

**AGENDA ITEM 4A**

**Public Hearing for Zoning Map Amendment**

**La Vista City Centre**

**City Ventures, LLC**



CITY OF LA VISTA  
PLANNING DIVISION

RECOMMENDATION REPORT

CASE NUMBER: 2016-ZMA-02

FOR HEARING OF: June 2, 2016  
Report Prepared on: May 18, 2016

I. **GENERAL INFORMATION**

A. **APPLICANT:**

La Vista City Centre LLC  
P.O. Box 428  
Boys Town, NE 68010

B. **PROPERTY OWNERS:**

Lots 2-7 Brentwood Crossing, 8A1, 8A3 Brentwood Crossing  
Replat No 2:

Brentwood Crossing Associates  
211 North Stadium Blvd, Ste 201  
Columbia, MO 65203

Lot 1 Brentwood Crossing:  
Brentwood Crossing Associates II  
211 North Stadium Blvd, Ste 201  
Columbia, MO 65203

Lots 8B and 8C Brentwood Crossing Replat No 1; Lots 8A2, 8A4  
Brentwood Crossing Replat No 2:  
Brentwood Crossing Associates III  
211 North Stadium Blvd, Ste 201  
Columbia, MO 65203

Portions of Tax Lot 12, 14-14-12:  
City of La Vista  
8116 Park View Blvd.  
La Vista, NE 68128

C. **LOCATION:** Southeast of the intersection of 84<sup>th</sup> Street and  
Summer Drive.

D. **LEGAL DESCRIPTION:** Lots 1-7 Brentwood Crossing, Lots 8B,  
and 8C Brentwood Crossing Replat No 1, Lots 8A1, 8A2, 8A3, and  
8A4 Brentwood Crossing Replat No 2, and portions of Tax Lot 12,  
14-14-12

E. **REQUESTED ACTION(S):** Conditional rezoning of proposed Lots  
1-7 Brentwood Crossing, Lots 8B, and 8C Brentwood Crossing  
Replat No 1, Lots 8A1, 8A2, 8A3, and 8A4 Brentwood Crossing  
Replat No 2 (proposed Lots 1-17 and Outlots A-C, La Vista City  
Centre) and portions of Tax Lot 12, 14-14-12

- F. EXISTING ZONING AND LAND USE:**  
C-1 Shopping Center Commercial with a Gateway Corridor Overlay (Overlay District); various commercial uses.
- G. PURPOSE OF REQUEST:** Rezoning the lots listed in the request to MU-CC, Mixed Use City Centre District for the purpose of redevelopment.
- H. SIZE OF SITE:** 34.93 Acres

**II. BACKGROUND INFORMATION**

- A. EXISTING CONDITION OF SITE:** The property is the former site of the Brentwood Crossing shopping center. Most of the buildings are vacant. The main strip building and much of the parking is in poor condition. The land is generally flat with a gradual downward slope generally east and west of the high point at the Brentwood Drive entrance.
- B. GENERAL NEIGHBORHOOD/AREA ZONING AND LAND USES:**
- 1. North:** La Vista Falls Golf Course, R-1 Single-Family Residential with a Gateway Corridor Overlay (Overlay District); public golf course
  - 2. East:** Briarwood Subdivision and La Vista Junior High; R-1 Single-Family Residential; single-family dwellings and public school
  - 3. South:** Witham Place; C-1 Shopping Center Commercial District with a Gateway Corridor Overlay (Overlay District); various commercial uses.
  - 4. West:** Brentwood Square and Brentwood Plaza; C-1 Shopping Center Commercial District with a Gateway Corridor Overlay (Overlay District); various commercial uses.
- C. RELEVANT CASE HISTORY:**
- 1.** On May 17, 2016, the City Council approved Ordinance No. 1282, which created a Mixed Use City Centre Zoning District (MU-CC).
- D. APPLICABLE REGULATIONS:**
- 1.** Section 5.19 of the Zoning Regulations – MU-CC Mixed Use City Centre District

**III. ANALYSIS**

- A. COMPREHENSIVE PLAN:** The Future Land Use Map of the Comprehensive Plan designates the area for commercial uses.
- B. OTHER PLANS:** This site was identified in *A Vision Plan for 84<sup>th</sup> Street* as a mixed use city center. This site has also been designated as blighted and substandard and in need of

redevelopment, and identified as the initial redevelopment project in the *84<sup>th</sup> Street Redevelopment Plan*.

**C. TRAFFIC AND ACCESS:**

1. Existing access points are at 84<sup>th</sup> Street and Summer Drive, 84<sup>th</sup> Street and Brentwood Drive, and 83<sup>rd</sup> Avenue. The preliminary plat proposes to move the intersection of 84<sup>th</sup> Street and Summer Drive approximately 275 feet south of its current location. This plat also proposes a new right-in/right-out between the relocated intersection and Brentwood Drive. A total of four vehicular access points will be available, including the private 83<sup>rd</sup> Avenue.

All existing sidewalk connections will remain. Additional sidewalk connections into the proposed park and to Marisu Lane are proposed.

2. As 84<sup>th</sup> Street is a state highway each new access point along the street needs approval from the Nebraska Department of Roads. The applicant has submitted a copy of their draft plans to NDOR and has received approval for the access points along the western edge of the development. A copy of this letter, dated May 3, 2016, has been attached for review.
3. The City Engineer has reviewed a traffic study that was performed by Olsson Associates for the applicant. This study was also reviewed by the NDOR. The traffic study indicates that the additional right-in/right-out access point and the relocation of Summer Drive will not significantly affect traffic operations for through movements on 84<sup>th</sup> Street. The NDOR has indicated that with increased development and traffic growth, signal timings on 84<sup>th</sup> Street will be adjusted to maintain acceptable conditions on 84<sup>th</sup> Street during peak hours, but there may be delays on the side streets trying to enter onto 84<sup>th</sup> Street. This is not unusual as there is emphasis on keeping State Highways at a higher level of service than local streets. The study has identified that the intersection of 84<sup>th</sup> and Harrison is expected to experience high levels of delay in 2040. This is not the result of the City Centre project, although it is a contributor. The solutions identified in the report are to add additional through lanes on either Harrison Street or 84<sup>th</sup> Street, however, that is not the responsibility of this project and may not be feasible given right of way constraints.

**D. UTILITIES:**

1. The properties have access to water, sanitary sewer, gas, power and communication utilities.

**IV. REVIEW COMMENTS:**

1. In 2010, the City Council adopted *A Vision Plan for 84th Street* which included an extensive public process resulting in a master plan which identifies that the vision for 84th Street is the creation of a downtown for the community. Numerous references throughout the plan called for a mixed use city center. Step 7 of the “Next Steps” section of the plan also noted the need to identify action items, such as rezoning of the property. Staff, in review of *A Vision Plan for 84th Street*, concluded a mixed use district was necessary for the proper implementation of the plan.

As such the Mixed Use - City Centre zoning district was adopted to:

1. Accommodate mixed use buildings with neighborhood-serving retail, service, and other uses on the ground floor and residential units and office uses above the ground floor.
2. Buildings can be solely residential provided they are designed in a building-forward environment, with buildings at the street edge or having only shallow front setbacks.
3. Encourage development that exhibits the physical design characteristics of pedestrian-oriented, storefront-style shopping streets, and
4. Promote the health and well-being of residents by encouraging physical activity, alternative transportation, and greater social interaction.

The site plan for the development proposed for the subject area meets the intentions of the MU-CC District mentioned above.

2. Although the Gateway Corridor District (Overlay District) will be removed from the subject area through this rezoning, the area will still be subject to design review through design guidelines that will be an exhibit to the Redevelopment Agreement.

**VI. STAFF RECOMMENDATION – Rezoning:**

Approval of the rezoning, conditional on the recording of the Final Plat, Subdivision Agreement and Redevelopment Agreement, as the Rezoning request is consistent with the Comprehensive Plan and the Zoning Regulations.

**VII. ATTACHMENTS TO REPORT:**

1. Vicinity Map
2. Zoning Map
3. Letter requesting conditional rezoning

**VIII. COPIES OF REPORT SENT TO:**

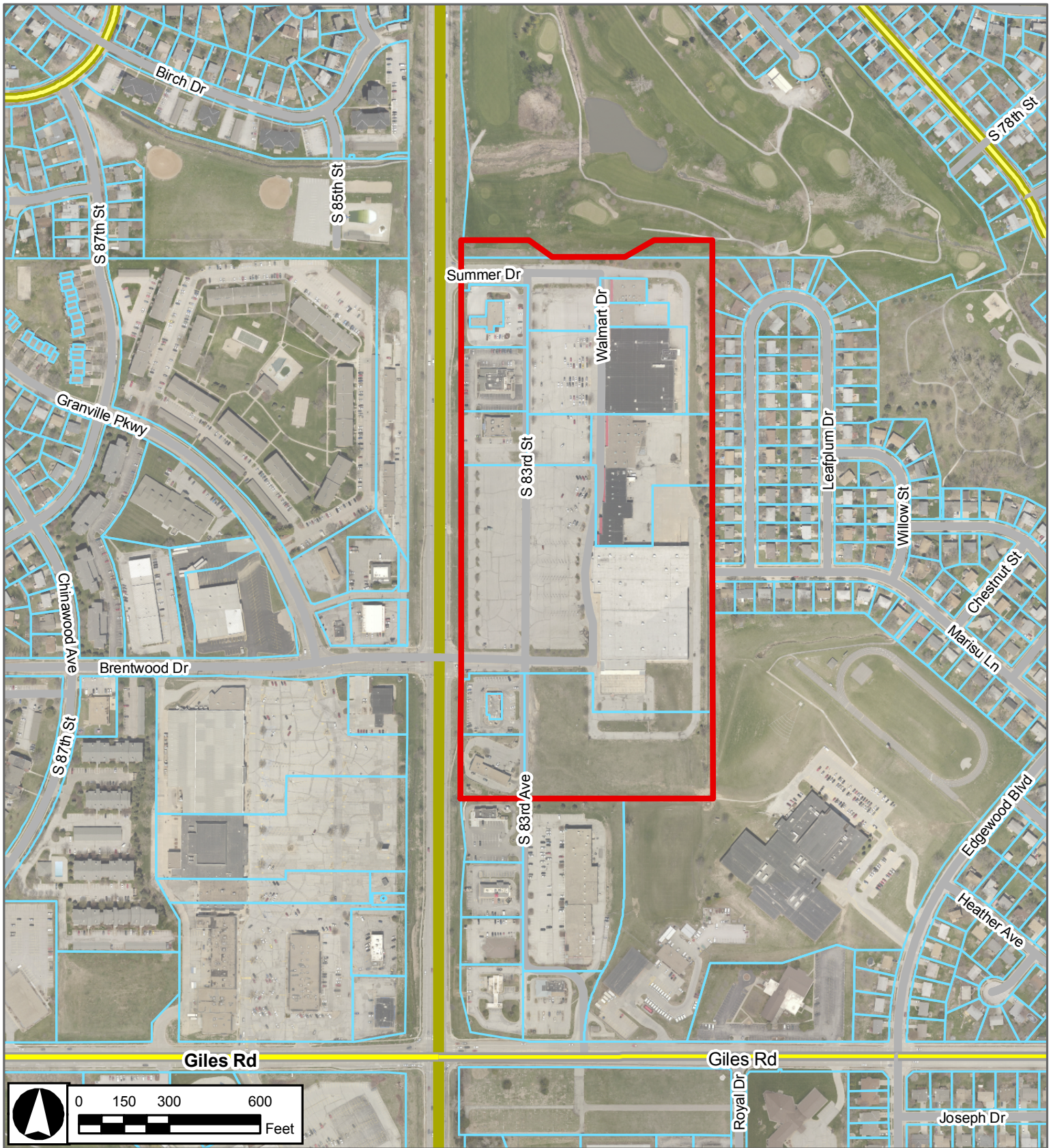
1. Eric Galley, Olsson Associates Inc.
2. Chris Erickson, La Vista City Centre, LLC
3. Public Upon Request

Prepared by:

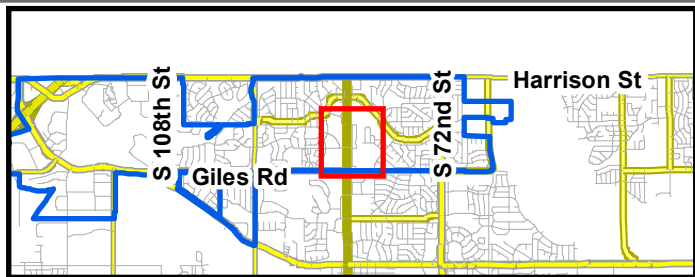
Community Development Director

Date

I:\Community Development\Planning Department\Planning Commission\Staff Reports\16memos\2016-ZMA-02 - La Vista City Centre Rezoning.Docx



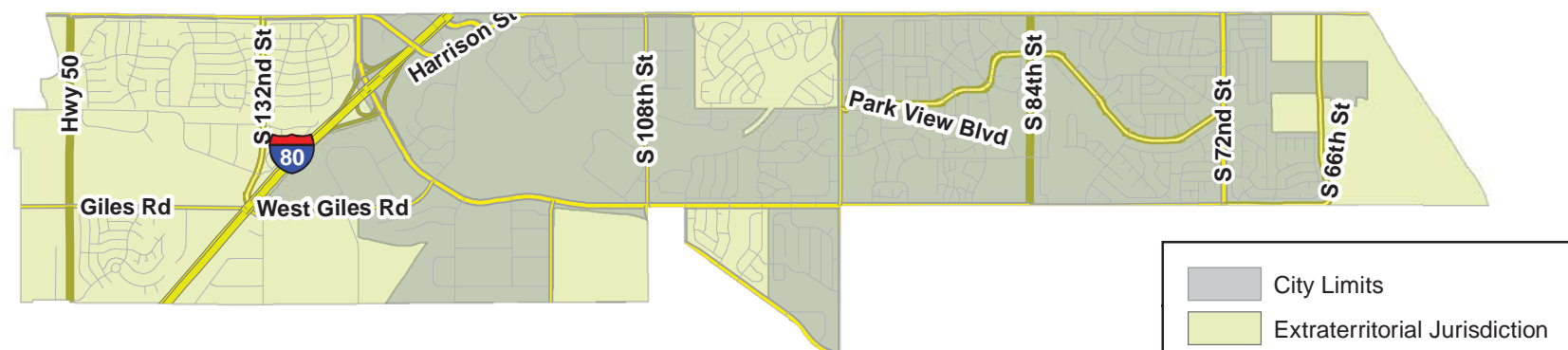
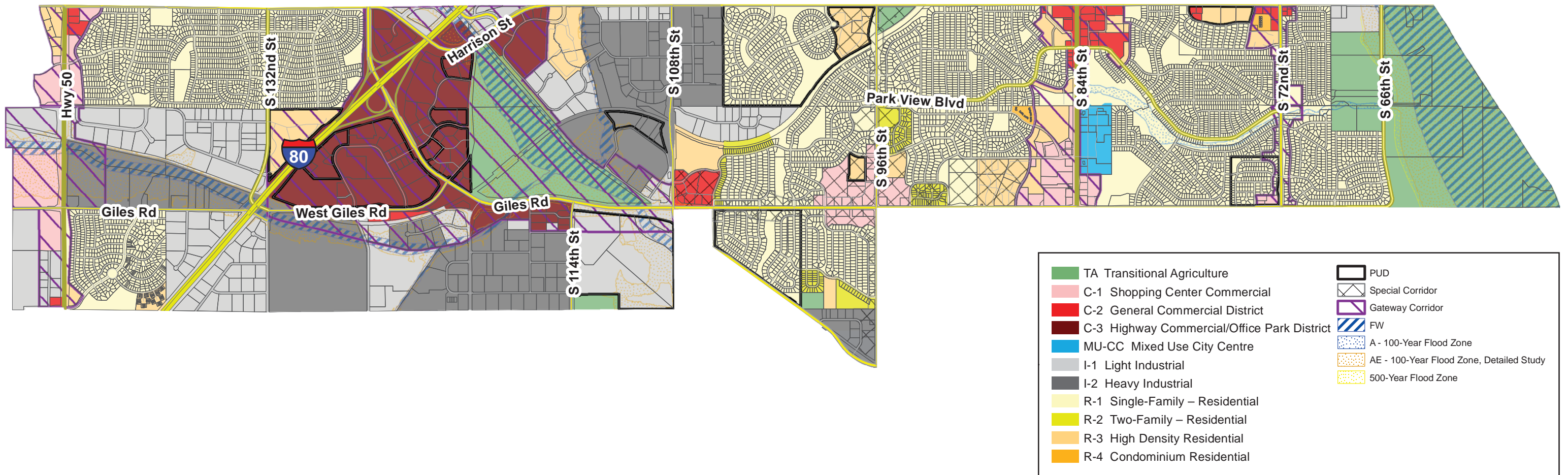
**Project Vicinity Map**



## Zoning Map Amendment La Vista City Centre

05-27-2016  
CAS





City of La Vista  
Official Zoning Map  
Adopted \_\_\_\_\_  
Ordinance Number \_\_\_\_\_



5-14-2015  
Drawn By: CSB



April 26, 2016

**VIA ELECTRONIC CORRESPONDENCE**

Fitzgerald Schorr, PC, LLC  
200 Regency One  
10050 Regency Circle  
Omaha, Nebraska 68114  
Attn: Tom McKeon

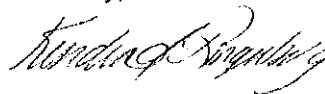
Re: La Vista City Centre, LLC's ("City Centre") applications for replat, rezoning, tax increment financing and related redevelopment efforts in connection with that certain real property located at 7904 S 83<sup>rd</sup> Street, La Vista, Nebraska ("Project")  
Our File No.: 03078.0000

Dear Tom:

As you know, City Centre is pursuing replatting, rezoning, tax increment financing and related redevelopment matters with the City of La Vista in connection with the Project. This letter shall serve as notice that City Centre has authority to submit such applications on behalf of the Project pursuant to Section 11 of the Purchase and Sale Agreement and Escrow Instructions, dated September 28, 2015 ("Purchase Agreement"). Please find attached a copy of the application section of the Purchase Agreement for your records. We advise that all such actions can only take effect upon the closing under the Purchase Agreement and, accordingly, all applications shall be contingent upon closing. We wanted to let you know our plan for how to proceed but will also state the contingency in all applications.

If you have any questions regarding the foregoing, please do not hesitate to contact me.

Sincerely,



Kendra J. Ringenberg

cc: Chris Erickson

9. Brokerage. Purchaser and Seller warrant and represent to each other that neither has dealt with any real estate broker or salesperson in connection with this transaction except \_\_\_\_\_, hereinafter "Purchaser's Broker", and Adam Hartig, hereinafter "Seller's Broker" and collectively with Purchaser's Broker, the "Brokers". Seller shall be responsible for the payment of a brokerage commission to the Seller's Broker and Purchaser shall be responsible for the payment of a brokerage commission to the Purchaser's Broker, both in amounts pursuant to separate written agreements between Seller and Seller's Broker and between Purchaser and Purchaser's Broker, but only in the event that the Closing occurs. If the Closing fails to occur for any reason whatsoever, including the default by either party hereunder, Seller shall have no obligation to pay the Seller's Broker and Purchaser shall have no obligation to pay the Purchaser's Broker any brokerage commission with regard to the transaction contemplated herein and in no event shall either of the Brokers have any claim to any portion of the Deposit that may be forfeited in the event of a default hereunder. If any other person shall assert a claim to a finder's fee, brokerage commission, or any other compensation on account of alleged employment as a finder or broker or performance of services as a finder or broker in connection with this transaction, the party under whom the finder or broker is claiming shall indemnify and hold the other party harmless from and against any such claim and all costs, expenses and liabilities incurred in connection with such claim or any action or proceeding brought on such claim, including, but not limited to, counsel and witness fees and court costs in defending against such claim. This indemnity shall survive the Closing or termination and termination of this Agreement and the escrow. By its execution of the Acceptance by Brokers below, the Brokers agree to the provisions of this Article 9.

#### 10. Remedies.

10.1. Seller's Remedies. If Purchaser defaults under this Agreement, Seller's sole remedy shall be to terminate this Agreement and retain the Deposit as liquidated damages, with Purchaser responsible for the payment of any escrow fees.

10.2. Purchaser's Remedies. If Seller defaults under this Agreement, Purchaser may, at its option, (a) cancel this Agreement in which case the Seller is irrevocably instructed to return the Deposit, to Purchaser, Seller shall be responsible for any escrow cancellation fees and Purchaser may recover from the Seller all reasonable expenses paid or incurred by Purchaser in connection with this Agreement, or (b) proceed with this Agreement and purchase the Property pursuant to this Agreement, subject to an abatement in the Purchase Price, that both Purchaser and Seller agree upon.

11. Review Period. Purchaser's obligations under this Agreement shall also be contingent and specifically conditioned, until noon of the last day of the then current Option Period ("Review Period"), upon Purchaser, in Purchaser's sole and absolute discretion, being satisfied with and accepting the zoning, environmental condition, physical condition, suitability for development, and nature of the Property ("Contingencies"). Purchaser shall have the right to enter onto the property to conduct inspections, reviews, and investigations of the Property, including but not limited to environmental assessments, surveys, soil tests, as Purchaser shall determine necessary in its sole discretion ("Inspections"). Purchaser agrees to repair any damage to the Property caused by the Inspections and restore the Property substantially to its original condition after completion of the

9/22/11  
CLE

Inspections. Additionally, Purchaser agrees that no liens shall be permitted to be attached to the Property as a result of the Inspections. Purchaser may extend the Review Period by exercising an option to extend an Option Period defined in Article 1.3.1. Notice to extend such Option period must be received within 24 hours prior to the expiration of the then current Option Period. Purchaser, for any reason, may terminate this Agreement at any time during the Review Period by written notice to Seller, in which any Deposit paid shall be non-refundable and not be returned to the Purchaser. Seller agrees to reasonably cooperate with Purchaser during the Inspection Period in obtaining any governmental approvals deemed necessary by Purchaser ("Governmental Approvals"); provided (a) all direct and indirect costs in obtaining such Governmental Approvals shall be paid by the Purchaser, and (b) no Governmental Approvals shall be binding on the Seller or the Property prior to Closing. Notwithstanding any provisions herein to the contrary, if Purchaser does not give written notice to Seller of its election to terminate this Agreement by not later than noon on the expiration date of the then current Option Period, and Purchaser has not exercised any available Option Periods, Purchaser shall be deemed satisfied with the Property in all respects, and the Deposit shall become non-refundable to Purchaser. At any time during this Agreement, Purchaser may waive the Contingencies, of which at that time, the Agreement shall be in full force and effect, and the closing shall occur in accordance with Article 2.1

## 12. Representations and Warranties.

12.1. Seller's Representations and Warranties. Seller represents and warrants to Purchaser, as of the Opening Date, as follows:

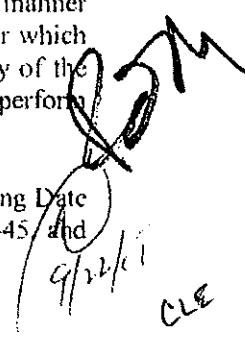
12.1.1. Full Power and Authority. Seller is a Fictitious Name duly organized and validly existing under the laws of the state of Missouri, and has the full power and authority to execute and deliver this Agreement.

12.1.2. Legal, Valid and Binding. This Agreement and all other instruments or documents executed or delivered in connection with this transaction each constitute legal, valid and binding obligations of Seller, enforceable against Seller in accordance with their respective terms.

12.1.3. No Approval by Governmental Authority. No consent, approval, authorization, registration, qualification, designation, declaration or filing with any governmental authority is required in connection with the execution and delivery of this Agreement by Seller.

12.1.4. No Lawsuits. To the actual knowledge of Seller, there are no actions, suits, proceedings or investigations pending or threatened with respect to or in any manner affecting Seller's ownership of the Property or otherwise affecting any portion thereof, or which will become a cloud on the title to the Property or question the validity or enforceability of the transaction contemplated herein, or which may adversely affect Seller's ability to perform hereunder.

12.1.5. Non-Foreign Certification. Seller is not, and as of the Closing Date will not be, a "foreign person" within the meaning of Internal Revenue Code Section 1445, and

  
9/22/11  
CLE