02/2009	385	GREAT PLAINS ONE-CALL SVC INC	404.69			
96499	6/02/2009	4086	GREAT PLAINS UNIFORMS	1,850.90			
96500	6/02/2009	71	GREENKEEPER COMPANY INC	292.50			
96501	6/02/2009	1624	GUNN, BRENDA	102.75			
96502	6/02/2009	3470	HAMILTON COLOR LAB INC	293.09			
96503	6/02/2009	426	HANEY SHOE STORE	224.95			
96504	6/02/2009	1403	HELGET GAS PRODUCTS INC	95.50			
96505	6/02/2009	1496	HOPE HEALTH/IHAC	.00	**CLEARED**	**VOIDED**	
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96508	6/02/2009	136	HUNTEL COMMUNICATIONS, INC	1,131.50			
96509	6/02/2009	376	HURST, JEAN	703.80			
96510	6/02/2009	1612	HY-VEE INC	150.32			
96511	6/02/2009	1498	INDUSTRIAL SALES COMPANY INC	445.29			
96512	6/02/2009	2307	INFO USA MARKETING INC	1,270.00			
96513	6/02/2009	1896	J Q OFFICE EQUIPMENT INC	770.02			
96514	6/02/2009	4032	JIM MORGAN'S BOOKS	163.75			
96515	6/02/2009	831	JOHN DEERE LANDSCAPES	390.80			
96516	6/02/2009	788	KINDIG, DOUGLAS	40.00			
96517	6/02/2009	1054	KLINKER, MARK A	200.00			
96518	6/02/2009	2057	LA VISTA COMMUNITY FOUNDATION	125.00			
96519	6/02/2009	2380	LEXIS NEXIS MATTHEW BENDER	217.10			
96520	6/02/2009	1288	LIFE ASSIST	929.06			
96521	6/02/2009	3370	LIFEGUARD STORE INC	46.75			
96522	6/02/2009	2297	LINDBERG, SHEILA	441.00			
96523	6/02/2009	877	LINWELD	48.28			
96524	6/02/2009	1573	LOGAN CONTRACTORS SUPPLY	404.95			
96525	6/02/2009	263	LOVELAND LAWNS	13.95			
96526	6/02/2009	2124	LUKASIEWICZ, BRIAN	50.00			
96527	6/02/2009	3641	M. B. WILDER CO INC	40.00			
96528	6/02/2009	544	MAPA-METRO AREA PLANNING AGNCY	60.00			
96529	6/02/2009	153	METRO AREA TRANSIT	605.00			
96530	6/02/2009	553	METROPOLITAN UTILITIES DIST.	.00	**CLEARED**	**VOIDED**	
96531	6/02/2009	553	METROPOLITAN UTILITIES DIST.	888.90			
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96537		6/02/2009	1028 NATIONAL PAPER COMPANY INC			195.82			
96538		6/02/2009	954 NE DEPT HEALTH/HUMAN SERVICES			100.00			
96539		6/02/2009	2388 NEBRASKA NATIONAL BANK			660.00			
96540		6/02/2009	2685 NEBRASKA TURF PRODUCTS			241.95			
96541		6/02/2009	653 NEUMAN EQUIPMENT COMPANY			63.60			
96542		6/02/2009	2631 NEXTEL COMMUNICATIONS			595.96			
96543		6/02/2009	2631 NEXTEL COMMUNICATIONS			94.16			
96544		6/02/2009	179 NUTS AND BOLTS INCORPORATED			3.00			
96545		6/02/2009	3415 OABR PRINT SHOP			.00	**CLEARED**	**VOIDED**	
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96550		6/02/2009	1014 OFFICE DEPOT INC-CINCINNATI			.00	**CLEARED**	**VOIDED**	
96551		6/02/2009	1014 OFFICE DEPOT INC-CINCINNATI			976.17			
96552		6/02/2009	46 OMAHA WORLD HERALD COMPANY			749.80			
96553		6/02/2009	2129 OMB EXPRESS POLICE SUPPLY			28.98			
96554		6/02/2009	3413 ON YOUR MARKS			987.49			
96555		6/02/2009	3477 ORIZON CPAS LLC			4,753.25			
96556		6/02/2009	976 PAPILLION TIRE INCORPORATED			495.47			
96557		6/02/2009	2686 PARAMOUNT LINEN & UNIFORM			362.46			
96558		6/02/2009	1769 PAYLESS OFFICE PRODUCTS INC			162.15			
96559		6/02/2009	709 PEPSI COLA COMPANY			430.70			
96560		6/02/2009	74 PITNEY BOWES INC-KY			.00	**CLEARED**	**VOIDED**	
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96563		6/02/2009	159 PRECISION INDUSTRIES INC			46.32			
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96565		6/02/2009	219 QWEST			1,050.83			
96566		6/02/2009	4120 R BRUHN PHOTOGRAPHY & DESIGN			400.00			
96567		6/02/2009	427 RAMIREZ, RITA M			43.00			
96568		6/02/2009	3155 REDSHAW PAINT SUPPLY INC			204.21			
96569		6/02/2009	1335 SARPY COUNTY CHAMBER OF			15.00			
96570		6/02/2009	2240 SARPY COUNTY COURTHOUSE			3,487.34			
96571		6/02/2009	1652 SCHOLASTIC BOOK FAIRS			63.46			
96572		6/02/2009	503 SCHOLASTIC LIBRARY PUBLISHING			458.00			
96573		6/02/2009	3990 Sentry Armor Systems Inc			1,757.31			
96574		6/02/2009	3514 SMITH, MELANIE			1,035.37			
96575		6/02/2009	533 SOUCIE, JOSEPH H JR			60.00			
96576		6/02/2009	3838 SPRINT			102.99			
96577		6/02/2009	1149 STATE FIRE MARSHALL			250.00			
96578		6/02/2009	2634 STERIL MANUFACTURING CO			100.00			
96579		6/02/2009	47 SUBURBAN NEWSPAPERS INC			555.11			
96580		6/02/2009	807 SUPERIOR SPA & POOL			141.96			
96581		6/02/2009	264 TED'S MOWER SALES & SERVICE			48.21			
96582		6/02/2009	3987 TRANE U S INCORPORATED			14.42			
96583		6/02/2009	3349 TRI-TECH INCORPORATED			259.49			
96584		6/02/2009	176 TURFWERKS			118.51			
96585		6/02/2009	988 UPSTART			27.00			

APCHCKRP
10.16.06

Tue Jun 2, 2009 2:52 PM

City of LaVista
ACCOUNTS PAYABLE CHECK REGISTER

OPER: AKH

PAGE 4

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96586	6/02/2009	809 VERIZON WIRELESS, BELLEVUE	94.09
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96588	6/02/2009	1174 WAL-MART COMMUNITY BRC	.00
96589	6/02/2009	1174 WAL-MART COMMUNITY BRC	2,635.40
96590	6/02/2009	78 WASTE MANAGEMENT NEBRASKA	2,642.22
96591	6/02/2009	3557 YORK, JOHN	54.57
96592	6/02/2009	3572 YOST, JOHN	31.00
96593	6/02/2009	295 ZEE MEDICAL SERVICE INC	136.60

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CLEARED	.00
VOIDED	.00

FUND	TOTAL	OUTSTANDING	CLEARED	VOIDED
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01 GENERAL FUND	71,794.04	71,794.04	.00	.00
02 SEWER FUND	12,455.12	12,455.12	.00	.00
05 CONSTRUCTION	12,745.00	12,745.00	.00	.00
08 LOTTERY FUND	3,441.83	3,441.83	.00	.00
09 GOLF COURSE FUND	5,714.53	5,714.53	.00	.00
15 OFF-STREET PARKING	194.16	194.16	.00	.00

REPORT TOTAL	106,344.68
OUTSTANDING	106,344.68
CLEARED	.00
VOIDED	.00
+ Gross Payroll 5/29/09	<u>215,411.52</u>
GRAND TOTAL	<u>\$321,756.20</u>

APPROVED BY COUNCIL MEMBERS 6/2/09

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
JUNE 2, 2009 AGENDA

Subject:	Type:	Submitted By:
APPLICATION FOR PRELIMINARY PUD, LOT 380, CIMARRON WOODS (SW OF 96 TH & HARRISON)	◆ RESOLUTION ORDINANCE RECEIVE/FILE	ANN BIRCH COMMUNITY DEVELOPMENT DIRECTOR

SYNOPSIS

A public hearing has been scheduled and a resolution has been prepared to approve the preliminary planned unit development (PUD-1) for approximately 26 acres located southwest of 96th & Harrison Street.

FISCAL IMPACT

None.

RECOMMENDATION

Approval.

BACKGROUND

A public hearing has been scheduled to consider the preliminary planned unit development application by Pedcor Investments, LLC, on approximately 26 acres platted as Lot 380, Cimarron Woods, generally located southwest of 96th and Harrison Street.

The property is currently zoned R-3 PUD-1 with the Gateway Corridor Overlay District. The Cimarron Woods plat, PUD plan and subdivision agreement identified this lot for multi-family development and included a site plan showing 418 units. The proposed development to be known as "Cimarron Terrace" consists of 84 units in Phase I and 192 units in Phase II, for a total of 276 units; the project also includes 168 garage stalls in addition to the surface parking stalls. The previous request submitted by the developer which was heard by the Council approximately one year ago included a total of 354 units and 24 garage stalls. Modifications have also been made to the location of the clubhouse, swimming pool and playground.

The application has been submitted for preliminary planned unit development (PUD) review; if approved, an application will be required for final PUD review and approval of a conditional use permit. Preliminary building design review has been completed however final approval will occur as part of the conditional use permit. A detailed review of the application is contained in the attached staff report.

At the Planning Commission meeting, existing drainage and flooding issues in Cimarron Woods were discussed at length. There are a few homes and additional vacant properties that have experienced high water run-off conditions from upstream in the past. While this proposed development on Lot 380 cannot solve the existing problems, it should be designed in such a way that it will not add to the existing problems. This can be achieved by not allowing peak run-off in the proposed development to exceed existing conditions (on Lot 380) for all storm events, up to a 100-year storm.

Additional comments have been received regarding the public hearing schedule for the revised application. It is

not uncommon for staff to suggest an alternate submittal deadline for a revised application as long as all public notification requirements can be met. All written comments which have been received to date are attached to the staff report.

The Planning Commission held a public hearing on May 21, 2009, and recommended approval of the preliminary planned unit development plan contingent upon several revisions (see staff report). The request is in general conformity with the provisions of the La Vista Comprehensive Plan, does not adversely effect the development of neighboring areas, and meets the requirements of the La Vista Zoning Ordinance, subject to the resolution of the items identified by staff and the City Engineer.

\\Lvdcfp01\users\Administration\BRENDA\COUNCIL\09 Memos\Cimarron Terrace Prelim PUD.doc

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, DETERMINING CONDITIONS FOR APPROVAL OF THE PRELIMINARY PLANNED UNIT DEVELOPMENT (PUD 1) PLAN FOR LOT 380 CIMARRON WOODS, A SUBDIVISION LOCATED IN THE N1/2 OF SECTION 16, T14N, R12E OF THE 6TH P.M., SARPY COUNTY, NEBRASKA.

WHEREAS, the owners of the above described piece of property have made application for approval of a preliminary planned unit development plan for Lot 380, Cimarron Woods; and

WHEREAS, the City Administrator and the City Engineer have reviewed the preliminary planned unit development plan; and

WHEREAS, on May 21, 2009, the La Vista Planning Commission held a public hearing and reviewed the preliminary planned unit development plan and recommended approval subject to resolution of the following items identified by the city engineer and staff:

1. The Preliminary PUD Plan and application refers to the property as being zoned R-1 (PUD). This needs to be revised on the Final PUD Plan to read R-3, PUD-1 zoning.
2. A traffic signal shall be installed at the intersection of 99th and Harrison Streets as part of Phase I development of Lot 380, Cimarron Woods, as per the Cimarron Woods Subdivision Agreement. The traffic signal and all additional improvements recommended by the updated traffic study shall be installed before final building occupancies are allowed in Phase I.
3. A 10-foot wide trail shall be installed in Phase II of the development, as per Exhibit E-1 of the Cimarron Woods Subdivision Agreement. An opening or gate needs to be provided in the fence to access the pedestrian trail on the Westside of the property. Preferably, the gate should be at a convenient and accessible location to apartment buildings 7 and 14.
4. Revisions requested by the City Engineer, in his letter dated April 30, 2009, shall be incorporated into the Final PUD Plan and Conditional Use Permit submittal. Additionally, peak stormwater run-off for this project shall not exceed the existing conditions of Lot 380 for all storm events, up to a 100-year storm.
5. Revisions and additional information requested by the City's Design Review Architect shall be incorporated into the Final PUD Plan and Conditional Use Permit submittal.
6. Other revisions stated in this report shall be addressed prior to Final PUD Plan and Conditional Use Permit submittal.
7. A preliminary assessment of the potential waterway / wetland issues needs to be performed by a qualified environmental consultant prior to approval of the Final PUD plan. All applicable Army Corps of Engineers permits shall also be acquired by the developer prior to approval of the Final PUD plan.

NOW THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of La Vista,

Nebraska, that the preliminary Planned Unit Development (PUD-1) plan for Lot 380, Cimarron Woods, located in the N1/2 of Section 16, T14N, R12E of the 6th P.M., Sarpy County, Nebraska, generally located southwest of 96th & Harrison Streets be, and hereby is, approved subject to the items listed above.

PASSED AND APPROVED THIS 2ND DAY OF JUNE 2009.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

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CITY OF LA VISTA
CITY COUNCIL

STAFF REPORT

PRELIMINARY PLANNED UNIT DEVELOPMENT (PUD)
CIMARRON TERRACE APARTMENTS

DATE OF HEARING:

June 2, 2009

PROPOSAL:

Subdivision of Lot 380, Cimarron Woods into two (2) lots for phased development of apartment buildings as a Planned Unit Development (PUD)

PROPERTY INFORMATION

APPLICANT:

Pedcor Investments, LLC
One Pedcor Square, 770 3rd Ave SW
Carmel, IN 46032

PROPERTY OWNER:

Torco Development, Inc.
11205 S. 150th Street, Suite 100
Omaha, NE 68138

LOCATION AND SIZE:

Lot 380, Cimarron Woods Subdivision
SW Corner of 96th and Harrison Streets
Lot = 25.938 Acres.

CURRENT ZONING:

R-3, High Density Residential
Gateway Corridor Overlay District, Sub-area Secondary Overlay
PUD-1, Planned Unit Development Overlay District

APPLICABLE DEFINITIONS

(from Section 2 of Zoning Ordinance)

APARTMENT shall mean a room or a suite of rooms within an apartment house or multiple family dwelling arranged, intended or designed for a place of residence of a single family or group of individuals living together.

PLANNED UNIT DEVELOPMENT shall mean a development designed to provide for an unusual or different arrangement of residential, business, or industrial uses in accordance with an approved development plan.

BACKGROUND

History of Lot 380, Cimarron Woods:

On March 20, 2003, the original Cimarron Woods PUD was approved by the City for single family residential and high density residential. The high density residential component specifically called for 418 apartment units on Lot 380.

On February 19, 2008, the City Council approved Ordinance No. 1055 which rezoned Lot 380 of Cimarron Woods Subdivision from R-1 PUD-1, Single Family Residential to R-3 PUD-1, High Density Residential.

On April 17, 2008 Planning Commission recommended approval of a revised Preliminary Planned Unit Development Plan. The 2008 Preliminary PUD plan differed significantly from the original Preliminary PUD Plan that was approved in 2003, which is why a new Preliminary PUD application was required.

On June 3, 2008, the City Council denied the request. Minutes from the meeting indicate comments regarding scale, design, character and standard of quality with regards to Cimarron Woods neighborhood. The City Council also mentioned the lack of garages and the amount of stormwater runoff. Also an updated traffic study was requested.

On May 21, 2009 Planning Commission held a public hearing regarding the new application. Their recommendation follows at the end of this report. As long as all public notification requirements in State Statute can be satisfied and City Council and City Staff have adequate time to review documents after Planning Commission's hearing, it is not uncommon for a revised application to have a public hearing set for the first City Council meeting of the month. In this particular case, City Council had a public hearing for a similar application in the past year. Therefore, the City Council's public hearing for Cimarron Terrace was announced as June 2, 2009 at the May 21st Planning Commission meeting.

Description of Proposed Development:

On April 9, 2009, the City of La Vista received a new application for the development of Cimarron

Terrace Apartments. The developer proposes to subdivide Lot 380 into two parcels to be built out in two phases for apartment buildings and a clubhouse with swimming pool. The current proposal includes 276 apartment units and 168 garages. The last application, which was denied, called for 354 apartment units and 24 garages. Therefore, the new proposal has significantly fewer apartment units and substantially more garages included.

Existing Conditions of Site:

The site is currently undeveloped with moderate to steep slopes. An open drainage channel carries stormwater from north to south. The drainage area contains an abundance of mature deciduous trees.

Surrounding Area and Adjacent Neighborhoods Land Uses and Zoning:

North – City of Omaha, Applewood Golf Course;

East – Cornerstone Baptist Church, TA Transitional Agriculture; and Southwind 2, R-1 Single Family;

South – Cimarron Woods, R-1 Single Family; and

West – Cimarron Woods, R-1 Single Family

Applicable Regulations:

Section 5.08 of the Zoning Ordinance, R-3 High Density Residential District

Section 5.15 of the Zoning Ordinance, PUD-1 Planned Unit Development District

Section 5.17.06 of the Zoning Ordinance, Gateway Corridor District Secondary Overlay

Applicable Plans:

The Comprehensive Plan and Future Land Use Map

Cimarron Woods Subdivision Plat and Subdivision Agreement

Cimarron Woods Park and Trail Plan

REVIEW COMMENTS FROM CITY STAFF AND OUTSIDE AGENCIES

Black Hills Energy, Denise Montgomery

No comments received

City Engineer, John Kottmann:

1. The required number of parking stalls for this development is 540, which is equivalent to one parking space per bedroom. The clubhouse would require an additional 20 parking spaces. The proposal shows 591 parking spaces provided; therefore, the minimum number of parking stalls has been satisfied.
2. Heights need to be shown for all buildings, including detached garages, so that compliance with height restrictions can be determined.
3. Carports will not be compliant with design review regulations; therefore, this label should be removed from all plans.
4. The Preliminary PUD plan needs to show proposed utility and access easements. The access easement would assure ingress/egress in case Lot 2 is bought by a different owner in the future.
5. A break or gate needs to be provided in the fence to access the pedestrian trail on the Westside of the property. Preferably, the gate should be at a convenient and accessible location to the

apartment buildings 7 and 14.

6. A preliminary drainage study is currently under review, including the Post Construction Water Quality Exhibit. These were submitted May 12th.
7. A traffic signal will need to be installed at 99th and Harrison Street, as per the original subdivision agreement for Cimarron Woods Subdivision.
8. A preliminary assessment of the potential waterway / wetland issues needs to be performed by a qualified environmental consultant. The study submitted on May 12th is from 1999, which is outdated and will need to be replaced. All applicable Army Corps of Engineers permits will also be required. At the May 21, 2009 Planning Commission meeting, existing drainage and flooding issues in Cimarron Woods were discussed at length. There are a few homes and additional vacant properties that have experienced high water run-off conditions from upstream in the past. While this proposed development on Lot 380 cannot solve the existing problems, it needs to be designed in such a way that would not add to the existing problems. This can be achieved by not allowing peak run-off in the proposed development to exceed existing conditions (on Lot 380) for all storm events, up to a 100-year storm.

Chief Building Official, Jeff Sinnett

No comments received

Design Review Architect, Kevin Schluckebier

1. Brick shall be the primary building material. Masonry needs to be used more on the back of the apartment complex buildings, specifically add masonry at center areas to 3rd Floor level at Sheets A202 and A203, similar to A201.
2. The acorn light fixtures used on site need to be downward shining only. The manufacturer of these fixtures assures these fixtures can be made “dark sky compliant,” which would satisfy the requirements in the Gateway Corridor District.
3. Elevation drawings of the clubhouse need to be reviewed for compliance. These were not submitted with the original design review application; however, these drawings were submitted May 12th and are now under review.
4. Elevation drawings of the detached garages need to be reviewed for compliance. These were not submitted with the original design review application; however, these drawings were submitted May 12th and are now under review.
5. Provided examples of how apartment complexes step with grade need to be reviewed for compliance. These were submitted on May 22nd and are now under review.

Fire Chief, Rich Uhl

The median at the entrance needs to be brought back to the edge of the right-of-way line, so that no portion of the median is within the right-of-way. Also the turn radii at the main entrance to Cimarron Terrace need to be widened some to allow for a fire truck to enter the premises more easily.

Metropolitan Utility District, Jeff Loll

MUD has requested the developer install a line valve into the main line just north of Josephine Ave. along 99th Street. This installation would double the reliability in service.

Omaha Public Power District, Steve Sauer

No comments received

Police Chief, Bob Lausten

No comments received

Public Works Director, Joe Soucie

No comments received

Public School District

No concerns; Portal Elementary and La Vista Junior High would accommodate any children that would reside in this new development. The Papillion-La Vista School District is currently planning for new schools in the district to account for rising populations in Sarpy County.

Qwest, Aaron Krebs

No comments received

PUBLIC COMMENTS

Several phone calls have been received by the Planning Staff regarding this application from concerned neighbors. Primarily, comments have focused on traffic concerns and the quality of the proposed development.

PLANNING STAFF ANALYSIS

Land Use:

The current application reduces the number of proposed apartment units and significantly increases the number of garages, which attempts to address major issues raised by residents of Cimarron Woods and Southwind subdivisions in the previous application to City Council.

Phase 1 has been designed to function as a stand-alone development, as requested by staff. This phase will have full access and parking to meet the needs of the development. In addition, the clubhouse; pool; playground area; and perimeter landscaping along Harrison, 96th Street, and 99th Street are required to be developed as part of Phase One.

Transportation:

Access has been determined to be adequate for emergency access purposes into both Phase One and Phase Two of the development. The loop road is completely within Phase One and can therefore provide safe access prior to the completion of Phase 2.

Access from 99th Street is proposed from two separate points. Both accesses are right-in/ right-out turn movements only. The main access point is located on the perimeter of the roundabout, which allows for further directional movement. In June 2008, E&A Consulting Group prepared a traffic analysis at the

intersection of 99th and Harrison and on April 7, 2009 provided an update to determine expected Level of Service (LOS) and adequacy of auxiliary turning lanes based on full build out of Lot 380.

Some of the dumpster locations and parking areas may need further review to ensure good traffic maneuverability and access to buildings. For example, the parking area to the South of building 8 and to the East of the garages appears inconvenient and unneeded. Also, the parking area to the North of building 9 and to the West of the garages could also be eliminated.

The City Planner suggests the addition of bicycle parking racks at the clubhouse / pool and playground, as well as in front of apartment buildings.

Landscaping:

Substantial landscaping of the property provides a significant visual buffering effect from the arterial roadways and adjoining neighborhoods. Interior landscaping around parking areas and buildings provides more visual interest and shading.

Some of the existing mature trees and vegetation will be conserved within the development. The developer proposes a narrow road cutting through the existing groves of trees at two locations on the property. Fill material for building sites and parking lots will likely cause many trees to be removed.

Stormwater Drainage:

The developer needs to designate which stormwater detention areas are to be constructed for Phase I and dedicate needed easements that would be associated with those detention areas.

Installation of the proposed stormwater detention areas will likely cause existing trees to be removed. The use of landscaped drainage swales, permeable pavement, rain gardens or other Low Impact Development Best Management Practices could reduce the size or the need for detention ponds. More existing trees could be kept if the stormwater detention areas were not proposed in the treed areas. Stormwater runoff would infiltrate the ground sooner, thus the detention areas would not need to be as large. Another option is to change the box culvert design to hold water in the open space area during a heavy rain event.

Process:

An application for a Conditional Use Permit and Final PUD Plan approval will be required pending approval of the Preliminary PUD Plan. As noted previously, the applicant intends on subdividing the parcel along the phased development line. This subdivision may be handled as an Administrative Plat.

PLANNING COMMISSION RECOMMENDATION

Approval of the Preliminary Planned Unit Development (PUD) Plan with the following conditions:

1. The Preliminary PUD Plan and application refers to the property as being zoned R-1 (PUD). This needs to be revised on the Final PUD Plan to read R-3, PUD-1 zoning.
2. A traffic signal shall be installed at the intersection of 99th and Harrison Streets as part of Phase I development of Lot 380, Cimarron Woods, as per the Cimarron Woods Subdivision Agreement.

The traffic signal and all additional improvements recommended by the updated traffic study shall be installed before final building occupancies are allowed in Phase I.

3. A 10-foot wide trail shall be installed in Phase II of the development, as per Exhibit E-1 of the Cimarron Woods Subdivision Agreement. An opening or gate needs to be provided in the fence to access the pedestrian trail on the Westside of the property. Preferably, the gate should be at a convenient and accessible location to apartment buildings 7 and 14
4. Revisions requested by the City Engineer, in his letter dated April 30, 2009, shall be incorporated into the Final PUD Plan and Conditional Use Permit submittal.
5. Revisions and additional information requested by the City's Design Review Architect shall be incorporated into the Final PUD Plan and Conditional Use Permit submittal.
6. Other revisions stated in this report shall be addressed prior to Final PUD Plan and Conditional Use Permit submittal.
7. A preliminary assessment of the potential waterway / wetland issues needs to be performed by a qualified environmental consultant prior to approval of the Final PUD plan. All applicable Army Corps of Engineers permits shall also be acquired by the developer prior to approval of the Final PUD plan.

Additional Staff Recommendation:

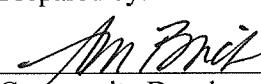
Add to Condition #4 an additional sentence: Peak stormwater run-off for Cimarron Terrace Apartments shall not exceed existing conditions (of Lot 380) for all storm events, up to a 100-year storm.

Attachments:

1. Documented Public Comments
 - a. Emailed comments from Jonathan Ripp dated May 12, 2009
 - b. Letter from Eileen Williamson dated May 8, 2009
 - c. Summary of Comments from adjacent neighbors submitted by Jennifer Taylor at the May 21, 2009 Planning Commission hearing
 - d. Letter from Gregory Scaglione dated May 21, 2009
 - e. Emailed comments from Eileen Williamson dated May 22, 2009
2. Preliminary Planned Unit Development Plan, revised May 8, 2009
3. Preliminary Planned Unit Development Landscape Plan, revised May 8, 2009
4. Building Elevation Plans
 - a. A201 – A203 Apartment Buildings
 - b. G101 Detached Garages
 - c. CA201 Clubhouse
5. ~~Post Construction Water Quality Exhibit~~



Prepared by:

 5-28-09

Community Development Director

Date

Marcus Baker

From: Ripp, Jonathon [jripp@fnni.com]
Sent: Tuesday, May 12, 2009 3:44 PM
To: Marcus Baker
Subject: Lot 380 Cimarron Woods Concerns

Hi Marcus - We spoke on the phone last week regarding the zoning notice I saw on the corner of 96th and Harrison for lot 380 in Cimarron Woods. I have come across some plans on-line that the developer plans to submit to the planning commission next week and have some concerns.

The proposed apartment buildings are enormous and not at all what I was expecting would end up behind our house. We were under the impression all along that a lower-density, 2-story, nicer looking apartment complex would be developed (similar to the apartments on the north east corner of 96th and Giles). I am afraid that the proposed apartments would not fit in at all with the very nice neighborhood that has developed in Cimarron Woods. I am worried about my property value decreasing, and increased traffic and congestion giving the large units.

I am not sure what the city and neighborhood covenants are but I would hope that they would not allow these large units to be built and crammed into a relatively small area of land. Given the size and the demographics of the land (very hilly and steeply sloping up to the intersection) I am wondering if a R-3 zoning is appropriate to ensure the right development for the area occurs.

I just wanted to voice my concerns to you as they will be presenting them to you next week.

Thanks!

Jon

Jonathon Ripp, CFA
Vice President, Financial Strategies & Customer Operations
Capital Markets



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Eileen Williamson
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ewilliamson@texastechalumni.org

May 8, 2009

La Vista Mayor, Douglas Kindig
La Vista City Council Members
La Vista Planning Commission Members
City of La Vista
8116 Park View Boulevard
La Vista, NE 68128

Dear Mayor Kindig, City Council Members and Planning Commission Members:

I have been a resident of Cimarron Woods since October 2005, and I am writing to express my thanks for the City Council's decision last year to decline the planning application for the apartment development at the corner of 96th Street and Harrison Street. I believe the concerns regarding requiring an attached garage per apartment unit, the proposed three-story apartment height and traffic flow into the apartments and into the Cimarron Woods neighborhood were legitimate areas for concern.

My neighbors and I understand that this land was allocated for the purpose of multi-family dwellings, but do not believe the design as it was presented then or as it has been presented now reflects the city's intentions when the Cimarron Woods Development was planned and when the Residential Agreements were signed.

I am one of hundreds of citizens who drive down Harrison Street and 96th Street as part of my daily commute. The work you have done to create and enforce the Gateway Corridor requirements to establish La Vista's reputation as a premiere Nebraska community truly shows. You can see it in the attention given to building design, lighting, walkways, landscape planning and respecting the environment through ensuring open spaces, protecting established trees and the contoured landscapes.

To avoid confusion with the Cimarron Woods West Homeowners Association, its tax status and its existing structure, I am leading a committee of concerned neighbors from the neighborhoods that would be impacted by building a high concentration of apartments on that site. While most of our participants come from Cimarron Woods West, we have contacted residents of Cimarron Woods Villas, Cimarron Woods East, South Winds, Val Vista and Val Verde neighborhoods.

I can serve as a single point of contact to help channel concerns raised by our neighbors regarding the planned development to help avoid confusion or multiple contacts with neighbors and allow you to operate in an efficient manner.

City of La Vista
May 8, 2009
Page 2

I also would like to remind you that as mentioned last year, the 300 foot area for notifying people of the development plan and upcoming open forums will reach few, if any, of the affected neighbors.

My committee would like to be involved throughout the planning process for developing this land and to ensure communication between the City, developer and neighbors is open, easy and free-flowing.

I have obtained copies of all documents submitted with this application from April 9 up through April 15 as well as all planning documents, meeting minutes and agendas available through the City of La Vista Web Site. Please provide me copies of any Planning Commission minutes or documents, City Council minutes or documents not available on the City of La Vista Web Site or Correspondence regarding planning, zoning and development on the land referred to in our Residential Agreement as Cimarron Woods Lot 380.

Attached is a copy of the letter our neighbors sent following last year's vote.

Sincerely,



Eileen Williamson

City of La Vista Planning Commission
ADDRESS

To Whom It May Concern:

We are writing to express our concerns about the development in the north east corner of Cimarron Woods subdivision, Lot 380. As you may be aware, a number of our neighbors attended the City Council's meeting on June 3, during which we shared some of our concerns with the development to the City Council. Our concerns primarily relate to preserving the character and integrity of our neighborhood, maintaining the safety of our neighbors, and ensuring that the entire neighborhood remains aesthetically appealing.

Character and Integrity of our Neighborhood. As you know, each of the homes in Cimarron Woods was built to meet stringent size and aesthetic requirements. Each home is required to have the street facing side at least 50 percent brick and construction height cannot be taller than 2 ½ stories. The 3-story apartment complex structures proposed by PedCor are a significant departure from the covenant-specified characteristics of the neighborhood. Each house in Cimarron Woods is constructed with a 3-car garage and the villas are constructed with a 2-car garage under the covenant's mandate. Again, the very limited parking proposed by PedCor - 24 covered parking spots for 180 units - is far from the requirements placed on the homes in the neighborhood.

Safety of our Neighborhood. We are also very concerned about the increased traffic flow and its impact on the safety of our neighborhood. As proposed, there will be two entrances/exits from Lot 380. Both onto 99th Street, less than 50 yards apart, which the developer believes will filter traffic onto Harrison Street. However, it does not appear that a traffic light will be put in at the intersection of 99th and Harrison for some time. The absence of a light would create increased congestion at this intersection and would likely lead to a significant increase in traffic heading west on Josephine and potentially the wrong way onto 99th street to reach Josephine to use the 102nd Street exit. The light needs to be installed prior to any construction to limit congestion and support increased construction traffic. Additionally, there are no impediments to drivers speeding west on Josephine and believe traffic calming measures such as roundabouts or speed bumps need to be completed with construction.

We are also concerned about the design of the PedCor property from an aesthetic standpoint. These concerns range from the lack of landscaping to be placed around the facilities to the parking lot design. We have had very little time to study PedCor's landscape plan, but given the property's size, we expect there will be many trees and shrubs in proportion to the landscape requirements within the covenant.

The site plans also indicate parking will consist of long unbroken lines of spaces. We would like to visit with the Planning Commission about requiring these long stretches of concrete be separated into smaller lots for the betterment of the entire neighborhood.

Finally, we would appreciate the Planning Commission providing an expanded notice reach for any development plans for Lot 380 or other properties adjoining the Cimarron Woods developments. The 300-foot notice requirement does not reach into our neighborhood. A meeting notice published only two weeks prior to the meeting date creates a hardship that does not allow time for adequate plan review. Given the significant impact any development may have on our neighborhood, we would appreciate the opportunity to review plans submitted for any projects proposed for Lot 380 or other properties adjoining the Cimarron Woods developments soon after the submittal deadline to allow adequate time for the neighborhood to meet and discuss any proposed project.

To that end, we ask you to place the following Cimarron Woods neighbors on a list of those to be notified if a project is submitted for development of Lot 380 or other properties adjoining the Cimarron Woods developments. This list may also be provided to any developer who wishes to schedule a meeting with the neighbors to discuss a proposed project. These individuals listed below will serve as a point of contact to distribute information via email to the larger group of concerned residents of Cimarron Woods who attended the public hearing at the La Vista City Council on June 3.

- 1)
- 2)
- 3)
- 4)

This is simply a summary of our concerns for any development in Lot 380 or other properties adjoining the Cimarron Woods developments and we would appreciate the opportunity to fully participate in any future public hearings involving development in our neighborhood. If you have any questions or comments, please feel free to contact _____ or _____.

Cimarron Woods Neighbors

Cimarron Terrace Apartments

City of La Vista Planning Commission
May 21, 2009

Subdivision of Lot 380, Cimarron Woods into two (2) lots for phased development of apartment buildings as a Planned Unit Development (PUD)

Summary of Comments

- The adjacent neighbors do not oppose apartments on this site, nor do they oppose any particular tenant mix, which may include low-income housing.
- The adjacent neighbors respectfully request the development be required to **adhere to all existing R-3 and Gateway Corridor zoning regulations**, including, but not limited to, maximum impervious coverage percentages and resulting drainage/flooding issues, setback and building design requirements.

Drainage:

- Pursuant to the Staff Report, Phase I is to function as a stand-alone development. Phase I has 48.72% impervious coverage, exceeding the 40% maximum allowed. The entire plan, both Phases I and II, has 41.5% impervious coverage.
- The Preliminary Drainage Study calculates drainage based on 38% impervious coverage area and is based on complete development of the entire site.
- The plan submitted, per the staff report, does not indicate which, if any, of the detention ponds will be installed as part of Phase I.

What is the drainage impact of Phase I only?

The downstream neighbors currently experience flooding of the creek. Developing Phase I in the manner proposed will substantially increase the impervious coverage of the site, which can only increase the amount of water pushed downstream, possibly increasing or exacerbating the existing flooding problems at the site.

What is the status of tree removal and the resulting impact on drainage?

- The Preliminary Drainage Study indicates that the “center of the lot is heavily wooded and will remain, for the most part, undisturbed by the apartment development”.
- The Staff Report indicates that “**some** of the existing mature trees and vegetation will be **conserved**”, but that “fill material for building sites and parking lots will likely cause **many trees to be removed**”.
- The Staff Report also concludes that installation of the proposed stormwater detention areas will likely cause **existing trees to be removed**.

Although the landscaping plan outlines the “existing tree line”, the proposed detention ponds directly abut or overlap this line, supporting the staff report’s conclusions that many of the existing tree cover will be lost as a result of this development.

Appearance:

The Gateway Corridor District requires the following Criteria for Appearance (among others):

- The height and scale of each building shall be compatible with its site and existing buildings.
- Monotony of design in single or multiple building projects shall be avoided. (*This is stated twice within the regulations*). Variation of detail, form, and siting, shall be used to provide visual interest.
- Where ***natural or existing topographic patterns*** contribute to beauty and utility of a development, they ***shall be preserved and developed***.
- The primary building material of all portions of the structures shall be negotiated with the City, however, sample materials shall include...brick (clay), stucco, wood, glass, split faced masonry units, and stone...

Furthermore, there is over 40 feet of elevation drop from the east side of the property to the southwest corner. It is unclear from the information submitted, how the proposed buildings would step with grade.

Setbacks: The setbacks stated on the site plan are 25’ for Front, Street Side and Rear yards, and 5’ for Side yard. R-3 Multi-family dwellings minimum yard setbacks are 30’ for Front, Street Side and Rear yards, and 10’ for Side yard.

Wetland / Waterways:

Existing maps indicate areas of designated wetland may exist on the site. If the existing report is from 1999, it should be updated, as substantial changes have occurred regarding wetlands and waterways since that time.

Based on a preliminary review of the information received by the adjacent neighbors, the following suggestions are made with regard to the proposed development, as submitted:

Suggestions:

- If Phase I is to function as a stand alone development, the development plan should be redesigned such that Phase I has impervious coverage area of less than 40%.
- A drainage study should be done on Phase I only, to determine its separate and individual impact.
- The development plan should be redesigned to adhere to R-3 setbacks requirements, at a minimum.
- Plans should be redesigned and resubmitted for Design review, as noted in the Staff Report.
- The developer should be encouraged to employ Low Impact Development Best Management Practices to reduce the size or need for detention ponds and any trees lost.
- The developer should undertake a tree mitigation plan, to account for any trees lost as a result of the development.

KOLEY JESSEN P.C., L.L.O.
ATTORNEYS AT LAW

ONE PACIFIC PLACE, SUITE 800
1125 SOUTH 103RD STREET
OMAHA, NE 68124

PHONE: 402.390.9500
FAX: 402.390.9005

KOLEY ■ JESSEN

May 21, 2009

La Vista City Council
La Vista City Hall
8116 Park View Boulevard
La Vista, NE 68128

Re: City's Staff Report
Our File No. 11564-0000

Dear Council Members, Mayor, and Administrator:

As you know, Pedcor Investments, A Limited Liability Company ("Pedcor") and Torco Development, Inc. ("Torco") submitted a previous Preliminary Planned Unit Development ("PUD") Plan, which the City Council denied. We contend that the denial was improper.

Although reserving all rights and claims related to the previous Preliminary PUD Plan, Pedcor and Torco have submitted the present application to the City. Pedcor and Torco are pleased that the City Staff is recommending the present application. However, there are statements in the City Staff's Report ("Report") which apparently set forth the City's view of the denial of the previous Preliminary PUD Plan.

Pedcor and Torco respectfully disagree with the statements in the Report relating to the rationale for the City Council's June 3, 2008, denial of the Preliminary PUD Plan. Pedcor and Torco expressly reject any notion that such statements occurred, or if they did occur, represented a reasonable basis for the City's denial.

Pedcor and Torco seek to clarify some of the misstatements – found in the fourth paragraph under the Background heading of the Report. The Report states that "an updated traffic study was requested," despite the existence of an updated traffic study at the time of the June 3, 2008, hearing. Further, the Report states that the City Council commented on the "scale, design, character and standard of quality" of the proposed development but fails to include that the City Council had no specific objection and no specified standards in place to measure these qualities.

GREGORY C. SCAGLIONE
DIRECT, 402.343.3721
GREG.SCAGLIONE@KOLEYJESSEN.COM

La Vista City Council
May 21, 2009
Page 2

Hopefully, the present application will be approved, thus, mooting the dispute related to the previous Preliminary PUD Plan. Thank you.

Very truly yours,



Gregory Q. Scaglione

GCS/cm

cc: Scott Butler, Pedcor Investments, A Limited Liability Company.
Jerry Torczon, Torco Development, Inc.
Larry Jobeun, Fullenkamp, Doyle & Jobeun
Jerry Friedrichsen, Fitzgerald, Schorr, Barmettler & Brennan, P.C., L.L.O.
Brian J. Koenig

Brenda Gunn

From: Mary Alex
Sent: Friday, May 22, 2009 4:41 PM
To: Brenda Gunn
Subject: FW: When does lot 380 go to City Council?

To the members of the City Council,

Below is an email I received from Marcus Baker this morning.

I spoke to our attorney this morning and she has also spoken to Marcus, we have been given the impression that City Administration and the City Council is pushing to hear this PUD on June 2, 2009.

It is clearly noted here on your city web site what the planning schedule is. It says the meeting will be held on June 16.

<http://www.ci.la-vista.ne.us/index.aspx?nid=340>

I strongly believe that the concerns of the neighbors are NOT being considered in any way shape or fashion. I have continuously voiced my dismay at the manner in which documents have been submitted by PedCor. Now, the city, not PedCor is giving us only 11 days which includes a holiday weekend to prepare ourselves for the city council. If you take into account the holiday, we are given 7 days.

From the beginning of this as far back as last year, it seems that every effort has been made to hinder public comment.

From telling us that rezoning was a "housekeeping measure" to not being notified that the development was going before planning commission because Cimarron Woods is a SID and not annexed by the City of La Vista (and occupied homes are not within 300 feet of the development)

While the letter of regulation for notification and meetings is being followed, when PedCor makes requests for accommodation they are met. I have repeatedly asked for the same degree of respect. I think it is unconstitutional that you can make decisions for the development of my neighborhood yet no one on the city council represents a SID and I don't even have a say in voting for or against members of the city council.

I am asking for the PUD to go before City Council as stated on the public web site AND in the documents submitted by PedCor. See Page 3 of the Building Design Criteria review submitted on April 15. This date which is in the public record is June 16, 2009 NOT June 2, 2009.

The neighbors I am working with have already voiced concerns to me that include, feelings of being betrayed by the city council, that we being sabotaged, railroaded, sandbagged. You get my point. We know that a member of city council has a family member who had lived in this neighborhood until the home was foreclosed on. That same city council member was seen in the neighborhood following last year's vote talking to some residents. The neighbors I am working with who are aware of this, point to it as evidence that the actions taken are deliberately outside the neighborhood's favor.

The people who live in Cimarron Woods have worked and do work very hard to afford these homes. This isn't an affluent neighborhood of hand-me-down homes or money. Our full-time jobs and responsible financial planning are what enables the livelihood that permits us to live in this community. Groups "fighting City Hall" is every day business for the City Planner and it is every day business for PedCor.

This is something we are doing when we get home from work, or we are taking a lot of time from our personal

jobs to address this development.

We know that PedCor is in the business of doing business as is the City. But, this is something our neighbors take very personally and are reacting to from a personal perspective.

There were 8 items placed as stipulations to final PUD approval from the Planning Commission at last night's meeting. I would submit, and with the help of our attorney, plan to submit that there are a number of other items that have yet to be addressed in the development plan and should be included before final approval. I would also argue that these items have the potential to lead to significant changes to the plan resulting in them going back to the Planning Commission as another PUD requiring rehearing anyway.

However, at this point, I am aware that one of those 8 items includes obtaining something called a 404 permit and that it takes a minimum of 6 months to obtain this permit. If that is indeed the case, and the City Council is pushing to get this on the June 2 agenda versus the June 16 agenda, won't you be lacking substantial information before you can make a truly informed decision?

Why not delay your vote until evidence of the completion of these 8 requirements have been met and ample notice has been given to ALL residents of Cimarron Woods and Southwinds? It seems like the fair thing to do. At a minimum, you should hold the hearing as scheduled on the city web site, which is June 16.

Thank you,
Eileen Williamson

Eileen Williamson
Managing Editor, *Kieways*
Kiewit Corporation
3555 Farnam St., Omaha, NE 68131
Office: 402.943.1340 | Mobile: 402.650.4673 | Fax: 402.271.2830
E-mail: eileen.williamson@kiewit.com | Web: kiewit.com

From: Marcus Baker [mailto:mbaker@cityoflavista.org]
Sent: Friday, May 22, 2009 10:16 AM
To: Eileen.Williamson
Subject: RE: When does lot 380 go to City Council?

Eileen,

The City Council's public hearing for Cimarron Terrace is set for June 2nd. I am not sure what planning documents said otherwise, but I apologize for any confusion with the dates.

J. Marcus Baker, AICP
Planner, City of La Vista
Department of Community Development
8116 Park View Blvd
La Vista, NE 68128
(402) 331-4343

From: Eileen.Williamson [mailto:Eileen.Williamson@kiewit.com]
Sent: Friday, May 22, 2009 9:39 AM
To: Marcus Baker
Subject: When does lot 380 go to CIty Council?

The planning documents say June 16, at the meeting last night, you said June 2.

Which is it?



Eileen Williamson
Managing Editor, *Kieways*
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CITY OF LA VISTA
PLANNING COMMISSION MINUTES
MAY 21, 2009

The Planning Commission meeting of the City of La Vista was convened at 7:00 p.m. on Thursday, May 21, 2009, at the La Vista City Hall, 8116 Park View Boulevard. Members present were: Krzywicki, Malmquist, Hewitt, Andsager, Kramolisch, Alexander, Horihan, Circo, Gahan and alternate, Nielsen. Also in attendance was Marcus Baker, City Planner, John Kottmann, City Engineer and Ann Birch, Community Development Director.

Legal notice of the public meeting and hearing was posted, distributed and published according to Nebraska law. Notice was simultaneously given to all members of the Planning Commission and a copy of the acknowledgement of the receipt of notice is attached to the minutes. All proceedings shown were taken while the convened meeting was open to the attendance of the public.

Citizens may address the Planning Commission about items not on the agenda on the comments from the floor. Comments should be limited to five minutes. We ask for your cooperation in order to provide and organize the meeting.

1. Call to Order

The meeting was called to order by Chairman Krzywicki at 7:00 p.m. Copies of the agenda and staff report were made available to the public.

Citizens may address the Planning Commission about items not on the agenda on the comments from the floor. Comments should be limited to five minutes. We ask for your cooperation in order to provide and organize the meeting.

2. Approval of Meeting Minutes – April 17, 2009

Hewitt motioned to approve the minutes of April 17, 2009. Alexander seconded the motion. Ayes: Krzywicki, Malmquist, Hewitt, Andsager, Kramolisch, Gahan and alternate, Nielsen. Nays: None. Abstain: Circo, Alexander and Horihan. Motion carried.

3. Old Business

None.

4. New Business

Krzywicki asked if everyone had a chance to read the letter from Ann Birch about the open meeting, regarding fairness in a public hearing and if anyone had any item to discuss before going further.

A. Public Hearing for a Conditional Use Permit to allow outdoor storage
For Waldinger Corporation on Lot 4 of Papio Valley 2 Business Park in the NE ¼ of Section 19, Township 14N, Range 12W.

i. Staff Report: The applicant requests outdoor storage of materials to be used in the production of finished goods and for storage of finished product prepared for shipping. Outdoor storage shall mean the storage of any material for a period greater than 72 hours not in an enclosed building, including items for sale, lease, processing, and repair (including motor vehicles).

Planning Staff finds that the application can satisfy the standards set forth in Sec 6.05 of the Zoning Ordinance and therefore recommends approval of the Waldinger Corporation's Conditional Use Permit with the following conditions:

1. A security fence shall be constructed around the graveled surface to reduce the chance of gravel dust going airborne due to vehicles driving or parking on the graveled area.
2. Visual screening of the outdoor storage area shall meet the requirements of Sec 7.17.04 of the Zoning Ordinance.
3. All landscaping requirements in Sec 7.17.03 shall be satisfied.

Malmquist asked the size of the storage area. A square footage was not disclosed by the applicant but has shown on the plan.

ii. Public Hearing: Malmquist motioned to open public hearing. Circo seconded. Ayes: Krzywicki, Malmquist, Hewitt, Andsager, Kramolisch, Alexander, Horihan, Circo, Gahan and alternate, Nielsen. Nays: None. Public hearing opened at 7:15 p.m.

Blaine Wilcox, Waldinger Association, presented to say the size of the storage area is just over one acre. He states they tried to go to great lengths to address the landscaping requirements. There is also a concrete curb (6"-8" high) at the edge of their paving which will eliminate traffic going through. They do question the need for fencing and feel it would be more attractive without a fence, but are willing to include a fence if security dictates.

Gahan inquired if going onto the gravel area requires a forklift. Wilcox said yes, it would be a staging area of raw material, for a couple of weeks, until they are shipped out to project sites. Fabricated product would be stored there for a period of days until it is loaded and shipped to job sites. It is not vehicle storage, not a bone yard, it would be used for raw material and finished product in and out.

Circo asked if there would be any semi (truck) traffic. Wilcox said there will not be semi truck traffic. There is no intent for any vehicle traffic.

Circo asked if there were any type of fence around the property. Wilcox said none at all. The plan is to provide a natural-scape.

Krzywicki asked if the product is manufactured or waiting shipment, or awaiting manufacture. Wilcox said both raw and manufactured product.

Malmquist asked about the one curb cut. Wilcox said his plan is to have it 30-35 ft wide to get fork traffic in and out.

Circo asked about the average weight of a piece that would be stored in the area. Wilcox answered about 2-3 hundred pounds, some 2-3 thousand pounds.

Circo motioned to close the public hearing. Andsager seconded. Ayes: Krzywicki, Malmquist, Hewitt, Andsager, Kramolisch, Alexander, Horihan, Circo, Gahan and alternate, Nielsen. Nays: None. Public hearing closed at 7:22 p.m.

Circo asked if there was a question as to whether staff was requiring a fence to be constructed. Baker said staff was looking for some way that would deter cars from driving over the gravel and kicking up dust and dirt. If the commission thinks the curb is enough, conditions of approval could be changed.

Malmquist voiced concerned about the way a fence would look and felt landscaping or berming would be more attractive. A fence may not lead to dust abatement.

Hewitt wondered if conditional use item #1 could be changed to read, "a security fence or landscape screening" to allow an additional option.

Circo felt a security fence would not stop the dust issue. Baker said the fence was suggested to keep vehicle traffic from crossing the area or parking on the gravel.

Krzywicki pointed out that the documents suggested that a gravel surface provided the benefit of the water to infiltrate the ground instead of running off into streams, creeks, etc..

Hewitt suggested that conditional use item #1 be altered to read, "a barrier and/or landscape screening shall be constructed around the gravel surface to reduce the chance of gravel/dust going airborne due to unnecessary driving" may address the concerns.

iii. Recommendation: Hewitt motioned to recommend approval of the Conditional Use Permit with conditions # 2 and 3 as is and set forth in the planning staff recommendation with the exception of item #1 to read: "a barrier and/or landscape screening shall be constructed around the gravel surface to reduce the chance of gravel dust going airborne due to unnecessary driving or parking on the gravel area." Malmquist seconded. Ayes: Krzywicki, Malmquist, Hewitt, Andsager, Kramolisch, Alexander, Horihan, Circo, and Gahan. Nays: None.

Tentatively scheduled for City Council agenda of June 16, 2009.

B. Public Hearing for Cimarron Terrace Preliminary Planned Unit Development (PUD) and Preliminary Plat located at Lot 380, Cimarron Woods Subdivision in the NE ¼ of Section 16, Township 14N, Range 12W, City of La Vista, Sarpy County, NE.

i. Staff Report: Applicant, Pedcor Investments, LLC has submitted a proposal for subdivision of Lot 380, Cimarron Woods into two (2) lots for phased development of apartment buildings as a Planned Unit Development (PUD). The 25.938 acre property is owned by Torco Development, Inc. The area is currently zoned as R-3, High Density Residential.

Several phone calls have been received by the Planning Staff regarding this application from concerned neighbors. Primarily, comments have focused on traffic concerns and the quality of the proposed development.

Planning staff recommends approval of the Preliminary Planned Unit Development (PUD) Plan with the following conditions:

1. The Preliminary PUD Plan and application refers to the property as being zoned R-1 (PUD). This needs to be revised on the Final PUD Plan to read R-3, PUD-1 zoning.
2. A traffic signal shall be installed at the intersection of 99th and Harrison Streets as part of the development of Lot 380, Cimarron Woods, as per the Cimarron Woods Subdivision Agreement. The traffic signal and all additional improvements recommended by the updated traffic study shall be installed before final building occupancies are allowed in Phase I.
3. A 10-foot wide trail shall be installed in Phase II of the development, as per Exhibit E-1 of the Cimarron Woods Subdivision Agreement. An opening or gate needs to be provided in the fence to access the pedestrian trail on the Westside of the property. Preferably, the gate should be at a convenient and accessible location to apartment buildings 7 and 14.
4. Revisions requested by the City Engineer, in his letter dated April 30, 2009, shall be incorporated into the Final PUD Plan and Conditional Use Permit submittal.
5. Revisions and additional information requested by the City's Design Review Architect shall be incorporated into the Final PUD Plan and Conditional Use Permit submittal.
6. Other revisions stated in this report shall be addressed prior to Final PUD Plan and conditional Use Permit submittal.

Planner Baker welcomed Commissioners' questions before proceeding into public hearing.

Hewitt asked about the access from 99th Street which reads that there are two access points, however, it appears that there is an island that follows 99th up to the round-about and would look like a piece would need to be cut from that median.

Kottmann clarified that there is one full access and one right-in, right-out.

Gahan asked if the traffic signal on Harrison Street would have turn signals for those going westbound.

Kottmann said there would be left turn arrows, left turn phases and signals eastbound and westbound on Harrison with left turn phases.

Gahan asked if it were possible to enter the main entrance and go all the way through the complex and come back around and leave, Baker affirmed that would be correct.

- ii. Public Hearing: Circo motioned to open public hearing. Hewitt seconded.

Ayes: Krzywicki, Malmquist, Hewitt, Andsager, Kramolisch, Alexander, Horihan, Circo, Gahan and alternate, Nielsen. Nays: None. Nays: None. Public hearing opened at 7:35 p.m.

Larry Jobeun, appeared on behalf of the applicant, Pedcor Investments LLC, accompanied by Mike Smith and Mark Westergard of E & A Consulting Group.

Jobeun gave a slide presentation on the Pedcor Investment LLC, explaining that they are a suburban fringe developer with projects in Indiana, Tennessee, and Nebraska.

The project under consideration tonight is currently zoned R-3, PUD-1 with a Gateway Corridor Overlay District. This declares that the land use has already been decided as a multi-family residential site. The zoning code allows for 19.36 units per acre.

In 2008, Pedcor applied to construct 354 multi-family units in two phases that had a total density of approximately 13.6 units per acre. The proposal tonight is to construct 276 multi-family units, in fourteen buildings, in three phases with a total of 168 garages. The total density of the overall development is 10.64 units per acre, well under the 19.36 units allowed in this R-3 zoning.

There is an abundance of green space and landscaping and the existing treed areas will be preserved to the highest extent possible. There are on-site detention ponds, storm water management plans in place and the traffic signal at 99th and Harrison Streets will be installed with the first phase of the proposed development and will have access to the trail system. A perimeter fencing will run approximately from the round-a-bout to the upper south of the property constructed of black steel consistent with that approved by the residents of adjacent Cimarron Woods.

The club house is 3,317 square feet; professionally staffed and includes an entertainment room, full service kitchen, tables, chairs, swimming pool and playground.

Parking is sufficient in that there are 590 parking spaces for the 540 unit project.

The proposed project plans by phase:

Phase One: 9.887 acres, 84 multi-family units in 5 buildings and 64 garages. Density. 8.5 units per acre. Composition will be: 24 one bedroom units, 36 two bedroom units and 24 three bedroom units.

Phase Two: 16.05 acres, 192 multi-family units with density of 11.96 units per acre.

Jobeun continued saying the proposal is a well designed, attractive project that preserves a substantial amount of green space, is low density, heavily landscaped, and is consistent with the zoning and as previously subdivided. The conditions of staff are acceptable and feel that all outstanding issues will be appropriately addressed in the final PUD.

Horihan asked about the volume of the BMPA in the post construction water quality exhibit, areas A and B, and the square footage. She wondered which detention basins would be built, she doesn't see the run-off going into the BMPA in Phase I.

Westergard said it has to yet be determined which of the BMPs (Best Management Practices) would be built. The entire site will probably be graded at one time, so all three of the BMPs, if required, would be constructed. The drainage would be immediately constructed in Phase One of the project and would meet the criteria of the City.

Horihan asked if that takes into account the new crossing in between Phase One and Two. Westergard said that does take into account both of the culvert crossings. Phase one is a 24 inch culvert and Phase Two has been downsized to limit the discharge from a 6" x 6" box to a 36 inch culvert.

Horihan asked on the overall site if there was 30% open space. Birch responded that some of the PUD ordinances require 25% open space. This amount can be established by the PUD.

Nielsen asked why vinyl siding was chosen for the project. Jobeun explained this was in compliance with the architectural review by the city and it is a long lasting building material.

Kramolisch asked about the maintenance landscape. Jobeun said Pedcor Investments LLC would continue to maintain the property.

Krzywicki stated there is a lot of water that flows through the property, down towards the south of the entire development that pools into a marsh area and asked what would become of the detention ponds if there is no water running through. Jobeun said these are normally dry detention ponds, the storm water management ponds would be wet after a storm and would be released over a 48-hour period. The primary detention, in the middle, would be controlled by the 36 inch outlet pipe to the south, and 24 in on the north.

Krzywicki asked how these detention ponds ensure that the neighbors will not have water in their homes. Jobeun said the complex would ensure that the historical storm is not made any more severe by this development.

City Engineer, Kottmann added that a great deal of time had been spent on the drainage on this project. All studies have been consistent. The drainage system in Cimarron Woods originally had been designed in anticipation of apartments being constructed on this property. With regard to the apartment site, which is approximately 8% of the total drainage area down to a particular group of homes, a request has been made that there is no increase in peak run-off from 2 through 100 year storm events, which is in excess of the subdivision requirements; and is in excess of the original design criteria for the subdivision, but there is adequate green space on the site and there has been a recent adoption of storm water quality regulations. This apartment complex should not be contributing to whatever problems are or are not occurring downstream.

Jennifer Taylor, appeared on behalf of some of the neighbors in Cimarron Woods to present their concerns and comments. Some of those comments have already been addressed tonight.

It was pointed out that the group she represents is not opposed to apartments and understand this piece of land was always to be apartments. Also, the neighbors do not oppose a tenant mix. They desire to ensure that this particular development adheres to all of the R-3 and gateway corridor requirements to include maximum pervious coverage percentages, drainage and flooding issues, and set back and building design requirements.

Taylor generally states that the goals set forth in the code of the gateway corridor provisions intend to ensure a continuity of character between the neighborhood and the proposed development and to enforce certain guidelines so that the proposed development fits in with the entire neighborhood. These neighbors want to make sure when you drive into the entrance on 99th Street that what you see in that development reflects the same character, nature, design and feel that the Cimarron Woods single family home development has.

Taylor confirmed that Phase One needs to be a stand alone development, in case Phase Two does not get built. Taylor stated the maximum pervious coverage ratio is actually 48.72% for Phase One, as submitted. The maximum pervious coverage rate allowed in R-3 is 40%; therefore, the coverage rate in the Phase One development exceeds impervious coverage by nearly 10%. The site as a whole is about 41.5% because Phase Two is less than the maximum coverage.

Birch pointed out that the City has maximum building coverage, but not maximum impervious coverage. Building coverage is listed as 40% which includes buildings, not pavement. Therefore, proposed impervious coverage is acceptable.

Taylor continued to say that this is a concern of the neighbors that there is so much building and pavement coverage on Phase One. She felt in speaking with Mr. Westergard that the issue of detention ponds and drainage issues on Phase One has been addressed, although she feels it is not clear as to which ones will be included in Phase One.

The neighbors, Taylor says, are concerned with tree removal. Pedcor acknowledges that they intend to keep all of the trees in the center and part of the drainage plan. The staff report indicates that some of the trees and vegetation would be conserved but that fill material for building sites and parking would cause many trees to be removed, and installation of the proposed storm water detention areas would likely cause existing trees to be removed. Thus, there seems to be a disconnect between the staff's view and Pedcor on how the trees will be dealt with. If some of the trees are lost are there plans to replace those?

The Gateway Corridor District requires certain criteria for appearance, Taylor states. The city's architect has reviewed and had input into the plans of this development, the neighbors had a certain idea into what these buildings would look like. For example, the district requires that the height and scale of each building shall be compatible with its site and existing buildings; that monotony design in a single or multiple building project shall be avoided; that natural and topographic patterns are preserved; and, that the primary building material of all portions of structures be brick, clay, stucco, glass, wood, masonry, etc. and the neighbors were looking for these buildings to reflect something that resembles the style and character of existing single family homes.

Taylor points out that Mr. Kottmann has indicated that the water and wetland study needs to be updated from the existing one of 1999. She feels this leaves some questions open as to how this is going, how this development will actually be affected by any sort of Army Corp of Engineer permits or any wetland or waterway study.

Taylor closes with a few suggestions that if Phase One is to function as a stand alone development, the neighbors would like to see a drainage study that addresses just Phase One. There are additional design plans in consideration that are of concern. She feels that the proposed development may, or may not, meet the necessary requirements, but that there seems to be a lot of information that was to be provided, or will be provided, or will be reviewed between now and the final PUD and they would ask that the Commission take this as a point that Pedcor answer all of those questions, put forth all of that information, and bring everything together before the preliminary PUD proceeds to City Council.

Tom Ecker, Cimarron Woods resident, passed out pictures of flooding that occurred in his yard in the past. He indicated there are flooding issues which have not been addressed and adding apartments that have a vast amount of parking lot poses a concern. He feels the culvert beneath the railroad tracks is not sufficient to drain all the water it would need to with the proposed development.

Eileen Williamson, Cimarron Woods resident, re-iterated that items she discussed in a previous Planning Commission regarding timeliness of information to be under consideration on this proposed development is lacking and the neighborhood should be given the respect of time to review these materials themselves. She, too, has flooding which comes out of the creek bed through a 60 inch culvert and the same engineer that said that would not cause flooding is saying this proposed development will not cause flooding.

Williamson asked the developer about tornado safety and was surprised that there is no requirement from the City of La Vista for tornado shelters to be included in the development of an apartment complex.

Williamson argued that within the Gateway Corridor requirements is a setback requirement of 30 feet from the road, but it should be harmonious with neighboring development. Immediately across 99th Street are villas which are 75 feet back from the street because there is a planned outlot. So, driving down Harrison Street there is 75 feet, at 99th Street you have 30 feet at the proposed development, so there is no harmony. Regarding buffers and landscaping, the 10 foot trail which extends up to the round-a-bout is nice, but requirement E-1 in the subdivision agreement requires that a minimum of 3 feet is necessary between the sidewalk and the avenue, but the proposed trail abuts someone's property line along with a see through fence. People living in lots 301-309 in the villas decide they want one of two fences, you could have a house, a backyard, a white or black fence, a 10 foot sidewalk and another fence. There is no room for landscaping. She asks that a Planning Commission vote be delayed until the neighborhood can review newer submittals to the proposed development.

Jobeun responds that impervious coverage, drainage requirements and any other applicable site regulator has been comply with. As far as the setbacks, the PUD does say 25 feet. These items have been reviewed by the city staff, engineer, and architect and were found to be in compliance and therefore the favorable recommendation report to the commission.

Jobeun feels there has been a lot of effort by Pedcor to make this property consistent by material choices, architectural design and compatibility and a first class development. Pedcor cannot change anything themselves without coming back to the Planning Commission and City Council for further review. There is no intention to cut down any trees, and he is not aware of any tree mitigation requirements with the city.

He asks that the preliminary PUD be forwarded to City Council and they would continue to work with the city and staff towards a first class project.

Westergard said the preliminary submittal made was complete to the extent that staff would recommend approval with conditions. Pedcor chose to submit things that were really not required, until the final plat, just to give a level of comfort that it could be done. So, items that appear to be submitted late were actually items that show, at a final stage conditions would be met.

Westergard says the outline of the trees is the drip line. The intent is to save everything inside of that except for the two street crossings that they have. The post-construction storm water detention basins are outside of the drip line, but again the intent is to save everything with the exception of the two street crossing areas.

Tom Ecker, Cimarron Woods resident, indicates that there is still flooding despite the efforts that have been tried by E&A Consulting. The water issue is one of his biggest concerns.

Hewitt clarified with Williamson that a four page document had been signed by Williamson, but that there are two pages that were added that did not have any signature and wondered if they belong to her as well. Williamson identified the pages as belonging to her.

Taylor returned with additional comments that the primary concern is drainage. Although Mr. Westergard indicates that there will be no increase in drainage problems there are substantial problems now and one can see how it is that the neighbors might be concerned about so much additional development and how that basin would drain. She appreciates what Pedcor has done, but would propose that anyone that could put 502 units on a piece of ground while adhering to the Gateway Corridor regulations, setbacks and all the other zoning requirements it would be very difficult to put that number on this particular piece of ground. This is a unique parcel that has substantial limitations based on location, setbacks, trees and the creek bed that would make that number difficult.

Horihan asked about the wetlands study, specifically about wetland mitigation if needed. Westergard responded that the preliminary indications show that there was little or no change. They do not expect to have any mitigation required by compromising any wetlands above the 10th of an acre to do their street crossings, which would be in the allowable limits.

Horihan also asked if a Section 404 permit would be needed from the Army Corps of Engineers. Westergard affirmed both crossings would require a permit.

Malmquist motioned to close the public hearing. Circo seconded. Ayes: Krzywicki, Malmquist, Hewitt, Andsager, Kramolisch, Alexander, Horihan, Circo, and Gahan. Nays: None. Public hearing closed at 8:30 p.m.

Baker clarified that the deadlines are set for Planning Commission applications. As long as a complete application has been received by the deadline, then the city can move forward with the review process. However, revisions and corrections are requested by Staff and new material can be presented to staff and to the commission up until the meeting night itself. If the Planning Commission ever feels like they do not have enough information to make a recommendation, they can choose to continue the public hearing to give staff more time if needed.

Hewitt asked Kottmann about the first entrance and how you cannot get to it from Harrison Street because of the median and what kind of traffic study would be needed. Kottmann answered that the proximity of it to Harrison Street is too close for that to function during peak hours.

iii. Recommendation: Malmquist moved to recommend to City Council approval of the Preliminary Planned Unit Development with the conditions stated in the staff report and add a condition #7 stating a preliminary assessment of the potential waterway wetland issues will need to be performed by a qualified environmental consultant before Final PUD approval and all applicable Army Corps of Engineer's permits shall be completed before the Final PUD approval.

Kottmann suggested that relative to the testimony heard about drainage and the applicants engineer, it may be appropriate to add another condition that approval would be subject to no net increase in peak run-off for storm events 2-year through 100-year frequency and to provide a detailed phasing of the storm water detention. Malmquist agreed to include this statement in her motion. Gahan seconded. Ayes: Krzywicki, Malmquist, Andsager, Kramolisch, Alexander, and Gahan. Nays: Hewitt, Horihan and Circo. Motion passed on a 6 to 3 vote.

Item is tentatively scheduled for City Council's agenda of June 2, 2009.

C. Public Hearing for Harrison Heights Preliminary Planned Unit Development (PUD), Preliminary Plat, Comprehensive Plan amendment to the Future Land Use Map, and Re-zoning request for property located at Lots 13 and 14 of Crestview Heights Subdivision in the NE 1/4 of Section 14, Township 14N, Range 12W.

i. Staff Report. The Empire Group, LLC, applicant and property owner, proposes to subdivide Lots 13 & 14 in Crestview Heights into five (5) lots for the development of elderly/retirement housing, an assisted living facility, and three commercial uses as a Planned Unit Development (PUD). The lots are 12 acres in size and are currently zoned TA, Transitional Agriculture.

The proposal includes 112 senior living apartment units with 55 garages and 48 assisted-living units with no garages. Three commercial buildings are proposed that would total 20,500 square feet of flex commercial space. The site is currently being graded for building pads.

City Engineer recommends the following:

1. A traffic impact study was prepared and submitted that complied with the scope set forth in our initial review letter. The services of Felsburg, Holt & Ullevig were utilized to review this impact study. It has been determined that the Level of Service will be satisfactory given the current proposal.
2. There is an existing break in the controlled access along Harrison Street at roughly the center of the project area. The proposed development plan will require relocating this break to the west. Cross easements will be needed to allow for sharing of accesses and a development agreement will be needed to provide for shared maintenance of the accesses and any other shared improvements.
3. The proposed commercial buildings have a combined 20,500 gross square feet. This would require 103 parking stalls and the plan shows 109 stalls. The final PUD plan will need to address ADA parking stalls. The proposed senior independent living apartments are proposed to be two-thirds 2 bedroom and one-third 1 bedroom units. The parking regulators would require one stall for each bedroom. For a total of 112 units this would require 187 stalls. However, the applicant has indicated that since these are senior apartments, the second bedroom is most often used for hobbies, storage, or occasional guests. Therefore, they indicate the required parking is 118 stalls rather than 187. They are proposing 157 spaces between garage and open parking stalls. I find this to be satisfactory based on the apartments being used for senior housing. The assisted living facility is proposed to have 48 units. The parking regulators would require 1 stall per unit plus space per employee on the largest shift. The plan for Lot 4 proposes 76 stalls and indicates that 52 are required implying a staff of 4 persons. There appears to be a generous amount of parking and some of the

long continuous rows of parking should receive some landscaped islands to improve appearance and reduce impervious coverage which appears unnecessary.

Several phone calls have been received by the Planning Staff regarding this application from concerned neighbors. No written letters have been received. Concerns appeared to be alleviated when neighbors understood the development proposal was for elderly and retirement housing.

Approval of the Comprehensive Plan Amendment to change the Future Land Use Map designation for proposed Lots 4 & 5 in Harrison Heights Subdivision from "Public" to "High Density Residential" and for proposed Lots 1-3 in Harrison Heights Subdivision from "Public" to "Commercial."

Approval of Rezoning proposed Lots 4 & 5 in Harrison Heights Subdivision from TA, Transitional Agriculture to R-3 PUD-1, High Density Residential and rezoning proposed Lots 1-3 of Harrison Heights Subdivision from TA, Transitional Agriculture to C-2 PUD-1, General Commercial.

Approval of the Preliminary PUD Plan / Preliminary Plat of Harrison Heights Subdivision with the following conditions:

1. A variance needs to be granted to Section 5.15.04.13 by the Board of Adjustment to allow for residential access onto an arterial street. This variance is required prior to Planning Commission's review of the Final PUD Plan and Final Plat.
2. City Staff will need to review the phasing of this development during the Final PUD review period. The applicant shall submit the phased development plan with the Final PUD and Conditional Use Permit.
3. The draft text of the PUD plan needs modifications to limit the uses of Lots 4 & 5 to elderly / retirement housing and assisted living facilities.
4. Revisions requested by the City Engineer, in his letter dated May 4, 2009, shall be incorporated into the Final PUD Plan, Final Plat and Conditional Use Permit submittal.
5. Other revisions stated in this report shall be addressed prior to Final PUD Plan, Final Plat and Conditional Use Permit submittal.
6. Commercial development shall meet the design standards set forth in the City of La Vista's Commercial Building Design Guidelines.

ii. Public Hearing: Malmquist motioned to open public hearing. Alexander seconded. Ayes: Krzywicki, Malmquist, Hewitt, Andsager, Kramolisch, Alexander, Horihan, Circo, Gahan and alternate, Nielsen. Nays: None. Public hearing opened at _____ p.m.

Morgan Sykes, with E & A Consulting Group, representing the applicant Empire Group, LLC. Mr. Sykes apologizes for an error in the application that identified this as assisted living, which it is not. Lots 4 and 5 are both independent senior living. Lot 4, however, is a three-story market rate senior living restricted to an age restricted of 65 years or greater in these one- and two-bedroom apartments. Lot 5 is independent senior living that is age and income restricted attended to provide apartments to those living on limited incomes. An occupant would need to be over 62 years of age in the single bedroom unit and gross income would not exceed \$25,000 annually; the two bedroom unit would require gross income of not more than \$30,000 annually.

The applicants on Lot 4 and 5 propose to start construction in late fall of 2009 with completion in late 2010 or early 2011. Lot 1 would have a commercial building constructed initially and buildings 2 and 3 on that lot would be constructed only after tenants were found.

Hewitt asked if the commercial buildings are to support the independent living apartments. Sykes said they were intended to be general commercial for the area, so they are looking for more of a service oriented tenant, potentially office space. This type of housing will attract a certain type of commercial tenant.

Krzywicki asked if they had looked at the shopping center across the street and saw the vacancies there and wonder what is the viability of having tenants there. Sykes stated, the developer feels confident that tenants can be found for this space.

Krzywicki wondered about the one building setting so far back on the lot. Sykes said there had been potential interest about that being a daycare which has considerable green space requirements.

Krzywicki asked if the Crestview Heights Apartments east of this project property were restricted income. It was suggested those apartments may be income restricted, but not age restricted.

Krzywicki asked what the general market in the area for both age restricted and income restricted apartments. Sykes did not have that information available. The developers had a study done and it was felt this was a very good location, especially since there is not any age restricted independent living in La Vista, or Sarpy County.

Jim Saunders, local resident, questioned the assisted living reference in the staff report and the letters they had received. He points out that on page six of the staff report it is stated that the city supports the use of lots 13 and 14 for elderly housing and assisted living, but nowhere does it say about restricted income living, that the city supports it because of *assisted* living. He felt a lot of people didn't know it was going to be income restricted over 62 years of age and they thought it was assisted living. His question was does the city still supports this as much, now that the city knows it is not assisted living. Saunders felt this would be affordable, restricted living housing, but it is still low income housing. He moved into the area because it was a single family area with a farm field next to it, not high density, not senior living, or anything. They were told there was a reservoir under the ground and no one would ever build anything there. Now they find there are apartments being built on it.

Baker explained that he himself was under the impression originally that one building was to be assisted living and one independent living facility and felt the two worked well to accommodate the senior housing. Baker felt the city should plan for the aging population of the city and try to accommodate those life long residents who wish to stay in the city.

Saunders asked if the Planning Commission was going to vote tonight on this. Krzywicki said they could have motions to vote on the three separate items on the agenda. Hewitt said the commissioners make recommendations to City Council and it is Council that would make the final approval.

Quinn Abraham, local resident, had concerns because he is close to the commercial area and they would be planting a minimum of trees. He would like to see something more substantial as a buffer to the proposed buildings. Another concern was the entrance from Emiline. He felt it would be nicer if that entrance could be moved closer to Harrison Street, but realizes that may be a traffic issue. As far as assisted living goes, his concern would be the garages. They seem awfully close to his property cutting into that hill. Also, the dumpster would be located there and would not be very appealing. He also does not like the fact that the apartments are three story and vinyl sided. He would like to see more brick or something nicer in that area. He was concerned about traffic as well.

Krzywicki asked the applicant about the exterior of the finish. Sykes said the rendering reflects what they are currently building in Omaha.

Terrie Saunders, local resident, who was also looking forward to an assisted living facility in the area so that she could 'move across the street in a few years'. Her question is to the density of low income housing in that neighborhood. She assumes that all of the low income/subsidized within the City of La Vista is going to be located in that 2 or 3 block square at 74th and Harrison. Since the developer is from Idaho we then have an absentee landlord as well.

Krzywicki asked about the age and income restrictions and how the age restriction would be enforced after a unit has been rented. Sykes said that site will have an on-site manager. The program is a tax credit and the tax credit is sold to fund the project and the project is audited a couple of times a year

to make sure all the tenants meet the requirements of age and income. Sykes also added that this age group are not those who are all getting up and going to work at the same time every day. So, typically the peaks that you have in other apartment living is offset.

Terrie Saunders returned to state that there is a considerable difference between low income and assisted living in terms of the facility and the type of the tenants. She wasn't concerned so much about the residents of the low-income facility as they are about their children and grand-children. You are going to have these visits in the independent facility. It is urged that you take a look at this.

Baker said the city tries to avoid discussions as to what income is living there or what age restriction, but there is a difference between assisted living and multi-family dwelling.

Vic Pelster, the developer for the property, takes the bulk of the

MARCUS, SHARON D. STOPPED HERE DOING THESE MINUTES ON 5/28/2006

Malmquist motioned to close the public hearing. Horihan seconded. After some discussion, Horihan moved to open hearing again. Hewitt seconded the re-opening. Horihan moved to continue the hearing. Kramolisch seconded. Ayes: Krzywicki, Malmquist, Hewitt, Andsager, Kramolisch, Alexander, Horihan, Circo, Gahan and alternate, Nielsen. Nays: None. Nays: None. Public hearing closed at _____ p.m.

D. Public Hearing for revising Section 2.02.155, Section 2.02.156, and Section 7.10, all relating to Home Occupations

i. Staff Report: Home occupations have become increasingly popular as technology enables more and more people to work from computers and mobile devices in remote locations. Planning staff believes the zoning code needs to be modernized to reflect these advances in technology and provide an effective and efficient planning process to accommodate the trend.

In summary, the revisions seek to clarify the definition of "Home Occupation" and enhance existing code requirements related to home occupations and licensing. For example, Home Occupation II (Minor) permits would no longer require a resident to gather signatures of approval from neighbors within 200 feet. Also, the lists of uses defining specific home occupations have been replaced with generic performance standards or categories. According to the Home Based Business Council, over 200 potential home occupations have been identified. It is not possible to list them all in the code. Therefore, instead of regulating based on the type of business, the City could instead regulate based on necessary parking, number of employees, and other mitigating factors.

Staff recommends approval of the proposed revisions with any added changes, if applicable.

ii. Public Hearing: Public hearing was continued from May 21, 2009 Planning Commission.

//////////

Alexander motioned to close the public hearing. Circo seconded. Ayes: Krzywicki, Malmquist, Hewitt, Andsager, Kramolisch, Alexander, Horihan, Circo, Gahan and alternate, Nielsen. Nays: None. Public hearing closed at _____ p.m.

iii. Recommendation: Circo moved to recommend approval of the proposed revisions with any added changes. Horihan seconded. Ayes: Krzywicki, Malmquist, Hewitt, Andsager, Kramolisch, Alexander, Horihan, Circo, Gahan and alternate, Nielsen. Nays: None.

5. Comments from the Floor

None.

6. Comments from the Planning Commission

Mike Circo was nominated and elected for the position of Vice Chairperson, vacated by Marv Carcich.

7. Adjournment

Gahan motioned to adjourn. Circo seconded. Ayes: Krzywicki, Malmquist, Hewitt, Andsager, Kramolisch, Alexander, Horihan, Circo, Gahan and alternate, Nielsen. Nays: None. Motioned carried. Nays: None. Meeting was adjourned at 10:30 p.m.

Reviewed by Planning Commission:

Recorder

Planning Commission Chair

Approval Date


LANDSCAPE NOTES

- Locate and verify the location of all underground utilities prior to the start of any construction. Care should be taken not to disturb any existing utilities during construction. Any damage to utilities or other improvements caused by the Contractor will be repaired at no cost to the Owner.
- All plant material shall be of good quality and sizes shall meet required size specifications. Owner reserves the right to substitute plant material type, size and/or quantity.
- All plants are to be watered in immediately after planting and then watered once a week for a period of two months from time of planting.
- All plant material shall be guaranteed to be in a live and healthy growing condition for two (2) growing seasons (two years) after final project acceptance or shall be replaced free of charge with the same grade and species including labor.
- Verify all dimensions and conditions prior to starting construction. The location of plant material is critical and shall be installed as indicated on plans. Field adjustments may be necessary based on field conditions (i.e., root ball and drop inlet conflict). All adjustments must be approved by the landscape architect.
- The Landscape Contractor shall remove all construction debris and materials injurious to plant growth from planting pits and beds prior to backfilling with planting mix. All planting areas shall be free of weeds and debris prior to any work.
- Provide locally available shredded hardwood mulch on all trees and in all planting beds to a 3-4 inch minimum depth. Mulch ring to extend 1'-0" minimum beyond planting pt.
- All trees are to be staked for a period not less than one year from time of planting.
- All landscaped areas to be irrigated with an automatic irrigation system, including all turf, planting beds, and adjacent street right-of-way.

**PHASE I
PLANT SCHEDULE**

SYM	QTY	BOTANICAL NAME	COMMON NAME	SIZE	TYPE
*	3	Celtis occidentalis 'Prairie Pride'	Prairie Pride Hackberry	3"	B&B
*	7	Tilia x <i>flaveescens</i> 'Glenleven'	Glenleven Littleleaf Linden	3"	B&B
C	5	Quercus bicolor	Swamp White Oak	3"	B&B
*	15	Gleditsia triacanthos 'Skyline'	Skyline Honeylocust	3"	B&B
E	9	Amelanchier arborea	Downy Serviceberry (clump form)	3"	B&B
*	19	Malus 'Prairie Fire'	Prairie Fire Crabapple	3"	B&B
G	-	Pseudotsuga menziesii	Douglas Fir	6'	B&B
H	-	Picea abies	Norway Spruce	6'	B&B
I	160	Spirea <i>bumalda</i> 'Anthony Waterer'	Anthony Waterer Spirea	2 Gal.	Cont.
J	346	Juniperus horizontalis 'Plumosa'	Andorra Juniper	2 Gal.	Cont.
K	327	Juniperus x media 'Old Gold'	Old Gold Juniper	2 Gal.	Cont.
L	14	Acer ginnala	Amur Maple	3"	B&B
M	16	Malus 'Red Jewel'	Red Jewel Crabapple	3"	B&B

* Plant Variety as per Section 5.17.06.02 Gateway Corridor District Overlay District

**PHASE II - INTERIOR
PLANT SCHEDULE**

SYM	QTY	BOTANICAL NAME	COMMON NAME	SIZE	TYPE
*	13	Celtis occidentalis 'Prairie Pride'	Prairie Pride Hackberry	3"	B&B
B	15	Tilia x <i>flaveescens</i> 'Glenleven'	Glenleven Littleleaf Linden	3"	B&B
C	17	Quercus bicolor	Swamp White Oak	3"	B&B
D	22	Gleditsia triacanthos 'Skyline'	Skyline Honeylocust	3"	B&B
E	17	Amelanchier arborea	Downy Serviceberry (clump form)	3"	B&B
F	22	Malus 'Prairie Fire'	Prairie Fire Crabapple	3"	B&B
G	37	Pseudotsuga menziesii	Douglas Fir	6'	B&B
H	29	Picea abies	Norway Spruce	6'	B&B
I	287	Spirea <i>bumalda</i> 'Anthony Waterer'	Anthony Waterer Spirea	2 Gal.	Cont.
J	313	Juniperus horizontalis 'Plumosa'	Andorra Juniper	2 Gal.	Cont.
K	330	Juniperus x media 'Old Gold'	Old Gold Juniper	2 Gal.	Cont.
L	22	Acer ginnala	Amur Maple	3"	B&B
M	22	Malus 'Red Jewel'	Red Jewel Crabapple	3"	B&B

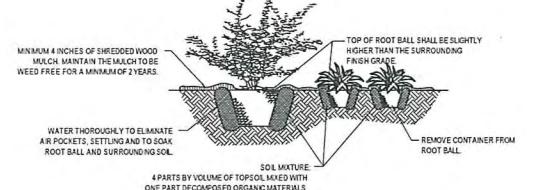
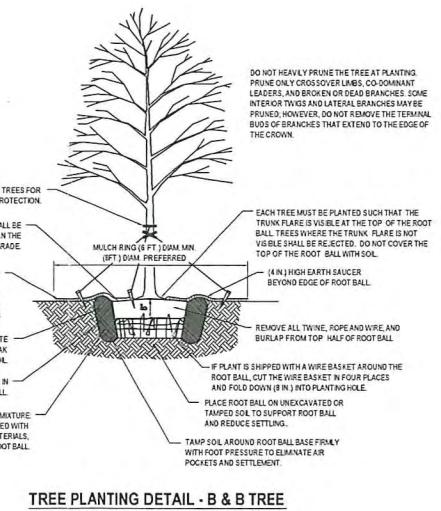
* Plant Variety as per Section 5.17.06.02 Gateway Corridor District Overlay District

**EXTERIOR
PLANT SCHEDULE**

SYM	QTY	BOTANICAL NAME	COMMON NAME	SIZE	TYPE
*	20	Celtis occidentalis 'Prairie Pride'	Prairie Pride Hackberry	4"	B&B
B	10	Tilia x <i>flaveescens</i> 'Glenleven'	Glenleven Littleleaf Linden	4"	B&B
C	5	Quercus bicolor	Swamp White Oak	4"	B&B
D	11	Gleditsia triacanthos 'Skyline'	Skyline Honeylocust	4"	B&B
E	21	Amelanchier arborea	Downy Serviceberry (clump form)	4"	B&B
F	16	Malus 'Prairie Fire'	Prairie Fire Crabapple	4"	B&B
G	9	Pseudotsuga menziesii	Douglas Fir	6'	B&B
H	10	Picea abies	Norway Spruce	6'	B&B

* Plant Variety as per Section 5.17.06.02 Gateway Corridor District Overlay District

NOTE: EXTERIOR TO BE PLANTED AT THE SAME TIME AS PHASE I

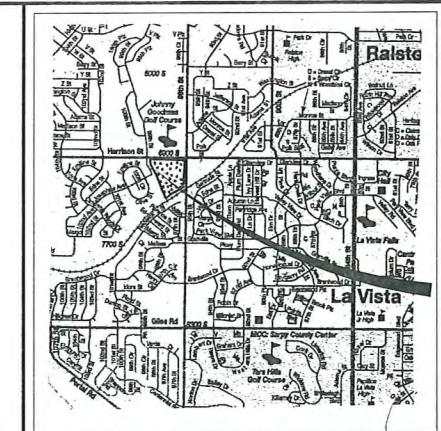


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DEVELOPMENT LANDSCAPE PLAN

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PHONE: (402) 465-2420 FAX: (402) 465-3999
www.eag.com

Proj. No. D2009-153-002
Date 04/09/2009
Described By E&A
Drawn By
Check By
Sheet 1 of 1
Revised by Date 04/09/2009
File No. 040909-153-002



PROJECT SITE



E&A CONSULTING GROUP, INC.
ENGINEERS • PLANNERS • SURVEYORS

330 NORTH 117TH STREET, OMAHA, NE 68154
PHONE: (402) 465-1100 FAX: (402) 465-2499
WWW.EASG.COM

CIMARRON WOODS REPLAT ONE
LA VISTA, NEBRASKA

LEGAL DESCRIPTION

LOT 380, CIMARRON WOODS, A SUBDIVISION LOCATED IN THE N1/2 OF SECTION 16, TOWNSHIP 14 NORTH, RANGE 12 EAST OF THE 6TH P.M., SARPY COUNTY, NEBRASKA.

CONTAINING 25.937 ACRES, MORE OR LESS.

OWNER

TORCO DEVELOPMENT, INC.
11205 S. 150TH STREET, SUITE 100
OMAHA, NEBRASKA 68138

ENGINEER

E & A CONSULTING GROUP
330 NORTH 117TH STREET
OMAHA, NEBRASKA 68154

DEVELOPER

PEDCOR INVESTMENTS, LLC
ONE PEDCOR SQUARE 770 3RD. AVE. SW
CAREL, IN 46032

NOTES

- EXISTING AND PROPOSED ZONING IS R-3 PUD-1.
- EXISTING AND PROPOSED CONTOURS ARE SHOWN AT 2-FOOT INTERVALS AND ARE BASED ON USGS DATUM.
- THERE SHALL BE NO DIRECT VEHICULAR ACCESS ONTO 96TH STREET OR HARRISON STREET FROM ANY LOTS ADJOINING SAID STREETS.
- WATER SERVICE SHALL BE PROVIDED BY MUD, BLACKHILLS ENERGY SHALL PROVIDE GAS SERVICE.
- ALL STORM SEWER SIZES ARE 15" UNLESS OTHERWISE NOTED.
- DUMPSTER LOCATIONS AND NUMBER SUBJECT TO REVIEW AND APPROVAL OF THE CITY OF LA VISTA.
- THE DEVELOPERS PROPOSED METHOD FOR DETERRING RESIDENTS FROM ENTERING THE RAILROADS RIGHT OF WAY IS TO INSTALL A FENCE ALONG THE RIGHT OF WAY ADJOINING THE DEVELOPERS PROPERTY, THE TYPE AND SIZE HAVE YET TO BE DETERMINED.
- THE PROPOSED CLUBHOUSE IS INTENDED FOR RESIDENT USE ONLY. SPECIFIC USES INCLUDE COMMUNITY ROOM, ENTERTAINMENT CENTER WITH TV, FULL KITCHEN, RESTROOMS, AND OFFICES.
- A PERMANENT RECIPROCAL INGRESS AND EGRESS, PARKING AND PEDESTRIAN EASEMENT IS GRANTED TO THE OWNERS OF LOTS 1 AND 2, THEIR GUESTS AND INVITES OVER ALL OF SAID LOTS 1 AND 2, EXCEPT THOSE PARTS OF SAID LOTS 1 AND 2, WHICH ARE OCCUPIED BY BUILDINGS AS CONSTRUCTED.

10. PHASE I PROPOSED SCHEDULE OF CONSTRUCTION:

CITY COUNCIL APPROVAL
08/04/2009
CLOSING AND BUILDING PERMITS
11/3/2009
COMPLETION OF CLUBHOUSE AND 1ST BUILDING
07/01/2010
ALL BUILDINGS COMPLETE
01/15/2011

LEGEND

- 1200 — EXISTING CONTOURS
- 1200 — PROPOSED CONTOURS
- SS — PROPOSED SANITARY SEWER
- ST — PROPOSED STORM SEWER
- POST CONSTRUCTION STORM WATER MANAGEMENT AREA

EXISTING AND PROPOSED ZONING: R3 PUD-1

REQUIRED SETBACK LINE
FRONT YARD SETBACK... 25'
SIDE YARD SETBACK... 10'
STREET SIDE YARD SETBACK... 25'
REAR YARD SETBACK... 10'

PROJECT DENSITIES									
	BUILDINGS (SQ. FT.)	PAVING (SQ. FT.)	TOTAL IMPERVIOUS	AREA (AC) (SQ. FT.)	% IMPERVIOUS	PARKING PER CODE	REGULAR STALLS	Garage STALLS	TOTAL STALLS PROVIDED
PHASE 1	58,529	151,290	209,819	9,887 430,678	48.72%	168	153	64	217
PHASE 2	106,520	153,462	259,982	16,050 699,138	37.19%	372	270	104	374
TOTAL	165,049	304,752	469,801	1,129,816	41.58%	540	423	168	591

UNIT DENSITIES

	BEDROOMS	NO. OF BEDROOMS	#UNITS	UNITS/ACRE
PHASE 1				
	1 BR	24	24	
	2 BR	72	36	
	3 BR	72	24	
TOTAL		168	84	8.5
PHASE 2				
	1 BR	60	60	
	2 BR	168	84	
	3 BR	144	48	
TOTAL		372	192	11.96
PHASE 1 & 2				
TOTAL		540	276	10.64

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By

Revisions
No. Date
1 05/05/2009
Proj No. P2002 151002
Date 05/02/2009
Designed By MAW
Drawn By LDD
Checked By (Sign)
Checked By (Sign)
Scale: 1" = 60'
Sheet 1 of 1

PRELIMINARY PLANNED UNIT DEVELOPMENT


LANDSCAPE NOTES:

- Locate and verify the location of all underground utilities prior to the start of any construction. Care should be taken not to disturb any existing utilities during construction. Any damage to utilities or other improvements caused by the Contractor will be repaired at no cost to the Owner.
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- All plants are to be watered in immediately after planting and then watered once a week for a period of two months from time of planting.
- All plant material shall be guaranteed to be in a live and healthy growing condition for two full growing seasons (two years) after final project acceptance or shall be replaced free of charge with the same grade and species including labor.
- Verify all dimensions and conditions prior to starting construction. The location of plant material is critical and shall be installed as indicated on plans. Field adjustments may be necessary based on field conditions (i.e., root ball and drop in lot conflict). All adjustments must be approved by the landscape architect.
- The landscape contractor shall remove all construction debris and materials injurious to plant growth from planting pits and beds prior to backfilling with planting mix. All planting areas shall be free of weeds and debris prior to any work.
- Provide locally available hardwood mulch on all trees and in all planting beds to a 3-4 inch minimum depth. Mulch may extend 12'-0" minimum beyond planting pit.
- All trees are to be staked for a period of not less than one year from time of planting.
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**PHASE I
PLANT SCHEDULE**

SYM	QTY	BOTANICAL NAME	COMMON NAME	SIZE	TYPE
*	A 3	Celtis occidentalis 'Prairie Pride'	Prairie Pride Hackberry	3'	B&B
*	B 7	Tilia x fauvescens 'Genleven'	Genleven Littleleaf Linden	3'	B&B
*	C 5	Quercus bicolor	Swamp White Oak	3'	B&B
*	D 15	Gleditsia triacanthos 'Skyline'	Skyline Honeylocust	3'	B&B
*	E 9	Amelanchier arborea	Downy Serviceberry (clump form)	3'	B&B
*	F 19	Malus 'Prairie Fire'	Prairie Fire Crabapple	3'	B&B
G	-	Pseudotsuga menziesii	Douglas Fir	6'	B&B
H	-	Picea abies	Norway Spruce	6'	B&B
I 160	Spiraea bumalda 'Anthony Waterer'	Anthony Waterer Spirea	2 Gal.	Cont.	
J 346	Juniperus horizontalis 'Plumosa'	Andorra Juniper	2 Gal.	Cont.	
K 327	Juniperus x media 'Old Gold'	Old Gold Juniper	2 Gal.	Cont.	
L 14	Acer ginnala	Amur Maple	3'	B&B	
M 16	Malus 'Red Jewel'	Red Jewel Crabapple	3'	B&B	

* Plant Variety as per Section 5.17.06.02 Gateway Corridor District Overlay District.

**PHASE II - INTERIOR
PLANT SCHEDULE**

SYM	QTY	BOTANICAL NAME	COMMON NAME	SIZE	TYPE
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*	F 22	Malus 'Prairie Fire'	Prairie Fire Crabapple	3'	B&B
*	G 30	Pseudotsuga menziesii	Douglas Fir	6'	B&B
*	H 24	Picea abies	Norway Spruce	6'	B&B
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K 326	Juniperus x media 'Old Gold'	Old Gold Juniper	2 Gal.	Cont.	
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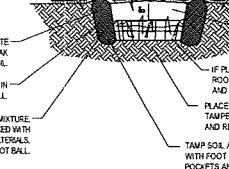
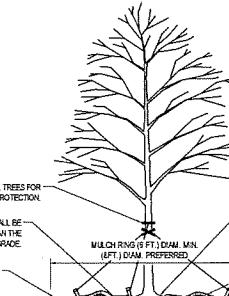
* Plant Variety as per Section 5.17.06.02 Gateway Corridor District Overlay District.

**EXTERIOR
PLANT SCHEDULE**

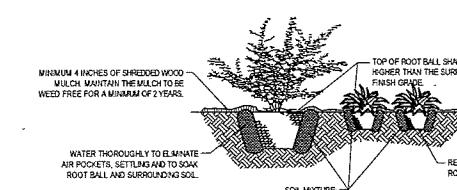
SYM	QTY	BOTANICAL NAME	COMMON NAME	SIZE	TYPE
*	A 20	Celtis occidentalis 'Prairie Pride'	Prairie Pride Hackberry	4'	B&B
*	B 10	Tilia x fauvescens 'Genleven'	Genleven Littleleaf Linden	4'	B&B
*	C 5	Quercus bicolor	Swamp White Oak	4'	B&B
*	D 11	Gleditsia triacanthos 'Skyline'	Skyline Honeylocust	4'	B&B
*	E 21	Amelanchier arborea	Downy Serviceberry (clump form)	4'	B&B
*	F 16	Malus 'Prairie Fire'	Prairie Fire Crabapple	4'	B&B
*	G 9	Pseudotsuga menziesii	Douglas Fir	6'	B&B
*	H 10	Picea abies	Norway Spruce	6'	B&B

* Plant Variety as per Section 5.17.06.02 Gateway Corridor District Overlay District.

NOTE: EXTERIOR TO BE PLANTED AT THE SAME TIME AS PHASE I



NOT TO SCALE



NOT TO SCALE

TREE PLANTING DETAIL - B & B

NOT TO SCALE

SHRUB & PERENNIAL PLANTING DETAIL

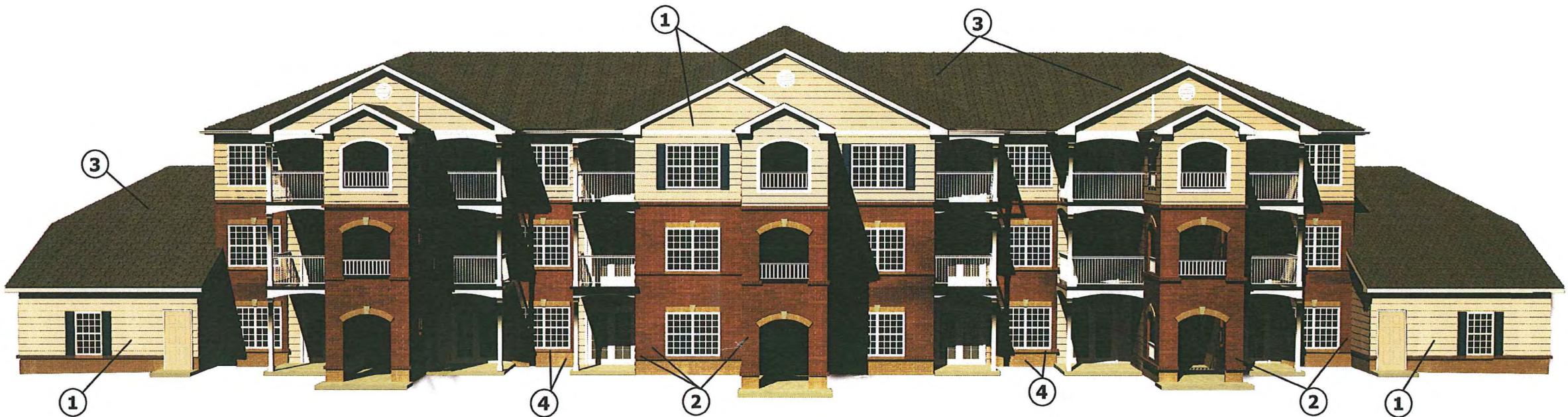
NOT TO SCALE



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PHONE: (402) 954-1210 FAX: (402) 954-2539
WEBSITE: www.eacg.com

PRELIMINARY PLANNED UNIT
DEVELOPMENT LANDSCAPE PLAN

Proj. No.	Revisions	Date	Design By	Drawn By	Checked By	Sheet No.	Signature
2002-00000	00	04/02/2002	STW	STW	STW	1	ROBERT J. STOWE, P.L.S.
						2	JOHN C. GALLAGHER, P.L.S.
						3	JOHN C. GALLAGHER, P.L.S.
						4	JOHN C. GALLAGHER, P.L.S.
						5	JOHN C. GALLAGHER, P.L.S.



LEGEND

① SIDING:

Mfg: Revere Building Products
 Type: Sovereign Select - Ultra-Premium Vinyl Siding
 Style: Dutch Lap Double 5" 3/4" Butt
 Color: Wicker

② BRICK:

Mfg: Brick Craft
 Type: Standard Size
 Color: Red Range Velour

③ SHINGLES:

Mfg: GAF Timberline Series
 Style: Dimensional
 Color: Weathered Wood

④ BRICK:

Mfg: Brick Craft
 Type: Standard Size
 Color: Country Road

CIMARRON TERRACE APARTMENTS
 La Vista, Nebraska

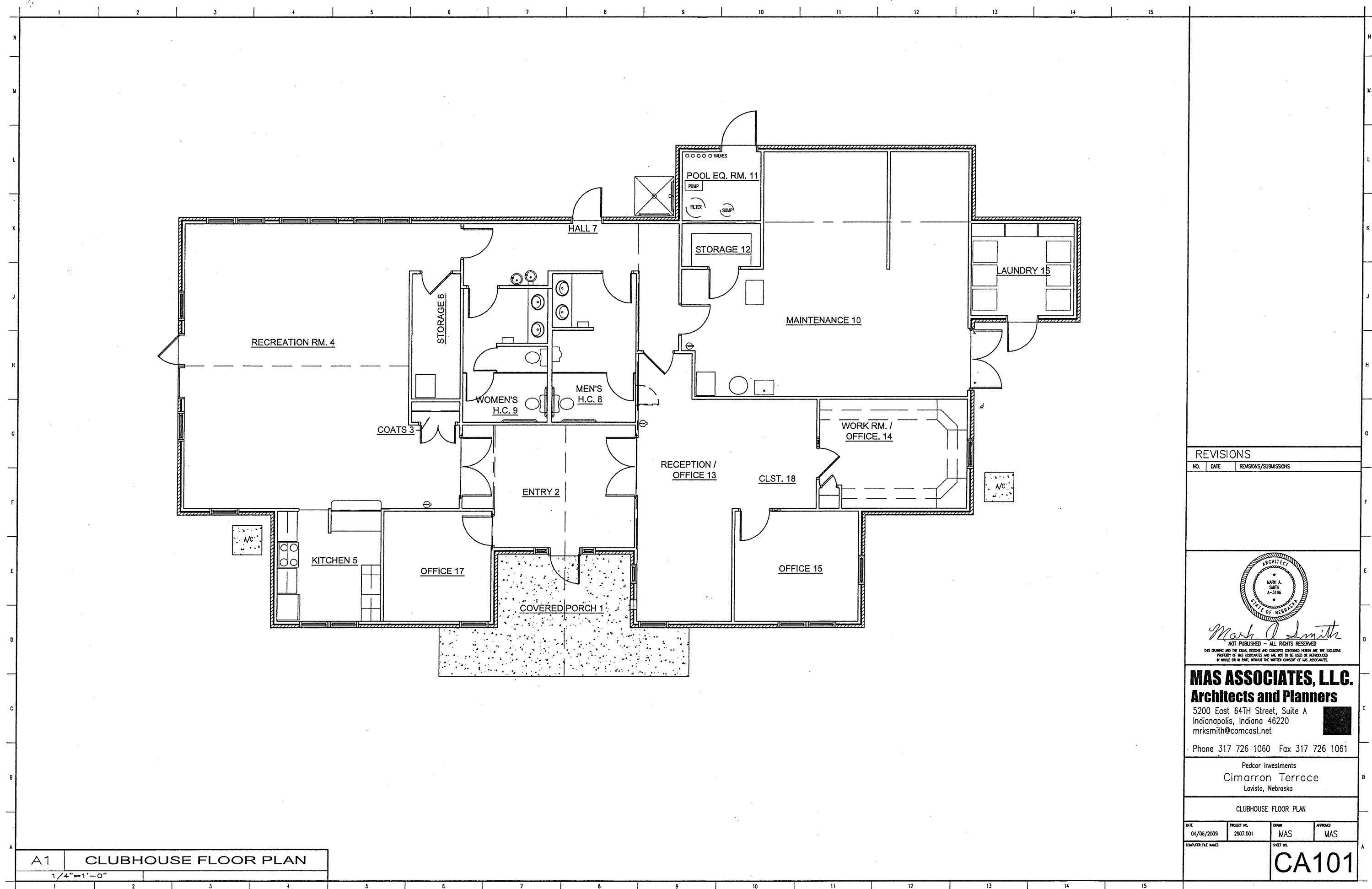
PEDCOR
 INVESTMENTS
 A Limited Liability Company



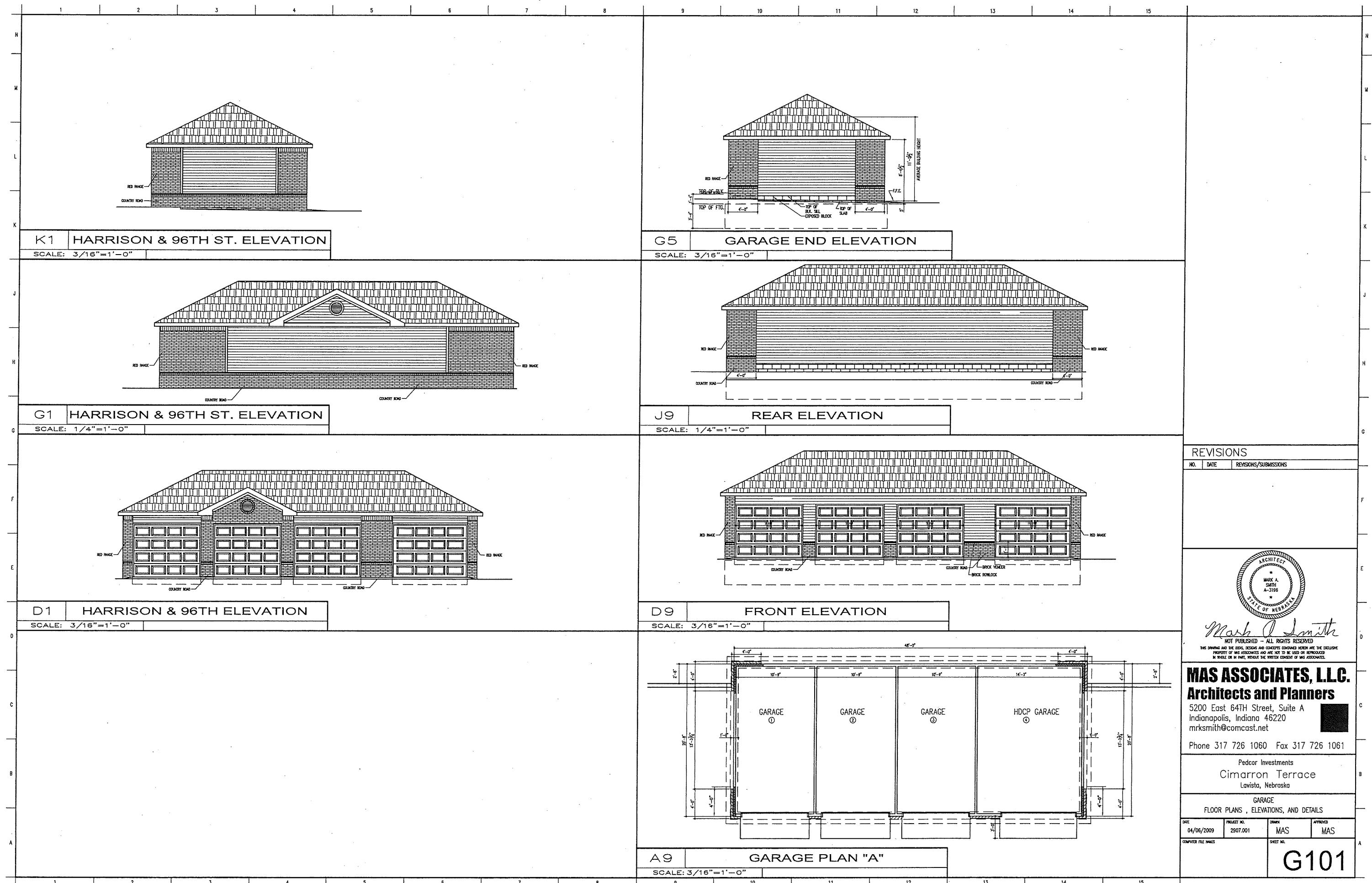




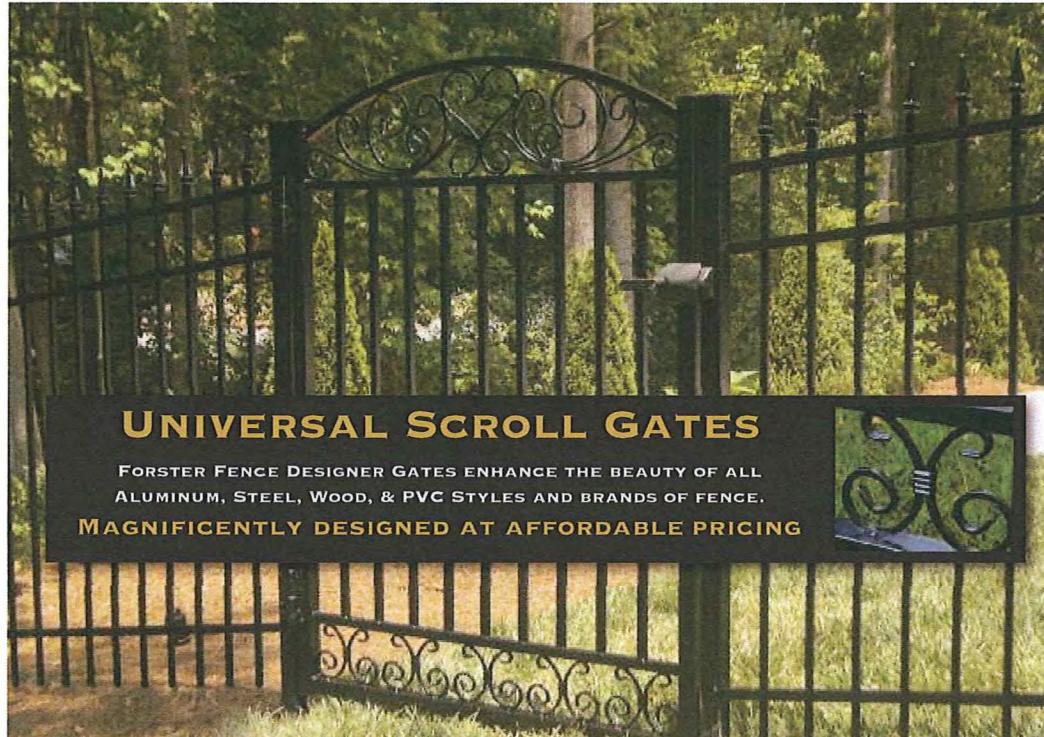












UNIVERSAL SCROLL GATES

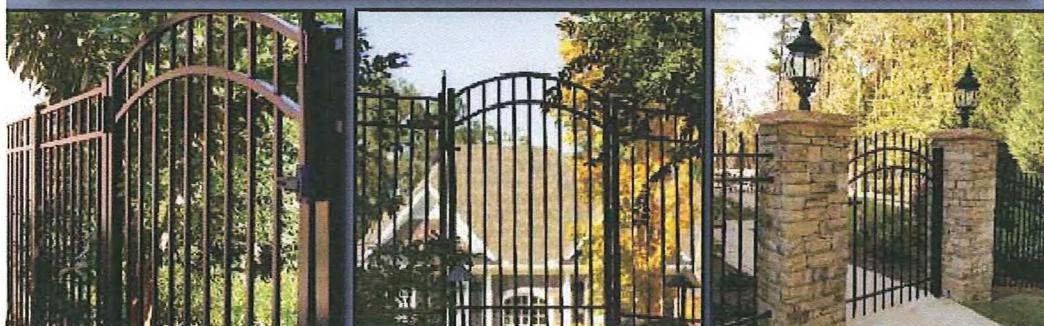
FORSTER FENCE DESIGNER GATES ENHANCE THE BEAUTY OF ALL ALUMINUM, STEEL, WOOD, & PVC STYLES AND BRANDS OF FENCE.

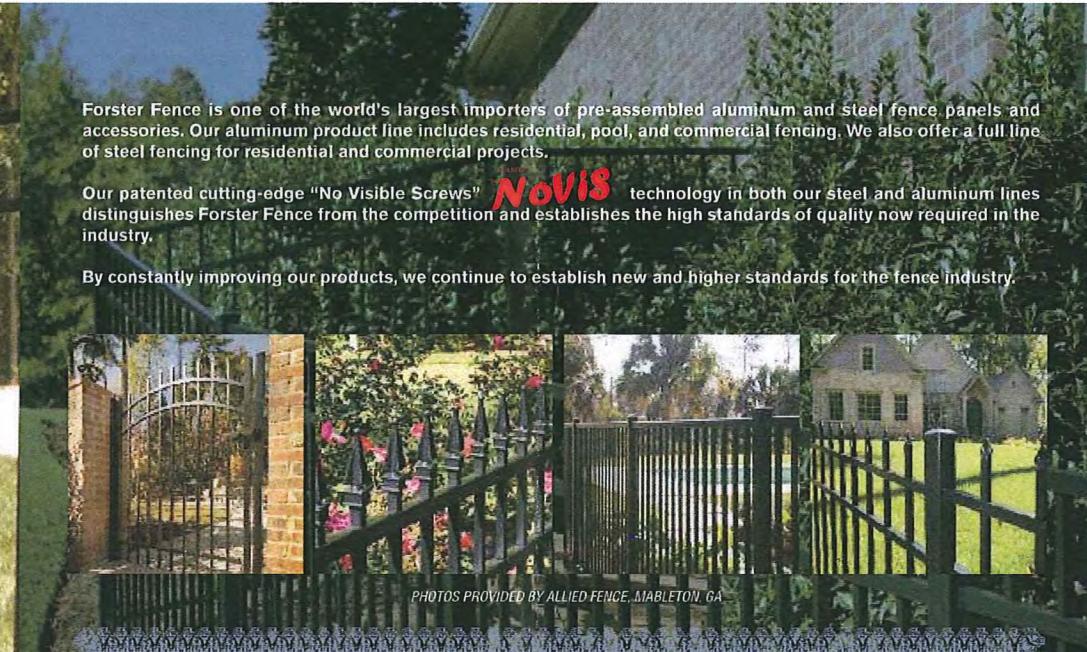
MAGNIFICENTLY DESIGNED AT AFFORDABLE PRICING

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FORSTER FENCE MANUFACTURES HIGH QUALITY, FULLY WELDED STEEL STRAIGHT GATES AND ARCH GATES.

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Forster Fence is one of the world's largest importers of pre-assembled aluminum and steel fence panels and accessories. Our aluminum product line includes residential, pool, and commercial fencing. We also offer a full line of steel fencing for residential and commercial projects.

Our patented cutting-edge "No Visible Screws" **Novis** technology in both our steel and aluminum lines distinguishes Forster Fence from the competition and establishes the high standards of quality now required in the industry.

By constantly improving our products, we continue to establish new and higher standards for the fence industry.



PHOTOS PROVIDED BY ALLIED FENCE, MABLETON, GA

FORSTERFENCE
ORNAMENTAL STEEL FENCE WARRANTY

The Forster Fence Company warrants to the original purchaser of our ornamental steel fence that our fence will be free from defect in workmanship. Under normal and intended use we warrant that our paint will not crack, chip or peel commencing with the purchase date of our product from an authorized installation fence contractor and extending according to the applications as defined in the Application Warranty Schedule below. Normal and intended use does not include heavy salt and chemical based sprays with high mineral content, abrasion, physical damage, extensive plant growth, or damage caused by gardening equipment. In addition, any defect caused by cutting or welding any of our fence products is not covered by this warranty. This warranty does not cover any of our fence products installed by an unlicensed fence contractor.

Application Warranty Schedule

Fence installations 0 to 1 miles from salt water coastlines - 5 years
 Fence installations 1 to 20 miles from salt water coastlines - 10 years
 Fence installations over 20 miles from salt water coastlines - 20 years

Upon acceptance of a claim by the Company, Forster Fence will at its option either replace the defective products or issue a pro-rated credit. The cost of removal of the defective products, the cost of freight, or installation of the replacement products is not included in the warranty and Forster Fence does not provide any of these services.

The above constitutes the complete warranty by Forster Fence and no other agreement, written or implied, is valid. No person is authorized to change or modify this warranty. Recovery for consequential or incidental damages is hereby excluded. This warranty gives you specific legal rights, and you may also have other rights, which vary from state to state.

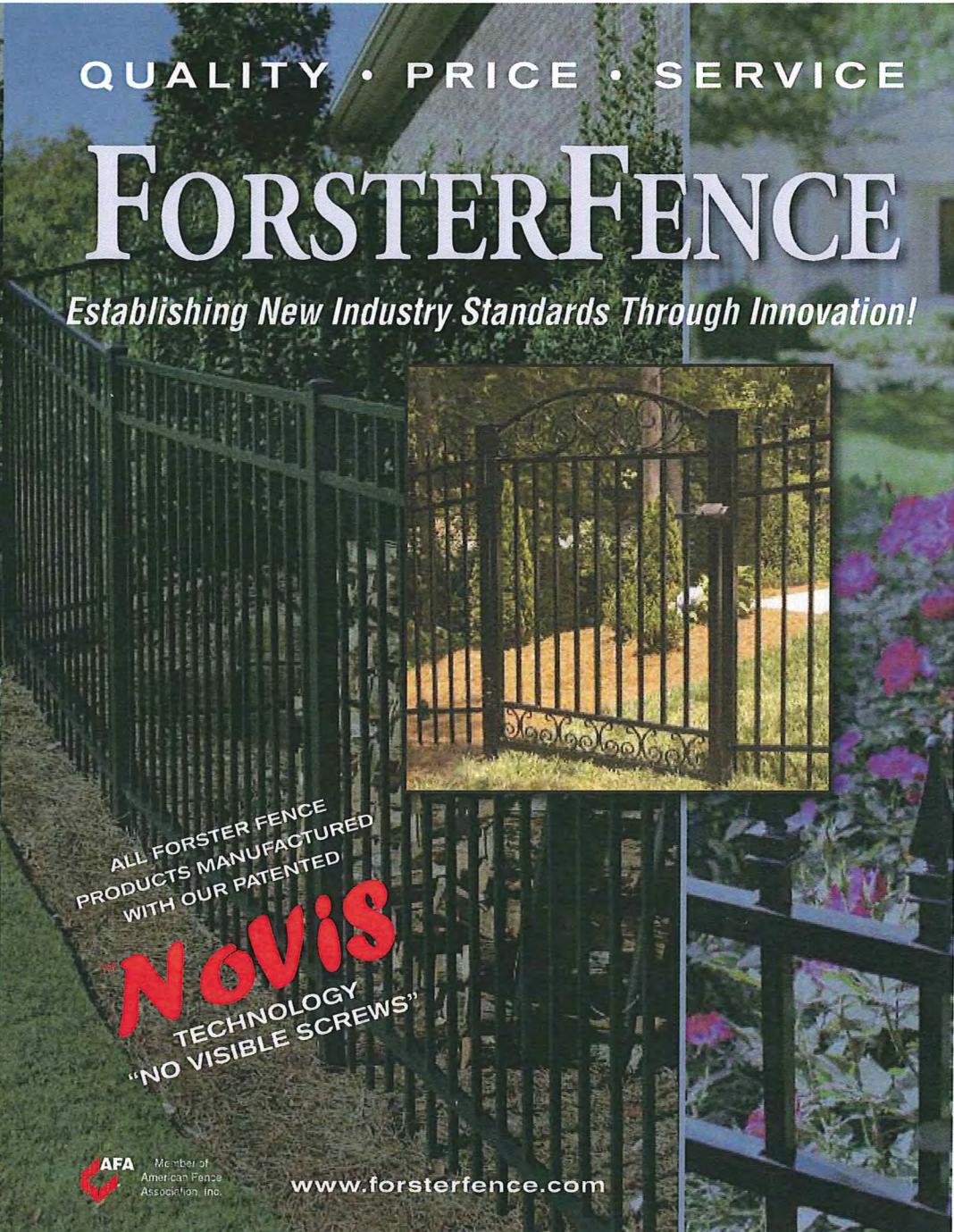
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"NO VISIBLE SCREWS"

AFA Member of
American Fence
Association, Inc.

www.forsterfence.com

FORSTERFENCE STEEL BRACKET SYSTEM

Panels, Posts, Gates all individually wrapped, shipped on Steel Pallets, and easy to handle or fork lift



Forster
Fence
Steel Panels
come fully
assembled

**FORSTER FENCE INNOVATIVE *Novis*
"NO VISIBLE SCREWS" SYSTEM IS THE
CLEANEST LOOK IN THE INDUSTRY**

OUR CUSTOMER DOESN'T HAVE TO WORRY ABOUT UNSIGHTLY
SCREWS THAT BACK OUT OR RUST.



FORSTER FENCE'S UNIQUE SYSTEM

...IS THE MOST RACKABLE PANEL IN THE INDUSTRY.
EVERY SERIES AND STYLE RACKS 32 INCHES PER
8 FOOT SECTION.

FORSTER FENCE'S STEEL PANEL

...IS FIVE TIMES AS STRONG AS TRADITIONAL ALUMINUM
ORNAMENTAL FENCE AND 15% STRONGER THAN THE
COMPETITOR'S STEEL ORNAMENTAL FENCE.



FORSTER FENCE'S STEEL PANEL IS 100% GALVANIZED

EACH INDIVIDUAL PIECE IS POWDER COATED BEFORE ASSEMBLY. THIS PROCESS
ENSURES FORSTER FENCE'S STEEL FENCE CAN WITHSTAND ALL CLIMATES AND
TEMPERATURES.

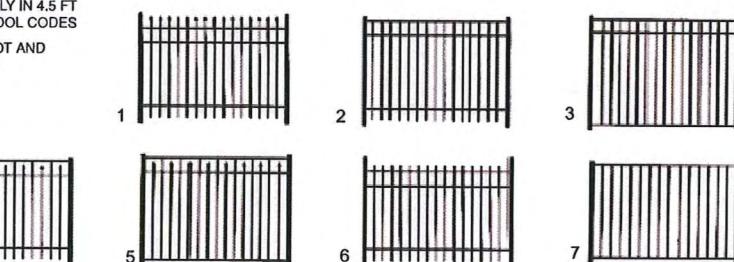
PATENTED
Novis
TECHNOLOGY

Our unique stainless steel clip system makes installation faster and easier!

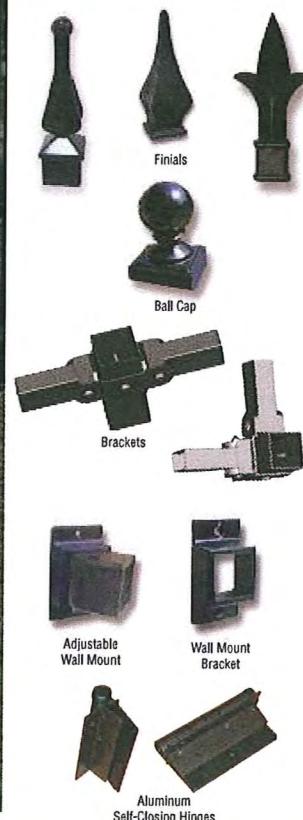


FORSTER ALUMINUM FENCE STYLES

- STYLES 3 & 5 AVAILABLE ONLY IN 4.5 FT PANELS AND MEET BOCA POOL CODES
- STYLE 7 AVAILABLE IN 4 FOOT AND 5 FOOT PANELS AND MEETS BOCA POOL CODES



FENCE AND GATE ACCESSORIES



UNIVERSAL SCROLL GATES

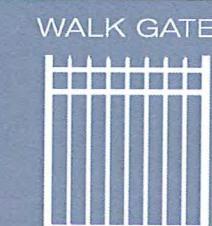


Gate Openings: 4' - 5' - 6'
Height Available: 4' - 4.5" - 5' - 6"

Gate Openings: 10' - 12'
Height Available: 4' - 4.5" - 5' - 6"

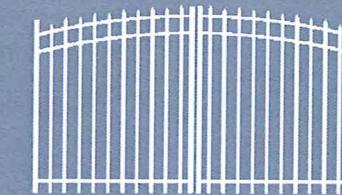
* Manufactured without bottom scroll to meet BOCA pool codes

STANDARD GATES



Gate Openings: 4' - 5' - 6'
Height Available: 4' - 4.5" - 5' - 6"

DOUBLE DRIVE GATE



Gate Openings: 8' - 10' - 12'
Height Available: 4' - 4.5" - 5' - 6"



CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
JUNE 2, 2009 AGENDA

Subject:	Type:	Submitted By:
CONTRACT FOR PROFESSIONAL SERVICES – GIS	◆ RESOLUTION ORDINANCE RECEIVE/FILE	JOE SOUCIE PUBLIC WORKS DIRECTOR

SYNOPSIS

A resolution has been prepared authorizing the execution of a contract with Kirkham Michael for professional services to provide conversion of storm water data into a Geographical Information System (GIS), in an amount not to exceed \$20,000.00.

FISCAL IMPACT

Funding for this project is provided by a Storm Water Management Grant that was awarded to the City of La Vista by the Nebraska Department of Environmental Quality (NDEQ). The City received a grant for \$19,884.00 in 2007; \$25,000 in 2008; and \$25,000 in 2009.

RECOMMENDATION

Approval

BACKGROUND

In May 2007 the City of La Vista contracted with Kirkham Michael on a GIS Conversion Storm Sewer Pilot project in an amount not to exceed \$4,900.00. The pilot project encompassed an area south of Harrison; west of 69th Street; north of Lillian Avenue and east of 76th Street. The project involved collection of all storm sewer data in the pilot area. Phase II which encompassed the remaining area east of 96th Street was completed in 2008. This third phase will cover everything from 96th Street to 108th Street – Harrison to Portal Road.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AWARDING A CONTRACT TO KIRKHAM MICHAEL & ASSOCIATES, INC., OMAHA, NE, FOR PROFESSIONAL SERVICES TO PROVIDE CONVERSION OF STORM WATER DATA INTO A GEOGRAPHICAL INFORMATION SYSTEM (GIS) IN AN AMOUNT NOT TO EXCEED \$20,000.00.

WHEREAS, the City Council of the City of La Vista has determined that said project is necessary; and

WHEREAS, the FY 2008/09 Storm Water Management Fund provides funding for the proposed project; and

WHEREAS, the project is recognized in the City of La Vista's Storm Water Management Plan that is annually submitted to the Nebraska Department of Environmental Quality; and

WHEREAS, Subsection (C) (9) of Section 31.23 of the La Vista Municipal Code requires that the City Administrator secure council approval prior to authorizing any purchases over \$5,000.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and City Council of La Vista, Nebraska, that authorization is given to execute a contract with Kirkham Michael & Associates, Inc., Omaha, Nebraska, for professional services to provide conversion of storm water data into a Geographical Information System, in an amount not to exceed \$20,000.00.

PASSED AND APPROVED THIS 2ND DAY OF JUNE 2009

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk



DUPLICATE

Arizona ♦ Colorado
Iowa ♦ Kansas ♦ Nebraska
www.kirkham.com

May 8, 2009

RE: Contract for Professional Services
GIS Conversion Storm Sewer Project
City of La Vista

Mr. Joe Soucie
Director of Public Works
City of La Vista
9900 Portal Road
La Vista, Nebraska 68128

Dear Joe:

Kirkham Michael is pleased to submit this proposal for the GIS conversion storm sewer project (Pilot Area Number 3) for the City of La Vista. The project will consist of several separate tasks; Project kick off meeting, data evaluation, geodatabase data processing, project area, quality control and the final project deliverables.

Task 1: Project Kick Off Meeting

A meeting will be scheduled before project work begins to encourage City staff input and to establish and communicate the project goals, expectations, schedule, and quality standards. The lists of items that will be discussed at this meeting include, but are not necessarily limited to, the following:

1. Project goals and overall quality parameters, and the data acceptance criteria
2. Information and data provided by the City
3. Project Schedule
4. Project Area
5. Quality Control Review and Documentation
6. Project Deliverables

Task 2: Geodatabase for La Vista

In accordance with the pilot project the Storm Sewer System manholes, will be identified with a unique manhole number which will be generated by the drainage basin. The drainage basin with the largest number of manholes will be used to ensure the numbering system is adequate. Numbering will start at the downstream base or trunk, and work upstream along the path.

We will also continue the following items that were established within the previous pilot geodatabase. Those items consist of the following:

- Establish relationship classes between feature classes in a feature dataset. For example, storm sewer inlets, manholes and pipes are physically attached to one another. By setting up a relationship class, when a storm sewer pipe is moved, its associated attributes move with it;
- Create geometric networks for modeling connectivity and performing trace and path finding analysis;
- Store custom features that represent real-world features more accurately.



Mr. Joe Soucie
May 8, 2009
Page 2

Task 3: Data Processing

Data processing starts with scanning of the pencil drawings followed by digitizing the scanned information into an Electronic AutoCAD drawing file. The attribute values will then be separated by layer, and converted to a custom geodatabase format with a Nebraska State plane local projection. Any additional data from the scanned pencil drawings will be manually separated by line, point, or text into separate layers and imported into the GIS System. Each type of storm sewer pipe, inlets, manholes and other features will contain an attribute, or label embedded into a geodatabase, so that the user is able to locate features in multiple ways.

Task 4: Project Area

The Kirkham Michael Team will convert and load information into the established La Vista storm sewer database that was created from the pilot project. The Project area (Pilot Area 3) boundaries will be 108th Street on the west, 96th street on the east, Harrison Street on the north and Portal Road on the South. Please refer to (Attachment 1) of this proposal for the map of the project area.

Task 5: Quality Control

Quality Control will be completed by Kirkham Michael. We will compare the converted data to the original data, and verify any horizontal and vertical errors that are within the spatial accuracy of the database. Secondly, for quality control, a random selection of features from each layer will be generated, and compared to the original data.

Task 6: Project Deliverables

The deliverable items that will be provided to the City of La Vista for the Pilot Project (No. 3) include the following:

1. A custom GIS utility geodatabase of the Storm Sewer System layer and attributes based on the Utilities CAD file
2. A custom GIS cadastral geodatabase of the other features based on the CAD information
3. A printed geodatabase structure (schema) in PDF format detailing the data and attributes features of each custom geodatabase

Compensation

For the above described services, Kirkham Michael shall be paid a lump sum fee of Twenty Thousand Dollars (\$20,000.00). This amount includes our professional services fee and project related reimbursable expenses. You will be invoiced on a monthly basis for services rendered during the preceding month.



Mr. Joe Soucie
May 8, 2009
Page 3

General Provisions. Kirkham Michael General Terms and Conditions are attached and incorporated as an integral part of this letter agreement.

We propose that this document serve as our contractual agreement. Please execute this document by signing both copies and returning one copy to us. The returned executed copy will serve as our Notice to Proceed.

Thank you Joe, for your consideration and if you have any questions, please do not hesitate to contact me at (402) 255-3834.

Sincerely,

KIRKHAM, MICHAEL & ASSOCIATES, INC.

A handwritten signature in black ink that appears to read "Mike Preston".

Mike Preston
GIS Manager

RLR/MP:sjt

Enclosure

Copy to: J. Frederiksen – Kirkham Michael Omaha

S:\43\GIS\La Vista\Prop_City Lavista 05052009 .doc

A handwritten signature in black ink that appears to read "Rich L. Robinson".

Rich L. Robinson, P.E.
Senior Vice President

ACCEPTANCE OF PROPOSAL AND AUTHORIZATION TO PROCEED

Date: _____

Authorized Representative
City of La Vista

EXHIBIT A
Kirkham Michael
Terms and Conditions
For
Engineering Services Agreements

1. AUTHORIZATION TO PROCEED

Signing of the accompanying agreement for engineering and related services shall be authorization by the Client for Kirkham Michael (Kirkham Michael) to proceed with the work described, unless otherwise stated in the agreement form.

The client shall pay Kirkham Michael a retainer in the amount of \$0.00 before work is to proceed. The retainer shall be applied against the last invoiced amount and any interest charges that may have been incurred.

2. STANDARD OF PRACTICE

Services performed by Kirkham Michael under this agreement will be conducted in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representation, express or implied, and no warranty or guarantee is included or intended in the agreement or in any report, opinion, document, or otherwise.

3. INVOICING AND PAYMENT

The client, recognizing that timely payment is a material part of the consideration of this agreement, shall promptly pay Kirkham Michael for services performed in accordance with the rates and charges set forth herein. Invoices will be submitted by Kirkham Michael on a monthly basis and shall be due and payable upon receipt. The client shall pay an additional charge of one and one half percent (1.5%) (or the maximum percentage allowed by law, whichever is lower,) of the invoiced amount per month for any payment received by Kirkham Michael more than thirty (30) calendar days from the invoice date. Payment thereafter shall first be applied to accrued interest and then to principal unpaid amount.

If the client for any reason fails to pay the undisputed portion of Kirkham Michael's invoices within thirty calendar days from the invoice date, Kirkham Michael may cease work on the project and the client shall waive any claim against Kirkham Michael and shall defend and indemnify Kirkham Michael from and against any claims for injury or loss stemming from Kirkham Michael's cessation of services. Client shall also pay Kirkham Michael the cost associated with premature project demobilization. In the event the project is remobilized, client shall also pay the cost of remobilization and shall renegotiate appropriate contract terms and conditions such as those associated with the budget, schedule or scope of services.

If the client objects to all or a portion of the invoice, the client shall so notify Kirkham Michael in writing within ten calendar days of the date of the invoice in question, and shall pay that portion of the invoice not in dispute. In the event any bill or portion thereof is disputed by the client, client shall notify Kirkham Michael within ten (10) calendar days of the date of the invoice in question. Client and Kirkham Michael shall work together to resolve the matter within sixty (60) calendar days of its being called to Kirkham Michael's attention. If resolution of the matter is not attained within sixty (60) calendar days, either party may terminate this agreement.

4. ADDITIONAL SERVICES

Any services beyond those specified in the agreement will be provided for separately under an additional agreement or a supplemental agreement.

5. CONSTRUCTION COST ESTIMATES

Construction cost estimates provided by Kirkham Michael are prepared from experience and judgment. Kirkham Michael has no control over market conditions or construction procedures and does not warrant that proposals, bids or actual construction costs will not vary from Kirkham Michael estimates.

6. LIMITATION OF LIABILITY

In order for the client to obtain the benefits of a fee which includes a lesser allowance for risk funding, the client agrees to limit Kirkham Michael's liability arising from Kirkham Michael's professional acts, errors or omissions, such that the total aggregate liability of Kirkham Michael shall not exceed Kirkham Michael's total fee for the services rendered on this project, or the amount of fifty thousand dollars (\$50,000), whichever is less.

7. CONSEQUENTIAL DAMAGES

The client shall not be liable to Kirkham Michael and Kirkham Michael shall not be liable to the client for any consequential damages incurred by either party due to the fault of the other, regardless of the nature of this fault or whether it was committed by the client or Kirkham Michael, their employees, agents, or subcontractors. Consequential damages include, but are not limited to, loss of use and loss of profit.

8. OWNERSHIP OF DOCUMENTS

All plans, drawings, reports, notes, calculations, estimates and other documents prepared by Kirkham Michael as instruments of service shall remain the property of Kirkham Michael, and copies will be provided at the request of the client.

9. TERMINATION

In the event termination becomes necessary, the party (client or Kirkham Michael) effecting the termination shall so notify the other party and termination will become effective fourteen (14) calendar days after receipt of the termination notice. Irrespective of which party shall effect termination or the cause of termination, the client shall within thirty (30) calendar days of termination remunerate Kirkham Michael for services rendered and costs incurred up to the effective time of termination, in accordance with Kirkham Michael's prevailing fee schedule and expense reimbursement policy.

10. GOVERNING LAW

This agreement is to be governed by and construed in accordance with the law of the principal place of business of Kirkham Michael.

THE AGREEMENT AND THESE TERMS AND CONDITIONS EXPRESS THE ENTIRE AGREEMENT BETWEEN THE PARTIES. THESE TERMS AND CONDITIONS SHALL TAKE PRECEDENCE OVER ANY INCONSISTENT OR CONTRADICTORY PROVISIONS CONTAINED IN ANY PROPOSAL, CONTRACT, NOTICE TO PROCEED, OR LIKE DOCUMENT REGARDING KIRKHAM MICHAEL'S SERVICES. IF ANY ONE OR MORE OF THE PROVISIONS CONTAINED IN THIS AGREEMENT SHALL BE HELD UNENFORCEABLE, THE ENFORCEABILITY OF THE REMAINING PROVISIONS SHALL NOT BE IMPAIRED.

Attachment 1

