

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
JUNE 19, 2007 AGENDA**

Subject:	Type:	Submitted By:
CONDITIONAL USE PERMIT — HOME OCCUPATION (BEAUTY SALON) 7105 PINE DRIVE	◆ RESOLUTION ORDINANCE RECEIVE/FILE	ANN BIRCH COMMUNITY DEVELOPMENT DIRECTOR

SYNOPSIS

A public hearing is scheduled for Council to consider a Conditional Use Permit for the location and operation of a Home Occupation (Beauty Salon) at 7105 Pine Drive.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approval.

BACKGROUND

A public hearing has been scheduled to consider an application submitted by Jana Newell for a conditional use permit to locate and operate a home occupation (beauty salon) at 7105 Pine Drive.

The property is zoned R-1 Single Family Residential. According to the La Vista Zoning Ordinance, beauty salons are considered class one home occupations and are permitted within the R-1 Zoning District as a conditional use subject to the following regulations prescribed in Section 7.10:

- 7.10.01 No external evidence of the home occupation with the exception of one unlighted nameplate of not more than two square foot in area attached flat against the building located on local or collector streets. However, four square feet in area attached flat against the building located on arterial streets.
- 7.10.02 Advertising displays and advertising devices displayed through a window of the building shall not be permitted.
- 7.10.03 No more than 25% of the home, not to exceed 400 square feet, can be used for the home occupation, except for Child Care Home.
- 7.10.04 No one other than the resident(s) can work from that site.
- 7.10.05 No retail sales are permitted from the site other than incidental sales related to services provided.
- 7.10.07 No exterior storage is permitted.

- 7.10.08 There shall not be a stock of goods or material on the premises in excess of one hundred twenty (120) square feet of the area of the home occupation, none of which shall be of a flammable or hazardous nature.
- 7.10.09 Additional off-street parking may be required for the business.
- 7.10.10 If home occupation is for a business office for services rendered at another location then not more than two business or employee vehicles parked on or adjacent to the home occupation property at any one time; provided only one said vehicle may be allowed to park on street right-of-way. Construction or maintenance equipment shall not be stored on the property other than in an enclosed garage; provided one piece of equipment shall be counted as one of the two business or employee vehicles allowed. For the purpose of enforcement of the home occupation provisions of this ordinance, a piece of construction equipment parked on a trailer shall be counted as a single business vehicle. A trailer being pulled by another vehicle, however, shall be counted as two vehicles. Personal vehicles of occupants of the residential dwelling shall not be included in the count of number of business or employee vehicles.
- 7.10.11 No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.
- 7.10.12 Home Occupation License shall be required.
- 7.10.13 Conditional use permit is required, except for Home Occupation II uses and child care homes.
- 7.10.14 Child Care Homes and Child Care Centers shall require a certificate (CRED 9911) signed by the State of Nebraska Fire Marshall.
- 7.10.15 All fees shall be paid in accordance with the Master Fee Schedule.

In addition to and in compliance with Section 7.10.12 stated above, a home occupation license as defined in Section 2.02.137 of the Zoning Ordinance must be obtained and includes the following:

- 2.02.137.01 Application fee in accordance with Master Fee Schedule.
- 2.02.137.02 A minimum of seventy-five percent (75%) of the households within two hundred feet (200') of the proposed home occupation shall indicate no objections, in writing, to the operation of such home occupation. A "no objections" signature form shall be provided by the City and said residents shall sign next to their respective address.
- 2.02.137.03 Minimum standards for home occupations as provided in Section 7.10 of the Supplemental Regulations.
- 2.02.137.04 Conditional use permit, except for Home Occupation II uses and child care homes.

Staff has reviewed the request for a conditional use permit and has determined that the applicant has successfully completed or adhered to the required regulations. Furthermore, it has been determined that parking for such a use is adequate. The application states there is room for three vehicles in the driveway in front of the house. Since the applicant has stated that she is the only operator and she takes customers by appointment only, the parking appears to be adequate.

The Planning Commission held a public hearing on May 17, 2007 and recommended approval.

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 TO JANA NEWELL TO LOCATE AND OPERATE A HOME OCCUPATION (BEAUTY SALON) AT 7105 PINE DRIVE.

WHEREAS, Jana Newell has applied for a conditional use permit for the purpose of locating and operating a Home Occupation (Beauty Salon) at 7105 Pine Drive; 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 conditions identified within Section 7.10 of the Zoning Ordinance.

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 for Jana Newell to locate and operate a Home Occupation (Beauty Salon) at 7105 Pine Drive.

PASSED AND APPROVED THIS 19TH DAY OF JUNE 2007.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Bueth, CMC
City Clerk

**CITY OF LA VISTA
PLANNING DIVISION**

CASE NUMBER:

**FOR HEARING OF: June 19, 2007
Report prepared on June 13, 2007**

I. GENERAL INFORMATION

- A. APPLICANT:
Jana Newell
- B. PROPERTY OWNER:
John J. & Jill R. Henderson
- C. LOCATION:
7105 Pine Drive
- D. LEGAL DESCRIPTION:
Lot 367, Park View Heights 2nd Addition, NE ¼ 15-14-12
- E. REQUESTED ACTIONS(S):
Conditional Use Permit to locate and operate a home occupation (beauty salon).
- F. EXISTING ZONING AND LAND USE:
R-1, Single Family Residential
- G. PURPOSE OF REQUEST:
The applicant was previously granted a conditional use permit to operate a beauty shop at her residence at 9006 Granville Parkway however she is moving and she would like to operate the beauty shop at her new residence.
- H. SIZE OF SITE: 9,375 Sq. Ft.

II. BACKGROUND INFORMATION

- A. EXISTING CONDITION OF SITE: A single family home was constructed on the site.
- B. GENERAL NEIGHBORHOOD/AREA LAND USES AND ZONING:
 - 1. North: R-1/Single Family Home
 - 2. East: (same)
 - 3. South: (same)
 - 4. West: (same)
- C. REVELANT CASE HISTORY: The applicant was previously granted a conditional use permit to operate a beauty shop at her residence at 9006 Granville Parkway.

D. APPLICABLE REGULATIONS:

1. Section 5.06, Zoning Ordinance, regarding the Single Family Residential District.
2. Article 6, Zoning Ordinance, regarding Conditional Use Permits.
3. Section 7.10, Zoning Ordinance, regarding Home Occupations

III. ANALYSIS

A. **COMPREHENSIVE PLAN:** The Comprehensive Plan identifies this area as medium density residential.

B. **OTHER PLANS:** None.

C. **TRAFFIC AND ACCESS:**

1. Access to the lot is from Pine Drive.

D. **UTILITIES:** All utilities are available to the site.

IV. REVIEW COMMENTS:

1. The applicant provided a copy of a purchase agreement addendum authorizing her to apply for a conditional use permit for a beauty shop on this property.
2. The application indicates there is space for three vehicles to be parked in her driveway.
3. The applicant has stated that she takes customers by appointment only and she is the only operator.
4. The applicant stated the proposed hours of operation are Saturday 9 a.m.-3 p.m., Wednesday/Thursday 10 a.m.-7 p.m., and Tuesday/Friday 9 a.m.-5 p.m.

V. STAFF RECOMMENDATION: Approve.

VI. ATTACHMENTS TO REPORTS:

1. Vicinity Map
2. Layout of "Double Vision Salon" provided by applicant.
3. Copy of purchase agreement addendum.
4. Conditional Use Permit

VII. COPIES OF REPORT TO:

1. Jana Newell
2. John J. & Jill R. Henderson
3. Public Upon Request



Prepared by:

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Community Development Director

6-13-07
Date

City of La Vista Conditional Use Permit

Conditional Use Permit for Home Occupation (Beauty Salon)

This Conditional Use Permit issued this _____ day of _____, 2007, by the City of La Vista, a municipal corporation in the County of Sarpy County, Nebraska ("City") to, Jana Newell ("Owner"), pursuant to the La Vista Zoning Ordinance.

WHEREAS, Owner wishes to locate and operate a home occupation (beauty salon) in a single-family dwelling at 7105 Pine Drive upon the following legally described property of land within the City of La Vista zoning jurisdiction:

Lot 367, Park View Heights 2nd Addition, located in the NE ¼ of Section 15,
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 home occupation (beauty salon); 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 of the property described herein for a home occupation (beauty salon), 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. Permitted use will utilize only that area of the home shown on the drawing titled "Double Vision Salon" submitted by the applicant. Use will consist of equipment and supplies commonly associated with a beauty salon including salon chairs, sink, dryer and waiting area.
 - b. Hours of operation will be Saturday 9 a.m.-3 p.m., Wednesday/Thursday 10 a.m.-7 p.m., and Tuesday/Friday 9 a.m.-5 p.m.
 - c. There will be no employees.
 - d. Fires escapes (36" doors) shall be designated.
 - e. There shall be no storage, placement or display of goods or supplies outside described areas relating to permitted use. Hair care products to be sold include hairspray, gel, shampoo, conditioner, and related items.
 - f. Waste materials shall be stored in proper containers. Disposal of perm and color containers are to be wrapped in plastic bags and then placed in dumpster.
 - g. Client parking will consist of owner's driveway (off-street parking).
 - h. Owner shall obtain all required permits from the City of La Vista and shall comply with any

- additional requirements as determined by the Building Inspector.
- i. Owner shall comply (and shall ensure that all, 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/her 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 renewal of a home occupation license and 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 and accessory facilities or materials specifically pertaining to such permitted use shall be removed at owner's expense within twelve (12) months of cessation of the conditional use, if required by the City.
 4. Notwithstanding any other provision herein to the contrary, this permit, and all rights granted hereby, shall expire and terminate as 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/her 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 _____, 2007, 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 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/her 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: Jana Newell
7105 Pine Drive
La Vista, NE 68128

Effective Date:

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

THE CITY OF LA VISTA

By _____
Douglas Kindig, Mayor

Attest:

Pamela A. Buethe, CMC
City Clerk

CONSENT AND AGREEMENT

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

Owner:

By: _____

Title: owner/operator

Date: _____

John Kottmann P.E.
Home Occupation Conditional Use Permit
7105 Pine Drive-Beauty Salon
2007 Rezoning & Use Permit Reviews
City of Lavista
TD File No. 171-345.5

Mr. Kottmann,

Please let us know if you need any further information.

Thank you,

John & Jill Henderson
Jana Newell
(402) 630-7527
(402-699-9813

ADDENDUM # ____ TO PURCHASE AGREEMENT
(This is a legally binding contract. If not understood, seek legal advice.)

THIS CONTRACT made and entered into this 27th Day of March, 2007: by and between BUYERS John & Jill Henderson, & Jana Newell and SELLERS Keith & Linda Rathlisberger. Both buyers and sellers understand that this property 7105 Pine Drive, LaVista, NE 68128 is being zoned for the use as a Beauty Shop. They also understand the hours are to be Tuesday – Saturday, 9-4. Realizing there will rarely be more than one customer car in driveway at a time.

The property at 7105 Pine Drive, LaVista, NE 68128 will be transferred from John & Jill Henderson to Jana Newell as soon as practicable.


John J. Henderson


Jill R. Henderson


Jana Newell

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PINE DR

MONTERREY DR

Parcel ID Number	010578927	Neighborhood Code	LPV
Owner Name	HENDERSON/JOHN J & JILL R	Property Type	RES
Mailing Address	7105 PINE DR	Improvements Value	\$121,449
City State	LA VISTA NE	Land Value	\$22,000
Zip Code	68128-	Total Value	\$143,449
Property Address	07105 \PINE DR	Tax District	27002
Legal Description	LOT 367 PARK VIEW HEIGHTS 2ND ADD		

Map Scale
1 inch = 80 feet

Double Vision Salon

