

**CITY OF LA VISTA  
PLANNING DIVISION**

**RECOMMENDATION REPORT**

FOR HEARING OF: November 19, 2009  
Report prepared on November 9, 2009

**I. GENERAL INFORMATION**

**A. APPLICANT:**

Pedcor Investments, LLC.  
One Pedcor Square  
770 3<sup>rd</sup> Avenue, S.W.  
Carel, IN 46032

**B. PROPERTY OWNER:**

Torco Development, Inc.  
11205 S 150<sup>th</sup> Street, Ste 100  
Omaha, NE 68138

**C. LOCATION:**

Southwest corner of 96<sup>th</sup> & Harrison Street

**D. LEGAL DESCRIPTION:**

Lot 380, Cimarron Woods a subdivision in the N 1/2 of Section 16, Township 14N, Range 12E of the 6<sup>th</sup> P.M., Sarpy County, NE (being replatted as Lots 1 & 2, Cimarron Woods Replat Two)

**E. REQUESTED ACTION(S):**

1. Final Planned Unit Development (PUD)
2. Final Plat
3. Conditional Use Permit (CUP)

**F. EXISTING ZONING AND LAND USE:**

R-3 PUD-1, High Density Residential Planned Unit Development  
Vacant

**G. PURPOSE OF REQUEST:**

Multi-family housing / Apartments named Cimarron Terrace

**H. SIZE OF SITE:**

25.938 acres

**II. BACKGROUND INFORMATION**

**A. EXISTING CONDITION OF SITE:**

Undeveloped; moderate to steeply sloping toward an open drainage channel which bisects the site from north to south. This drainage area contains mature groves of trees.

**B. GENERAL NEIGHBORHOOD/AREA LAND USES AND ZONING:**

1. **North:**  
City of Omaha; Applewood Golf Course
2. **East:**  
Cornerstone Baptist Church/TA Transitional Agriculture and R-1 Single-Family Residential
3. **South:**  
Cimarron Woods/R-1 Single-Family Residential
4. **West:**  
Cimarron Woods/R-1 Single-Family Residential

**C. RELEVANT CASE HISTORY:**

1. In October of 2002, an application was filed for approval of a Comprehensive Plan amendment, a rezoning from TA, Transitional Agriculture, to R-1 PUD and R-3 PUD; and approval of a preliminary plat for a subdivision to be known as "Shenandoah". Proposed Lot 514 (26.7 acres) was to be zoned for multi-family development.
2. On March 20, 2003, after some revisions to the layout of the plat, the Planning Commission conducted a public hearing and recommended approval of the request. The staff report and meeting minutes identify the rezoning from TA to R-1 but state "A P.U.D. designation will also allow for some mixed residential development...which will be predominantly single-family housing." And "Through the use of a P.U.D. the higher density residential has relocated to the northeast corner of this site where commercial uses have been previously discouraged." Also identified are several comments from the staff and the Acting City Engineer, Terry Atkins, including:
  - (a) A traffic signal shall be provided at 99<sup>th</sup> Street when the apartments are constructed regardless of warrants.
  - (b) Language must be incorporated into the subdivision agreement requiring approval of the final apartment plan prior to site development. The final apartment plan must have adequate internal traffic flow for police and fire, which would include a wide divided entrance.
3. On May 6, 2003, the City Council conducted a public hearing and approved Ordinance No. 907. The staff report and meeting minutes include the same comments regarding multi-family development however the ordinance rezoned the entire area of the preliminary plat to R-1.
4. In August of 2003, an application was filed for approval of a revised preliminary plat, a final plat, a final PUD plan and a waiver to two sections of the Subdivision Regulations. The name of the subdivision was changed to "Cimarron Woods". The application identifies a proposed 418 units on Lot 380.
5. On August 21, 2003 the Planning Commission conducted a public hearing and recommended approval of the request. The staff report and meeting minutes include the same comments noted above regarding the multi-family development. In addition, the debt to value analysis for the S.I.D. identifies Lot 380 will contain +400 units.
6. On September 16, 2003 the City Council conducted a public hearing and approved Ordinance No. 916 which created the PUD-1 overlay designation to the R-1 zoning which had been approved in Ordinance No. 907. The City Council also approved the revised preliminary plat, the final plat and the Subdivision Agreement. The staff report and meeting minutes include the same comments noted above regarding the multi-family development. Section 19 of the Subdivision Agreement also states "As regards Lot 380 (multi-family tract), site plan, building elevations and building design shall be subject to City approval, at which time it should become part of this Agreement and Exhibit "K"".
7. 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.

8. On April 17, 2008 the Planning Commission reviewed a new Preliminary Planned Unit Development Plan as it differed significantly from the original Preliminary PUD Plan that was approved in 2003. Garages are not being planned for all units; the internal roadways are different; the arrangement of the apartment complexes is different; and fewer apartment units are being planned.

9. On June 2, 2009, the City Council approved Resolution No. 09-052 which approved the preliminary Planned Unit Development (PUD-1) plan subject to: 1. The property being zoned to read R-3, PUD-1 zoning; 2. A traffic signal be installed at the intersection of 99<sup>th</sup> and Harrison Streets as part of Phase I; 3. A 10-foot wide trail be installed in Phase II; 4. Revisions requested by the City Engineer, 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 be incorporated into the Final PUD Plan and Conditional Use Permit submittal; 6. Other revisions stated in the staff report be addressed prior to Final PUD Plan and Conditional Use Permit submittal; and 7. A preliminary assessment of the potential waterway/wetland issues be performed and all applicable Army Corps of Engineers permits be acquired by the developer prior to approval of the Final PUD plan.

#### **D. APPLICABLE REGULATIONS:**

1. Section 5.08, Zoning Ordinance, regarding the R-3 High Density Residential District
2. Section 5.15, Zoning Ordinance, regarding the PUD-1 Planned Unit Development District
3. Section 5.17.06, Gateway Corridor District, Sub-Area Secondary Overlay
4. Article 6, Zoning Ordinance, regarding Conditional Use Permits

### **III. ANALYSIS**

#### **A. COMPREHENSIVE PLAN:**

The Future Land Use Map of the Comprehensive Plan identifies this site for high density residential.

#### **B. OTHER PLANS:**

1. Cimarron Woods Subdivision Agreement
2. Cimarron Woods Park and Trail Plan (Exhibit E-1 of the Subdivision Agreement)

#### **C. TRAFFIC, ACCESS AND TRAIL:**

1. Lot 380 was platted with access to 99<sup>th</sup> Street in Cimarron Woods.
2. Harrison Street abuts this lot on the north, however this roadway has controlled access and no direct access will be allowed.
3. 96<sup>th</sup> Street abuts this lot on the east. Topography of the site limits the ability to gain access to 96<sup>th</sup> Street.
4. Access from 99<sup>th</sup> Street and throughout the site as shown on the final PUD plan is consistent with the access shown on the preliminary plan.
5. The applicant has prepared a plan for geometric revisions to 99<sup>th</sup> Street that will be required at such time as a traffic signal meets the warrants for installation. The City of Omaha has stated that the signal cannot be installed until traffic volume warrants are met, which may or may not occur when the apartments are

completed. The cost of the modifications to the pavement at the intersection may be a general obligation expense of the SID since this is primarily extra width paving that probably should have been constructed initially in anticipation of the traffic signal. Any pavement removal costs associated with the widening should be a developer expense. Regarding the signal costs, the City of Omaha has indicated that if the signal is warranted, they would purchase and install mast arms, signal heads and a controller. Any other signal costs not funded by Omaha should be borne 50 percent by the Cimarron Terrace developer and 50 percent by the SID per the original Subdivision Agreement. Any underground conduits or signal pole foundations should be installed as part of the pavement widening. The pavement modifications, underground signal work, and landscaping relocations need to be completed prior to issuance of certificates of occupancy for Phase 1 of the apartment complex.

6. The existing trail in Cimarron Woods is proposed to be extended into the Cimarron Terrace project.
7. The trail is proposed along the west side of the site and needs to be ADA compliant. Maximum slope should not exceed 5 percent. The proposed maximum grade appears to be 10 percent.

#### **D. PARKING AND PARKING LOT LAYOUT:**

1. The proposed quantity of parking stalls (surface and garage) is the same as the prior plan and exceeds the code minimum.
2. The dumpster locations have been shown and a screening detail has been added. The screening will need architectural review to determine compliance with the design guidelines of the Gateway Corridor Overlay District.

#### **E. UTILITIES:**

1. The PUD plan needs to have a notation about installing the additional line valve just north of Josephine Avenue as requested by MUD. ***This notation should be included prior to moving forward to City Council.***
2. The existing and proposed fire hydrants have been shown. These locations are currently under review by the Fire Department.

#### **F. GRADING AND DRAINAGE:**

1. The grading plan has been revised so that the grades match the drainage study. However there are some adjustments to the proposed grading required to correspond to the storage elevations shown in the drainage study. Detention Basin No. 26 needs to have the overflow elevation raised to 1110. Detention Basin No. 27 requires a revision in the drainage easement configuration shown on the final plat. Detention Basin No. 24 needs to have the low point in the roadway southwest of Building 7 raised to correspond to the 100-year storage elevation. The drainage easement configuration also needs to be adjusted to match this basin configuration.
2. The applicant needs to review the proposed grading to determine whether there will be any negative impact on the rear of Lots 301 and 302 from the proposed grading (see comment above regarding changes needed in grading plan at Basin No. 24).
3. Prior to the issuance of a grading permit or building permit for Phase 1, the applicant needs to demonstrate that the major storm drainage path between Buildings 8 and 10 will remain within the proposed sewer and drainage easement.
4. An off-site wetlands mitigation site has been identified and an unsigned purchase agreement with that owner has been submitted. ***A signed agreement is needed prior to the Planning Commission meeting.***

5. Prior to the issuance of a grading permit or building permit for Phase 1, the grading and erosion control permit obtained through the Papillion Creek Watershed Partnership website will need to be modified to match the revised development configuration of the site.
6. A preliminary Post Construction Stormwater Management Plan (PCSMP) has been submitted. A more detailed plan will be required prior to the issuance of a grading or building permit.
7. A nationwide permit has been issued by the Corps of Engineers with a contingency to obtain water quality certification from the Nebraska Department of Environmental Quality (NDEQ) before construction.

**G. LANDSCAPING:**

1. The property line along Harrison Street and the 96<sup>th</sup> Street right-of-way are planned to be landscaped in a manner consistent with the existing landscaping in Cimarron Woods.
2. The Landscape Plan has been reviewed as part of the design review for the Conditional Use Permit.
3. Substantial reconfiguration and removal of existing landscaping and signage in the 99<sup>th</sup> Street median will be required for the revisions to 99<sup>th</sup> Street at such time as the traffic signal is to be installed. The applicant has prepared a preliminary mitigation plan for relocating the landscaping and signage. The cost of the relocation of these improvements should be a private expense and identified as such in the amendment to the Subdivision Agreement.

**IV. REVIEW COMMENTS**

**FINAL PLAT:**

1. The drainage easement limits will need to be revised to match the results of the drainage study.
2. Mylar copies of the plat will need to be provided with all required signatures after City Council approval. The plat must be recorded prior to the issuance of any building permits.
3. A staking bond or letter certifying that lot corners have been pinned should be provided prior to the Mayor signing the mylars. The staking bond should be calculated at \$150.00 per lot.
4. *An acceptable amendment to the Subdivision Agreement will be required prior to consideration of the final plat by the City Council.* The amendment will need to address financing, timing of installation, operation and maintenance of proposed public and private improvements. The allocation of the installation and maintenance costs needs to be addressed in this agreement, as well as the creation of a property owners association for maintenance of private common area improvements. The agreement should include at least the following exhibits:
  - a. A copy of the final plat.
  - b. Plan illustrating required reconstruction of 99<sup>th</sup> Street pavement and Harrison Street median in order to facilitate a traffic signal installation.
  - c. Plan and profile drawing of proposed public sanitary and storm sewer extensions.
  - d. Mitigation plan for wetlands impacts.
  - e. Mitigation plan for relocation of landscaping improvements and signage in 99<sup>th</sup> Street associated with the reconstruction of 99<sup>th</sup> Street.
  - f. Detailed grading plan of stormwater detention areas for each phase of the apartments, including details on the outlet control structures to regulate the peak stormwater discharge, noting required storage volumes and predicted water surface elevations and discharge peak flows for 2-year, 10-year, 50-year and 100-year storm events.
  - g. Plan and profile for the proposed trail.

5. Itemized cost estimates for the public improvements were submitted. *These will be reviewed and commented upon when the other materials noted in #3 above are submitted prior to going to the City Council.*

**FINAL PUD PLAN:**

1. Under the PUD regulations, the Planning Commission shall review the final plan for compliance, upon review and comment by city staff, with the approved preliminary plan. In comparing the final plan to the preliminary plan, it should be noted that Building Nos. 3, 7, 11, 13 and 14 were moved away from the drainageway, generally 10 feet or less. Also, a set of garages on the south side of Building 7 were relocated. Various other minor changes were made to respond to comments, such as the location of the fencing along the south property line, the proposed retaining wall location north of Building No. 2, and a surveyed location of the tree trunk perimeter in the central portion of the site. However, staff is of the opinion that the final plan is in substantial compliance with the approved preliminary plan.
2. The setbacks were approved as part of the preliminary plan and were noted as: front yard 25'; side yard 10'; street side yard 25'; and rear yard 10'
3. The proposed trail must be ADA compliant (see comment above under (TRAFFIC, ACCESS AND TRAIL).
4. *The text of the PUD plan needs to be updated and submitted for consideration before proceeding to City Council.* This needs to include provisions for compliance with Article 5.15.04.12 of the Zoning Ordinance, regarding ownership and maintenance of the common area improvements.

**CONDITIONAL USE PERMIT:**

1. A draft Conditional Use Permit has been prepared and is attached to this report. It contains several conditions, including:
  - a. The building permits for Phase 2 will not be approved until a study of the Cimarron Woods drainage problems is completed as outlined in a letter from John Kottmann dated June 10, 2009, to the SID Board of Trustees. This limitation would expire one year from the date of approval of the final PUD and Conditional Use Permit.
  - b. As-built topographic surveys of stormwater detention areas should be required before Certificates of Occupancy are granted for each phase of apartments with a requirement that any discrepancies from the approved detention plans be corrected prior to issuing the certificates.
  - c. An off-site wetlands mitigation area has been purchased that provides stormwater storage. The design and construction of the wetlands needs to be coordinated with the results of the drainage study for Cimarron Woods downstream of this project site.
  - d. Vehicle repair, other than emergency maintenance such as changing a tire, shall not be allowed in the parking lot.
2. Design review of the dumpster screening is pending with the city's design review architect.

**V. STAFF RECOMMENDATION:**

1. APPROVAL of the Final Plat, Final Planned Unit Development (PUD) Plan and Conditional Use Permit subject to resolution of the items noted in the staff report.

**VI. ATTACHMENTS TO REPORT:**

1. Vicinity Map
2. Letter from Cimarron Woods HOA dated August 4, 2009
3. Letter from Larry Jobeun dated October 30, 2009
4. Letter from John Kottmann dated October 20, 2009
5. Final Plat

6. Final Planned Unit Development (PUD) Plan
7. Draft Conditional Use Permit

**VII. COPIES OF REPORT TO:**

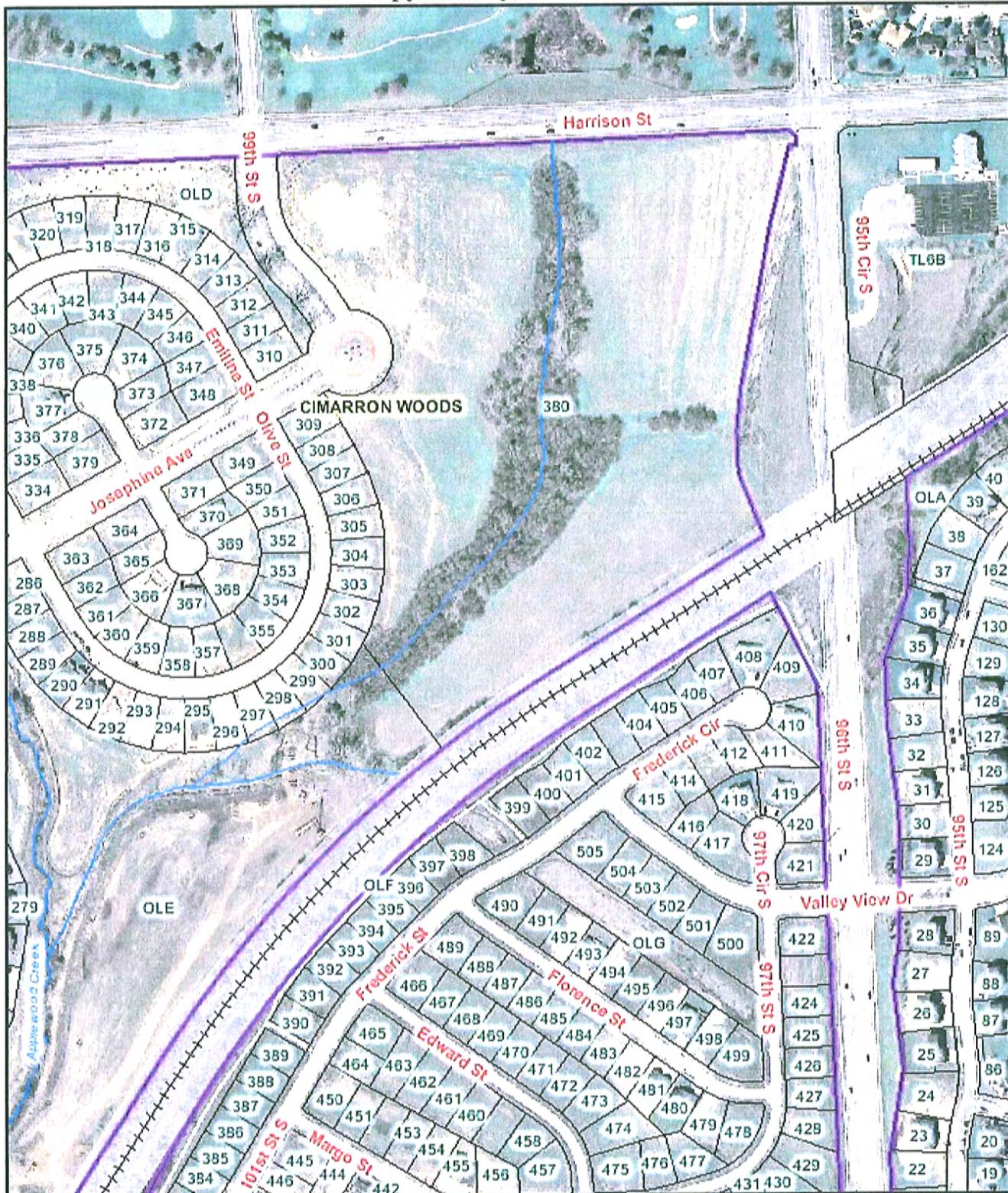
1. Gerry Torczon, Torco Development Inc.
2. Mike Smith, Pedcor Investments, LLC.
3. Jennifer Smith, Pedcor Investments, LLC.
4. Larry Jobeun, Fullenkamp, Doyle & Jobeun
5. Roger Peterson, 7126 S. 100<sup>th</sup> Circle
6. Gary Kipfer, 10014 Emilie Street
7. Eileen Williamson, 10133 Edna Street
8. Public Upon Request

*AB*  
\_\_\_\_\_  
Prepared by:

*Am Baker* *11-12-09*  
\_\_\_\_\_  
Community Development Director Date

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## Sarpy County, Nebraska



*Disclaimer:* This data is for informational purposes only, and should not be substituted for a true titles search, property appraisal, survey, or for zoning district verification. Sarpy County and the Sarpy County GIS Coalition assume no legal responsibility for the information contained in this data.

Map Scale  
1 inch = 340 feet

August 4, 2009

City of LaVista  
La Vista City Hall  
8116 Park View Blvd  
LaVista, NE 68128

Re: Cimarron Woods Terrace—Neighbor Concerns

La Vista Mayor and City Council:

Please allow this correspondence to serve as the Cimarron Woods Home Owners Association's concerns relating to the Pedcor project. We have mentioned these concerns to both the City Council and the Planning Commission at the hearings and in previous correspondence. We appreciate the City Council's recommendation that Pedcor work with the Homeowners' Association to alleviate these concerns and we are providing Pedcor with a copy of this correspondence. Our concerns are as follows:

1. **Buffers Along Fence Line.** The proposed fence and sidewalk in the southwest corner of the property, abutting the townhouses on the western edge of Cimarron Woods, does not appear to comply with Planning Commissions recommendations. In April of last year, the Planning Commission recommended a 10-foot wide trail as provided in exhibit E-1 of the Cimarron Woods Subdivision Agreement. Attachment 1 is Exhibit E-1 of the Subdivision Agreement. As you can see, the Agreement requires a significant buffer between any fencing and the sidewalk and Pedcor's current plan does not provide for a buffer of any kind. Instead, Pedcor appears to propose to put the fence along the western property line of the western Cimarron Woods' properties immediately adjacent to the proposed trail. Attachment 2.

2. **Setbacks Along Harrison Street.** Several of the proposed apartment structures will be extremely close to Harrison Street. As set forth in the attached photograph, one can clearly see the setbacks required of all other surrounding structures and Pedcor's effort to place an apartment structure just off of Harrison Street. As shown in Attachment 3, the red line represents surrounding setbacks, while the blue line shows how close these structures will be to Harrison Street. Pedcor's proposal certainly does not comport with the surrounding structures

and, as part of the gateway corridor, we believe that the proposed setbacks should be increased to be consistent with the surroundings.

**3. Landscaping.** Pedcor has indicated that they are putting in significant landscaping around the development. Our concern lies with the maintenance of that landscape. We recommend, consistent with the Mayor's comment during the June 2, 2009, City Council meeting, that Pedcor enter into a maintenance agreement for the landscaping and be required to post a bond such that the City of LaVista may draw on that bond to replace landscaping that Pedcor does not timely replace. It is our understanding that this is consistent with measures LaVista has taken with other developments.

**4. Annual Contribution to HOA.** As mentioned in the City Council meeting of June 2, 2009, we feel it appropriate that Pedcor contribute to the Homeowner's Association in order to maintain the community property. Given the number of units and the traffic volume around the island at the eastern entrance of Cimarron Woods, we feel it appropriate that Pedcor contribute \$10,000.00 to \$12,000.00 per year. This is approximately 25% of the homeowner's association's budget, but given the number of units and the traffic increase that will be created by the additional units, we feel this is appropriate. Moreover, Pedcor should be bound by any proportional increase that the homeowner's association implements. For example, should the homeowner's association due increase to \$200.00 per lot, a 100% increase, Pedcor should be bound by the same increase.

**5. Traffic Calming Devices.** Given the significant increase in traffic that is anticipated on Josephine Street and through the Cimarron Woods' neighborhood, we recommend traffic calming devices such as a chicane or speed table be placed along Josephine Street.

**6. Drainage Concerns.** We continue to have significant drainage concerns. E & A is the engineer for both Cimarron Woods and Cimarron Woods Terrance. E & A had indicated to the City Council that there would not be any drainage problems in Cimarron Woods. Obviously, this is not the case as the drainage problems continue to date. We are gravely concerned that E & A is now claiming that the proposed apartment complex will not have any detrimental affect on drainage. Yet, given E & A's inability to control the flooding problem in Cimarron Woods, we see no reason why the City Council should simply take E & A's word that there will be no drainage problems with Cimarron Woods Terrance. Moreover, Cimarron Woods Terrance is upstream from Cimarron Woods and it is an additional concern that the proposed construction will simply cause greater flooding in Cimarron Woods. Finally, Pedcor has yet to provide us with a copy of the drainage study E & A claimed was completed at the last City Council meeting—nearly 2 months ago. We certainly hope we will be provided time to review E & A's drainage study prior to the City Council's discussion.

City of LaVista  
August 4, 2009  
Page 3

Thank you for the opportunity to present our concerns and we look forward to working with both the City Council and Pedcor to resolve these concerns.

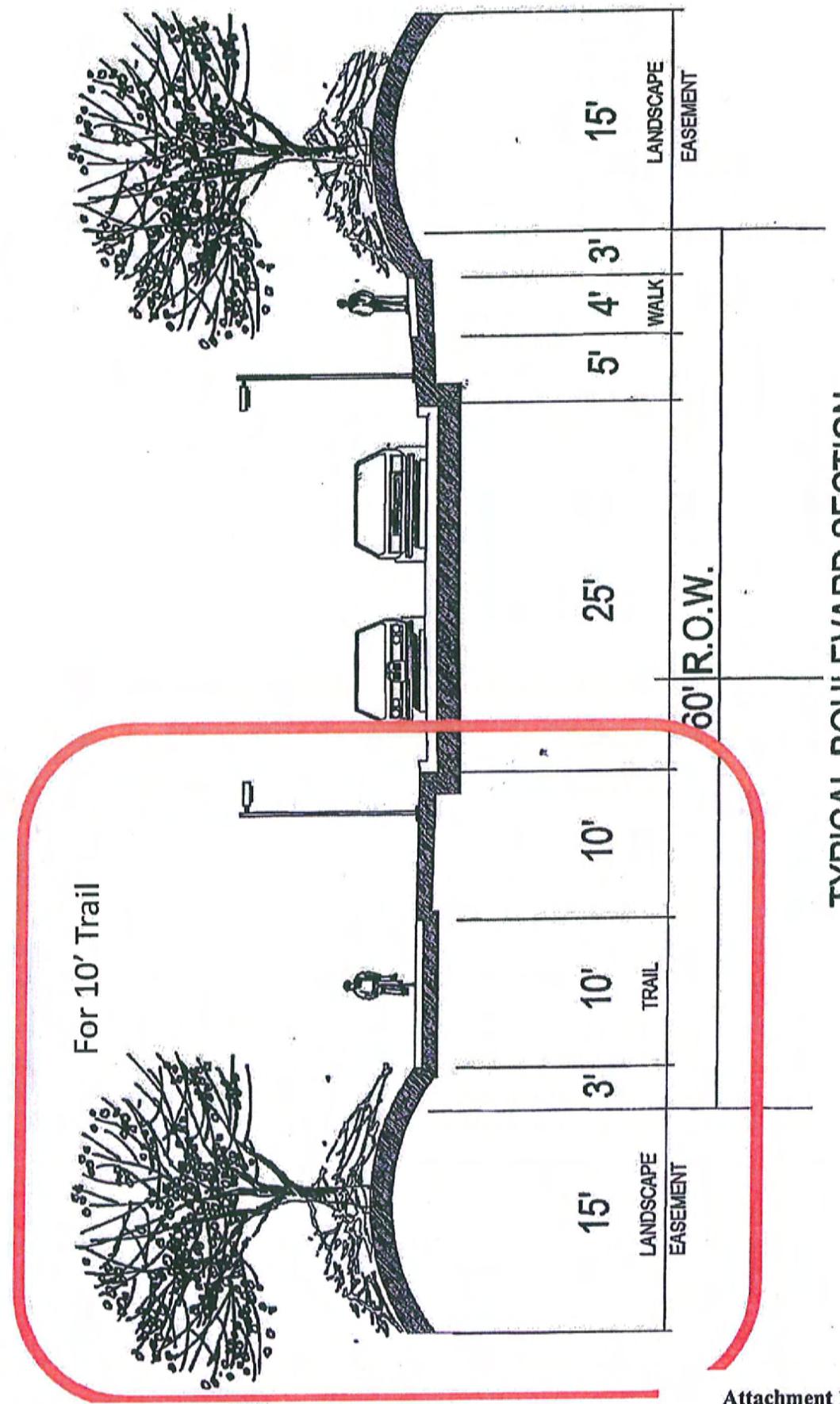
Sincerely,



Eileen Williamson  
Representative of Concerned Neighbors

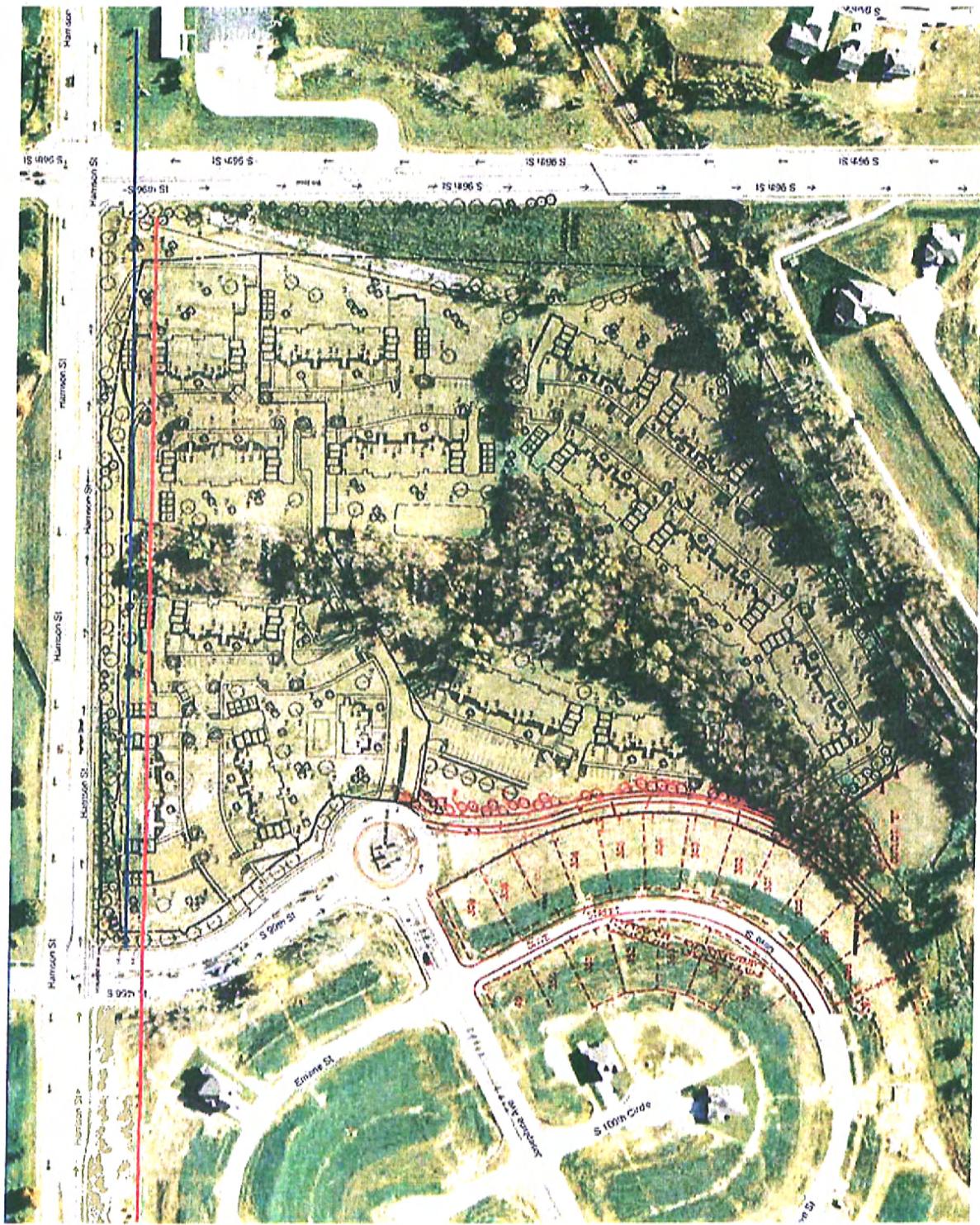
CFM:dlt/452271

# E1 – Typical Boulevard Section



Attachment 1

# E1 – Walking trail, Harrison setbacks



# Harrison Street Setbacks



*Law Offices*

**FULLENKAMP, DOYLE & JOBEUN**

JOHN H. FULLENKAMP  
ROBERT C. DOYLE  
LARRY A. JOBEUN  
BRIAN C. DOYLE  
  
AIMEE J. HALEY (1970-2009)

11440 WEST CENTER ROAD  
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WRITER'S E-MAIL: BRIANNA@FDJLAW.COM  
WRITER'S DIRECT DIAL: (402) 691-5265

October 30, 2009

City of La Vista  
La Vista City Hall  
8116 Park View Blvd.  
La Vista, Nebraska 68128

Re: Cimarron Woods Terrace—Neighbor Concerns  
Lot 380, Cimarron Woods/Conditional Use Permit and Final PUD Approvals

La Vista Mayor and City Council:

This firm represents the Applicant, Pedcor Investments, LLC (the "Applicant"), in connection with the above-referenced matter. This letter is in response to the Cimarron Woods Home Owners Association's concerns set forth in a letter to the City of La Vista dated August 4, 2009.

With respect to Item 1 regarding "buffers along the fence line", it is the Applicant's belief that the City does not want a fence along the trail. The Applicant is prepared to follow the direction with the City regarding this matter. In addition, I would also point out that the reference to Exhibit E-1 of the Subdivision Agreement relates to the landscaping that would be expected to occur along a boulevard, not along the trail with no adjacent boulevard or right-of-way.

With respect to Item 2, the Applicant meets all site regulators relating to set backs. The site shows a 25 foot setback along Harrison Street. The 25 foot setback is more than sufficient to protect the health, safety and general welfare of the public. I would also point out that the drawing attached to the HOA letter is not to scale and is misleading.

With respect to Item 3, the Applicant is not aware of any other development within the City's corporate boundaries or extraterritorial zoning jurisdiction that requires a developer to post a bond to ensure that the landscaping is maintained on private property. As such, the request by the HOA is unreasonable. The Applicant has no issue with having an agreement with the City for the reasonable maintenance of any landscaping located within any public right-of-ways, but the Applicant objects to any such agreement for the maintenance of landscaping within

the boundaries of the development. Notwithstanding, please note that the Applicant has a substantial economic interest in maintaining the on-site landscaping in good conditions, and will have an extended warranty in place on all landscaping installed on the property.

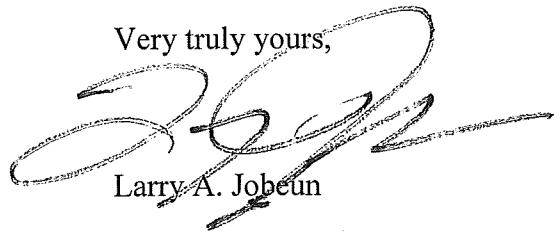
With respect to Item 4, the Applicant is agreeable to share in the actual costs of maintaining the landscaped areas within the 99<sup>th</sup> Street right-of-way and the round-a-bout, but the HOA's request for the Applicant to pay an amount equal to 25% of the HOA's budget is simply unreasonable. Please note that the Applicant's agreement to share in the maintenance costs of the landscaping within the 99<sup>th</sup> Street right-of-way and the round-a-about is gratuitous on the Applicant's part because Lot 380, Cimarron Woods, is not subject to the neighborhood covenants or part of the HOA.

With respect to Item 5, the traffic study that has been reviewed and approved by the City clearly reveals that the existing street systems are more than adequate to accommodate the traffic without the need for additional traffic calming devices or improvements.

With respect to Item 6, the drainage study has been reviewed and approved by the City's engineer. The drainage study reveals that the project contains enough water on-site to benefit the downstream property owners. The drainage study is part of the client's filings with the City's Planning Department and City Engineer, thus a public record and should be available through the City of La Vista., for review

Please let us know if you have any additional questions that you may have prior to the Planning Commission or City Council meeting.

Very truly yours,



A handwritten signature in black ink, appearing to read "Larry A. Jobeun".

cc: Craig Martin, esq.  
Jennifer Taylor, esq.



# THOMPSON, DREESSEN & DORNER, INC.

## Consulting Engineers & Land Surveyors

October 20, 2009

Mr. Marcus Baker  
City Planner  
City of La Vista  
8116 Park View Boulevard  
La Vista, NE 68128

Robert E. Dreessen, P.E.  
Ka "Kip" P. Squire III, P.E., S.E.  
Douglas S. Dreessen, P.E.  
Chris E. Dorner, L.S.  
Nelson J. Hymans, P.E.  
James D. Warner, L.S.  
Charles E. Riggs, P.E.  
John M. Kottmann, P.E.  
Arthur D. Beccard, P.E.  
Dean A. Jaeger, P.E.  
Richard M. Broyles, L.S.  
David H. Neef, L.S.  
Ronald M. Koenig, L.S.  
Michael J. Smith, L.S.  
Troy J. Nissen, P.E., S.E.  
Douglas E. Kellner, P.E.  
Gary A. Norton, P.E.  
Brian L. Lodes, P.E. LEED AP  
Kurtis L. Rohn, P.E.  
Jeffrey L. Thompson, P.E.  
Daren A. Konda, P.E.  
Michael T. Caniglia, L.S.  
Jeremy T. Steenhoek, P.E.  
Joshua J. Storm, P.E.

RE: Rezoning & Conditional Use Permit Reviews 2009  
Cimarron Terrace Apartments, Lots 1 & 2, Cimarron Woods Replat Two  
Third Review of Final PUD, CUP and Final Plat  
TD<sup>2</sup> File No. 171-366.24

Marcus:

I have reviewed the revised materials that I received from Homer Hunt at E&A Consulting Group in his transmittal dated September 25, 2009. These materials consisted of the following:

- A letter from Mark Westergard to Marcus Baker dated September 25, 2009
- Copy of an unsigned Purchase Agreement for off-site wetlands mitigation area
- Itemized cost estimates for various infrastructure improvements dated September 24, 2009
- Final Plat drawing with a date of 9/23/2009 (1 full size & 1-11" by 17")
- Landscape Plan with revision date of 9/23/2009 (1 full size & 1-11" by 17")
- Final PUD Plan with revision date of 9/23/2009 (1 full size & 1-11" by 17")
- 99<sup>th</sup> Street Geometrics Improvement Exhibit dated 7/13/2009 (1 full size )
- Preliminary PCSMP Plan dated 9/9/2009 (1 full size)
- Wetlands Mitigation Plan for Val Vista, Outlot E dated 8/24/2009 (1 full size & 1-11" by 17")
- Revised Drainage Study

The following are my previous comments from my letter to you dated September 15, 2009. In ***bold italics*** following each comment, is the update from this latest submittal.

### **FINAL PLAT**

1. The necessary mylar copies should be provided after City Council approval in order to include any revisions found necessary during the Planning Commission and City Council reviews. ***The revised final plat addresses the items previously noted, however, the drainage easement limits will now need to be revised to match the results of the latest drainage study.***
2. A staking bond or letter certifying that lot corners have been pinned should be provided prior to the Mayor signing the final plat mylars. The staking bond should be \$150.00 per lot if a staking bond is provided. ***This will be addressed at a later date.***

Civil, Structural, Geotechnical, Environmental Engineering & Land Surveying

10836 Old Mill Road Omaha, Nebraska 68154-2685 402-330-8860 Fax 402-330-5866 [www.td2co.com](http://www.td2co.com)

3. An acceptable subdivision/development agreement will be needed prior to City Council consideration of the final plat. This agreement will need to address financing, timing of installation, operation and maintenance of proposed public and private improvements that are necessary to serve the property in this plat. The allocation of installation and maintenance costs needs to be addressed in this agreement, as well as the creation of a property owners' association for maintenance of private common area improvements. Other items may be needed to be addressed pursuant to review by other City representatives. The subdivision agreement needs to include at least the following exhibits:
  - a. A copy of the final plat
  - b. Plan illustrating required reconstruction of 99<sup>th</sup> Street pavement and Harrison Street median in order to facilitate a traffic signal installation.
  - c. Plan and profile drawing of proposed public sanitary and storm sewer extensions.
  - d. Mitigation plan for wetlands impacts
  - e. Mitigation plan for relocation of landscaping improvements and signage in 99<sup>th</sup> Street associated with the reconstruction of 99<sup>th</sup> Street.
  - f. Detailed grading plan of storm water detention areas for each phase of the apartments including details on the outlet control structures to regulate the peak storm water discharge noting required storage volumes and predicted water surface elevations and discharge peak flows for 2-year, 10-year, 50-year and 100-year storm events.
  - g. Plan and profile for the proposed trail.

*These will be submitted and reviewed prior to moving forward to City Council.*

4. A reciprocal utility and drainage easement across Lots 1 and 2 for proposed on-site utility systems that will be shared between the two lots and to reach public utility systems. *This has been addressed with a note on the final plat.*
5. The 141.23 foot dimension on the boundary adjacent to Lots 308 and 309 needs to be checked. The original plat showed this dimension as 140.23 feet. *The dimension remains shown as 141.23 and is assumed to have been verified.*
6. In the La Vista Planning Commission and La Vista City Council signature blocks, the plat name of "Southport West" needs to be changed. *These corrections have been made.*
7. Right-of-way widths for Harrison Street and 99<sup>th</sup> Street abutting the plat need to be shown on the final plat. *These have been shown.*
8. The application needs to include itemized cost estimates for the public improvements and certain private improvements all in the exhibits list in Item 3 above. The information needs to include proposed funding sources such as SID general obligation, SID special assessment, and private. Satisfactory financial guarantees will be required. *Estimates have been submitted. These will be reviewed and commented upon when the other materials in Item 3 are submitted prior to going to City Council.*

## **FINAL PUD**

### **General**

9. I have compared the Final PUD site plan with latest revision date of June 22, 2009 to a previous version dated June 2, 2009. In doing so, I found that Buildings Nos. 3, 7, 11, 13, and 14 were moved away from the drainageway, generally 10 feet or less. Also, a set of garages on the south side of Building 7 were relocated. Various other minor changes were made to respond to prior comments such as the location of the fencing along the south line, the proposed retaining wall location north of Building 2 and a surveyed location of the tree trunk perimeter in the central portion of the site. Since the Final PUD plan is generally consistent with the Preliminary PUD plan, I will not repeat my previous review comments. I will focus on items that were identified for additional review. *No layout changes in buildings or parking configuration were noted in the latest PUD plan.*

### **Parking & Layout**

10. The proposed quantity of parking stalls (surface and garage) are the same as the prior plan and exceed the code minimums. I have rechecked the stall count and agree with the quantity shown for Phase 1. However, for Phase 2, I find 261 surface stalls instead of 264 stalls as noted. The quantity should be checked and either revised or stalls added. *The parking layout remains the same. In reviewing the layout again, I found 3 parking stalls that I missed in reviewing the previous plan.*
11. The location of proposed dumpsters needs to be shown and a typical screening detail needs to be added to the landscaping plan. *Dumpster locations have been shown and a screening detail has been added. The screening will need architectural review to determine compliance with code and gateway corridor regulations.*
12. The proposed trail along the west side of the site needs to be ADA compliant. Maximum slope should not exceed 5 percent. The proposed maximum grade appears to be 10 percent. It is my opinion that this would be applicable whether the trail is public or private. *No revisions have been made to the proposed trail. This will need to be addressed prior to City Council review.*

### **Utilities**

13. The PUD plan needs to have a notation about installing the additional line valve just north of Josephine Avenue as requested by MUD. *I do not find that this has been addressed yet. It should be included prior to moving forward to City Council.*
14. The locations of existing and proposed fire hydrants need to be shown for review by the La Vista Fire Department. *Existing and proposed fire hydrants have been shown. These need to be reviewed by the Fire Department.*
15. The proposed storm sewer north of Building 10 that will receive runoff from 96<sup>th</sup> Street needs to be shown as a public storm sewer in the sewer and drainage easement. This sewer should not parallel the back side of Building 11, but should follow the easement to the drainageway. *This has been changed as requested.*

Grading & Drainage

16. A detailed grading plan of the proposed storm water detention areas needs to be prepared. The plan needs to note the proposed storage volumes and water surface elevations for the 2, 10, 50 and 100-year storm events. This plan also needs to illustrate that the proposed areas will fit within the proposed easement areas. The detention areas must be sized to show no increase in peak flows from developed conditions for 2, 10, 50 and 100-year events for Phase 1 alone and the combination of Phases 1 and 2. Refer to my letter to E&A concerning drainage study needs dated September 2, 2009. A copy is attached for reference. *The proposed grades have been revised to match the latest drainage study. However, there are some adjustments to the proposed grading required to correspond to the storage elevations shown in the revised drainage study. Detention Basin No. 26 needs to have the overflow elevation raised to elevation 1110. Detention Basin No. 27 requires a revision in the drainage easement configuration shown on the final plat. Detention Basin No. 24 needs to have the low point in the roadway southwest of Building 7 raised to correspond to the 100-year storage elevation. The drainage easement configuration also needs to be adjusted to match this basin configuration.*
17. The applicant needs to review the proposed grading to determine whether there will be any negative impact on the rear of Lots 301 and 302 from the proposed grading. *See comment in Item 16 relating to needed changes in grading plan at Basin No. 24.*
18. The PUD plan needs to identify the extent of proposed removal of existing trees. *This has been done.*
19. The applicant needs to demonstrate that the major storm drainage path between Buildings 8 and 10 will remain within the proposed sewer and drainage easement. Also, see Comment 15 above. *This remains to be verified and will be done before a grading permit or building permit is issued for Phase 1.*
20. The proposed wetlands mitigation plan needs to be provided. If it is at an off-site location, evidence that the property owner of that location is agreeable to the mitigation being constructed on their property must be provided. *An off-site location has been identified and an unsigned purchase agreement with that owner has been submitted. A signed agreement is needed prior to the Planning Commission meeting.*
21. A grading and erosion control permit through the Papillion Creek Watershed Partnership website has been obtained for this site. It will need to be modified to match the revised configuration of site development prior to obtaining a building permit or revising the grading of the site. *This will need to be accomplished prior to the issuance of a grading or building permit for Phase 1.*
22. The applicant needs to submit Post Construction Storm Water Management Plans containing the minimum information listed in the City's present guidance document dated March 3, 2009 which is posted on the City's web site. These plans need to be part of the final plat and/or PUD submittal reviewed by the Planning Commission and City Council. This plan needs to be separate from the PUD site plan. The applicant also needs to demonstrate how the storm water quality detention fits within the storm water detention. A signed maintenance agreement for the post construction storm water management plan following the sample form posted on the City's web site needs to be provided prior to granting building permits for this

project. *A preliminary PCSMP plan has been submitted. A more detailed plan will be required prior to issuance of a grading or building permit.*

Miscellaneous

23. The applicant has prepared a plan for geometric revisions to 99<sup>th</sup> Street that will be required at such time as a traffic signal meets the warrants for installation. It should be noted that the City of Omaha has stated that the signal cannot be installed until traffic volume warrants are met which may or may not occur at the completion of the apartments. This will require substantial reconfiguration and removal of existing landscaping and signage in the median. The applicant has also prepared a preliminary mitigation plan for relocating the landscaping and signage. The landscaping and signage are private improvements there were permitted to be located in the right-of-way. The cost of the relocation of these improvements should be a private expense, most likely the developer of Cimarron Terrace. In regards to the cost of pavement modifications to the intersection, it is my opinion that the pavement widening costs can be a general obligation expense of the District since this is primarily extra width paving that probably should have been constructed initially in anticipation of a signal. Any pavement removal costs associated with the widening should be a developer expense. In regards to the signal costs, the City of Omaha has indicated in e-mails that if the signal is warranted, they would purchase and install mast arms, signal heads and a controller. Any other signal costs not funded by Omaha should be borne 50 percent by the Cimarron Terrace developer as a private expense and 50 percent by SID 237 per the original subdivision agreement. Any underground conduits or signal pole foundations should be installed as part of the pavement widening. The pavement modifications, underground signal work, and landscaping relocations need to be completed prior to issuance of certificates of occupancy for Phase 1 of the apartment complex. *The cost estimate information submitted indicates compliance with this request. It will be covered in the subdivision agreement.*
24. The text of the PUD plan needs to be updated and submitted for consideration before proceeding to City Council. This needs to include provisions for compliance with Article 5.15.04.12 of the zoning regulations. *This will be required before City Council consideration.*
25. The amount, type and timing of financial guarantees for the public and private infrastructure improvements identified in the exhibits need to be addressed in the amendment to subdivision agreement. *This will be required before City Council consideration.*
26. The PUD site plan legal description identifies the property as Lot 380 of Cimarron Woods. This also needs to include the proposed legal description which will be Lots 1 and 2 of Cimarron Woods Replat Two. *This has been done.*
27. The nationwide permit needs to be approved by the Corps of Engineers before the final PUD proceeds to City Council. *A nationwide permit has been issued by the Corps with a contingency to obtain water quality certification from the NDEQ before construction. In my opinion this is satisfactory compliance with this requirement.*

### **CONDITIONAL USE PERMIT**

28. I have considered the Standards for a conditional use permit set forth in Section 6.05 of the Zoning Regulations. I recommend approval of a Conditional Use Permit if the following items are included in the permit:

- a. The building permits for Phase 2 will not be approved until a study of the Cimarron Woods drainage problems is completed as outlined in my letter of June 10, 2009 to the SID 237 Board of Trustees. This limitation would expire one year from the date of final approval of the Planned Unit Development and Conditional Use Permit.
- b. As-built topographic surveys of storm water detention areas should be required before Certificates of Occupancy are granted for each phase of apartments with a requirement that any discrepancies from the approved detention plans be corrected prior to issuing the certificates.

*I have not seen a drainage study addressing the downstream drainage issues in Cimarron Woods. The two conditions outlined above should continue to be part of the Conditional Use Permit. Further, since the off-site mitigation is to be in an outlot area that provides storm water storage, the design and construction of the wetlands needs to be coordinated with the results of the drainage study for Cimarron Woods downstream of this project site. I recommend that this be added as a condition of the Conditional Use Permit.*

I have not reviewed the building elevation views and have not reviewed the landscaping plan.

I recommend that the applicant address the items in this letter requiring responses and any other items you have identified prior to consideration by the Planning Commission. *Based on the revisions made in this latest submittal, I recommend approval of the final PUD subject to receiving the signed purchase agreement for the off-site wetlands mitigation area prior to Planning Commission, approval of the Conditional Use Permit with the three conditions noted above, and approval of the final plat. All items noted to be addressed prior to forwarding to City Council in the items listed above should be conditions of the approvals. Conditions and comments from other personnel in the review process should be incorporated.*

Submitted by,

THOMPSON, DREESSEN & DORNER, INC.

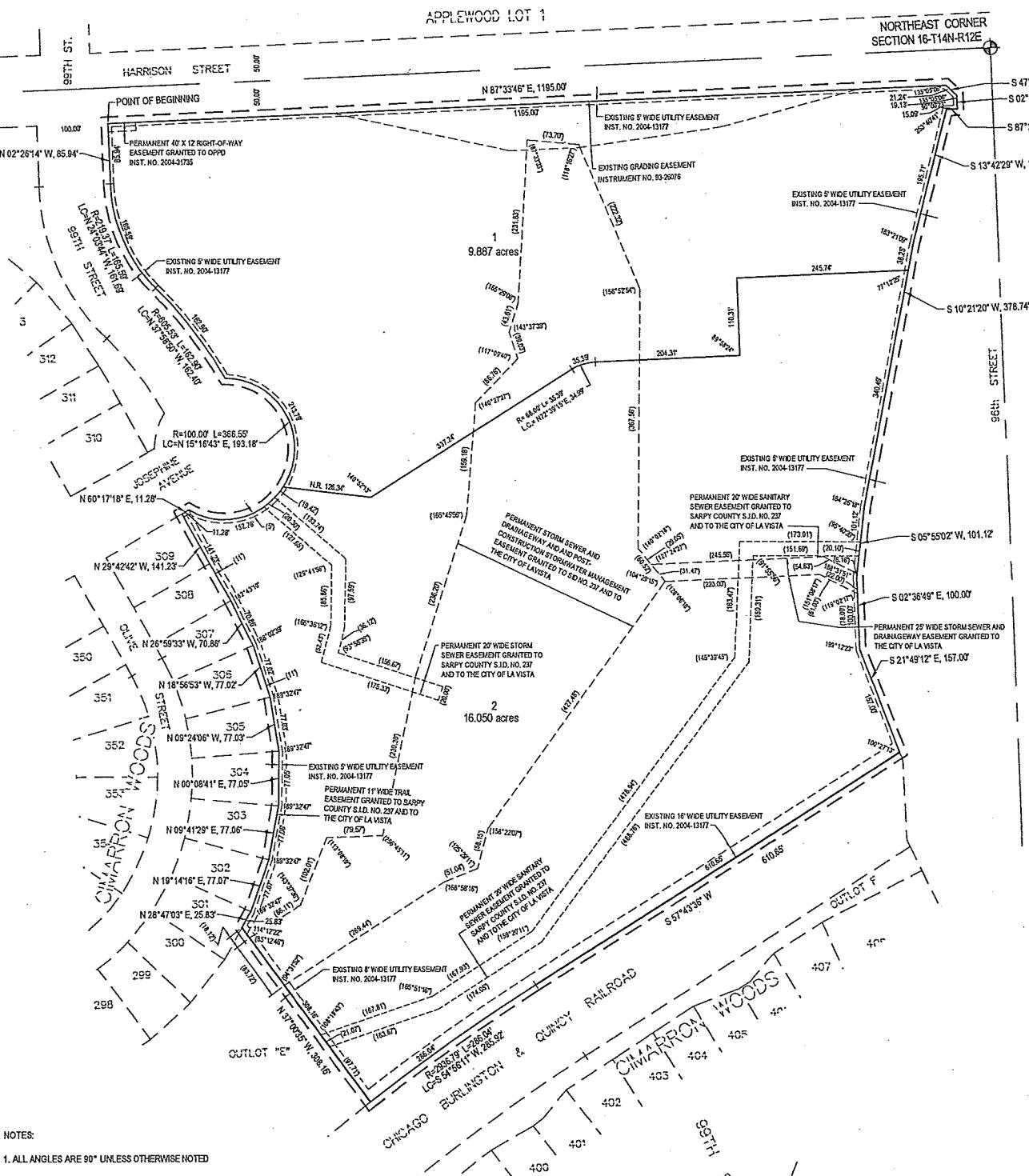


John M. Kottmann, P.E.

JMK/bam

cc: File

# CIMARRON WOODS REPLAT TWO



NOTES:

1. ALL ANGLES ARE 90° UNLESS OTHERWISE NOTED
2. ALL LOTS LINES ARE RADIAL TO CURVED STREETS UNLESS SHOWN AS (N.R.)
3. ALL DIMENSIONS AND ANGLES SHOWN WITH PARENTHESES ARE FOR THE LOCATION OF EASEMENTS.

4. A PERMANENT RECIPROCAL INGRESS AND EGRESS, SIDEWALK, PARKING AND PEDESTRIAN EASEMENT, IS GRANTED TO THE OWNERS OF LOTS 1 AND 2, THEIR GUESTS AND INVITÉS OVER ALL OF THOSE PRIVATE DRIVES AND PARKING AREAS AS CONSTRUCTED IN SAID LOTS 1 AND 2.

5. PERMANENT RECIPROCAL UTILITIES, STORM SEWER, SANITARY SEWER AND DRAINAGEWAY EASEMENTS ARE GRANTED TO THE OWNERS OF LOTS 1 AND 2, AND TO THEIR SUCCESSORS AND ASSIGNS OVER ALL OF THOSE SYSTEMS AS STATED ABOVE AND AS CONSTRUCTED IN SAID LOTS 1 AND 2.

#### SETBACK REQUIREMENTS

FRONT YARD SETBACK.....	25
SIDE YARD SETBACK.....	10'
(0' ON COMMON LOT LINE BETWEEN LOTS 1 & 2)	
REAR YARD SETBACK.....	10'
STREET SIDE YARD SETBACK.....	25'

STORM SEWER EASEMENT  
LOCATION TIE DETAIL  
SCALE 1" = 20'

LOTS 1 AND 2  
A REPLATTING OF ALL OF LOT 380, CIMARRON WOODS, A SUBDIVISION LOCATED IN THE NORTH 1/2 OF SECTION 16, TOWNSHIP 14 NORTH, RANGE 12 EAST OF THE 6TH P.M., SARPY COUNTY, NEBRASKA.

100  
0  
50  
100  
1 inch = 100 ft.

#### DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT WE, TORCO DEVELOPMENT, INC., OWNERS OF THE PROPERTY DESCRIBED IN THE CERTIFICATION OF SURVEY AND EMBRACED WITHIN THE PLAT, HAVE CAUSED SAID LAND TO BE SUBDIVIDED INTO LOTS TO BE NUMBERED AND NAMED AS SHOWN, SAID SUBDIVISION TO BE HERAFTER KNOWN AS CIMARRON WOODS REPLAT TWO (LOTS TO BE NUMBERED AS SHOWN), AND WE DO HEREBY RATELY AND APPROVE OF THE DISPOSITION OF OUR PROPERTY AS SHOWN ON THE PLAT, AND WE DO HEREBY GRANT EASEMENTS AS SHOWN ON THIS PLAT, WE DO FURTHER GRANT A PERPETUAL EASEMENT TO THE OMAHA PUBLIC POWER DISTRICT, QWEST COMMUNICATIONS AND ANY COMPANY WHICH HAS BEEN GRANTED A FRANCHISE TO PROVIDE A CABLE TELEVISION SYSTEM IN THE AREA TO BE SUBDIVIDED, THEIR SUCCESSORS AND ASSIGNS, TO ERECT, OPERATE, MAINTAIN, REPAIR AND RENEW POLES, WIRES, CABLES, CONDUITS AND OTHER RELATED FACILITIES, AND TO EXTEND THEREON WIRES OR CABLES FOR THE CARRYING AND TRANSMISSION OF ELECTRIC CURRENT FOR LIGHT, HEAT AND POWER AND FOR THE TRANSMISSION OF SIGNALS AND SOUNDS OF ALL KINDS INCLUDING SIGNALS PROVIDED BY A CABLE TELEVISION SYSTEM, AND THE RECEPTION ON, OVER, THROUGH, UNDER AND ACROSS A FIVE-FOOT (5') WIDE STRIP OF LAND ABUTTING ALL FRONT BOUNDARY LOT LINES, AN EIGHT-FOOT (8') WIDE STRIP OF LAND ABUTTING THE REAR BOUNDARY LINES OF ALL INTERIOR LOTS; AND A SIXTEEN-FOOT (16') WIDE STRIP OF LAND ABUTTING THE REAR BOUNDARY LINES OF ALL EXTERIOR LOTS. THE TERM EXTERIOR LOTS IS HEREBY DEFINED AS THOSE LOTS FORMING THE OUTER PERIMETER OF THE ABOVE-DESCRIBED ADDITION. SAID SIXTEEN-FOOT (16') WIDE EASEMENT WILL BE REDUCED TO AN EIGHT-FOOT (8') WIDE STRIP WHEN THE ADJACENT LAND IS SURVEYED, PLATTED AND RECORDED AND WE FURTHER GRANT A PERPETUAL EASEMENT TO METROPOLITAN UTILITIES DISTRICT OF OMAHA AND BLACK HILLS ENERGY, THEIR SUCCESSORS AND ASSIGNS, TO ERECT, INSTALL, OPERATE, MAINTAIN, REPAIR AND RENEW PIPELINES, HYDRANTS AND OTHER RELATED FACILITIES. NO PERMANENT BUILDINGS OR RETAINING WALLS SHALL BE PLACED IN THE SAID EASEMENT WAYS, BUT THE SAME MAY BE USED FOR GARDENS, SHRUBS, LANDSCAPING AND OTHER PURPOSES THAT DO NOT THEN OR LATER INTERFERE WITH THE AFORESAID USES OR RIGHTS HEREIN GRANTED.

TORCO DEVELOPMENT, INC.

BY: GERALD L. TORCZON, PRESIDENT

#### ACKNOWLEDGEMENT OF NOTARY

STATE OF NEBRASKA  
COUNTY OF SARPY.)

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ BEFORE ME A NOTARY PUBLIC, DULY COMMISSIONED AND QUALIFIED IN AND FOR SAID COUNTY, APPEARED GERALD L. TORCZON, PRESIDENT OF TORCO DEVELOPMENT, INC., PERSONALLY KNOWN BY ME TO BE THE IDENTICAL PERSON WHOSE NAME IS AFFIXED TO THE DEDICATION ON THIS PLAT, AND ACKNOWLEDGED THE EXECUTION THEREOF TO BE HIS VOLUNTARY ACT AND DEED AS PRESIDENT OF SAID CORPORATION.

WITNESS MY HAND AND NOTARIAL SEAL THE DAY AND YEAR LAST ABOVE WRITTEN.

#### NOTARY PUBLIC

#### REVIEW OF SARPY COUNTY SURVEYOR

THIS PLAT OF CIMARRON WOODS REPLAT TWO (LOTS NUMBERED AS SHOWN) WAS REVIEWED BY THE OFFICE OF THE SARPY COUNTY SURVEYOR ON THIS DAY OF \_\_\_\_\_

SARPY COUNTY SURVEYOR

#### APPROVAL OF LA VISTA CITY PLANNING COMMISSION

THIS PLAT OF CIMARRON WOODS REPLAT TWO (LOTS NUMBERED AS SHOWN) WAS APPROVED BY THE CITY PLANNING COMMISSION ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_

#### CHAIRMAN OF LA VISTA CITY PLANNING COMMISSION

#### COUNTY TREASURER'S CERTIFICATE

THIS IS TO CERTIFY THAT I FIND NO REGULAR OR SPECIAL TAXES DUE OR DELINQUENT AGAINST THE PROPERTY DESCRIBED IN THE SURVEYOR'S CERTIFICATE AND EMBRACED IN THIS PLAT AS SHOWN BY THE RECORDS OF THIS OFFICE.

DATE COUNTY TREASURER

#### ACCEPTANCE BY LA VISTA CITY COUNCIL

THIS PLAT OF CIMARRON WOODS REPLAT TWO (LOTS NUMBERED AS SHOWN) WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, IN ACCORDANCE WITH THE STATE STATUTES OF NEBRASKA.

ATTEST \_\_\_\_\_  
CITY CLERK

MAYOR

ACCEPTANCE BY SARPY COUNTY REGISTER OF DEEDS  
RECORDED ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_

SARPY COUNTY REGISTER OF DEEDS DATE

**E&A CONSULTING GROUP, INC.**  
ENGINEERING • PLANNING • FIELD SERVICES

330 NORTH 17TH STREET OMAHA, NE 68154  
PHONE: (402) 485-4700 FAX: (402) 485-3399  
WWW.eacg.com

CIMARRON WOODS REPLAT TWO  
LA VISTA, NEBRASKA

FINAL PLAT

Rev.	No.	Date
0	0	8-23-09

Designed By:	MAW	1	8-23-09
Drawn By:	LDD		

Scale:	1"=10'
Sheet:	1 of 1



**City of La Vista  
Conditional Use Permit**

**Conditional Use Permit for Cimarron Terrace Apartments**

This Conditional Use Permit issued this \_\_\_\_ day of \_\_\_\_\_, 2009, by the City of La Vista, a municipal corporation in the County of Sarpy County, Nebraska ("City") to, Pedcor Investments, LLC ("Owner"), pursuant to the La Vista Zoning Ordinance.

WHEREAS, Owner wishes to construct and operate a multiple family dwelling complex to be known as Cimarron Terrace upon the following described tract of land within the City of La Vista zoning jurisdiction:

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

WHEREAS, Owner has applied for a conditional use permit for the purpose of locating and operating a multiple family dwelling complex; 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 premises designated on Exhibit "A" hereto for a multiple family dwelling complex, 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 proposed 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 "A".
  - b. Architectural review of the building design, landscaping, and lighting is approved as shown on Exhibits "B" through "\_\_\_\_", or other plan as approved by the City.
  - c. The premises shall be developed and maintained in accordance with the site plan (Exhibit "A") as approved by the City and incorporated herein by this reference. Any modifications must be submitted to the Chief Building Official for approval.
  - d. The building permits for Phase 2 will not be approved until a study of the Cimarron Woods drainage problems is completed as outlined in a letter from John Kottmann dated June 10, 2009, to the SID #237 Board of Trustees. This limitation would expire one year from the date of approval of the final PUD and Conditional Use Permit.
  - e. As-built topographic surveys of stormwater detention areas should be required before Certificates of

Occupancy are granted for each phase of apartments with a requirement that any discrepancies from the approved detention plans be corrected prior to issuing certificates.

- f. An off-site wetlands mitigation area has been purchased that provides stormwater storage. The design and construction of the wetlands needs to be coordinated with the results of the drainage study for Cimarron Woods downstream of this project site.
- g. Vehicle repair, other than emergency maintenance such as changing a tire, shall not be allowed in the parking lots shown on Exhibit "A".
- h. 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.
- i. 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.
- j. 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, if the violation continues after written notice from the City to Owner and a reasonable time was given for Owner to cure such violation.

4. In respect to the Gateway Corridor Overlay District, building design has been approved per letter from the City's design review architect, Kevin Schluckebier, dated \_\_\_\_\_.

5. 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.

6. 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 construction or placement of a storage tank, structure or other improvement on the premises not specified in this permit.
- d. 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.

7. If the permitted use is not commenced within one (1) year from \_\_\_\_\_, 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.
8. 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.
9. 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:** Mike Smith  
Pedcor Investments, LLC  
One Pedcor Square  
770 3<sup>rd</sup> Ave. SW  
Carel, IN 46032  
(317) 705-7924

#### **Effective Date:**

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

THE CITY OF LA VISTA

By \_\_\_\_\_  
Douglas Kindig, Mayor

Attest:

\_\_\_\_\_  
Pamela A Buethe, CMC  
Deputy City Clerk

**CONSENT AND AGREEMENT**

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

Owner:

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



## LANDSCAPE NOT

1. 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.
2. 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.
3. 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.
4. All plant material shall be guaranteed to be in a 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 and shipping.
5. 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 hole conditions). All adjustments must be approved by the landscape architect.
6. 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.
7. Provide locally available shredded hardwood mulch on all trees and in all planting beds to a 3-4 inch minimum depth. Mulching is to extend 1'-0" minimum beyond planting pit.
8. All trees are to be staked for a period of not less than one year from time of planting.
9. All landscaped areas shall be irrigated with an automatic irrigation system including all trees, shrubs, and ground cover plants (irrigation).

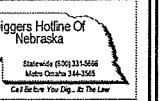
**TREE PLANTING DETAIL - B & B TREE**  
NOT TO SCALE

**SHRUB & PERENNIAL PLANTING DETAIL**  
**NOT TO SCALE**

SOIL MIXTURE  
PARTS BY VOLUME OF TOPSOIL MIXED WITH  
ONE PART DECOMPOSED ORGANIC MATERIALS.  
FIRM SOIL AROUND ROOT BALL

PLANTING.  
DOMINANT  
ANCHES. SOME  
CHES MAY BE  
E THE TERMINAL  
O THE EDGE OF

The diagram illustrates a tree planting site with a tree in a hole. A vertical line labeled 'STAKE AND WRAP ALL TREES FOR STABILIZATION AND PROTECTION' extends from the trunk. A horizontal line labeled 'TOP OF ROOT BALL SHALL BE SLIGHTLY HIGHER THAN THE SURROUNDING GROUND GRADE' is at the top of the root ball. A horizontal line labeled 'MULCH RING AT 6 INCHES MAX (6 FT) DIAM PREFERRED' is at the top of the mulch ring. A horizontal line labeled '(E) HIGH EARTH SAUCER BEYOND EDGE OF ROOT BALL' is at the top of the earth saucer. A diagonal line labeled 'WATER THOROUGHLY TO ELIMINATE AIR POCKETS, SETTLING AND TO SOAK ROOT BALL AND SURROUNDING SOIL' is across the top. A vertical line labeled 'DIG HOLE 2 WIDER IN DIAMETER THAN ROOT BALL' is on the left. A horizontal line labeled 'SOIL TEXTURE: 4 PARTS BY VOLUME OF TOPSOIL MIXED WITH ONE PART DECAYED ORGANIC MATERIALS, FIRM SOIL AROUND ROOT BALL' is at the bottom. A shaded area at the bottom of the hole is labeled 'IF PLANT IS SHIPPED WITH A WIRE BASKET AROUND THE ROOT BALL, REMOVE THE WIRE BASKET IN ALL PLACES AND FOLD DOWN (4 IN) INTO PLANTING HOLE.' A shaded area at the bottom of the hole is labeled 'PLACE ROOT BALL IN UNCHARTED OR TAMPED SOIL TO SUPPORT ROOT BALL AND REDUCE SETTLING.' A shaded area at the bottom of the hole is labeled 'TAPE SOIL AROUND ROOT BALL BASE FIRMLY WITH FOOT PRESSURE TO ELIMINATE AIR SPACES.' A shaded area at the top of the root ball is labeled 'EACH TREE MUST BE PLANTED SUCH THAT THE TRUNK FLARE IS VISIBLE AT THE TOP OF THE ROOT BALL. IF THE TRUNK FLARE IS NOT VISIBLE, THE PLANT SHALL BE REJECTED. DO NOT COVER THE TOP OF THE ROOT BALL WITH SOIL.'



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**CIMARRON WOODS REPLAT TWO**  
LAWTON, NEBRASKA

## PHASE I PLANT SCHEDULE

SYN	QTY	BOTANICAL NAME	COMMON NAME	SIZE	TYPE
*	A 3	<i>Cellis occidentalis</i> 'Prairie Pride'	Prairie Pride Hobcawberry	3"	B&B
*	B 7	<i>Tilia x flavaescens</i> 'Glenkever'	Glenkever Littleleaf Linden	3"	B&B
C	5	<i>Quercus bicolor</i>	Swamp White Oak	3"	B&B
D	15	<i>Gleditsia triacanthos</i> 'Skyline'	Skyline Honeylocust	3"	B&B
E	9	<i>Amelanchier arborea</i>	Dowmy Serviceberry (clump form)	3"	B&B
*	F 19	<i>Malus 'Prairie Fire'</i>	Prairie Fire Crabapple	3"	B&B
G	-	<i>Pseudotsuga menziesii</i>	Douglas Fir	6"	B&B
H	-	<i>Picea abies</i>	Norway Spruce	6"	B&B
I	160	<i>Spirea bumalda</i> 'Anthony Waterer'	Anthony Waterer Spirea	2 Gal.	Cont.
J	346	<i>Juniperus horizontalis</i> 'Kunense'	Andorra Juniper	2 Gal.	Cont.
K	324	<i>Juniperus x media</i> 'Old Gold'	Old Gold Juniper	2 Gal.	Cont.
L	14	<i>Acer ginnala</i>	Amur Maple	3"	B&B
M	16	<i>Malus 'Red Jewel'</i>	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	
*	A	13	<i>Cellis occidentalis</i> 'Prairie Pride'	Prairie Pride Hackberry	3"	B&B
*	B	15	<i>Tilia x flavaeosa</i> 'Gérardien'	Gérardien Littleleaf Linden	3"	B&B
*	C	17	<i>Quercus bicolor</i>	Swamp White Oak	3"	B&B
*	D	20	<i>Cedrus libani</i> 'Skyline'	Skyline Honeylocust	3"	B&B
*	E	17	<i>Amelanchier arborea</i>	Downy Serviceberry (clump form)	3"	B&B
*	F	22	<i>Malus 'Prairie Fire'</i>	Prairie Fire Crabapple	3"	B&B
*	G	33	<i>Pseudotsuga menziesii</i>	Douglas Fir	6"	B&B
*	H	24	<i>Picea abies</i>	Norway Spruce	6"	B&B
*	I	287	<i>Spirea bumeliae</i> 'Anthony Waterer'	Anthony Waterer Spirea	2 Gal.	Cont.
*	J	292	<i>Juniperus horizontalis</i> 'Purpurea'	Andorra Juniper	2 Gal.	Cont.
K	376	<i>Juniperus x media</i> 'Old Gold'	Old Gold Juniper	2 Gal.	Cont.	
L	22	<i>Acer ginnala</i>	Amur Maple	3"	B&B	
M	22	<i>Malus 'Red Jewel'</i>	Red Jewel Crabapple	3"	B&B	

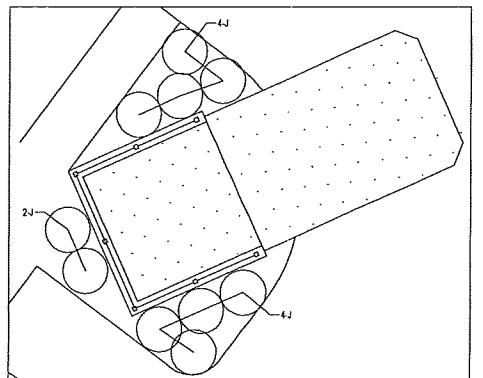
\* Plant Variety as per Section 5.17.06.02 Gateway Corridor District Overlay District

## EXTERIOR PLANT SCHEDULE

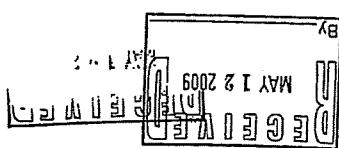
SYM	QTY	BOTANICAL NAME	COMMON NAME	SIZE	TYPE
*	A 20	<i>Celtis occidentalis</i> 'Prairie Prid'	Prairie Pride Hackberry	4"	B&B
B	10	<i>Tilia x flavaecon</i> 'Gleneden'	Gleneden Littleleaf Linden	4"	B&B
C	5	<i>Quercus bicolor</i>	Swamp White Oak	4"	B&B
D	11	<i>Gleditsia triacanthos</i> 'Skyline'	Skyline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



#### **TYPICAL DUMPSTER SCREENING DETAIL**



REVISIONS  
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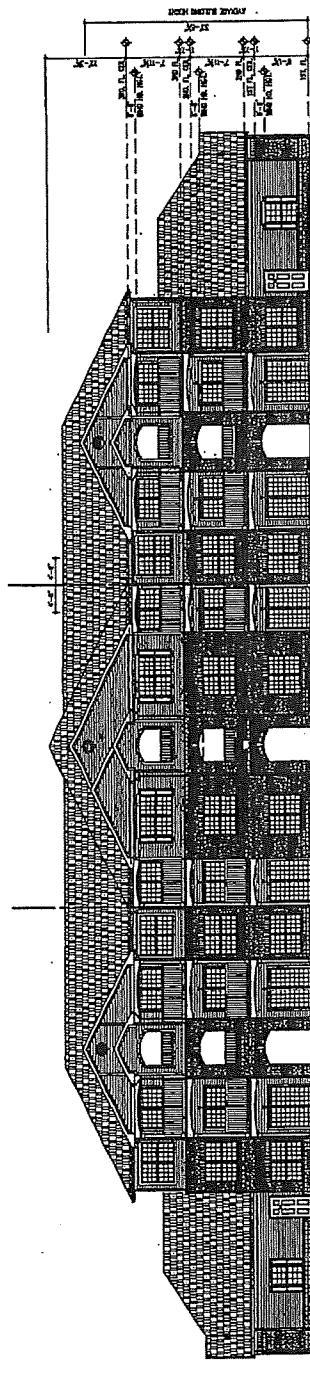
Peter Wiedenheft  
Cimarron Terrace  
Levitt, Nevada

BUILDING ELEMENTS

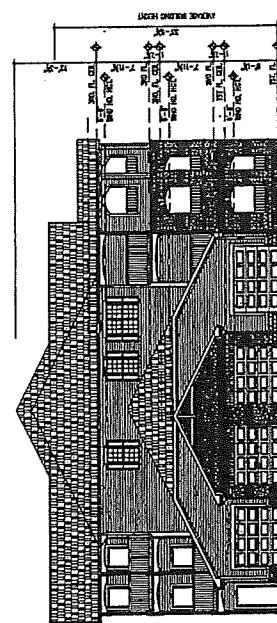
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WMS  
WMS  
WMS

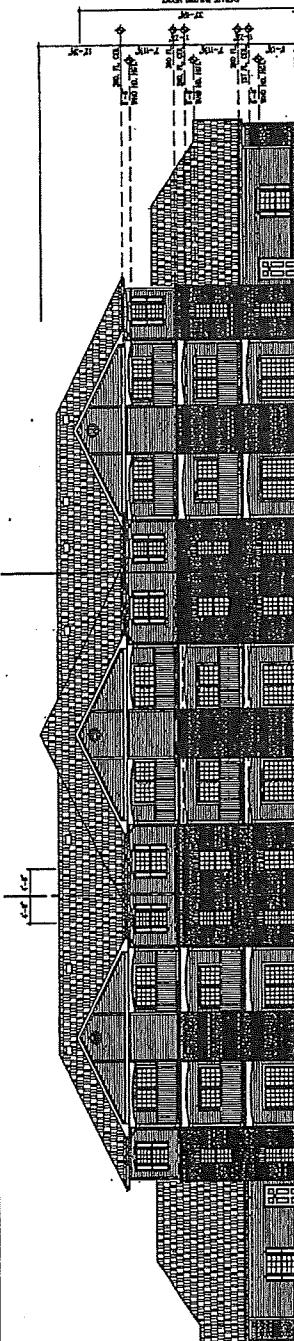
**A201**



E1 LEFT ELEVATION 6A6B6A-1.6  
SCALE 1/8"-1'-0"



E9 RIGHT ELEVATION 6A6B6A-1.6  
SCALE 1/8"-1'-0"



A1 REAR ELEVATION 6A6B6A-1.6  
SCALE 1/8"-1'-0"

