

CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
JUNE 16, 2009 AGENDA

| Subject: | Type: | Submitted By: |
|---|--|--|
| CONDITIONAL USE PERMIT — OUTDOOR STORAGE (WALDINGER CORPORATION), LOT 4, PAPIO VALLEY 2 | ◆RESOLUTION ORDINANCE RECEIVE/FILE | ANN BIRCH COMMUNITY DEVELOPMENT DIRECTOR |

SYNOPSIS

A public hearing has been scheduled for Council to consider an application for a Conditional Use Permit for the Waldinger Corporation to have outdoor storage of materials on Lot 4, Papio Valley 2 Business Park, generally located west of 121st and Centennial Road.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approval.

BACKGROUND

A public hearing has been scheduled to consider an application submitted by the Waldinger Corporation, represented by Jack Wilhelmi, on behalf of the property owner, Bell Avenue Properties, Inc., to approve a conditional use permit for outdoor storage of materials on Lot 4, Papio Valley 2 Business Park, generally located west of 121st and Centennial Road. The property is zoned I-2, Heavy Industrial and is currently undeveloped. The applicant proposes to construct and operate a mechanical, electrical and sheet metal fabrication business on a portion of the property. The request is for outdoor storage of materials to be used in the production of finished goods and for storage of finished product prepared for shipping.

City Engineer John Kottmann and staff have reviewed the application; review comments are included in the attached staff report.

The Planning Commission held a public hearing on May 21, 2009 and recommended approval of the conditional use permit to City Council subject to the conditions identified in the staff report.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE EXECUTION OF A CONDITIONAL USE PERMIT FOR THE WALDINGER CORPORATION FOR OUTDOOR STORAGE ON LOT 4, PAPIO VALLEY 2 BUSINESS PARK.

WHEREAS, The Waldinger Corporation, represented by Jack Wilhelmi, on behalf of the property owner, Bell Avenue Properties, Inc., has applied for a conditional use permit for the purpose of having outdoor storage of materials on Lot 4, Papio Valley 2 Business Park; and

WHEREAS, the La Vista Planning Commission has reviewed the application and recommends approval; and

WHEREAS, the Mayor and City Council of the City of La Vista are agreeable to the issuance of a conditional use permit for such purposes, subject to the following conditions:

1. 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.
2. Visual screening of the outdoor storage area shall meet the requirements of Section 7.17.04 of the Zoning Ordinance.
3. All landscaping requirements in Section 7.17.03 shall be satisfied.

NOW THEREFORE, BE IT RESOLVED, that the Mayor and City Council of the City of La Vista hereby authorize the execution of a Conditional Use Permit in form and content submitted at this meeting, for the Waldinger Corporation, represented by Jack Wilhelmi, for the purpose of having outdoor storage of materials on Lot 4, Papio Valley 2 Business Park, subject to the conditions listed in the last recital above.

PASSED AND APPROVED THIS 16th DAY OF JUNE 2009.

CITY OF LA VISTA

ATTEST:

Douglas Kindig, Mayor

Pamela A. Buethe, CMC
City Clerk



CITY OF LA VISTA
CITY COUNCIL
STAFF REPORT
CONDITIONAL USE PERMIT
WALDINGER CORPORATION

DATE OF HEARING:
June 16, 2009

PROPOSAL:

Outdoor storage of materials to be used in the production of finished goods and for storage of finished product prepared for shipping.

PROPERTY INFORMATION

APPLICANT:
Waldinger Corporation
Jack Wilhelmi
4226 S. 80th St.
Omaha, NE 68127

PROPERTY OWNER:
Bell Avenue Properties, Inc.
Thomas Koehn
2601 Bell Ave.
Des Moines, IA 50321

LOCATION AND SIZE:
8802 S. 121st Street
Lot 4 of Papio Valley 2 Business Park
Lot = 23.03 Acres

CURRENT ZONING:
I-2, Heavy Industrial

APPLICABLE DEFINITIONS

(from Section 2 of Zoning Ordinance)

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).

BACKGROUND

History of Subject Properties:

The plat for Papio Valley 2 Business Park was recorded in the Fall of 2000. The property is currently undeveloped.

A 20-foot wide sanitary sewer and drainage easement runs along the entire South boundary of Lot 4, Papio Valley 2 Business Park. Also, a 28.76 foot wide outfall sewer easement runs along the West property line, within that easement is another channel maintenance easement to the Papio-Missouri River Natural Resources District.

Description of Proposed Development:

On April 10, 2009, the City of La Vista received an application from Waldinger Corporation who is looking to construct and operate a mechanical, electrical and sheet metal fabrication business on a portion of the subject property. According to Waldinger's website, they are "a full-service contractor specializing in the design, fabrication, installation, maintenance and repair of heating, ventilation, air conditioning, refrigeration, electrical, plumbing and piping systems."

This operation is a permitted use within the current zoning district; however, the applicant would also like to have outdoor storage of product. The outdoor storage component of the operation is the subject of the conditional use permit. The applicant wishes to permit outdoor storage of materials to be used in the production of finished goods and for storage of finished product prepared for shipping.

Existing Conditions of Site:

Vacant with Westmont Creek located on the western border of the property line.

Surrounding Area and Adjacent Neighborhoods Land Uses and Zoning:

North – Lot 3, Papio Valley 2 Business Park; I-2, Heavy Industrial;
East – Lot 6 & 9 of Papio Valley 2 Business Park; I-2, Heavy Industrial;
South – Sarpy County, Pink Industrial Park; and
West – Harlan Otte's property; I-1, Light Industrial

Applicable Regulations:

Section 5.14 of the Zoning Ordinance, I-2 Heavy Industrial

Section 6.05 of the Zoning Ordinance, Standards

No conditional use permit shall be granted unless that Planning Commission or City Council has found:

- 6.05.01 That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, moral, comfort, or general welfare of the community.
- 6.05.02 That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
- 6.05.03 That the establishment of the conditional use will not impede the normal and orderly development of the surrounding property for uses permitted in the district.
- 6.05.04 That adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.
- 6.05.05 That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- 6.05.06 The use shall not include noise which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.
- 6.05.07 The use shall not involve any pollution of the air by fly-ash, dust, vapors or other substance which is harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, or irritation.
- 6.05.08 The use shall not involve any malodorous gas or matter which is discernible on any adjoining lot or property.
- 6.05.09 The use shall not involve any direct or reflected glare which is visible from any adjoining property or from any public street, road, or highway.
- 6.05.10 The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.
- 6.05.11 The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.

Section 7.16 of the Zoning Ordinance, regarding Performance Standards for Industrial Uses

Applicable Plans:

The Comprehensive Plan and Future Land Use Map

REVIEW COMMENTS FROM CITY STAFF AND OUTSIDE AGENCIES

Black Hills Energy, Denise Montgomery

No comments received

City Engineer, John Kottmann:

1. Relative to Article 6.05.02, the proposed outdoor storage area needs to be screened from view of the public street. Article 7.16.01 is also applicable. For security reasons, I would expect the entire perimeter of the outdoor storage area to be fenced, but I did not see this proposed in the submittal.
2. Relative to Article 6.05.07, the proposal to utilize gravel surfacing in the storage area would be acceptable as long as there is no routine traffic through the gravel surface area. Such routine

traffic would lead to airborne dust and tracking of sediment off the site. It is important that the gravel surface not become utilized as a parking area. Gravel surface for parking areas has not been permitted in the past for a variety of code enforcement reasons, including pollution, fire land access, pedestrian safety, delineation of parking stalls, and general appearance of properties. In this circumstance given the location of the gravel surfacing away from regular traffic patterns, potential to reduce storm water runoff, and that the area will be screened from view, I am of the opinion that the gravel surfacing can be permitted.

Chief Building Official, Jeff Sinnett

No comments received.

Fire Chief, Rich Uhl

No comments received.

Metropolitan Utility District, Jeff Loll

No comments received.

Omaha Public Power District, Steve Sauer

No comments received.

Police Chief, Bob Lausten

No concerns identified by police.

Public Works Director, Joe Soucie

No comments received.

Public School District

No comments received.

Qwest, Aaron Krebs

No comments received.

PUBLIC COMMENTS

No public comments or questions have been received regarding this application.

PLANNING STAFF ANALYSIS

Land Use:

Outdoor storage is conditionally permitted in the I-2 Zoning District only. The proposed location of the applicant's outdoor storage area presents minimal impact in a predominantly industrial area. However, as stated in Section 7.16.01 of the Zoning Ordinance, "allowable outdoor storage or display shall be visually

screened from public roadways and residential properties.” In this case, the outdoor storage area will be required to be screened from view of 120th Street, 121st Street, and Centennial Road, in accordance with the screening requirements in Section 7.17.04 of the Zoning Ordinance.

Transportation:

As the City Engineer has indicated, the gravel surface may present an issue with dust if it is driven over regularly or used as a parking area. It is unclear on the plans if there will be a specific access point to the storage area or if it will be open on all sides. Although the applicant has explained that there would be a curb along the parking lot on the east side of the outdoor storage area.

Landscaping:

A landscape plan was submitted showing perimeter tree plantings, but it does not address screening of the outdoor storage area. A revised landscape plan will be needed to satisfy Section 7.17.04. This section states that screening shall be equivalent to one of the following:

1. Solid fences or walls as approved by the City on the final development plan.
2. Hedges, coniferous shrubs, or evergreen trees of thirty-six (36) inches in height at planting spaced appropriately to provide a solid screen within three (3) years after planting.
3. Berms of not less than three (3) feet in height and that provide a maximum slope of 3:1 for easy maintenance. Such berms may be used in conjunction with plantings to achieve the solid visual screen as described above.

Section 7.17.03 addresses general landscaping requirements for commercial or industrial properties. Specifically this section addresses perimeter landscaping to include a minimum of one (1) tree for each forty (40) lineal feet of street frontage; planting schedule and planting materials. This landscaping is required by code in addition to the screening requirements for the outdoor storage area.

Stormwater Drainage:

Stormwater detention ponds are proposed on the western boundary of the property. These will help contain any pollutants that runoff the gravel surfaced area but will not prevent pollutants from infiltrating the groundwater table associated with the adjacent creek.

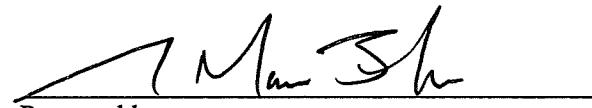
PLANNING COMMISSION RECOMMENDATION

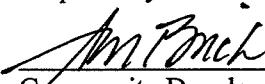
Planning Commission and Planning Staff finds that the application can satisfy the standards set forth in Section 6.05 of the Zoning Ordinance and therefore recommends approval of the Waldinger Corporation’s Conditional Use Permit with the following conditions:

1. 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.
2. Visual screening of the outdoor storage area shall meet the requirements of Section 7.17.04 of the Zoning Ordinance.
3. All landscaping requirements in Section 7.17.03 shall be satisfied.

Additional Planning Staff recommendation:

Landscape screening shall be used in conjunction with the concrete curb on the west edge of the parking lot. The landscaping shall consist of coniferous shrubs or trees and shall be installed along the east perimeter of the outdoor storage area. This design could satisfy both conditions 1 & 2.



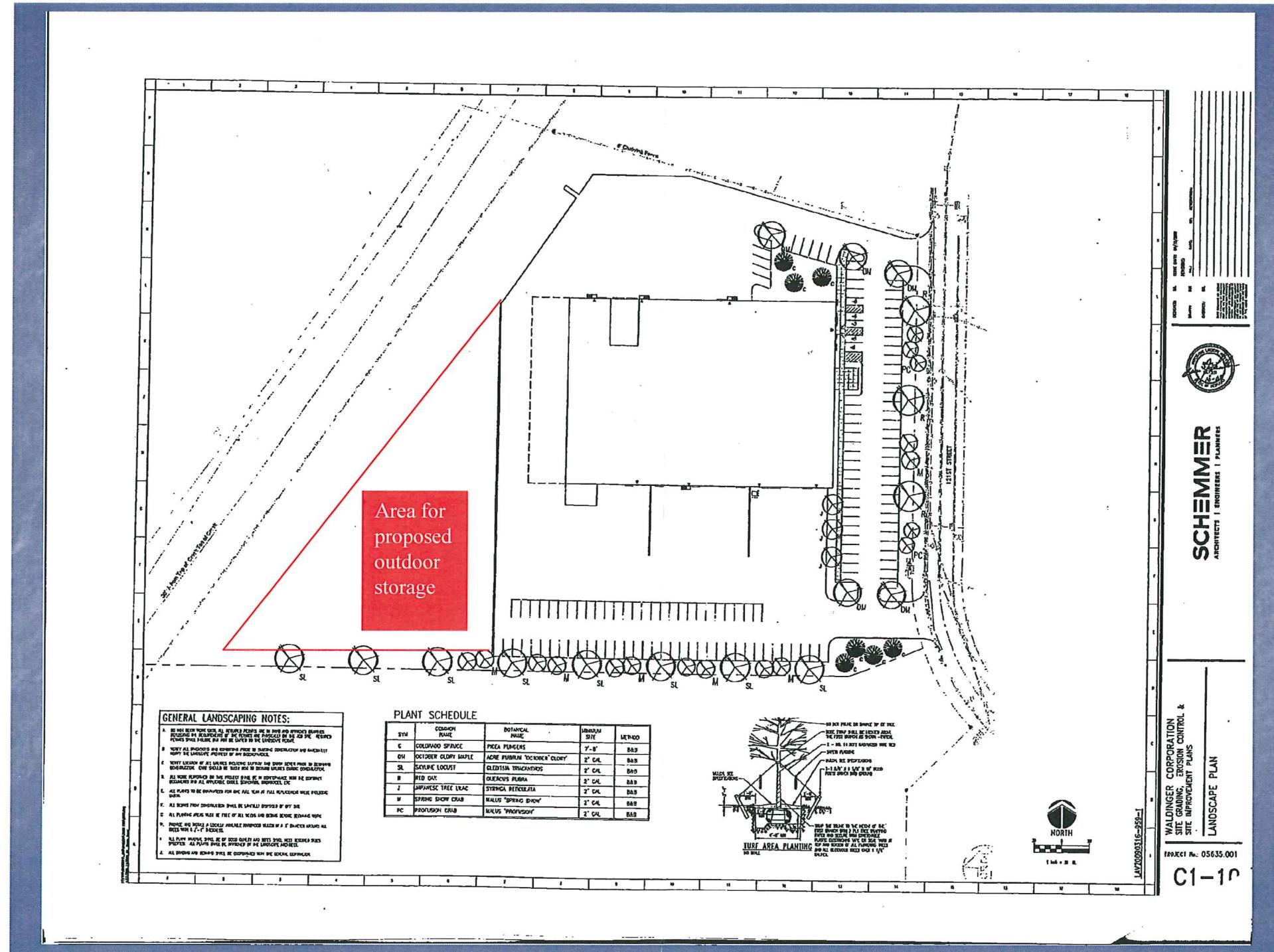
Prepared by:


Community Development Director 6-11-09
Date

Attachments:

1. Vicinity Map
2. Site Plan
3. Conditional Use Permit





City of La Vista Conditional Use Permit

Conditional Use Permit for Waldinger Corporation

This Conditional Use Permit issued this 16th day of June, 2009, by the City of La Vista, a municipal corporation in the County of Sarpy County, Nebraska ("City") to Bell Avenue Properties, Inc. ("Owner"), pursuant to the La Vista Zoning Ordinance.

WHEREAS, Owner wishes to construct and operate an outdoor storage area upon the following described tract of land within the City of La Vista zoning jurisdiction:

Lot 4, Papio Valley 2 Business Park located in the NE ¼ Section 19, Township 14 North, Range 12 East of the 6th P.M. Sarpy County, Nebraska, located at 8802 S. 121st Street.

WHEREAS, Owner has applied for a conditional use permit for the purpose of storing materials and finished product outdoors; and

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

NOW, THEREFORE, BE IT KNOWN THAT subject to the conditions hereof, this conditional use permit is issued to the owner to use the area designated on Exhibit "A" hereto for outdoor storage, said use hereinafter being referred to as "Permitted Use or Use".

Conditions of Permit

The conditions to which the granting of this permit is subject are:

1. The rights granted by this permit are transferable and any variation or breach of any terms hereof shall cause permit to expire and terminate without the prior written consent of the City (amendment to permit) or unless exempted herein.
2. In respect to the Permitted Use:
 - a. A site plan showing the property boundaries of the tract of land and easements, proposed structures, parking, access points, and drives shall be provided to the City and attached to the permit as "Exhibit B".
 - b. Landscape screening shall be used in conjunction with the concrete curb on the west edge of the parking lot. The landscaping shall consist of coniferous shrubs or trees and shall be installed along the east perimeter of the outdoor storage area.
 - c. There shall be no storage, placement or display of goods, supplies or any other material, substance, container or receptacle outside of the designated area for the Permitted Use, except trash receptacles and those approved in writing by the City.
 - d. Landscaping requirements from Section 7.17.03 and 7.17.04 of the City of La Vista Zoning Ordinance shall be satisfied and maintained by the property owner.
 - e. Owner shall obtain all required permits from the City of La Vista and shall comply with any additional requirements as determined by the Chief Building Official, including, but not limited to, building, fire, and ADA.

- f. Owner shall comply (and shall ensure that all employees, invitees, suppliers, structures, appurtenances and improvements, and all activities occurring or conducted, on the premises at any time comply) with any applicable federal, state and/or local regulations, as amended or in effect from time to time, including, but not limited to, applicable environmental or safety laws, rules or regulations.
- g. Owner hereby indemnifies the City against, and holds the City harmless from, any liability, loss, claim or expense whatsoever (including, but not limited to, reasonable attorney fees and court cost) arising out of or resulting from the acts, omissions or negligence of the owner, his agents, employees, assigns, suppliers or invitees, including, but not limited to, any liability, loss, claim or expense arising out of or resulting from any violation on the premises of any environmental or safety law, rule or regulation.

3. The applicant's right to maintain the use as approved pursuant to these provisions shall be based on the following:
 - a. An annual inspection to determine compliance with the conditions of approval. The conditional use permit may be revoked upon a finding by the City that there is a violation of the terms of approval.
 - b. The use authorized by the conditional use permit must be initiated within one (1) year of approval and shall become void two (2) years after the date of approval unless the applicant has fully complied with the terms of approval.
 - c. All obsolete or unused structures, accessory facilities or materials with an environmental or safety hazard shall be abated and/or removed at owner's expense within twelve (12) months of cessation of the conditional use.
4. Notwithstanding any other provision herein to the contrary, this permit, and all rights granted hereby, shall expire and terminate as to a permitted use hereunder upon the first of the following to occur:
 - a. Owner's abandonment of the permitted use. Non-use thereof for a period of twelve (12) months shall constitute a presumption of abandonment.
 - b. Cancellation, revocation, denial or failure to maintain any federal, state or local permit required for the Use.
 - c. Owner's breach of any other terms hereof and his failure to correct such breach within ten (10) days of City's giving notice thereof.
5. If the permitted use is not commenced within one (1) year from June 16, 2009, this Permit shall be null and void and all rights hereunder shall lapse, without prejudice to owner's right to file for an extension of time pursuant to the La Vista Zoning Ordinance.
6. In the event of the owner's failure to promptly remove any safety or environmental hazard from the premises, or the expiration or termination of this permit and the owner's failure to promptly remove any permitted materials or any remaining environmental or safety hazard, the City may, at its option (but without any obligation to the owner or any third party to exercise said option) cause the same to be removed at owner's cost (including, but not limited to, the cost of any excavation and earthwork that is necessary or advisable) and the owner shall reimburse the City the costs incurred to remove the same. Owner hereby irrevocably grants the City, its agents and employees the right to enter the premises and to take whatever action as is necessary or appropriate to remove the structures or any environmental or safety hazards in accordance with the terms of this permit, and the right of the City to enter the premises as necessary or appropriate to carry out any other provision of this permit.
7. If any provision, or any portion thereof, contained in this agreement is held to be unconstitutional, invalid, or unenforceable, the remaining provisions hereof, or portions thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

Miscellaneous

The conditions and terms of this permit shall be binding upon owner, his successors and assigns.

1. Delay of City to terminate this permit on account of breach of owner of any of the terms hereof shall not constitute a waiver of City's right to terminate, unless it shall have expressly waived said breach and a waiver of the right to terminate upon any breach shall not constitute a waiver of the right to terminate upon a subsequent breach of the terms hereof, whether said breach be of the same or different nature.
2. Nothing herein shall be construed to be a waiver or suspension of, or an agreement on the part of the City to waive or suspend, any zoning law or regulation applicable to the premises except to the extent and for the duration specifically authorized by this permit.
3. Any notice to be given by City hereunder shall be in writing and shall be sufficiently given if sent by regular mail, postage prepaid, addressed to the owner as follows:

| | | |
|----------------------------------|---|---|
| Contact Name and Address: | Jack Wilhelm Waldinger Corporation 4226 S. 80 th St Omaha, NE 68127 (402) 339-2666 | Thomas Koehn Bell Avenue Properties, Inc. 2601 Bell Ave Des Moines, IA 50321 (515) 323-5129 |
|----------------------------------|---|---|

Effective Date:

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

THE CITY OF LA VISTA

By _____
Douglas Kindig, Mayor

Attest:

Pam Buethe
City Clerk

CONSENT AND AGREEMENT

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

Owner:

By: _____

Title: _____

Date: _____