



CITY OF LA VISTA

CERTIFICATE OF APPRECIATION

A CERTIFICATE OF APPRECIATION PRESENTED TO ADAM VAIL, of the La Vista Volunteer Fire and Rescue Department, FOR 5 YEARS OF FAITHFUL AND EFFICIENT SERVICE TO THE CITY OF LA VISTA.

WHEREAS, Adam Vail, has served the City of La Vista since July 20, 2004, and

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

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

DATED THIS 21ST DAY OF July, 2009.

Douglas Kindig, Mayor

Ronald Sheehan
Councilmember, Ward I

Brenda L. Carlisle
Councilmember, Ward I

Mike Crawford
Councilmember, Ward II

Terrilyn Quick
Councilmember, Ward II

Mark D. Ellerbeck
Councilmember, Ward III

Alan W. Ronan
Councilmember, Ward III

Kelly R. Sell
Councilmember, Ward IV

Anthony J. Gowan
Councilmember, Ward IV

ATTEST:

Pamela A. Buethe, CMC
City Clerk





CITY OF LA VISTA

CERTIFICATE OF APPRECIATION

A CERTIFICATE OF APPRECIATION PRESENTED TO MARK ARCHIBALD, of the La Vista Volunteer Fire and Rescue Department, FOR 5 YEARS OF FAITHFUL AND EFFICIENT SERVICE TO THE CITY OF LA VISTA.

WHEREAS, Mark Archibald, has served the City of La Vista since July 20, 2004, and

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

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

DATED THIS 21ST DAY OF July, 2009.

Douglas Kindig, Mayor

Ronald Sheehan
Councilmember, Ward I

Brenda L. Carlisle
Councilmember, Ward I

Mike Crawford
Councilmember, Ward II

Terrilyn Quick
Councilmember, Ward II

Mark D. Ellerbeck
Councilmember, Ward III

Alan W. Ronan
Councilmember, Ward III

Kelly R. Sell
Councilmember, Ward IV

Anthony J. Gowan
Councilmember, Ward IV

ATTEST:

Pamela A. Buethe, CMC
City Clerk





CITY OF LA VISTA

CERTIFICATE OF APPRECIATION

A CERTIFICATE OF APPRECIATION PRESENTED TO **TY EBEL**, of the **La Vista Volunteer Fire and Rescue Department**, FOR 5 YEARS OF FAITHFUL AND EFFICIENT SERVICE TO THE CITY OF LA VISTA.

WHEREAS, *Ty Ebel*, has served the City of La Vista since July 20, 2004, and

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

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

DATED THIS 21ST DAY OF July, 2009.

Douglas Kindig, Mayor

Ronald Sheehan
Councilmember, Ward I

Brenda L. Carlisle
Councilmember, Ward I

Mike Crawford
Councilmember, Ward II

Terrilyn Quick
Councilmember, Ward II

Mark D. Ellerbeck
Councilmember, Ward III

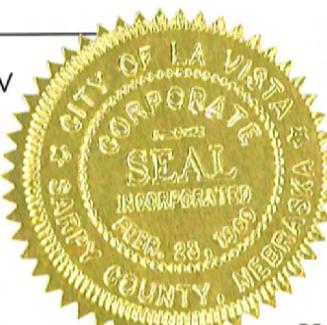
Alan W. Ronan
Councilmember, Ward III

Kelly R. Sell
Councilmember, Ward IV

Anthony J. Gowan
Councilmember, Ward IV

ATTEST:

Pamela A. Buethe, CMC
City Clerk



MINUTE RECORD

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

LA VISTA CITY COUNCIL MEETING July 7, 2009

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

A notice of the meeting was given in advance thereof by publication in the Times on June 25, 2009. Notice was simultaneously given to the Mayor and all members of the City Council and a copy of the acknowledgment of the receipt of notice attached to the minutes. Availability of the agenda was communicated to the Mayor and City Council in the advance notice of the meeting. All proceedings shown were taken while the convened meeting was open to the attendance of the public. Further, all subjects included in said proceedings were contained in the agenda for said meeting which is kept continuously current and available for public inspection at City Hall during normal business hours.

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

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

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

PROCLAMATIONS – SPECIAL RECOGNITION, INTERNATIONAL CLOWN WEEK

Mayor Kindig presented a special recognition proclamation to Alexa Lind, a resident of the City of La Vista. Mayor Kindig and Councilmember Quick presented the International Clown Week proclamation to representatives of the Omaha Wild Clown-Dum Alley #147.

A. CONSENT AGENDA

1. APPROVAL OF THE AGENDA AS PRESENTED
2. APPROVAL OF CITY COUNCIL MINUTES FROM JUNE 16, 2009
3. PAY REQUEST NO. 3 FROM EDAW – 84TH STREET REDEVELOPMENT
VISION - \$12,413.76
4. APPROVAL OF CLAIMS

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

ABANTE MARKETING, Wearing Apparel	871.82
ABE'S PORTABLES, Rentals	210.00
ACCURATE TESTING, Utilities/Bldg & Grnds	802.20
ACTION BATTERIES, Supplies	15.00
ALAMAR UNIFORMS, Wearing Apparel	703.42
ALEX, MARY, Travel	95.32
AMERICAN LEGAL, Contract Services	1,705.00
AMSAN, Supplies	161.61
AQUA-CHEM, Supplies	286.20
ARAMARK UNIFORM SERVICES, Contract Services	339.86
ASPEN EQUIPMENT COMPANY, Vehicle Maint.	221.89
BAKER & TAYLOR BOOKS, Books	1,313.16
BARONE SECURITY SYSTEMS, Contract Services	142.50
BCDM-BERINGER CIACCIO DENNELL, Professional Services	50.00
BEACON BUILDING SERVICES, Contract Services	7,237.00
BENNINGTON EQUIPMENT, Vehicle Maint/Repair	817.24
BEST ACCESS SYSTEMS DIVISION, Contract Services	27.99
BETTER BUSINESS EQUIPMENT, Rental	43.93
BLACK HILLS ENERGY, Utilities	1,389.88
BOBCAT, Vehicle Maint.	301.15

MINUTE RECORD

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

July 7, 2009

BOB'S RADIATOR REPAIR, Vehicle Maint.	78.00
BOLEY, ANN, Auto Allowance	100.00
BRENTWOOD AUTO WASH, Vehicle Maint.	174.00
BUETHE, PAM, Travel/Supplies/Postage/ Phone	164.11
BUILDERS SUPPLY, Bldg & Grnds	40.87
BURT, STACIA, Training	432.00
CAHILL, KAROLYN, Contract Services	80.00
CAHILL, THOMAS, Contract Services	80.00
CALENTINE, JEFFREY, Phone	30.00
CENTER POINT PUBLISHING, Books	240.84
CHAMBERS, NICOLE, Travel	62.00
CHRISTIE, CLAYTON, Refund	50.00
CIVIC PLUS, Contract Services	12,200.04
COCA-COLA, Concessions	376.80
COLOMBO/PHELPS, Utilities	111.29
CORNHUSKER INTL TRUCKS, Vehicle Maint.	228.00
COX, Contract Services	97.65
CREW OMAHA METRO, Dues	138.00
CROSBY, RENEE, Rental	100.00
D & D COMMUNICATIONS, Radio	1,506.50
DE LAGE LANDEN FINANCIAL SVCS, Contract Services	268.33
DEMCO, Supplies	120.09
DENNY JONES, Contract Services	1,104.00
DIAMOND VOGEL PAINTS, Traffic Signs	525.40
DISPLAY SALES, Bldg & Grnds	320.00
EASTERN LIBRARY SYSTEM, Training	20.00
ECCLES, PAT, Auto Allowance	100.00
EDGEWEAR SCREEN PRINTING, Wearing Apparel	1,545.50
FARQUHAR, MIKE, Auto Allowance	100.00
FASTENAL, Street Maint.	26.56
FEDEX, Professional Services	70.18
FILTER CARE, Vehicle Maint.	39.85
FIRE-EXTRICATION-HAZMAT, Rescue Revenue	79.50
FIREGUARD, Equip/Repair	145.35
FITZGERALD SCHORR BARMETTLER, Professional Services	7,957.00
FORT DEARBORN LIFE INSURANCE, Employee Benefits	2,626.50
FOX, ANDREA, Professional Services	183.75
FROEHLICH, RORY, Auto Allowance	100.00
G I CLEANER & TAILORS, Uniform Cleaning	160.70
GALE, Books	98.21
GALL'S, Equipment	79.99
GASSERT, MIKE, Contract Services	596.00
GCR OMAHA TRUCK TIRE CENTER, Vehicle Maint.	27.50
GENUINE PARTS, Vehicle Maint.	1,606.85
GOLDMAN, JOHN, Phone	85.00
GREAT PLAINS UNIFORMS, Wearing Apparel	316.75
GREENBLATT & SEAY, Summer Reading Prog	156.00
GREENKEEPER CO, Supplies	309.00
GUNN, BRENDA, Phone	45.00
H & H CHEVROLET, Vehicle Maint.	81.56
HANEY SHOE STORE, Wearing Apparel	120.00
HARDESTY, MARK, Travel	36.00
HEARTLAND PAPER, Supplies/Bldg & Grnds	763.00
HEIMES CORP, Street Maint.	119.85
HELGET GAS, Squad Supplies	88.00
HENRY DOORLY ZOO, Summer Reading Program	50.00
HOCKENBERGS, Concessions	15.71
HOLIDAY INN, Travel	279.80
HOME DEPOT, Repair	79.00
HYDROLOGIC WATER MANAGEMENT, Bldg & Grnds	72.14
HY-VEE, Supplies	266.77
ICMA, Dues	119.00
INDUSTRIAL SALES CO, Bldg & Grnds	138.42
INTERSTATE ALL BATTERY CENTER, Supplies	93.80
J Q OFFICE EQUIPMENT, Supplies	670.04
JOHNSTONE SUPPLY, Bldg & Grnds	48.95
KIMBALL MIDWEST, Vehicle Maint.	129.28
KINDIG, DOUGLAS, Phone	40.00

MINUTE RECORD

KLINKER, MARK, Professional Services	200.00
LA VISTA COMMUNITY FOUNDATION, Payroll Deductions	90.00
LANDS' END, Professional Services	619.95
LAUGHLIN, KATHLEEN, Payroll Withholding	372.00
LEAGUE OF NEBRASKA MUNI, Training/Travel	544.00
LEXIS NEXIS MATTHEW BENDER, Books	34.30
LIFE ASSIST, Squad Supplies	738.54
LINWELD, Street Maint/Supplies	93.79
LOVELAND LAWNS, Street Maint.	66.67
LUKASIEWICZ, BRIAN, Phone	930.00
MARTIN MARIETTA AGGREGATES, Bldg & Grnds	205.38
MARTIN, ALEX, Travel	62.00
MEADOWBROOK, Insurance	1,855.00
MID AMERICA PAY PHONES, Phones	150.00
MID CON SYSTEMS, Bldg & Grnds	312.67
MID-STATES UTILITY TRAILER, Vehicle Supplies	221.44
MIDWEST TURF & IRRIGATION, Bldg & Grnds	341.91
MILLER BRANDS, Concessions	233.50
MUD, Utilities	3,092.45
NACR, Contract Services	2,359.94
NATIONAL PAPER CO, Supplies	117.41
NEBRASKA SOFTBALL ASSN, Supplies	110.00
NEXTEL COMMUNICATIONS, Phone	676.69
NOVA HEALTH EQUIPMENT, Bldg & Grnds	4,668.75
NUTS AND BOLTS, Vehicle Maint.	41.67
OFFICE DEPOT, Supplies	1,190.29
OMAHA COMPOUND CO, Supplies	1,961.33
OMAHA WINNELSON, Repair	170.28
OMB EXPRESS POLICE SUPPLY, Equipment	47.97
OPPD, Utilities	1,667.26
OXMOOR HOUSE, Books	35.91
PAPILLION TIRE, Vehicle Maint.	148.61
PARAMOUNT LINEN & UNIFORM, Uniform Cleaning	573.69
PAYLESS, Supplies	273.74
PERFORMANCE CHRYSLER JEEP, Vehicle Maint.	12.30
PITNEY BOWES, Supplies	221.00
POHLAD, JULIE, Equipment	100.00
POKORNY, KEVIN, Travel	26.00
PRECISION INDUSTRIES, Vehicle Maint.	582.65
PREMIER-MIDWEST BEVERAGE, Concessions	214.00
PRINCIPAL LIFE-FLEX SPENDING, Employee Benefits	216.00
PUBLIC AGENCY TRAINING COUNCIL, Training	885.00
QUALITY BRANDS, Concessions	506.90
QUILL CORPORATION, Supplies	56.18
QWEST, Phone	1,150.95
RAMIREZ, RITA, Phone	43.00
RAPTOR RECOVERY, Summer Reading Program	75.00
READY MIXED CONCRETE, Street Maint./Sewer Repair	2,458.89
RECORDED BOOKS, Media	43.87
RICHT, TREVOR, Contract Services	80.00
RON TURLEY ASSOCIATES, Contract Services	700.00
ROTELLA'S ITALIAN BAKERY, Supplies	48.24
RUSTY ECK FORD, Vehicle Maint.	338.41
SAM'S CLUB, Supplies/Concessions	1,127.27
SAPP BROS PETROLEUM, Vehicle Maint.	10,297.53
SARPY COUNTY COURTHOUSE, Contract Services	3,487.34
SIGN IT, Supplies	433.50
SIRCHIE FINGER PRINT LABS, Supplies	123.75
SLIVA, STACY, Refund	32.24
SOUCIE, JOSEPH, Phone/Travel	120.71
SPRINT, Phone	98.66
STERLING DISTRIBUTING, Concessions	143.60
STEVENS, MARK, Travel	62.00
STUBBS, ALYSSA, Travel	62.00
STUBBS, MICKEY, Travel	62.00
SUN COUNTRY DISTRIBUTING, Bldg & Grnds	133.24
SUN LIFE & HEALTH INSURANCE, Payroll Withholdings	1,953.38
TED'S MOWER SALES & SERVICE, Equip. Repair	286.09

MINUTE RECORD

THERMO KING CHRISTENSEN, Vehicle Maint.	247.92
THOMPSON DREESSEN & DORNER, Engineering Design	1,533.88
TODCO BARRICADE CO, Equip.	185.00
TRAVELODGE, Travel	621.00
T-SHIRT ENGINEERS, Wearing Apparel	56.25
TURF CARS, Electric Cart	237.97
V & V MANUFACTURING, Wearing Apparel	48.44
VALUATION SERVICES, Appraisal	2,000.00
VERIZON, Phone	364.26
WAL-MART, Supplies/Bldg & Grnds/Equip	952.82
WASTE MANAGEMENT, Bldg & Grnds	262.77
WHITE CAP CONSTR SUPPLY/HDS, Street Maint.	425.00
ZOLL MEDICAL, Squad Supplies	86.01

REPORTS FROM CITY ADMINISTRATOR AND DEPARTMENT HEADS

City Administrator Gunn reminded Council of the Budget Workshops which will be held at 6:00 p.m. next Monday and Tuesday.

Police Chief Lausten informed Council that firework complaints were down 30%. There were a total of 39 complaints; but there were no calls or complaints regarding the various fireworks stands. Starting on Wednesday, law enforcement agencies in Sarpy County will help to patrol the portion of the interstate from the 126th Street interchange to the Platte river bridge at the request of the State Patrol. The State Patrol has asked for this assistance as fatalities on the interstate have increased since 2007. Lausten is waiting word on a mini grant to cover some of the time. This will not lessen the patrol in La Vista.

Public Works Director Soucie stated the 4th of July holiday was quiet this year. There was a fire in a trash can at Central Park and at City Park. This is the third year in a row that the permanent restrooms were locked and satellites were used to prevent vandalism to restroom fixtures during the fourth. The new street sweeper and pickup have been delivered to public works and will be brought up before a future council meeting for viewing.

Building and Grounds Director Archibald informed Council the IP phone system has been installed and is working properly.

Recreation Director Stopak informed Council that late last week, the City took delivery of nine new golf carts. Stopak stated the project at the golf course will be completed later this week.

Library Director Iwan informed Council that from April through June, the Library had 19 volunteers, which saved the library \$727.00. Seventeen of nineteen teens are from the summer reading program.

B. ORDINANCE – ZONING TEXT AMENDMENT – HOME OCCUPATIONS (TABLED AT 6/16/09 MEETING)

Community Development Director Birch introduced the agenda item.

Councilmember Ellerbeck introduced Ordinance No. 1093 entitled: AN ORDINANCE TO AMEND SECTION 2.02.155, SECTION 2.02.156, AND SECTION 7.10 OF ORDINANCE NO. 848 (ZONING ORDINANCE); TO REPEAL SECTION 2.02.155, SECTION 2.02.156, AND SECTION 7.10 OF ORDINANCE NO. 848 AS PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

Councilmember Sheehan moved that the statutory rule requiring reading on three different days be suspended. Councilmember Carlisle seconded the motion to suspend the rules and upon roll call vote on the motion the following Councilmembers voted aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. The following voted nay: None. The following were absent: None. The motion to suspend the rules was adopted and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Councilmember Sheehan moved for final passage of the ordinance which motion was seconded by Councilmember Carlisle. Councilmember Ellerbeck asked if the change to the ordinance eliminates the signature rule. Community Development Director stated that he was correct. Councilmember Sell asked if the revised ordinance takes care of the issue. Community Development Director Birch stated that it would. The Mayor then stated the question was, "Shall Ordinance No.1093 be passed and adopted?" Upon roll call vote the following Councilmembers voted aye: Sell, Ronan, Quick,

MINUTE RECORD

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

July 7, 2009

Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. The following voted nay: None. The following were absent: None. The passage and adoption of said ordinance having been concurred on by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the City Clerk attested the passage/approval of the same and affixed her signature thereto.

C. RESOLUTION – PERMISSION TO CONSUME ALCOHOL AT RECREATION CENTER ON JULY 11, 2009

Councilmember Ellerbeck introduced and moved for the adoption of Resolution No. 09-060: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE CONSUMPTION OF ALCOHOL AT THE LA VISTA CITY RECREATION CENTER IN THE EVENT OF INCLEMENT WEATHER ON SATURDAY, JULY 11, 2009, BY CITY EMPLOYEES, VOLUNTEERS AND THEIR GUESTS IN CONJUNCTION WITH THE ANNUAL VOLUNTEER/EMPLOYEE PICNIC.

WHEREAS, the La Vista Employee Activity Committee obtained permission to consume alcohol at the La Vista City Swimming Pool and Sand Volleyball Court in conjunction with the annual volunteer/employee picnic to be held on July 11, 2009, and

WHEREAS, the La Vista Employee Activity Committee is requesting permission to consume alcohol at the La Vista Recreation Center, in the case of inclement weather, in conjunction with the annual volunteer/employee picnic to be held on July 11, 2009, and

WHEREAS, City Council approval must be obtained prior to allowing the consumption of alcoholic beverages on city property.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of the City of La Vista, Nebraska, do hereby authorize the consumption of alcohol at the La Vista Recreation Center, in the case of inclement weather, on July 11, 2009, in conjunction with the annual volunteer/employee picnic.

Seconded by Councilmember Carlisle. Mayor Kindig asked if there was anyone here to speak on this agenda item. There being no one, Mayor Kindig asked for the vote. Councilmembers voting aye: Ronan, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: Sell and Quick. Absent: None. Motion carried.

COMMENTS FROM THE FLOOR

Mayor Kindig asked if there were any comments from the floor; and stated that anyone having comments should limit them to three minutes. There were no comments from the floor.

COMMENTS FROM MAYOR AND COUNCIL

Councilmember Sheehan stated he would like to see a breakdown of calls out of District 1.

At 7:26 p.m. Councilmember Gowan made a motion to adjourn the meeting. Seconded by Councilmember Crawford. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

PASSED AND APPROVED THIS 21ST DAY OF JULY 2009.

CITY OF LA VISTA

ATTEST: _____
Douglas Kindig, Mayor

Pamela A. Buethe, CMC
City Clerk

CITY OF LA VISTA
PLANNING COMMISSION MINUTES
JUNE 18, 2009

The Planning Commission meeting of the City of La Vista was convened at 7 p.m. on Thursday, June 18, 2009, at the La Vista City Hall, 8116 Park View Boulevard. Members present were: Krzywicki, Malmquist, Hewitt, Andsager, Kramolisch, Gahan and Alexander. Absent: Circo, Nielsen and Horihan. Also in attendance was Marcus Baker, City Planner, Ann Birch, Community Development Director and John Kottmann, City Engineer.

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

1. Call to Order

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

2. Approval of Meeting Minutes – May 21, 2009

Gahan motioned to approve the minutes of May 21, 2009. Malmquist seconded the motion. Ayes: Hewitt, Krzywicki, Andsager, Kramolisch, Alexander, Malmquist and Gahan. Nays: None. Motion carried.

3. Old Business

None.

4. New Business

A. Continuance of Public Hearing for Comprehensive Plan Amendment and Rezoning for Lots 13 & 14 of Crestview Heights Subdivision and Harrison Heights Preliminary Planned Unit Development (PUD) and Preliminary Plat.

i. Staff Report: Planner Baker updated the commission on the new materials presented tonight. Two letters from the public were mailed with the packets, and another letter was handed out this evening. The developers' site plan revisions are also included.

Baker continued the topic from the last meeting as to what the difference would be in traffic generation between an assisted senior living facility and independent senior living on Lot 5. The updated trip generation results showed a negligible decrease at peak times and a minor increase in week-day trips. No significant difference was indicated between the two uses.

Also, Baker indicated that staff had done research on another continued topic regarding whether staff would recommend approval of the project if it were two independent living facilities versus both an independent and an assisted living facility. Research was done by staff on existing facilities in Sarpy County, within 3 – 5 miles of La Vista, and Baker noted that there were 6 facilities in all. One facility in La Vista, and the others are in Papillion. All have waiting lists at this time. A new senior housing project, currently under construction in Papillion, will help satisfy some of that demand. There is a general need for senior housing in La Vista. Specifically, La Vista is in need of both assisted living and independent living facilities. Currently working with 2000 population data, the City is hoping the results from the 2010 census will provide better information regarding the aging population. The staff conclusion is that the community needs both independent and assisted living for seniors in La Vista. This project will offer the independent living component on these lots and staff would support this request and look to other properties in the future to obtain the assisted living facilities.

Staff has requested many revisions to the site plan, which were addressed in last month's staff report. These revisions should be made before City Council reviews the project.

each of the percentages were of the assisted and independent living. Baker said the proposal is all independent living on these lots.

Morgan Sykes, E & A Consulting Group, appeared to address the submitted revisions. Sykes stated that due to a change in lot numbers, the PUD lots are 1, 2 and 3, senior independent living are Lots 4 & 5. Lots 4 and 5 have a use that is to be age restricted. C-2 zoning has been amended on the PUD plan.

Sykes continued that in Section 7 of the Draft PUD a line was added to state that the buildings within the development will be compatible and coordinated in their architectural design; materials will be similarly coordinated so that all buildings in the PUD will appear cohesive in their design. A comment about additional off-street parking has been stricken from the Draft PUD agreement as well due to substantial research that reflects that for this type of facility it would not need the higher parking levels required by the La Vista zoning ordinance and parking regulations.

Site modifications include: removal of the parking along the entrance drive to the commercial lot, which will now be green space. Residential access is not allowed off of Harrison Street, so the applicant has shifted the property line to the outside of the drive so that the residential access is through the commercial lot. Parking on the south side of Lot 4 has now been removed to save a few more mature pine trees. Diagonal parking in the center areas of Lot 4 and 5 was established and the drive width reduced which will increase the green space. There will be perimeter sidewalks along Gertrude and Harrison and interior sidewalks connecting the three commercial buildings to Lot 4 senior apartments, and a sidewalk that will stair step down the hill to connect Lot 5 senior apartments.

Sykes also noted that there is no phasing on this project.

Krzywicki asked if the zig-zag line behind the garages was for wheel chair accessibility and would the grade meet ADA allowances. Sykes answered there is room for ramps and the grade is within allowances.

Jack Gichamz, Traffic Engineer with E & A Consulting Group, does not expect to see any major impact from this project on the current traffic situation, nor significant delays at the intersection of Harrison and Gertrude Streets.

Developer, Bob Reed, Sr. Vice President of Housing Development, Eastern Division for Community Development Inc. (CDI) presented information on the senior housing apartments project which is called The Orchards at Wildwood. It is approximately 4 acres along 75th and Harrison Streets in La Vista. There will be 48 units equally divided between 2 bedroom and 2 bedroom units with an on-site manager. Affordable living has restrictions on rent charged and income of residents. These are adjusted every year based as to 50% of the areas median income, which is the maximum income they can market to. Utilities are not included in the rent. Lot 5 has 48 units with the community room in the middle with kitchen and recreation rooms. They have a NIFA inspection annually, as well as other interested party inspections.

Scott Kennedy, representing Kalamar Enterprises who is developing Lot 4. The project is a market rate, age restricted senior complex, approximately 110-112 units with one- and two-bedroom apartments. They offer garages with some of their units at typically a ratio of 50% garages to apartments. There are approximately 52 garages on this project. Each of the three-story towers on the site are connected so that it is 100% enclosed. A subsidiary of Kalamar Enterprises called, Senior Apartments, provides local management of their facilities.

Krzywicki asked if the real estate taxes on senior living is different than normal developments? Kennedy said there is no difference since this is a for-profit facility.

Vic Pelster, with NP Dodge Management Company, representing the developer on the project spoke to the commercial portion of the project. Their intent is to build the 3 buildings on 3 separate lots. They would start with the 10,000 square foot building first and the smaller 5,000 and 5,500 square foot buildings as they lease, or offer the lots for sale to those who wish to own their own buildings

within the development. The entrances to the commercial buildings are from Gertrude Street and a right-in and right-out off of Harrison Street.

Pelster said they had worked closely with the city and there are a few issues yet to be worked out. They are willing to make changes by suggestions that people offer.

Jack Graham, citizen asked if the property had been rezoned. He also asked why only one entrance is planned to Harrison Street. He felt it could be a bad problem between the lights, traffic, visitors, etc.

Quinn Abraham, citizen, had sent an email regarding his concerns about the commercial development. The Lot 3 commercial development is 120 feet from his front door. He opposes the zoning of commercial uses on this site. He also felt the 3-story, multi-family units, even though it is below grade, would be rather large. He wondered why the green space faces Harrison Street, he felt it should face the side of the existing neighborhood.

Reed commented that the building must face Gertrude as no access is allowed from Harrison Street.

Yosef Chelinsky, citizen, is afraid that due to the winter road conditions on Gertrude Street he would have twice as many cars sliding onto his property than usual, damaging his grass and sprinkler system. He also was concerned that if the developers could not find the age of tenants desired, the units could be rented to anyone they wanted to.

Red Emmons, citizen, said he was told last Fall that the graders were leveling for duplexes or single family homes. Then at the first of the year, he got a letter to say it would be 110 living assisted living units, in two 3-story buildings. First, he does not want a three-story building. He gave ideas on how to restructure those buildings into two story buildings instead and a different plan for the entrance. He stated he is not opposed to the commercial, his concern is with the three-story buildings.

Richard Barns, citizen, appeared to say he had nothing against the project. He is concerned about what the backside of the commercial property will look like as it will face his property. He is concerned that the traffic will be too much.

James Thusacker, citizen, felt he was more comfortable with today's presentation, but there are still concerns with the traffic. There is a horrendous ice problem on the residential streets in the winter. Speed bumps are a necessity, not really wanted, but would help the extra traffic load and speed problem. He asked if the question of power outage issues have been addressed.

Baker responded that city staff did contact OPPD for their response to power outages in the area. They examined the impact on power quality that the proposed development would potentially have and found it would not change the power quality on the circuit. An OPPD project in March 2009 was completed to reduce problems experienced in the past.

Thusacker was comfortable on what had been presented on the age restricted units. He did not want to lose control of these lots, however, to create a La Vista ghetto.

Terrie Saunders, citizen, had written a letter included in the packets and summarized her concern that adding 158 more apartments would create a high population density. The traffic is terrible as it is. Gertrude Street is very narrow. She has a safety concern with the kids in the neighborhood. She is somewhat concerned about the developer's lack of concern about the commercial buildings and that there are a lot of unoccupied commercial spaces vacant in La Vista already. Graders were in violation on different occasions, yet the grading continued. She feels misled in that they were told it was going to be assisted living and now it is not. Upon calling the Granville Assisted Living facility she found they have no one that drives. The fact that an independent living facility is under consideration, this will complicate the traffic problem. She felt this is not an appropriate use of the land, adding tremendously to the population density. She urges the city to give careful thought to this proposal.

Mary Jillson, citizen, also commented on the traffic. Additionally, she was concerned about the limited parking. Most of those she knows have two vehicles, plus visitors. With limited parking, these are going to spill parking into the side streets in front of their residential homes.

Jim Saunders, citizen, appreciates all the efforts made in working with the known problems. He felt the traffic study was done only over two days. The neighborhood sees other existing traffic problems. Parking on Gertrude Street leaves the street a one-way, as you have to wait for cars to come through. In the winter, Gertrude Street is rough and requires a snow fence and added traffic will complicate this.

Jillson returned to ask when the traffic study had been done.

Westergard answered March of 2009, between the hours of 7-9 am and 4-6 pm.

Jillson felt the number would be off as it would not take into account the period when parents would be picking up their children from school.

Pelster responded that the children playing in the streets is because there are no sidewalks and the development will have sidewalks along Harrison Streets and they could be made wider. Regarding the wintery street conditions, with the buildings that go in, the water/snow would be more controlled and should control the situation. They would like speed bumps on the project, but felt that was more of a city issue. They have tried to put the buildings in the most advantageous spots for all things considered.

Pelster asked for staff and the commission for guidance on acceptable parking requirements.

Baker commented that minimum parking requirements within senior living facilities are not specifically addressed by the Zoning Ordinance. Therefore, staff has been researching what other communities require for senior housing. The City Staff do not want the parking overflowing onto Gertrude Street either.

Malmquist asked if it could be further explored within the PUD final approval. Baker said Staff can look at it before it goes to City Council during the preliminary process. By the time the final PUD is looked at, parking should not be an ongoing debate.

With no further comments from the public, Malmquist motioned to close public hearing. Hewitt seconded. Ayes: Hewitt, Krzywicki, Andsager, Kramolisch, Malmquist, Alexander and Gahan. Nays: None. Public hearing closed at 8:50 p.m.

Baker said that the parking issue is the only requested staff revision left to consider. All other revisions were reflected in the site plans presented tonight.

Malmquist added that reduction in parking has some good elements because you allow for better on-site drainage and a decrease in impervious area. At the same time, she has mixed emotions about decreasing it because of the concern for traffic and pushing parking out onto the street. She would like to see Planning Staff further review with the City Engineer, prior to passing this on to City Council.

Krzywicki voiced that he is opposed to the proposed commercial uses on the property because of the commercial that is already in the area – vacancy rates show enough capacity already and in addition to the contiguity of the residential nearby. Also, he feels that the design of the buildings should be revisited due to the height of the buildings, which should be reduced in conjunction with the single family residential neighborhoods. He also wondered if there is any way that all the traffic of this development be kept off of Gertrude Street entirely, based on the comments heard.

Sykes responded that the height was within the limits of the zoning district and by City Code, no residential access is permitted off of Harrison Street. Sykes also said that on Lot 4 the highest point of elevation is only 6 feet higher than the houses across the street.

Malmquist felt that the developers had responded very well with the task put before them and have responded by moving the green space around, have had conversation regarding the parking, the

limited access, fire access, etc. The developer has responded appropriately to the concerns of the neighbors given the confines and restrictions of codes and requirements. Much of the remaining issues, she feels, are based on existing problems in the neighborhood. The traffic study, conducted according to engineering protocol, shows minor impact.

Gahan asked who determines if speed bumps are placed on a street and if parking would be restricted on Gertrude Street. Kottman said that Public Works would make a recommendation to the City Council whom would then approve or not approve these requests.

Kramolisch asked if there was a possibility of a one-way street that would eliminate back and forth traffic, and who makes that determination. Kottmann responded that too would be a City Council decision.

Baker informed the commissioners that there was another option that could be considered tonight. Approval could be recommended for the comprehensive plan amendment and recommend approval of the rezoning with a continuance of the preliminary PUD plan; however, staff would desire approval of the rezoning R-3 PUD-1 and C-2 PUD-1 so that the PUD agreement could be adopted.

Malmquist asked what the commissioners could see further if they continued the PUD and preliminary plat discussion. Krzywicki felt there were issues that still needed to be addressed. Hewitt thought the only issue left was parking.

Krzywicki stated that in the staff report continuance had been recommended.

Baker said, continuance is an option for all motions, and he has written up conditions of approval as the discussion progressed tonight, in case the commission's choice is to recommend approval. Hewitt asked what those conditions of approval were.

Baker said if a recommendation for approval were the direction the commission would want to go, then three separate motions would be suggested, as follows:

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

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

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

1. Revisions requested by the City Engineer, in his letter dated May 4, 2009, shall be incorporated into the Final PUD Plan, Final Plat and Conditional Use Permit submittal.
2. The draft text of the PUD plan needs modifications to limit the uses of Lots 4 & 5 to senior independent living or assisted living facilities
3. Other City Staff revisions stated in this report shall be addressed prior to City Council's review of the Preliminary PUD Plan and Preliminary Plat.
4. Commercial development shall meet the design standards set forth in the City of La Vista's Commercial Building Design Guidelines.
5. Buildings within the development shall be compatible and coordinated in their architectural design. Building materials shall be similar and coordinated so that all buildings in the PUD appear cohesive in their design

Malmquist asked in the design rendering, if the buildings seemed fairly compatible at the present time. Baker said conceptually they do, but further review can be done if the project proceeds to Final PUD.

iii. Recommendation: Malmquist motioned to recommend approval to the City Council of the comprehensive plan amendment as Baker had iterated for Lots 13 and 14 of Crestview Heights subdivision. Hewitt seconded. Ayes: Hewitt, Andsager, Alexander, Kramolisch, and Malmquist. Nays: Krzywicki and Gahan. Motion carried 5-2.

Hewitt made a motion to re-zone Lots 13 and 14 of Crestview Heights subdivision according to proposed Lots 1, 2 and 3 of Harrison Heights from TA to C-2 PUD-1; and proposed Lots 4 and 5 of Harrison Heights from TA to R-3 PUD-1. Malmquist seconded. Ayes: Hewitt, Andsager, Alexander, and Malmquist. Nays: Krzywicki, Kramolisch and Gahan. Motion carried by 4-3.

Hewitt motioned to recommend approval to City Council of the preliminary PUD and the preliminary plat subject to the conditions identified by planning staff and the letter of the city engineer, previously read, by Baker. Malmquist seconded. Ayes: Hewitt, Andsager, Alexander, Kramolisch, and Malmquist. Nays: Krzywicki and Gahan. Motion carried by 5-2.

All three items have been approved for recommendation to City Council tentatively July 21, 2009.

5. Comments from the Floor

None

6. Comments from the Planning Commission

Gahan asked if there had been any flooding issues in Cimarron Woods due to the recent heavy rains. Kottmann responded that two vacant lots east of Cimarron Woods Drive had 6-8 inches of water on them. A citizen said water was pooled into his backyard, but not into his house @ 7411 S 101st Avenue. The attorney for the homeowners association had phoned the city who requested copies of the drainage studies originally done on the lots which had been handed over. Kottmann wrote a letter to the SID Board of Trustees recommending that they do additional drainage studies of the subdivision to determine whether any additional improvements are needed.

Ann Birch announced that a Vision 84 Community Workshop would be held, Tuesday, June 23rd at 6:30 pm here at City Hall facilitated by the consultant. Everyone is encouraged to attend. There will be a review of the Vision 84 project, guest speaker and an image board display on which the public will be able to rank their preferences.

Birch also mentioned there will be a mobile tour to Kansas City on Wednesday as part of the Vision 84 project.

7. Adjournment

Hewitt motioned to adjourn. Malmquist seconded. Ayes: Hewitt, Krzywicki, Andsager, Malmquist, Kramolisch, Alexander and Gahan. Nay: None. Motioned carried. Nays: None. Meeting was adjourned at 9:08 p.m.

Reviewed by Planning Commission: John Gahan

Sharon R. Dennis
Recorder

Michael Krzywicki
Planning Commission Chair

7-16-2009

Approval Date

CITY OF LAVISTA, NEBRASKA

COMBINED STATEMENT OF REVENUES, EXPENDITURES
AND CHANGES IN FUND BALANCE-ALL GOVERNMENTAL FUND TYPES

For the nine months ended June 30, 2009

83% of the Fiscal Year

	General Fund			Debt Service Fund			Capital Fund						
	Budget (12 month)	MTD Actual	YTD Actual	Overt(under) Budget	% of budget Used	Budget	MTD Actual	YTD Actual	Overt(under) Budget	Budget	MTD Actual	YTD Actual	Overt(under) Budget
REVENUES													
Property/Taxes	\$ 4,531,026	\$ 61,196	\$ 2,628,117	\$ (1,002,209)	58%	\$ 761,601	\$ 6,421	\$ 433,749	\$ (327,851)	\$ 835,334	\$ -	\$ -	\$ (35,334)
Sales and use taxes	1,955,000	160,431	1,646,413	(308,587)	84%	977,500	80,216	823,207	(154,293)	18,178	-	-	-
Payments in Lieu of taxes	90,000	-	100,776	10,776	112%	-	-	18,178	-	-	-	-	-
State revenue	1,070,440	86,706	813,563	(256,877)	76%	-	-	-	-	-	-	-	-
Occupation and franchise taxes	500,000	10,514	555,643	55,643	111%	-	-	-	-	-	-	-	-
Hotel Occupation Tax	872,400	41,249	297,135	(575,265)	34%	-	-	-	-	-	-	-	-
Licenses and permits	637,000	49,132	49,132	(187,368)	71%	-	-	-	-	-	-	-	-
Interest income	50,000	1,518	33,302	(16,499)	67%	100,000	-	91,161	81,719	(18,281)	-	-	-
Recreation fees	151,000	16,381	96,767	(54,233)	64%	-	-	-	-	-	-	-	-
Special Services	27,295	619	12,238	(15,057)	45%	-	-	-	-	-	-	-	-
Grant Income	182,750	5,466	88,486	(94,664)	48%	-	-	-	-	-	-	-	-
Other	176,000	26,992	210,712	(34,712)	120%	585,000	-	559,788	938,950	-	2,891,337	-	(7,393,337)
Total Revenues	10,242,911	460,208	6,932,283	(3,310,628)	68%	2,424,101	655,586	2,295,812	(128,288)	36,891	653,334	36,891	(421,386)
EXPENDITURES													
Current:													
Mayor and Council	140,996	7,370	80,933	(60,063)	57%	-	-	-	-	-	-	-	-
Boards & Commissions	10,025	441	4,869	(5,156)	49%	-	-	-	-	-	-	-	-
Public Buildings & Grounds	476,009	34,440	293,488	(82,522)	62%	-	-	-	-	-	-	-	-
Administration	540,793	39,718	394,822	(45,971)	73%	90,000	4,873	17,499	(72,501)	-	-	-	-
Police and Animal Control	3,311,601	252,903	2,341,777	(669,324)	71%	-	-	-	-	-	-	-	-
Fire	514,198	27,421	292,888	(221,310)	57%	-	-	-	-	-	-	-	-
Community Development	639,075	49,594	452,716	(86,559)	71%	-	-	-	-	-	-	-	-
Public Works	2,584,143	198,534	1,767,465	(316,678)	68%	-	-	-	-	-	-	-	-
Recreation	567,735	59,676	348,510	(218,325)	61%	-	-	-	-	-	-	-	-
Library	590,046	40,765	396,592	(193,254)	67%	-	-	-	-	-	-	-	-
Human Resources	397,775	4,211	355,609 *	(421,66)	89%	-	-	-	-	-	-	-	-
Special Services & Tri-City Bus	77,600	40,740	40,740	(36,860)	52%	-	-	-	-	-	-	-	-
Capital Outlay	315,671	12,740	99,013	(216,658)	31%	1,475,000	-	1,770,000	75,000	378,374	(1,096,626)	3,650,859	(6,328,911)
Debt service: (Warrants)	-	-	-	-	-	1,665,549	-	220,623	(285,000)	1,195,570	(471,979)	3,074,442	(1,926,107)
Principal	-	-	-	-	-	5,000,549	-	300,496	-	3,074,442	-	6,560,859	-
Interest	-	-	-	-	-	68%	-	5,000,549	-	3,074,442	-	6,560,859	-
Total Expenditures	10,165,267	731,882	6,869,621	(3,395,646)	68%	3,295,646	3,295,646	3,295,646	3,295,646	3,295,646	3,295,646	3,295,646	(6,328,911)
EXCESS OF REVENUES OVER (UNDER) EXPENDITURES	77,644	(271,674)	62,662	14,982	81%	(2,576,448)	3,55,090	(778,630)	(1,797,818)	(2,178,854)	-	-	(2,178,854)
OTHER FINANCING SOURCES (USES)													
Operating transfers in (out)	(820,280)	-	-	-	-	820,280	-	-	-	134,092	118,854	-	(118,854)
Bond/registered warrant proceeds	(820,280)	-	-	-	-	820,280	-	-	-	1,475,000	2,060,000	-	(2,060,000)
Total other financing sources (Uses)	(820,280)	-	-	-	-	820,280	-	-	-	1,609,092	2,178,854	-	(2,178,854)
EXCESS OF REVENUES AND OTHER FINANCING SOURCES OVER (UNDER) EXPENDITURES AND OTHER FINANCING USES	\$ (742,636)	\$ (271,674)	\$ 62,662	\$ (805,298)	-	\$ (967,356)	\$ 355,090	\$ (778,630)	\$ (188,726)	\$ -	\$ -	\$ -	\$ -
FUND BALANCE, beginning of the year													
FUND BALANCES, END OF PERIOD	\$ 4,586,517	\$ 4,586,517	\$ 6,730,337	\$ 6,730,337	\$ 6,730,337	\$ (792,031)	\$ (792,031)	\$ (792,031)	\$ (792,031)	\$ (792,031)	\$ (792,031)	\$ (792,031)	\$ (792,031)

* FY09 Liability and Workers' Comp Insurance

CITY OF LAVISTA
COMBINED STATEMENT OF REVENUES, EXPENDITURES
AND CHANGES IN FUND BALANCE-PROPRIETARY FUNDS
BUDGET AND ACTUAL
For the nine months ended June 30, 2009
83% of the Fiscal Year

Date	Page
Jun 30, 2009	1
Invoice Number	200245

14109 S Street
Omaha, NE, 68137
Phone: (402) 492-2800
Fax: (402) 492-2882

Sold To:

CITY OF LA VISTA
8116 PARKVIEW BLVD.
ATTN: ACCTS. PAYABLE
LA VISTA, NE 68128
USA

Ship To: JUL 13 2009

Police Dept.
7701 S. 96th St.
ATTN: PAT ARCHIBALD
La Vista, NE 68128

Order No.	Order Date	Customer No.	Salesperson	PO Number	Order Type	Terms
92516	Apr 23, 2009	9388	HARRIS	21581	QUOTE	10

Qty. Shp.	Item Number	Description	Unit Price	Extended Price
	NSIMITELSN NSIMITEL NSIMITEL NSIMITEL NSIMITEL 54000890 54000660 50005847 50005664 50005915 LABVOCINSTALL LABIMPMAC NOTES	50005382 SX-200 CX Controller 54002838 SX-200 ICP Core S/W Options Bundle 54002840 64 MAX IP User Uplift Bundle IP Network Channel License SX-200 ICP 54000929 2nd Port on on IP Sets SX 200 ICP MITEL COMPRESSION RESOURCE LICENSE MITEL SX200ICP MITEL 5312 IP PHONE Mitel 5324 IP Phone Mitel IP PKM Kit - 48 Key (for 5324 set) LABOR-VOICE EQUIPMENT INSTALL LABOR-M/A/C VOICE PER HOUR See below: Work completed 06-26-2009		

Consent Agenda
7-21-09
01.13.0610

Comments:	Tax summary:	Subtotal Total sales tax	14,328.77 0.00
	EXEMPT	0.00	
		Total amount Less payment	14,328.77 0.00
		Amount due	14,328.77

HunTel Communications

Invoice

Date Jun 30, 2009	Page 1
Invoice Number 200244	

14109 S Street
Omaha, NE, 68137
Phone: (402) 492-2800
Fax: (402) 492-2882

JUL 13 2009

Sold To:

CITY OF LA VISTA
8116 PARKVIEW BLVD.
ATTN: ACCTS. PAYABLE
LA VISTA, NE 68128
USA

Ship To:

City Hall
8116 Parkview Blvd.
ATTN: PAT ARCHIBALD
La Vista, NE 68128

Order No.	Order Date	Customer No.	Salesperson	PO Number	Order Type	Terms
92513	Apr 23, 2009	9388	HARRIS	21581	QUOTE	10

Qty. Shp.	Item Number	Description	Unit Price	Extended Price
	NSIMITEL 54000660 50005847 50005664 50005915 50004459 50005321 50005300 51005172 LABVOCINSTALL LABIMPMAC NOTES Work Completed 6-26-2009	54000661 (1) IP Network Channel License SX-200 ICP MITEL SX-200 ICP User License MITEL 5312 IP PHONE Mitel 5324 IP Phone Mitel IP PKM Kit - 48 Key (for 5324 set) MITEL 5310 IP CONFERENCE SAUCER IP Conference Module (5300 Series) Mitel Power Supply Power Cord C7 2.5A 125V-NA Plug LABOR-VOICE EQUIPMENT INSTALL LABOR-M/A/C VOICE PER HOUR See below: Work Completed 6-26-2009		

Comments:	TAX EXEMPT	Tax summary: EXEMPT	Subtotal 0.00	11,805.35 0.00
			Total amount Less payment	11,805.35 0.00
			Amount due	11,805.35

Consent Agenda
7-21-09
1-13-0610

ACCOUNTS PAYABLE CHECK REGISTER

BANK NO	BANK NAME	CHECK NO	DATE	VENDOR NO	VENDOR NAME	CHECK AMOUNT	CLEARED	VOIDED	MANUAL
1 Bank of Nebraska (600-873)									
Thru	46048			46051	Payroll Checks				
Thru	46052			96920	Gap in Checks				
96921	7/08/2009	1194	QUALITY BRANDS OF OMAHA			803.95			**MANUAL**
96922	7/08/2009	3702	LAUGHLIN, KATHLEEN A, TRUSTEE			372.00			**MANUAL**
96923	7/08/2009	4123	EDAW INCORPORATED			12,413.76			**MANUAL**
96924	7/09/2009	2930	REPUBLIC NATIONAL DISTR CO LLC			157.50			**MANUAL**
96925	7/13/2009	480	UNITED STATES POSTAL SERVICE			185.00			**MANUAL**
96926	7/21/2009	762	ACTION BATTERIES UNLTD INC			79.95			
96927	7/21/2009	571	ALAMAR UNIFORMS			729.89			
96928	7/21/2009	1271	AMERICAN PLANNING ASSOCIATION			695.00			
96929	7/21/2009	736	AQUA-CHEM INCORPORATED			218.00			
96930	7/21/2009	536	ARAMARK UNIFORM SERVICES INC			260.53			
96931	7/21/2009	188	ASPHALT & CONCRETE MATERIALS			76.95			
96932	7/21/2009	706	ASSOCIATED FIRE PROTECTION			385.00			
96933	7/21/2009	201	BAKER & TAYLOR BOOKS			1,012.90			
96934	7/21/2009	1784	BENNINGTON EQUIPMENT INC			846.78			
96935	7/21/2009	3774	BENSON RECORDS MANAGEMENT CTR			53.54			
96936	7/21/2009	3119	BIRCH, ANN			100.92			
96937	7/21/2009	196	BLACK HILLS ENERGY			17.97			
96938	7/21/2009	220	BLUE CROSS BLUE SHIELD			300.10			
96939	7/21/2009	1242	BRENTWOOD AUTO WASH			102.00			
96940	7/21/2009	76	BUILDERS SUPPLY CO INC			53.76			
96941	7/21/2009	2625	CARDMEMBER SERVICE-ELAN			.00	**CLEARED**	**VOIDED**	
96942	7/21/2009	2625	CARDMEMBER SERVICE-ELAN			.00	**CLEARED**	**VOIDED**	
96943	7/21/2009	2625	CARDMEMBER SERVICE-ELAN			.00	**CLEARED**	**VOIDED**	
96944	7/21/2009	2625	CARDMEMBER SERVICE-ELAN			4,608.83			
96945	7/21/2009	152	CITY OF OMAHA			36,781.64			
96946	7/21/2009	83	CJ'S HOME CENTER			.00	**CLEARED**	**VOIDED**	
96947	7/21/2009	83	CJ'S HOME CENTER			.00	**CLEARED**	**VOIDED**	
96948	7/21/2009	83	CJ'S HOME CENTER			.00	**CLEARED**	**VOIDED**	
96949	7/21/2009	83	CJ'S HOME CENTER			.00	**CLEARED**	**VOIDED**	
96950	7/21/2009	83	CJ'S HOME CENTER			.00	**CLEARED**	**VOIDED**	
96951	7/21/2009	83	CJ'S HOME CENTER			1,146.95			
96952	7/21/2009	2683	COLOMBO/PHELPS COMPANY			716.32			
96953	7/21/2009	3176	COMP CHOICE INC			696.50			
96954	7/21/2009	468	CONTROL MASTERS INCORPORATED			352.28			
96955	7/21/2009	836	CORNHUSKER INTL TRUCKS INC			20.27			
96956	7/21/2009	272	COUNCIL OF STATE GOVERNMENTS			112.50			
96957	7/21/2009	2158	COX COMMUNICATIONS			43.95			
96958	7/21/2009	4136	COX COMMUNICATIONS INC			80.00			
96959	7/21/2009	77	DIAMOND VOGEL PAINTS			214.00			
96960	7/21/2009	3334	EDGEWEAR SCREEN PRINTING			296.40			
96961	7/21/2009	804	ELECTRIC FIXTURE & SUPPLY CO			103.73			
96962	7/21/2009	475	ELLIOTT EQUIPMENT COMPANY			2,888.83			
96963	7/21/2009	2061	FERGUSON ENTERPRISES INC #226			107.50			

BANK NO	BANK NAME		CHECK	AMOUNT	CLEARED	VOIDED	MANUAL
CHECK NO	DATE	VENDOR NO	VENDOR NAME				
96964	7/21/2009	1245	FILTER CARE	40.20			
96965	7/21/2009	4130	FOX, ANDREA	595.00			
96966	7/21/2009	3984	G I CLEANER & TAILORS	157.60			
96967	7/21/2009	966	GENUINE PARTS COMPANY-OMAHA	.00	**CLEARED**	**VOIDED**	
96968	7/21/2009	966	GENUINE PARTS COMPANY-OMAHA	.00	**CLEARED**	**VOIDED**	
96969	7/21/2009	966	GENUINE PARTS COMPANY-OMAHA	.00	**CLEARED**	**VOIDED**	
96970	7/21/2009	966	GENUINE PARTS COMPANY-OMAHA	.00	**CLEARED**	**VOIDED**	
96971	7/21/2009	966	GENUINE PARTS COMPANY-OMAHA	2,268.52			
96972	7/21/2009	3271	GLENDALE PARADE STORE	56.75			
96973	7/21/2009	4147	GRAHAM, WALTER	50.00			
96974	7/21/2009	285	GRAYBAR ELECTRIC COMPANY INC	257.79			
96975	7/21/2009	385	GREAT PLAINS ONE-CALL SVC INC	376.66			
96976	7/21/2009	71	GREENKEEPER COMPANY INC	111.00			
96977	7/21/2009	2224	FRED PETERSON	75.00			
96978	7/21/2009	426	HANEY SHOE STORE	240.00			
96979	7/21/2009	1612	HY-VEE INC	27.26			
96980	7/21/2009	696	IIMC	75.00			
96981	7/21/2009	1498	INDUSTRIAL SALES COMPANY INC	24.19			
96982	7/21/2009	3646	INTERNATIONAL CODE COUNCIL INC	300.00			
96983	7/21/2009	1896	J Q OFFICE EQUIPMENT INC	508.35			
96984	7/21/2009	831	JOHN DEERE LANDSCAPES/LESCO	266.30			
96985	7/21/2009	1241	LEAGUE ASSN OF RISK MGMT	402.00			
96986	7/21/2009	942	LIBRA INDUSTRIES INC	94.86			
96987	7/21/2009	877	LINWELD	93.45			
96988	7/21/2009	2664	LOU'S SPORTING GOODS	187.50			
96989	7/21/2009	263	LOVELAND LAWNS	477.00			
96990	7/21/2009	94	MCCANN PLUMBING SERVICE INC	89.00			
96991	7/21/2009	872	METROPOLITAN COMMUNITY COLLEGE	11,823.33			
96992	7/21/2009	1526	MIDLANDS LIGHTING & ELECTRIC	81.03			
96993	7/21/2009	2299	MIDWEST TAPE	449.53			
96994	7/21/2009	2382	MONARCH OIL INC	328.25			
96995	7/21/2009	1028	NATIONAL PAPER COMPANY INC	270.93			
96996	7/21/2009	649	NEBRASKA GOLF & TURF INC	825.00			
96997	7/21/2009	2883	NEBRASKA LANDSCAPE SOLUTIONS	126.81			
96998	7/21/2009	2388	NEBRASKA NATIONAL BANK	1,163.43			
96999	7/21/2009	2685	NEBRASKA TURF PRODUCTS	404.25			
97000	7/21/2009	653	NEUMAN EQUIPMENT COMPANY	23.00			
97001	7/21/2009	408	NOBBIES INC	101.07			
97002	7/21/2009	3415	OABR PRINT SHOP	.00	**CLEARED**	**VOIDED**	
97003	7/21/2009	3415	OABR PRINT SHOP	707.99			
97004	7/21/2009	1014	OFFICE DEPOT INC-CINCINNATI	.00	**CLEARED**	**VOIDED**	
97005	7/21/2009	1014	OFFICE DEPOT INC-CINCINNATI	443.37			
97006	7/21/2009	3611	OMAHA NEWSPAPER	397.50			
97007	7/21/2009	195	OMAHA PUBLIC POWER DISTRICT	.00	**CLEARED**	**VOIDED**	
97008	7/21/2009	195	OMAHA PUBLIC POWER DISTRICT	.00	**CLEARED**	**VOIDED**	
97009	7/21/2009	195	OMAHA PUBLIC POWER DISTRICT	45,859.60			
97010	7/21/2009	319	OMAHA WINNELSON	170.58			
97011	7/21/2009	3039	PAPILLION SANITATION	212.11			
97012	7/21/2009	2686	PARAMOUNT LINEN & UNIFORM	382.46			
97013	7/21/2009	709	PEPSI COLA COMPANY	458.00			
97014	7/21/2009	3058	PERFORMANCE CHRYSLER JEEP	123.00			
97015	7/21/2009	1821	PETTY CASH-PAM BUETHE	131.04			
97016	7/21/2009	1821	PETTY CASH-PAM BUETHE	67.65			

BANK NO BANK NAME

CHECK NO

DATE VENDOR NO VENDOR NAME

CHECK AMOUNT

CLEARED

VOIDED

MANUAL

97017	7/21/2009	4107 PORT-A-JOHNS	140.00	<u>APPROVED BY COUNCIL MEMBERS 7-10-09</u>
97018	7/21/2009	1921 PRINCIPAL LIFE-FLEX SPENDING	216.00	
97019	7/21/2009	4145 PUTNAM, MARK	50.00	
97020	7/21/2009	219 QWEST	34.68	
97021	7/21/2009	4146 RAWLEY, TOM	18.00	
97022	7/21/2009	191 READY MIXED CONCRETE COMPANY	2,152.37	
97023	7/21/2009	4037 RUSTY ECK FORD	70.94	
97024	7/21/2009	292 SAM'S CLUB	1,762.91	<u>COUNCIL MEMBER</u>
97025	7/21/2009	487 SAPP BROS PETROLEUM INC	205.47	
97026	7/21/2009	168 SARPY COUNTY LANDFILL	58.30	
97027	7/21/2009	150 SARPY COUNTY TREASURER	12,678.75	
97028	7/21/2009	2704 SMOOTHER CUT ENTERPRISES INC	1,650.00	
97029	7/21/2009	4149 STATE FARM INSURANCE	114.10	
97030	7/21/2009	2634 STERIL MANUFACTURING CO	100.00	
97031	7/21/2009	47 SUBURBAN NEWSPAPERS INC	296.57	<u>COUNCIL MEMBER</u>
97032	7/21/2009	1395 SUPER SEER CORPORATION	1,656.80	
97033	7/21/2009	143 THOMPSON DREESSEN & DORNER	.00	<u>**CLEARED** **VOIDED**</u>
97034	7/21/2009	143 THOMPSON DREESSEN & DORNER	18,156.39	
97035	7/21/2009	1550 TRUGREEN-CHEMLAWN	3,922.05	
97036	7/21/2009	1122 TURF CARS LTD	85.95	
97037	7/21/2009	167 U S ASPHALT COMPANY	.00	<u>**CLEARED** **VOIDED**</u>
97038	7/21/2009	167 U S ASPHALT COMPANY	2,693.60	
97039	7/21/2009	2719 UNDERWRITERS LABORATORIES INC	1,450.00	
97040	7/21/2009	3077 UNITED HEALTHCARE	260.12	
97041	7/21/2009	2426 UNITED PARCEL SERVICE	7.41	
97042	7/21/2009	766 VIERREGGER ELECTRIC COMPANY	901.50	
97043	7/21/2009	78 WASTE MANAGEMENT NEBRASKA	1,700.52	
97044	7/21/2009	4124 WATER SHED INCORPORATED	613.11	
97045	7/21/2009	4142 WEMHOFF, LANCE	40.00	<u>COUNCIL MEMBER</u>

BANK TOTAL 189,394.10

OUTSTANDING 189,394.10

CLEARED .00

VOIDED .00

FUND	TOTAL	OUTSTANDING	COUNCIL MEMBER	CLEARED	VOIDED
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01 GENERAL FUND	110,662.79	110,662.79	.00	.00
02 SEWER FUND	54,911.22	54,911.22	.00	.00
05 CONSTRUCTION	16,024.27	16,024.27	.00	.00
08 LOTTERY FUND	388.32	388.32	.00	.00
09 GOLF COURSE FUND	5,933.18	5,933.18	.00	.00
15 OFF-STREET PARKING	1,474.32	1,474.32	.00	.00

REPORT TOTAL 189,394.10

OUTSTANDING 189,394.10

CLEARED .00

VOIDED .00

+ Gross Payroll 7-10-09 225,647.98

GRAND TOTAL \$415,042.08COUNCIL MEMBER

CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
JULY 21, 2009 AGENDA

Subject:	Type:	Submitted By:
APPLICATION TO AMEND THE COMPREHENSIVE PLAN, REZONING, PRELIM. PUD PLAN & PRELIM. PLAT APPROVAL — LOTS 13 & 14, CRESTVIEW HEIGHTS	◆RESOLUTION (2) ◆ORDINANCE RECEIVE/FILE	ANN BIRCH COMMUNITY DEVELOPMENT DIRECTOR

SYNOPSIS

A public hearing has been scheduled, and two resolutions and an ordinance have been prepared to amend the Future Land Use Map of the Comprehensive Plan, rezone and subdivide Lots 13 & 14, Crestview Heights, for the purpose of a mixed use development with senior housing and commercial uses, generally located north and east of Gertrude Street and south of Harrison Street.

FISCAL IMPACT

None.

RECOMMENDATION

Approval.

BACKGROUND

A public hearing has been scheduled to consider the following actions for Lots 13 and 14, Crestview Heights:

1. An amendment to the Future Land Use Map of the Comprehensive Plan from Public to High Density Residential and Commercial;
2. A change of zoning from TA, Transitional Agriculture District, to R-3 PUD-1, High Density Residential, Planned Unit Development, and C-2 PUD-1, General Commercial District, Planned Unit Development, and approval of a preliminary PUD Plan ; and
3. Approval of a preliminary plat to subdivide Lots 13 and 14, Crestview Heights, into five lots for residential and commercial purposes.

The property is located north and east of Gertrude Street and south of Harrison Street. The application has been submitted by Victor Pelster on behalf of the property owner, the Empire Group, LLC.

The City's Future Land Use Map designated this area for public uses; the property was previously owned by the Metropolitan Utilities District but remained undeveloped and was being farmed. The existing zoning is TA, Transitional Agriculture. The proposed zoning change would rezone the property to R-3 PUD-1, High Density Residential, Planned Unit Development, and C-2 PUD-1, General Commercial District, Planned Unit Development, to allow for senior apartments and an abutting commercial development.

The City's Comprehensive Plan identifies one of the community's goals is to "provide all residents with access to a variety of safe, decent, sanitary housing types, including elderly and persons with disabilities." The housing policies also identify to "promote development of residential options for La Vista's residents of all income levels." This application includes two lots proposed for residential development: one for 112 units of senior

independent market rate housing with surface parking and 55 enclosed garages, and one for 48 units of senior affordable housing with surface parking.

The application also includes three lots proposed for commercial development. Staff supports a mixed-use development concept if it is well-designed and integrated with the senior housing project and neighborhood. The concept of mixed-uses was prominent in our earliest cities. It combines housing, retail, and other work space and inevitably establishes a sense of place for those who live in or near the development. It can also reduce distances between housing, workplaces, retail and other services, and may cut down on auto dependence and promote healthier lifestyles by creating pedestrian-friendly environments.

One of the concerns expressed at the public hearings was regarding the proposed height of the buildings. The 48-unit complex on the eastern-most lot is a single story building. This building will be at the same grade, or slightly below grade, as the single family homes at the intersection of 75th Street and Gertrude. The 112-unit complex proposed on the center lot is a three-story building. The elevation of this part of the site is 16-feet below grade from the elevation of the single family houses directly south. This would equate to a story and a half to two-stories above the elevation of Gertrude Street. The single-story commercial buildings proposed for the lots at the west end of the site are 0 to 20-feet below grade from the single family houses along Gertrude Street. The roof lines should be at compatible heights with the neighborhood.

Some of the neighbors also expressed a concern for increased traffic and the potential for more accidents. A traffic impact study was performed and a summary is attached. The study identifies the Level of Service (LOS) on the surrounding roads and intersections are within acceptable ranges with the addition of the development.

A more detailed staff report is attached. If the request is approved, the applicant would be required to submit a subsequent application for a conditional use permit, a final PUD Plan and a final plat. More detailed information on the design of the buildings would be requested at that time as part of the application for the conditional use.

The Planning Commission held public hearings on May 21st and June 18, 2009, and recommended approval of the Comprehensive Plan amendment, rezoning, preliminary PUD Plan and preliminary plat subject to the conditions identified by planning staff and the City Engineer.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, IN SUPPORT OF AMENDING THE FUTURE LAND USE MAP PORTION OF THE COMPREHENSIVE PLAN.

WHEREAS, the Future Land Use map contains an area of approximately 12 acres located south of Harrison Street and east and north of Gertrude Street designated "Public"; and

WHEREAS, the Planning Commission has recommended approval of a request to amend the Future Land Use Map of the Comprehensive Plan for approximately 12 acres from "Public" to "High Density Residential" and "Commercial" land uses; and

WHEREAS, the requested amendment is part of the Crestview Heights Subdivision and is compatible with the surrounding land uses;

WHEREAS, an amendment to the Future Land Use Map is appropriate and consistent with the land use policies of the Comprehensive Plan; and

NOW THEREFORE, BE IT RESOLVED that the Mayor and City Council of the City of La Vista, Nebraska, hereby directs the City Administrator to prepare the necessary amendment to the Future Land Use Map of the Comprehensive Plan south of Harrison Street and east and south of Gertrude Street for approximately 12 acres from "Public" to "High Density Residential" and "Commercial" land uses as identified in the attached Exhibit A.

PASSED AND APPROVED THIS 21ST DAY OF JULY 2009.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk



RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, DETERMINING CONDITIONS FOR APPROVAL OF THE PRELIMINARY PLAT AND PRELIMINARY PLANNED UNIT DEVELOPMENT (PUD) PLAN FOR LOTS 13 AND 14, CRESTVIEW HEIGHTS, TO BE REPLATTED AS LOTS 1 THRU 5, HARRISON HEIGHTS, A SUBDIVISION LOCATED IN THE NORTHEAST $\frac{1}{4}$ OF SECTION 14, TOWNSHIP 14 NORTH, RANGE 12 EAST OF THE 6TH P.M., SARPY COUNTY, NEBRASKA.

WHEREAS, the owners of the above described piece of property have made application for approval of a preliminary plat and preliminary PUD plan for Lots 13 and 14, Crestview Heights, to be replatted as Lots 1 thru 5, Harrison Heights; and

WHEREAS, the City Administrator and the City Engineer have reviewed the preliminary plat and preliminary PUD plan; and

WHEREAS, on June 18, 2009, the La Vista Planning Commission held a public hearing and reviewed the preliminary plat and preliminary PUD plan and recommended approval subject to resolution of items identified by the city engineer and staff.

NOW THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of La Vista, Nebraska, that the preliminary plat and preliminary PUD plan for Lots 13 and 14, Crestview Heights, to be replatted as Lots 1 thru 5, Harrison Heights, a subdivision located in the Northeast $\frac{1}{4}$ of Section 14, Township 14 North, Range 12 East of the 6th P.M., Sarpy County, Nebraska, generally located south of Harrison Street & north and east of Gertrude Street, be, and hereby is, approved subject to the resolution of the following items identified by the City Engineer and staff:

1. Revisions requested by the City Engineer, in his letter dated May 4, 2009, shall be incorporated into the Final PUD Plan, Final Plat and Conditional Use Permit submittal.
2. The draft text of the PUD plan needs modifications to limit the uses of proposed Lots 4 & 5 to senior independent living or assisted living facilities.
3. Commercial development shall meet the design standards set forth in the City of La Vista's Commercial Building Design Guidelines.

PASSED AND APPROVED THIS 21ST DAY OF JULY 2009.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA:

Section 1. Approval of Rezoning. On June 18, 2009, the La Vista Planning Commission conducted a public hearing on the matter of rezoning the tract of land set forth in Section 2 of this ordinance and reported to the City Council that it recommended approval of the zoning of said tract be changed from "TA" Transitional Agriculture District to "R-3 PUD-1" High Density Residential District Planned Unit Development and "C-2 PUD-1" General Commercial District Planned Unit Development. On July 21, 2009, the City Council held a public hearing on said proposed change in zoning and found and determined that said proposed changes in zoning are advisable and in the best interests of the City. The City Council further found and determined that public hearings were duly held and notices, including published notice, written notice to adjacent property owners and notice posted at the properties, were duly given pursuant to Section 9.01 of the Zoning Ordinance. The City Council hereby approves said proposed changes in zoning as set forth in Sections 2 of this ordinance.

Section 2. Amendment of the Official Zoning Map. Pursuant to Article 3 of the Zoning Ordinance, the following described tract of land is hereby rezoned from "TA" Transitional Agriculture District to "R-3 PUD-1" High Density Residential District Planned Unit Development and "C-2 PUD-1" General Commercial District Planned Unit Development, and the Official Zoning Map of the City of La Vista is hereby amended to reflect the changes in zoning of the following described tracts of land from "TA" Transitional Agriculture District to "R-3 PUD-1" High Density Residential District Planned Unit Development and "C-2 PUD-1" General Commercial District Planned Unit Development:

"R-3 PUD-1" High Density Residential District Planned Unit Development

ALL OF LOT 13, AND PART OF LOT 14, CRESTVIEW HEIGHTS (2ND PLATTING), A SUBDIVISION LOCATED IN THE NE1/4 OF SECTION 14, TOWNSHIP 14 NORTH, RANGE 12 EAST OF THE 6TH P.M., SARPY COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS.

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 13, CRESTVIEW HEIGHTS (2ND PLATTING), SAID POINT ALSO BEING THE NORTHWEST CORNER OF SAID LOT 12, CRESTVIEW HEIGHTS, A SUBDIVISION LOCATED IN SAID NE1/4 OF SECTION 14, SAID POINT ALSO BEING ON THE SOUTH RIGHT-OF-WAY LINE OF HARRISON STREET; THENCE S02°06'37"E (ASSUMED BEARING) ALONG THE EAST LINE OF SAID LOT 13, CRESTVIEW HEIGHTS (2ND PLATTING), SAID LINE ALSO BEING THE WEST LINE OF SAID LOT 12, CRESTVIEW HEIGHTS, A DISTANCE OF 424.05 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF GERTRUDE STREET, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF SAID LOT 13, CRESTVIEW HEIGHTS (2ND PLATTING), SAID POINT ALSO BEING THE SOUTHWEST CORNER OF SAID LOT 12, CRESTVIEW HEIGHTS; THENCE SOUTHWESTERLY ALONG THE SOUTHERLY LINE OF SAID LOT 13, CRESTVIEW HEIGHTS (2ND PLATTING), SAID LINE ALSO BEING SAID NORTHERLY RIGHT-OF-WAY LINE OF GERTRUDE STREET ON A CURVE TO THE LEFT WITH A RADIUS OF 1015.00 FEET, A DISTANCE OF 155.68 FEET, SAID CURVE HAVING A LONG CHORD WHICH BEARS S76°17'02"W, A DISTANCE OF 155.53 FEET; THENCE NORTHWESTERLY ALONG SAID SOUTHERLY LINE OF LOT 13, CRESTVIEW HEIGHTS (2ND PLATTING), SAID LINE ALSO BEING SAID NORTHERLY RIGHT-OF-WAY LINE OF GERTRUDE STREET ON A CURVE TO THE RIGHT WITH A RADIUS OF 955.00 FEET, A DISTANCE OF 500.04 FEET, SAID CURVE HAVING A LONG CHORD WHICH BEARS S86°53'23"W, A DISTANCE OF 494.34 FEET TO THE SOUTHWEST CORNER OF SAID LOT 13, CRESTVIEW HEIGHTS (2ND PLATTING), SAID POINT ALSO BEING THE SOUTHEAST CORNER OF SAID LOT 14, CRESTVIEW HEIGHTS (2ND PLATTING); THENCE N78°06'37"W ALONG THE SOUTHERLY LINE OF SAID LOT 14, CRESTVIEW HEIGHTS (2ND PLATTING), SAID LINE ALSO BEING SAID NORTHERLY RIGHT-OF-WAY LINE OF GERTRUDE STREET, A DISTANCE OF 261.53 FEET; THENCE N02°06'37"W, A DISTANCE OF 202.70 FEET; THENCE N87°53'23"E, A DISTANCE OF 20.00 FEET; THENCE N02°06'37"W, A DISTANCE OF 198.00 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 14, CRESTVIEW HEIGHTS (2ND PLATTING), SAID LINE ALSO BEING SAID SOUTH RIGHT-OF-WAY LINE OF HARRISON STREET; THENCE N87°53'23"E ALONG SAID NORTH LINE OF LOT 14, CRESTVIEW HEIGHTS (2ND PLATTING), AND ALSO THE NORTH LINE OF SAID LOT 13, CRESTVIEW HEIGHTS (2ND PLATTING), SAID LINE ALSO BEING SAID SOUTH RIGHT-OF-WAY LINE OF HARRISON STREET, A DISTANCE OF 880.37 FEET TO THE POINT OF BEGINNING.

SAID LOT 13 AND PART OF LOT 14, CRESTVIEW HEIGHTS (2ND PLATTING) CONTAINS AN AREA OF 410,378 SQUARE FEET OR 9.421 ACRES, MORE OR LESS.

"C-2 PUD-1" General Commercial District Planned Unit Development

PART OF LOT 14, CRESTVIEW HEIGHTS (2ND PLATTING), A SUBDIVISION LOCATED IN THE NE1/4 OF SECTION 14, TOWNSHIP 14 NORTH, RANGE 12 EAST OF THE 6TH P.M., SARPY COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS.

BEGINNING AT THE POINT OF INTERSECTION OF THE SOUTH RIGHT-OF-WAY LINE OF HARRISON STREET, AND THE EASTERNLY RIGHT-OF-WAY LINE OF GERTRUDE STREET, SAID POINT ALSO BEING THE NORTHWEST

CORNER OF SAID LOT 14, CRESTVIEW HEIGHTS (2ND PLATTING); THENCE N87°53'23"E (ASSUMED BEARING) ALONG SAID SOUTH RIGHT-OF-WAY LINE OF HARRISON STREET, SAID LINE ALSO BEING THE NORTH LINE OF SAID LOT 14, CRESTVIEW HEIGHTS (2ND PLATTING), A DISTANCE OF 357.00 FEET; THENCE S02°06'37"E, A DISTANCE OF 198.00 FEET; THENCE S87°53'23"W, A DISTANCE OF 20.00 FEET; THENCE S02°06'37"E, A DISTANCE OF 202.70 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID LOT 14, CRESTVIEW HEIGHTS (2ND PLATTING), SAID LINE ALSO BEING THE NORTHERLY RIGHT-OF-WAY LINE OF SAID GERTRUDE STREET; THENCE N78°06'37"W ALONG SAID SOUTHERLY LINE OF LOT 14, CRESTVIEW HEIGHTS (2ND PLATTING), SAID LINE ALSO BEING SAID NORTHERLY RIGHT-OF-WAY LINE OF GERTRUDE STREET, A DISTANCE OF 123.36 FEET; THENCE NORTHWESTERLY ALONG SAID NORTHERLY RIGHT-OF-WAY LINE OF GERTRUDE STREET, AND ALSO THE EASTERNLY RIGHT-OF-WAY LINE OF SAID GERTRUDE STREET, SAID LINE ALSO BEING SAID SOUTHERLY LINE OF LOT 14, CRESTVIEW HEIGHTS (2ND PLATTING), AND ALSO THE WESTERLY LINE OF SAID LOT 14, CRESTVIEW HEIGHTS (2ND PLATTING) ON A CURVE TO THE RIGHT WITH A RADIUS OF 285.20 FEET, A DISTANCE OF 375.06 FEET, SAID CURVE HAVING A LONG CHORD WHICH BEARS N40°26'11"W, A DISTANCE OF 348.61 FEET; THENCE N02°45'45"W ALONG SAID EASTERNLY RIGHT-OF-WAY LINE OF GERTRUDE STREET, SAID LINE ALSO BEING SAID WESTERLY LINE OF LOT 14, CRESTVIEW HEIGHTS (2ND PLATTING), A DISTANCE OF 97.38 FEET TO THE POINT OF BEGINNING.

SAID PART OF LOT 14, CRESTVIEW HEIGHTS (2ND PLATTING) CONTAINS AN AREA OF 114,940 SQUARE FEET OR 2.639 ACRES, MORE OR LESS.

The amended version of the official zoning map of the City of La Vista is hereby adopted and shall be signed by the Mayor, attested to by the City Clerk and shall bear the seal of the City under the following words:

"This is to certify that this is the official zoning map referred to in Article 3 Section 3.02 of Ordinance No. 848 of the City of La Vista, Nebraska"

and shall show the date of the adoption of that ordinance and this amendment.

Section 3. Effective Date. This ordinance shall be in full force and effect upon the date passage, approval and publication as provided by law.

PASSED AND APPROVED THIS 21ST DAY OF JULY 2009.

CITY OF LA VISTA

ATTEST:

Douglas Kindig, Mayor

Pamela A. Buethe, CMC
City Clerk



CITY OF LA VISTA
CITY COUNCIL

STAFF REPORT

PRELIMINARY PLANNED UNIT DEVELOPMENT (PUD)
THE ORCHARDS AT WILDEWOOD /
HARRISON HEIGHTS SUBDIVISION

DATE OF HEARING:

July 21, 2009

PROPOSAL:

Subdivide Lots 13 & 14 in Crestview Heights into five (5) lots for the development of senior apartments and three commercial uses as a Planned Unit Development (PUD)

PROPERTY INFORMATION

APPLICANT:

Empire Group, LLC
1941 S. 42nd Street
Omaha, NE 68105

PROPERTY OWNER:

Empire Group, LLC
1941 S. 42nd Street
Omaha, NE 68105

LOCATION AND SIZE:

Lots 13 & 14, Crestview Heights
SE corner of Gertrude and Harrison Streets
Lots = 12 Acres

CURRENT ZONING:

TA, Transitional Agriculture

APPLICATION PROCESS

Applications have been required and submitted for the following:

1. Amendment to the Future Land Use Map in the Comprehensive Plan to change the future land use of the subject property from "Public" to "High Density Residential" and "Commercial"
2. Rezoning proposed Lots 4-5 of Harrison Heights Subdivision from TA, Transitional Agriculture to R-3 PUD-1, High Density Residential and rezoning proposed Lots 1-3 of Harrison Heights Subdivision from TA, Transitional Agriculture to C-2 PUD-1, General Commercial District.
3. Preliminary PUD Plan / Preliminary Plat of Harrison Heights Subdivision.

APPLICABLE DEFINITIONS

(from Section 2 of Zoning Ordinance)

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

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

BACKGROUND

History of Subject Properties:

On September 4, 2008, these lots were sold by the Metropolitan Utilities District to the Empire Group. Prior to this sale the land had been undeveloped and used for farming. The Future Land Use Map in the Comprehensive Plan reflects this former land use as "Public," and the Zoning Map supported the agricultural use.

Description of Proposed Development:

At the June 18th Planning Commission hearing, the developer and engineers described the proposal as 112 senior independent living apartment units at market rate with 55 garages; and 48 affordable, senior independent living apartments with no garages. These are age restricted for seniors 55 years old and up.

Three commercial buildings are proposed that would total 20,500 square feet of flex commercial space. The commercial component of this project is intended to provide goods and services to the senior residents of the apartments as well as to the surrounding neighborhood. It is desirable to have these commercial businesses close by with connecting pedestrian sidewalks to provide convenience and

accessibility without dependence on a motor vehicle.

Existing Conditions of Site:

The site is currently being graded for building pads. Mature pine trees and deciduous trees exist on the perimeter of the properties. These trees have been preserved through the grading permit.

Surrounding Area and Adjacent Neighborhoods Land Uses and Zoning:

North – City of Ralston, residential subdivision;

East – Crestview Village, R-3 High Density Residential;

South – Crestview Heights, R-1 Single Family; and

West – Crestview Heights and MUD Property, R-1 Single Family

Applicable Regulations:

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

Section 5.11 of the Zoning Ordinance, C-2 General Commercial District

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

Section 3.02 of the Subdivision Regulations regarding Preliminary Plats

Applicable Plans:

The Comprehensive Plan and Future Land Use Map – The Comprehensive Plan supports the development of residential options for all income levels and actively access affordable housing programs available from local, state, and federal agencies/departments.

REVIEW COMMENTS FROM CITY STAFF AND OUTSIDE AGENCIES

Black Hills Energy, Denise Montgomery

No comments received

City Engineer, John Kottmann:

1. A traffic impact study was prepared and submitted that complied with the scope set forth in our initial review letter. The services of Felsburg, Holt & Ullevig were utilized to review this impact study. It has been determined that the Level of Service will be satisfactory given the current proposal.
2. There is an existing break in the controlled access along Harrison Street at roughly the center of the project area. The proposed development plan will require relocating this break to the west. Cross easements will be needed to allow for sharing of accesses and a development agreement will be needed to provide for shared maintenance of the accesses and any other shared improvements.
3. The proposed commercial buildings have a combined 20,500 gross square feet. This would require 103 parking stalls and the plan shows 109 stalls. The final PUD plan will need to address ADA parking stalls. The proposed senior independent living apartments are proposed to be two-thirds 2 bedroom and one-third 1 bedroom units. The parking regulators would require one stall for each bedroom. For a total of 112 units this would require 187 stalls. However, the applicant has indicated that since these are senior apartments, the second bedroom is most often used for

hobbies, storage, or occasional guests. Therefore, they indicate the required parking is 118 stalls rather than 187. They are proposing 157 spaces between garage and open parking stalls. I find this to be satisfactory based on the apartments being used for senior housing. The other senior facility is proposed to have 48 units. The parking regulators would require 1 stall per unit plus space per employee on the largest shift. The plan for Lot 4 proposes 76 stalls and indicates that 52 are required implying a staff of 4 persons. There appears to be a generous amount of parking and some of the long continuous rows of parking should receive some landscaped islands to improve appearance and reduce impervious coverage which appears unnecessary.

Utilities

4. The downstream sanitary sewer system has been analyzed and downstream capacity improvements do not appear to be required to serve these proposed land uses.
5. Water, gas, power, and communication systems are available to serve the proposed development. Extensions to the proposed buildings will need to be done in a manner that meets utility company and building code regulations. An acceptable site utility plan will need to be included with the final PUD submittal.
6. A lighting plan will need to be included with the final PUD submittal showing location of all proposed site lighting. The lighting shall be downcast, sharp-cutoff style lighting to reduce any light spillage onto adjacent residential properties.

Grading & Drainage

7. The site drains to a storm sewer system in Harrison Street. A drainage study was prepared in September of 2008 as part of the grading permit application process. This study indicated that the runoff from the site will be reduced to below existing conditions for 2, 10, 50 and 100-year events. This study was based upon a different development configuration than is currently being proposed; however, for the preliminary PUD stage it is sufficient to indicate that on-site detention will be employed to reduce storm water peak flows to existing conditions for 2, 10, 50 and 100-year events. Such a statement needs to be placed on the preliminary PUD plan. It should be noted that the current layout for Lot 5 provides less storm water detention space and at a location that will be more difficult to utilize.
8. 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 if the preliminary PUD is approved.
9. A preliminary Post Construction Storm Water Management Plan providing water quality improvements for the first 0.5 inch of runoff needs to be submitted as required by the recently adopted ordinances of the City. The preliminary PUD is sufficient for this stage of review. More details such as volumes of treatment areas to contain the first half-inch of run-off will be needed with the final PUD plan.

Miscellaneous

10. The preliminary PUD plans will serve as a preliminary plat for the re-platting action that will be necessary to create the proposed lots. Information is needed to show that a 12-foot wide right turn deceleration lane will leave at least 6 feet behind the proposed curb line to the existing right-

of-way line. If not, an additional right-of-way dedication will be needed. Also, a pedestrian easement will be needed along the right-turn deceleration lane and will need to extend 12 feet back of the proposed curb line to cover the public sidewalk along Harrison Street.

11. The height, open space and building coverage limitations have been met. In order to meet the minimum lot area requirement per unit it will be necessary to take the composite area of Lots 4 and 5. Such averaging is allowed by the PUD regulations. However, the proposed garage buildings on Lot 4 do not meet the 50 feet setback requirement from public right of way which is applicable for accessory buildings. This could be addressed in the final PUD.
12. A development agreement will be needed that will identify the extent of common area improvements and identify the responsibility for maintenance of such improvements.
13. The PUD regulations have a provision that precludes residential projects from having direct access to arterial streets in Article 5.15.04.13.
14. The draft text of the PUD plan has several sections that may need modification. Article 6A does not exclude any of the permitted and conditional uses of R-3 Zoning, which could result in conventional multi-family if the intent to provide senior apartments or assisted living is not realized. This option seems to be further preserved by the language of Article 8C-ii which indicates leaving room to expand parking to that required for multi-family requirements. Section 7 for Building Design Guidelines and Criteria makes reference to 1999 Guidelines which were adopted for the Gateway Corridor Overlay District.

Chief Building Official, Jeff Sinnett

No comments received

Fire Chief, Rich Uhl

No comments received.

Metropolitan Utility District, Jeff Loll

No comments received.

Omaha Public Power District, Connie Biddle

On May 26, 2009, Michael Herzog from T&D Planning was asked by OPPD to examine the impact on power quality that new development on Lots 13 & 14 could potentially have on the rest of Crestview Heights Subdivision. Mr. Herzog said the additional load will not change the power quality on the circuit. He added that a OPPD project was finished in March 2009 that should reduce the problems experienced in Crestview Heights in the past.

Police Chief, Bob Lausten

The Police Department has reviewed the provided documents relating to the Harrison Heights project. An obvious concern would be how the development effects traffic at Gertrude/Harrison and the other intersections in the area.

Public Works Director, Joe Soucie

No comments received.

Public School District

No comments received.

Qwest, Aaron Krebs
No comments received.

PUBLIC COMMENTS

Many of the public concerns were directed at increased traffic on Gertrude Street and the overall scale of the development project. Letters, if received, have been attached to the report for City Council review.

CITY PLANNER'S ANALYSIS

Land Use:

The City staff support the use of Lots 13 & 14 for senior apartments. Currently, La Vista only has one such facility at this time in Granville, which has just over 40 units. Elderly members of La Vista who are unable to get an available room at Granville are forced to leave La Vista to find senior housing. Therefore, City staff has been targeting Lots 13 & 14 in Crestview Heights for more elderly living opportunities because it is a large enough acreage and compatible with surrounding land uses.

The commercial component of the applicant's rezoning request could offer neighborhood commercial services to the proposed and existing residential land uses. This could benefit the future residents of the senior apartments as well as provide a convenience to existing residents of Crestview Heights Subdivision. The City Planner recommends mixed-use development (i.e. commercial and residential development integrated together) because mixed-use development can reduce dependence on automobiles by providing an option for walking to a retail center.

Perspective drawings are conceptual. Revised, detailed color elevation drawings will be required with review of the Final PUD Plan. It is important that the multiple buildings within this development are compatible and coordinated in their architectural design. Building materials should be similar and coordinated so that all buildings in the PUD appear cohesive in their design. The developers have agreed to achieve this request.

Transportation:

Access from Harrison Street to proposed Lot 2 is satisfactory as a right in/ right out turn movement. Harrison Street has strictly controlled access, so no additional access points will be allowed. Therefore, most of the accesses will be connected to Gertrude Street.

The traffic analysis was updated to reflect senior housing only without assisted living. The updated trip generation results shows a "negligible decrease" at peak times and "minor increase" in weekday trips.

Vehicles and pedestrians will be able to circulate internally through the proposed five lots. All five lots are proposed to be connected by ADA accessible sidewalks. Entrances to buildings connect with these internal sidewalks.

Typically, elderly housing needs about 0.50 – 1.0 parking spaces per apartment unit according to research done on the American Planning Association’s website. The Planned Unit Development allows for flexibility in parking requirements, so it is possible to relax the standard multi-family parking requirement for these elderly housing units. The City Planner has directed the applicant to plan for one parking space per apartment unit, which would be adequate to support the residential uses. The City Engineer concurs with this assessment.

Landscaping:

Many of the existing mature trees on the perimeter of the development will be preserved. The developer has graded the property to create level building pad sites at a significantly lower elevation as compared to Gertrude Street. Even though the developer proposes a three story apartment building, this grading should keep the roofline about even with the single family residential homes to the south of Gertrude Street.

The PUD plan attempts to minimize the number of trees lost to preserve a buffer between the single family land uses and the proposed development. Also, these trees would provide a nice amenity to the proposed Planned Unit Development. Additional landscaping is required on the perimeter of the proposed lots by code, so new trees have been proposed to meet the minimum landscaping requirements.

Stormwater Drainage:

Stormwater detention ponds are proposed on each individual lot. The use of landscaped drainage swales, permeable pavement, rain gardens or other Low Impact Development Best Management Practices could reduce the size or the need for detention ponds. Stormwater runoff would infiltrate the ground sooner, thus the detention areas would not need to be as large.

Process:

An application for a Conditional Use Permit, Final Plat and Final PUD Plan approval will be required pending approval of the Comprehensive Plan Amendment, Rezoning, Preliminary Plat, and Preliminary PUD Plan.

PLANNING COMMISSION AND STAFF RECOMMENDATION

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

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

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

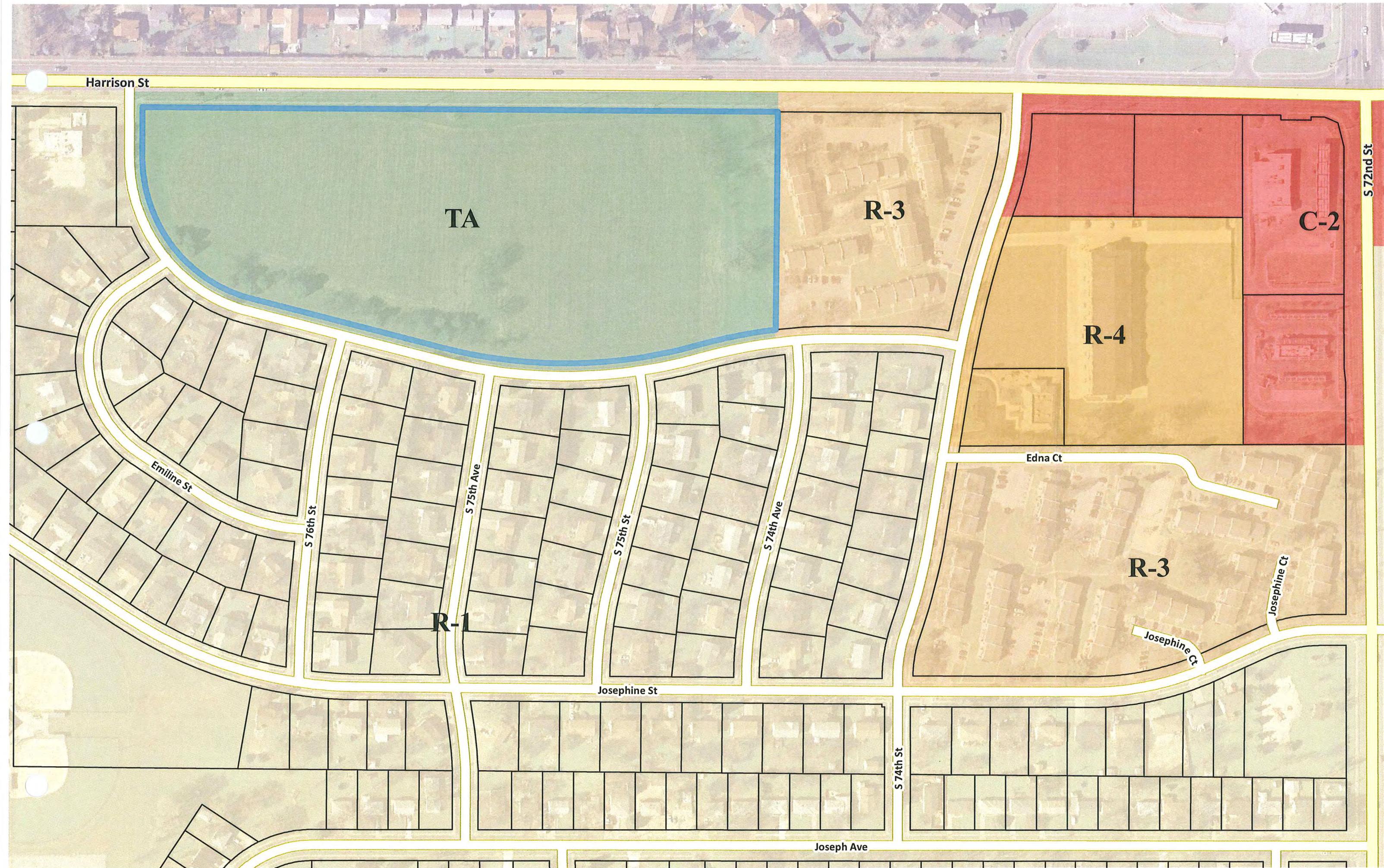
1. Revisions requested by the City Engineer, in his letter dated May 4, 2009, shall be incorporated into the Final PUD Plan, Final Plat and Conditional Use Permit submittal.
2. The draft text of the PUD plan needs modifications to limit the uses of Lots 4 & 5 to senior independent living or assisted living facilities
3. Other City Staff revisions stated in this report shall be addressed prior to City Council's review of the Preliminary PUD Plan and Preliminary Plat.
4. Commercial development shall meet the design standards set forth in the City of La Vista's Commercial Building Design Guidelines.
5. Buildings within the development shall be compatible and coordinated in their architectural design. Building materials shall be similar and coordinated so that all buildings in the PUD appear cohesive in their design

Prepared by:

Community Development Director Date

Attachments:

- Vicinity Map
- Preliminary PUD Plan / Preliminary Plat
- Draft PUD
- Colored elevation views
- Updated Traffic Analysis dated May 26, 2009
- Letters from the public, if received



PUD PLAN

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA:

Section 1. In accordance with Section 5.15 of the La Vista Zoning Ordinance No. 848, the final PUD-1 (Planned Unit Development) plan for Harrison Heights is developed for the following described real estate, to wit:

LEGAL DESCRIPTION

See exhibit "A" attached hereto and made a part hereof.

Section 2. This document provides for a PUD plan for development of a planned residential area for senior living that will service not only the city, but also the surrounding market area. In addition the PUD includes a small community commercial center. The residential area is characterized by senior apartments served by separate parking and garage facilities uniquely located on two tracts of land with a combined area of approximately 9.39 acres. The commercial center is characterized by multiple-tenant or free-standing retail, office and general services served by communal parking areas and uniquely located on two tracts of land with a combined area of approximately 2.66 acres. The regulations contained in this Ordinance will facilitate development in a planned, orderly fashion so as to protect the public health, safety, and general welfare. All grading, installation of infrastructure, construction of site improvements and build out shall be in strict accordance with the provisions of this Ordinance, except as shall be amended by the City Council in the required manner. The underlying residential and commercial zoning district regulations shall continue to be applicable, except as provided for in this Ordinance and the attached exhibits.

Section 3. Definitions

Unless a contrary intent is clearly indicated herein, the following words and phrases shall have the following meanings, regardless of whether or not capitalized:

- A. "Developer" shall mean Empire Group L.L.C. its successors and assigns.
- B. "Free Standing Building" shall refer to any building or similar structure, each of which conducts a separate business.
- C. "Multiple-attached Building" shall refer to any building or similar structure that houses more than a single tenant or owner, in which numerous, discrete business activities are conducted.
- D. "Open Space" shall mean anything on the site except buildings, parking lots or drives for vehicular circulation, that is generally pervious, but may include well landscaped pedestrian places, pools, pool decks and roof gardens.
- E. "Planned Unit Development Plan" shall mean a plan developed and approved that outlines certain provisions for the property and its uses. Such plan shall consist of the final plat, design guidelines, landscaping, etc.
- F. "Plat" or "the Plat," shall mean the final plat approved by the City Council.
- G. "Subdivision" shall mean the 12.052 acres of land described in Exhibit "A" hereto, to be known as "Harrison Heights".

Section 4. Parcel Identification Map

Attached hereto and made a part of this PUD plan for parcel delineation is the Parcel Identification Map for the Harrison Heights PUD (Planned Unit Development), marked Exhibit "B".

Section 5. Conceptual Site Plan

A conceptual site plan for each parcel shall be submitted to the City for approval prior to any lot development within said parcel.

Section 6. Allowed Uses

Unless otherwise provided in this Ordinance, Permitted and Permitted Conditional Uses allowed within the R-3 High Density Residential District shall be allowed on Lots 4 and 5, Harrison Heights except as modified below:

- A. The following uses shall be prohibited:
 - i. Non-age restricted apartments

Unless otherwise provided in this Ordinance, all Permitted and Permitted Conditional Uses allowed within the C-2 General Commercial District shall be allowed on Lots 1,2 and 3, Harrison Heights except as modified below:

- B. The following uses shall be prohibited:
 - i. None

Section 7. Building Design Guidelines and Criteria

Building design shall be performed in accordance with the City of La Vista's Commercial Building Design Guide and Criteria dated September 15, 1999. Buildings within this development will be compatible and coordinated in their architectural design. Materials shall be similar and coordinated so all buildings in the PUD appear cohesive in their design.

Section 8. Conditions

Section 5.15 of the La Vista Zoning Ordinance No. 848 includes the Planned Unit Development Overlay District (PUD) and establishes certain regulations and guidelines pertaining to accompanying information required on a Plat, Site Plan and/or conditional use permits. All uses shall adhere to the underlying zoning district except as herein provided.

A. General Conditions

The Parcel Identification Map and Conceptual Site Plan incorporate commercial uses as allowed by C-2 General Commercial Zoning on Lots 1,2 and 3.

In addition, the following general site plan criteria shall be integrated into and made part of the Harrison Heights PUD.

- i. All subdivisions, public streets, public street rights-of-way and general development shall adhere to the standards and design criteria set forth in the La Vista Subdivision Regulations and the most current design standards adopted by the City of La Vista pertaining thereto unless otherwise stated within this PUD Plan and Harrison Heights Design Guidelines.
- ii. Unless otherwise specified herein, the development of the Harrison Heights PUD shall comply with the applicable La Vista Zoning District Regulations or any other applicable City Codes.

B. Land Use Design Criteria

Unless provided otherwise in this PUD Plan, all general use regulations, performance standards and provisions set forth in the La Vista Zoning Ordinance for the appropriate commercial and residential zoning districts shall apply to any development within the identified area. The negative elements of such uses as loading docks, heating, ventilation, or air conditioning (HVAC) units, or similar electrical or mechanical appurtenances shall be designed to be screened and buffered from view by the general public through the use of architectural features or earth berthing and landscaping.

- i. The intent of the design and layout of Lots 1,2 and 3 is to develop retail, office center(s) and/or individual businesses. The intent of the design and layout for Lots 4 and 5 is to develop senior apartments.

C. Access and Off-Street Parking

- i. Access. Driveways shall be located so that no undue interference with the free movement of road traffic will result, to provide the required sight distance, and to provide the most-favorable driveway grade. Access points within the development shall be limited to what is shown on the

final plat and subdivision agreement. Any deviation from this shall require the approval of the City.

- ii. **Off-Street Parking.** Parking on lots in the identified commercial areas shall be provided based on the aggregate ratio of five (5) off-street parking spaces per one thousand (1,000) square feet of gross leasable floor area of improvements constructed on each lot, unless off-site/public parking is utilized with approval of the city. Parking on lots in the identified residential areas shall be provided based on the aggregate ratio of one (1) space per unit plus one (1) space per employee on the largest shift.

- a. **Landscaping.**

- (1) Off-street parking areas containing twenty-five (25) or more parking spaces shall provide internal landscaping, other than that required in a buffer zone or along street frontages, and shall be protected by a concrete curb.
 - (2) Landscape islands a minimum of seven (7) feet in width shall be provided at the end of all parking rows. In addition, landscape islands a minimum of seven (7) feet in width shall be provided throughout the parking lots such that no parking space is farther than one hundred twenty (120) feet away from any landscaped space.
 - (3) Required trees shall be located to minimize potential damage to vehicles, to insure adequate sight distance, and the maneuvering of emergency vehicles within the development and each lot.
 - (4) The internal landscaped areas shall be located to direct traffic, dispersed throughout the lot to improve site aesthetics, and installed so that, when mature, it does not obscure traffic signs, fire hydrants, lighting, drainage patterns on site or adjacent properties, or obstruct vision for safety of ingress or egress.
 - (5) Parking areas shall be screened, recessed, or otherwise constructed and located so as to prevent the glare from automobile headlights illuminating adjacent properties and to minimize negative views from public streets.
 - (6) Parking area lighting shall be shielded so as to prevent illumination of adjacent properties. A lighting plan shall be submitted from review in conjunction with any site plan.
 - (7) Off-street loading areas shall not interfere with or impede the circulation or flow of traffic.

- D. Signage**

All signs may be permitted with approval of a sign permit based upon the adopted sign regulations, except as modified herein. To the extent that the provisions of this PUD Plan conflict with or are more restrictive than similar provisions provided in the La Vista Zoning Ordinance, the provisions of this PUD Plan Shall control.

This Ordinance recognizes that because of the size and scope of the project, and because access will be obtained to the development via large public arterial streets, the project has an extraordinary need for flexibility in the signage regulations applicable thereto.

- i. **Project Directory Signs.** Project Directory Signs shall be allowed on the internal roadways of the subdivision to help facilitate movement through and around the development. The sign area, setback, and number of project directional signs located within the development shall be determined in conjunction with the issuance of the sign permit for the development. The Project Directory Signs may contain directional information about the location of individual businesses within the development, ad such information may be set forth the name of the business and use logos, service marks, or stylized letters that are

identified with that business. Any Project Directory Sign may contain the Developer's logo for the development.

ii. **Center Identification Signs.** Multi-tenant buildings, multi-attached buildings and free standing buildings as part of a mall in the identified area may be allowed to advertise on center Identification signs. Such signs shall be a maximum of twenty-four (24) feet in height and contain a maximum of one hundred fifty (150) square feet of signage. Center identification signs may be allowed for individual users to identify their location off of internal streets or driveways with the approval of a sign permit. Such signs may include logos; located at least twenty (20) feet from the street right-of-way and ten (10) feet from the property line; and at not more than one per entrance.

iii. **Monument Signs.** Monument signs for free standing buildings in the identified area shall not exceed fifteen (15) feet in height. Such signs may include logos; located at least ten (10) feet from the street right-of-way and ten (10) feet from the property line; and at not more than one per street frontage.

Section 9. **Amendment to this PUD Plan** Application for amendments to this PUD plan may be made only by the Developer as long as it holds ownership of any portion of Harrison Heights Subdivision. This shall overwrite Section 5.15.09 of the 2001 LaVista Nebraska zoning ordinance.

Section 10. That this Ordinance shall be in full force and effect after its passage approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED THIS _____ DAY OF _____, 2009.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

City Clerk



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

Technical Memorandum

330 NORTH 117TH STREET
OMAHA, NE 68154-2509

www.eacg.com

PHONE: 402.895.4700
FAX: 402.895.3599

Date: May 26, 2009

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

From: Jaime A. Vargas, P.E.

RE: Harrison Heights, PUD
Harrison & Gertrude Street - Traffic Analysis Update



E&A Consulting Group prepared a traffic impact analysis in April 2009 for the Harrison Heights development located on the southeast corner of Harrison and Gertrude Street intersection in La Vista. This letter is an update to the previous traffic analysis report. The purpose of this update is to evaluate the traffic impacts associated with a change in the proposed land use on Lot 5, from Assisted Living to a Senior Adult Housing.

The original ITE Assisted Living use, with 48 beds, is changed to the ITE Senior Adult Housing with 48 dwelling units. The following Table 1 presents the updated trip generation results for the proposed land uses.

Table 1. Trip Generation

ITE		Intensity	Unit	Rate	ADT	AM Peak Hour				PM Peak Hour			
LAND USE	NAME					Rate	IN	OUT	Total	Rate	IN	OUT	Total
252	Senior Adult Housing - Attached	160	D.U.	3.48	557	0.13	6	13	19	0.16	15	10	26
814	Specialty Retail Center*	20,500	S.F.	44.32	909	3.95	49	32	81	2.71	24	31	56
Total						1,465	55	45	100	40	41	81	

Directional Distribution					
ITE LAND USE	A.M.		P.M.		
	IN	OUT	IN	OUT	
Senior Adult Housing - Attached	36%	64%	60%	40%	
Specialty Retail Center	61%	39%	44%	56%	

D.U. = Dwelling Unit

S.F. = Square Feet Gross Floor/Lesable Area

* Specialty Retail Center AM Peak Hour Rate was calculated based on the AM Peak Hour Rate of the ITE Land Use 820 - Shopping Center
Trip generation rates are based on the Institute of Transportation Engineers, "Trip Generation", 8th Edition

Based on the trip generation results, the following findings and conclusions are made:

- A decrease in the AM and PM weekday peak hour generated trips is observed with the proposed change. The projected site AM peak trips went from approximately 103 trips in the previous study to



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100 trips in this update. The PM peak trips went from approximately 84 trips in the previous study to 81 trips in this update.

- The projected site daily trips increased in 39 weekday trips, from 1,426 in the previous study to approximately 1,465 daily trips in this update.
- Due to the minor changes observed in the trip generation analysis, additional recommendations in traffic operations or roadway improvements are not included in this update. It is expected that signalized and unsignalized intersections within the study area would operate at an adequate level of service, as presented in the previous traffic impact analysis report.

The updated trip generation results can be explained by the fact that both land uses are closely related and their trip generation rates are very similar. In this particular case, a negligible decrease on both peak periods and a minor increase in the weekday (24 hour) trips does not warrant a more in-depth analysis. The recommendations made in the previous traffic analysis report should be adequate to handle the projected traffic generated by the proposed Harrison Heights development.

Further changes to the proposed site plan may require an update of this analysis.

HARRISON HEIGHTS PLANNED UNIT DEVELOPMENT

TRAFFIC IMPACT ANALYSIS

**Harrison & Gertrude Street
La Vista, Nebraska**

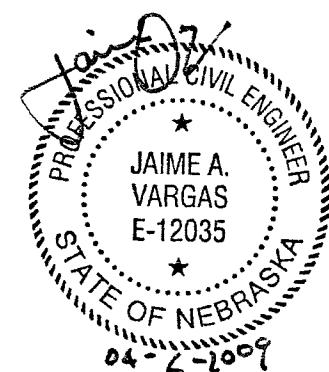
Prepared for:
CITY OF LA VISTA

Prepared by:



**E & A Consulting Group, Inc.
E & A Project No. P2008.281.005**

April 2009



EXECUTIVE SUMMARY

This report documents the findings of the traffic impact analysis conducted for the Harrison Heights Planned Unit Development. The development is located on the southeast corner of Harrison Street and Gertrude Street intersection in La Vista, Nebraska.

The developer, Empire Group, intends to develop two retail pads, a senior adult housing building, and an assisted living building on an approximately 12-acre site. The development will be developed in a single phase with an anticipated completion and full occupancy in 2011.

The traffic analysis, which includes anticipated trips generated by the Harrison Heights development, indicates the development will increase the traffic volume on Harrison Street by approximately 1,300 daily trips during an average weekday. This translates into approximately 95 additional trips during the weekday AM peak and 75 additional trips during the weekday PM peak.

Capacity and Level of Service (LOS) analysis, conducted for the study area intersections, shows that intersections along Harrison Street and Gertrude Street experience minor impacts in traffic operations as a result of the new trips generated by Harrison Heights. Existing intersections, with current geometric characteristics, have sufficient capacity to maintain an adequate LOS. Existing signalized intersections at 72nd and 78th and Harrison Street will require an adjustment on signal timings to account for normal traffic growth on Harrison Street and new Harrison Heights traffic.

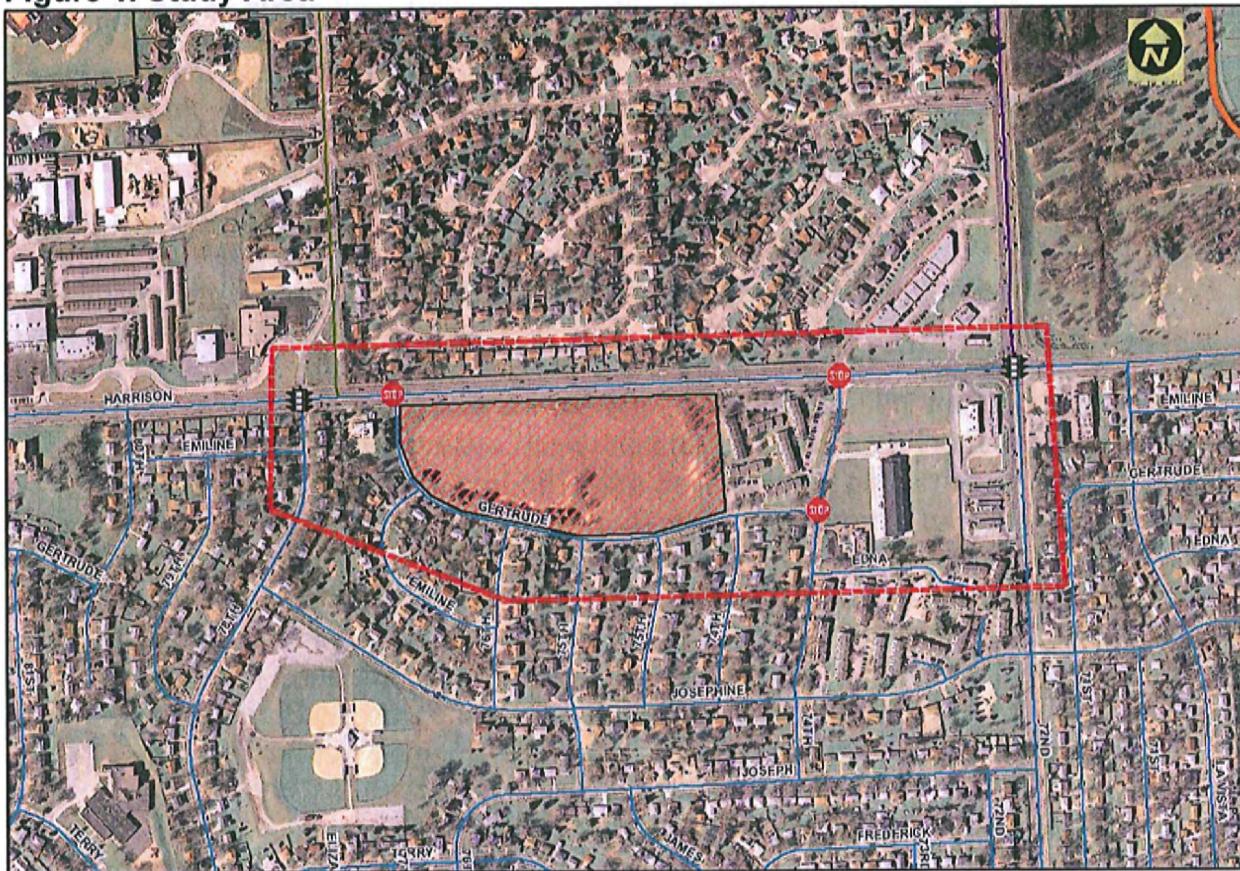
Further improvements are not recommended at this time. As the analysis shows, the intersections will operate adequately with the added Harrison Heights traffic volumes.

1- INTRODUCTION

1.1 Study Background, Purpose and Goals

This report summarizes the findings and recommendations of a traffic impact analysis prepared for the proposed Harrison Heights development, located on the southeast corner of the Harrison and Gertrude Street intersection (Figure 1). The analysis follows closely the guidelines for traffic impact studies developed by the Institute of Transportation Engineers (ITE).

Figure 1. Study Area



The proposed development is expected to be built in one phase. To perform this analysis it is assumed the project will be completed and fully occupied by 2011. The main purpose of the traffic study is to determine the improvements necessary to provide adequate traffic operations along Harrison Street and Gertrude Street once the proposed development is build-out. Impacts were identified and recommendations were made for the full build-out conditions.

1.2 Data Gathering

The data collection effort is summarized as follows:

- Propose site development plan.
- Intersection traffic turning movement counts taken in March 2009 by E&A Consulting Group at Harrison Street and 78th, Gertrude, 74th, and 72nd Street, and Gertrude and 74th Street. The traffic counts were conducted under normal traffic conditions during the AM (7:00 –9:00) and the PM (4:00 – 6:00) peak periods of traffic flow.
- MAPA average daily traffic (ADT) traffic projections for year 2035.
- Site generated trips – Institute of Transportation Engineers (ITE) Trip Generation Manual, 8th Edition, 2008
- Signal Warrant Analysis – Manual of Uniform Traffic Control Devices (MUTCD) 2003.

1.3 Study Methodology

To evaluate the potential impacts of the proposed development, the following tasks were accomplished:

- Field inspection to observe the current lane configuration and geometry.
- Traffic volumes counts were conducted at the study area intersections.
- Processing of data from proposed site development plan.
- Compounded growth factor to estimate 2011 background traffic to be estimated from MAPA 2035 projection.
- Estimation of site generated traffic, distribution and assignment.
- Generation of total traffic volumes (site plus background) for 2011.
- Analysis of 2009 and 2011 intersection capacity to handle existing and future traffic using Synchro Version 7 and SimTraffic Software.
- Evaluation of traffic signals warrants for the unsignalized intersections of Gertrude and 74th Street on Harrison Street.
- Evaluation of intersection sight distance for the proposed access driveway on Harrison Street.
- Evaluation of right-turn deceleration lane requirements at Gertrude Street, 74th Street and proposed access driveway on Harrison Street.
- Queue analysis, and development of recommendations for roadway and traffic control improvements.

2- PROPOSED DEVELOPMENT

Harrison Heights is a 12-acre development planned for the southeast corner of the Harrison and Gertrude Street intersection. The development is abutted by Harrison Street on the north and Gertrude Street on the west and south.

The proposed Harrison Heights will be developed in one phase and includes two retail pads, a senior adult housing building, and an assisted living building.

The retail component includes two buildings of 10,000 and 8,000 square feet served by one proposed access driveway on Harrison Street at approximately 240 feet east of Gertrude Street, and one access driveway on Gertrude Street at existing intersection with Emilie Street.

The senior adult housing building includes 106 attached dwelling units with one proposed shared access on Harrison Street and one proposed access driveway on Gertrude Street at existing intersection with 75th Avenue.

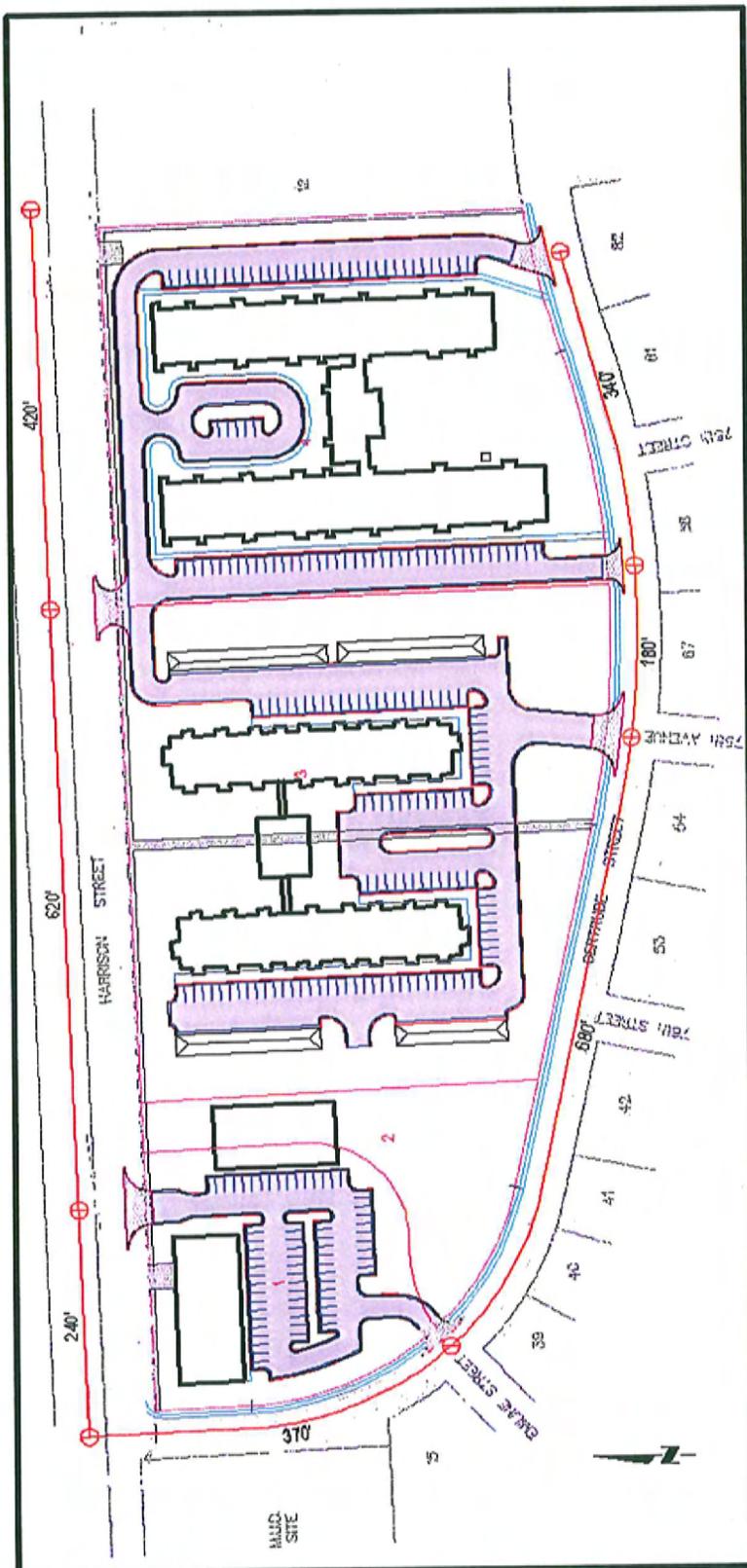
The assisted living building will have a total of 48 beds, 34 beds in the assisted living section and 14 beds in the dementia section. This land use will be served by three access driveways, one proposed share access on Harrison Street and two proposed driveways on Gertrude Street.

Access to the development will be provided on Harrison Street at two proposed limited access driveways and four additional access driveways on Gertrude Street.

The proposed shared access driveway on Harrison Street is to be located at approximately 860 feet east of the intersection of Harrison and Gertrude Street. This access driveway will be a limited right-in right-out only access driveway. An additional access driveway is proposed on Harrison Street at approximately 240 feet east of Gertrude Street. This driveway will also be a limited right-in right-out only access.

The proposed site plan is shown in Figure 2.

Figure 2. Site Plan



3- STUDY AREA EXISTING CONDITIONS

3.1 Study Area

The study area, as presented in Figure 1, encompasses the region spanning from 78th Street east to 72nd Street along Harrison Street and from Harrison Street east to 74th Street on Gertrude Street.

3.2 Existing Street Network

Existing roadway network includes the following roads:

Harrison Street is a principal urban arterial running east-west with a posted speed limit of 45 mph within the study area. It is a four-lane divided roadway with raised median and provision for left-turn lanes. This street will provide direct access to the development at two proposed limited access driveways (right-in right-out only) located approximately at 240 and 860 feet east of Gertrude Street.

The primary intersection along Harrison Street is located at 72nd Street, which is currently signalized. Also, 78th Street is a signalized intersection on Harrison Street.

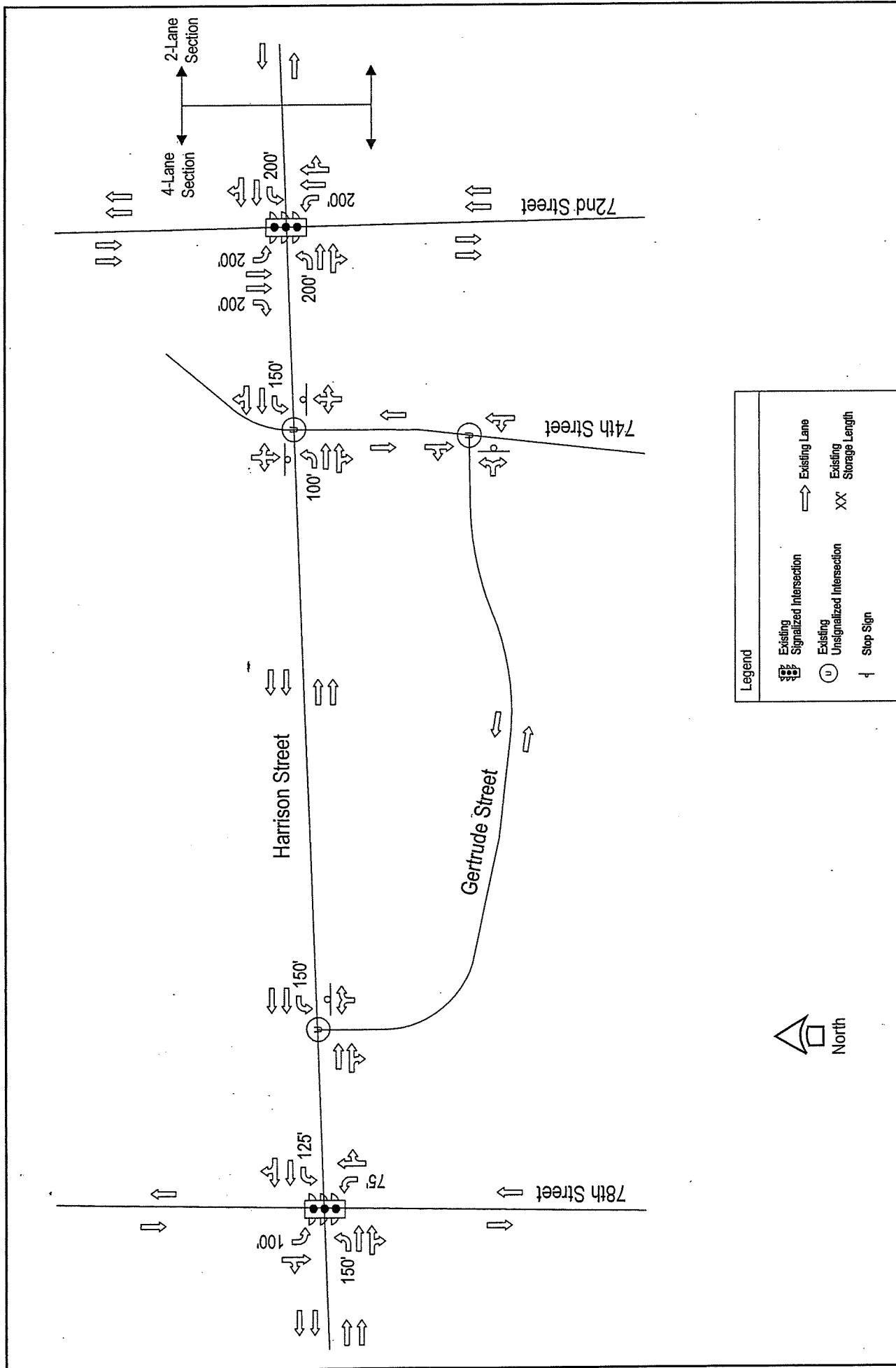
Gertrude Street is a local road with a speed limit of 25 mph within the study area. It is a normal crowned two-lane facility. This street will provide direct access to the proposed development at six proposed access driveways. Within the study area, Gertrude Street runs from Harrison Street east to 174th Street.

72nd Street is a principal urban arterial running south-north through the central portion of the metropolitan area with a posted speed limit of 40 mph. Within the study area, 72nd Street is a four-lane divided facility with raised median and provision for left-turn lanes. This road will not provide direct access to the development.

74th Street is a local road with a speed limit of 25 mph within the study area. It is a normal crowned two-lane facility. This street will not provide direct access to the development.

78th Street is a collector road with a speed limit of 35 mph within the study area. It is a normal crowned two-lane facility. It is signalized at its intersection with Harrison Street. This street will not provide direct access to the proposed development.

Existing lane configurations are presented in Figure 3.



4 - Existing and Background Traffic Volumes

4.1 Existing Traffic Volumes

Intersection traffic turning movement counts were taken in March 2009 by E&A Consulting Group at Harrison Street and 72nd, 74th, Gertrude, and 78th Street. Also, traffic counts were taken at 74th and Gertrude Street. The traffic counts were conducted under normal traffic conditions during the AM (7:00 –9:00) and the PM (4:00 – 6:00) peak periods of traffic flow.

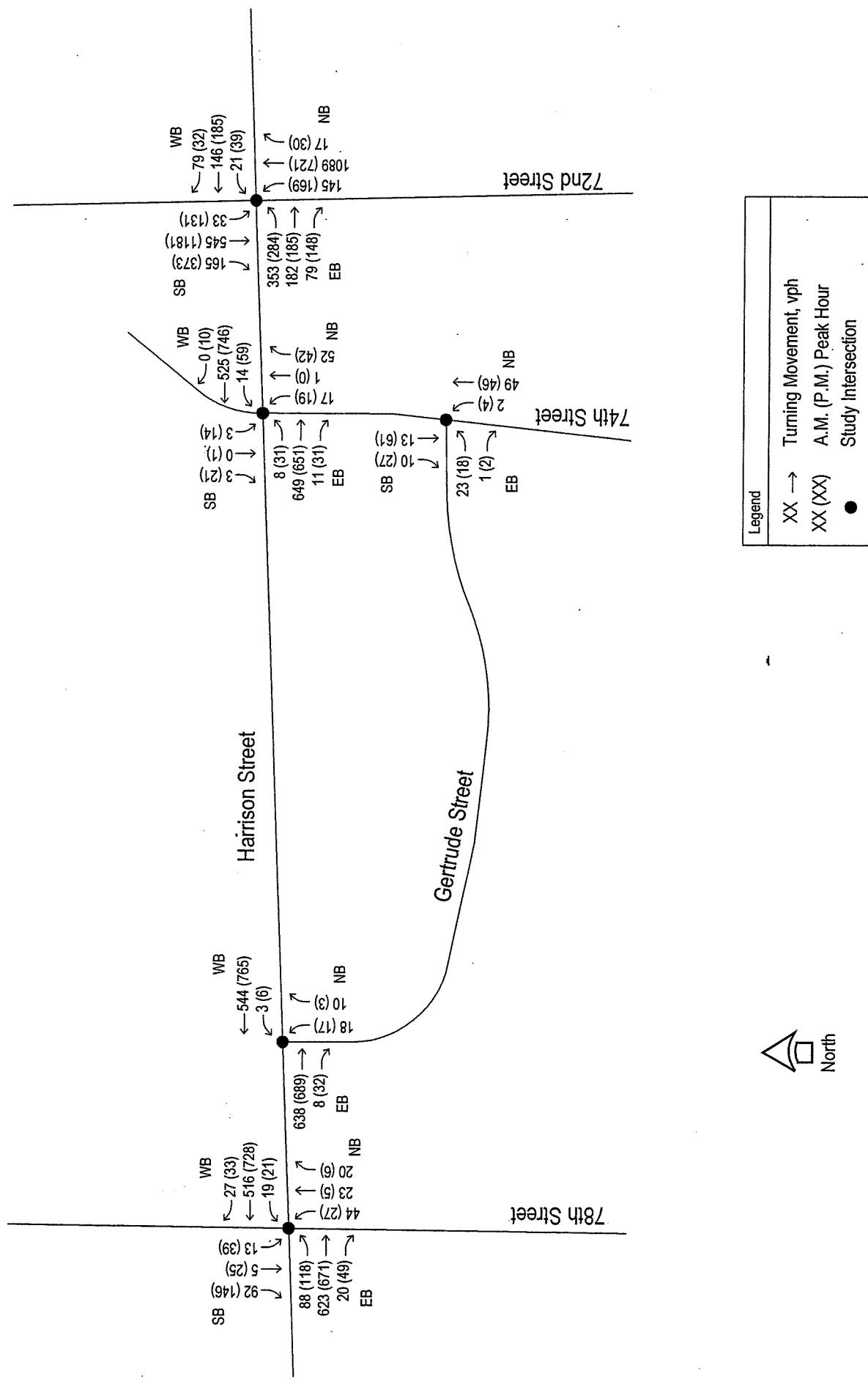
From the traffic counts, it has been determined that the peak hour volume occurs during the 7:15 to 8:15 AM period and the 4:45 to 5:45 PM period. Figure 4 presents the existing traffic volumes for the AM and the PM peak hour.

4.2 Background Traffic Volumes

Background traffic accounts for the traffic volumes that will be on the roadway network without the presence of the proposed development. Estimates of non-site traffic are necessary for analysis of the 2011 total traffic scenario.

The background traffic was estimated based on projections of existing traffic along Harrison, 72nd and 78th Street. An overall 2.5% growth factor was developed from the 2035 average daily traffic data provided by MAPA. This factor was applied to existing traffic volumes within the study area.

Background traffic volumes were developed for year 2011 and are presented in Figure 5.



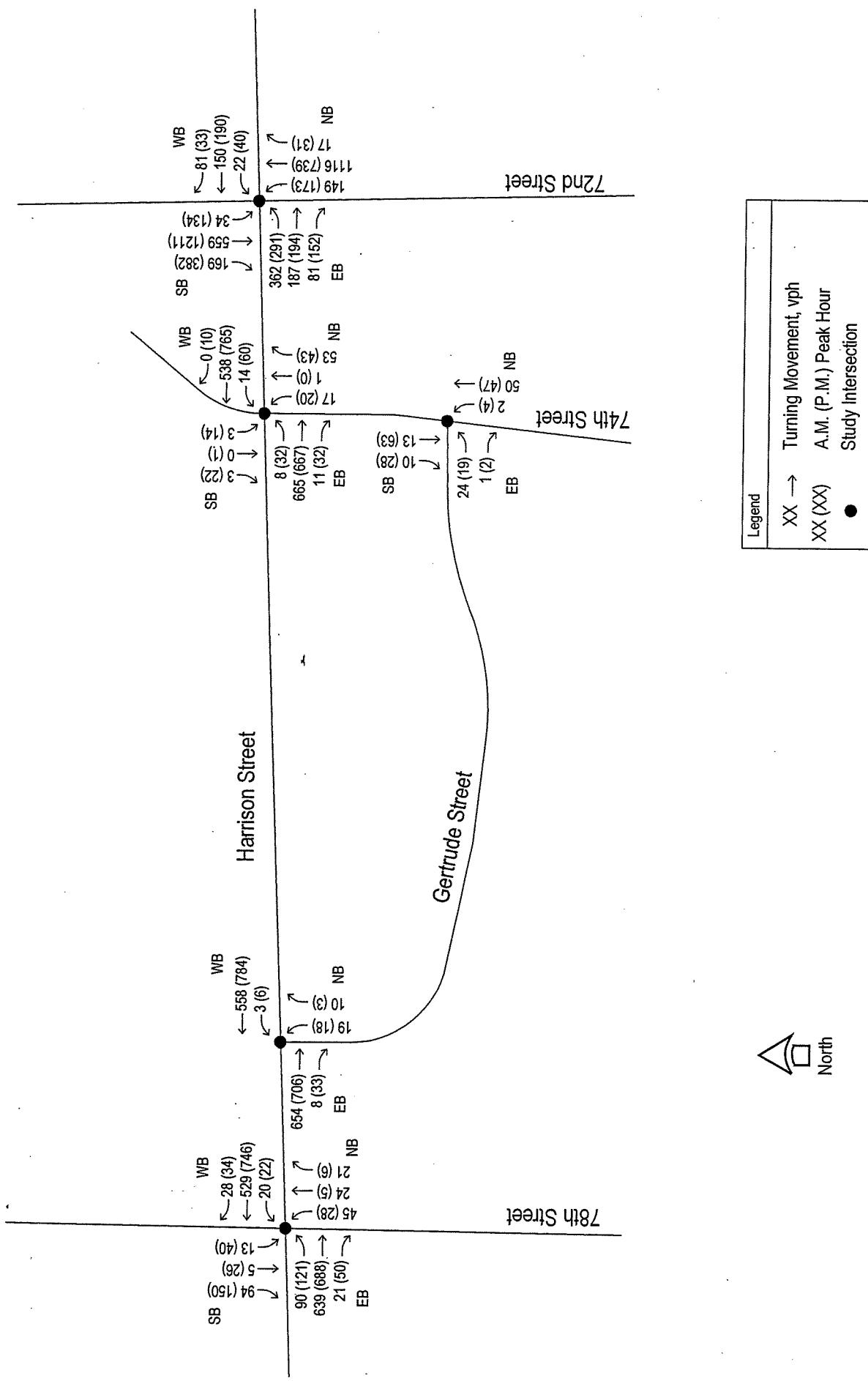


Figure 5. Background Traffic Volumes 2011

5 - PROJECTED TRAFFIC

Projected total traffic includes the proposed development generated traffic volumes. The site traffic is made of three components: trip generation, trip distribution and traffic assignment.

5.1 Site Trip Generation

In order to estimate the amount of traffic to be generated by the proposed development, the ITE Trip Generation Handbook 8TH Edition equations and rates were used. This source is the industry standard for estimating traffic generation characteristics for various development types. Trip generation estimate for the project is shown in Table 1.

Table 1. Trip Generation

ITE LAND USE	Name	Intensity	Unit	Rate	ADT	AM Peak Hour				PM Peak Hour					
						Rate	IN	OUT	Total	Rate	IN	OUT	Total		
252	Senior Adult Housing - Attached	106	D.U.	3.48	369	0.13	5	9	14	0.16	10	7	17		
254	Assisted Living	48	Bed	2.66	128	0.14	4	2	7	0.22	5	6	11		
814	Specialty Retail Center *	8,000	S.F.	44.32	355	4.34	21	14	35	2.71	10	12	22		
814	Specialty Retail Center *	10,000	S.F.	44.32	443	3.96	24	15	40	2.71	12	15	27		
Total				1,294		55		40		95		36		76	

ITE LAND USE	Directional Distribution			
	A.M.		P.M.	
	IN	OUT	IN	OUT
Senior Adult Housing - Attached	36%	64%	60%	40%
Assisted Living	65%	35%	44%	56%
Specialty Retail Center	61%	39%	44%	56%

D.U. = Dwelling Unit

S.F. = Square Feet Gross Floor/Leasable Area

* Specialty Retail Center AM Peak Hour Rate was calculated based on the AM Peak Hour Rate of the ITE Land Use 820 - Shopping Center
Trip generation rates are based on the Institute of Transportation Engineers, "Trip Generation", 8th Edition

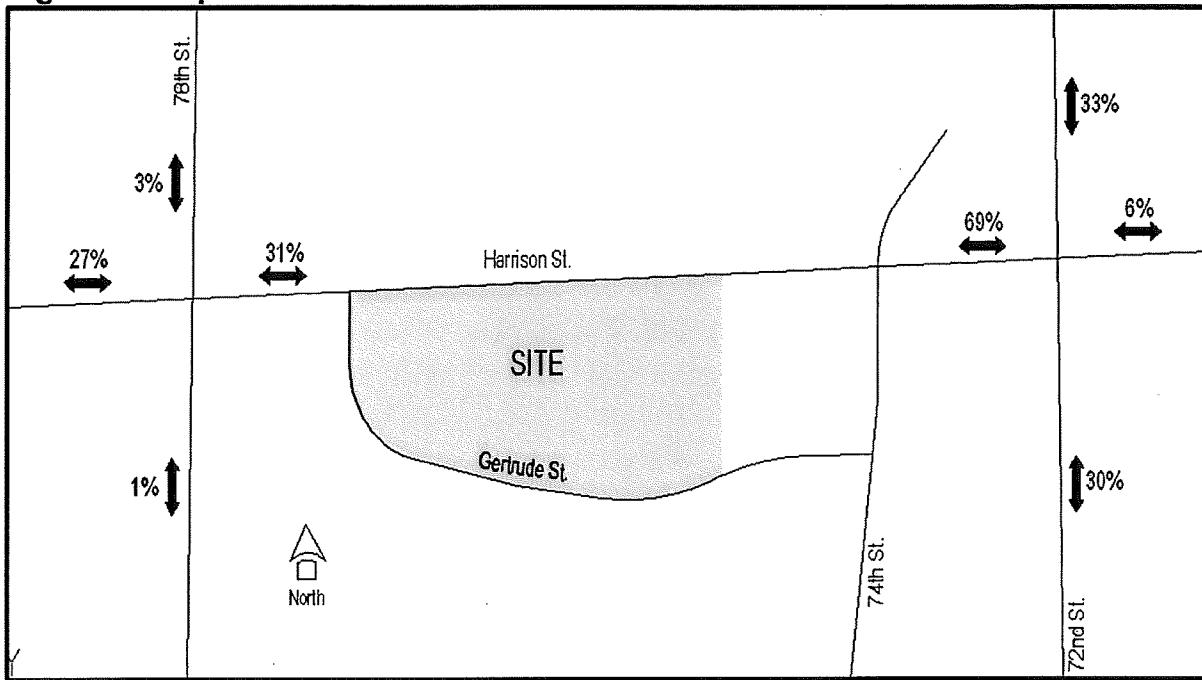
5.2 Site Trip Distribution and Assignment

The trips generated by Harrison Heights were distributed based upon existing and projected traffic patterns and engineering judgment. The enter/exit distribution was obtained from the ITE Trip Generation Handbook for the AM and PM peaks.

Once the approach and departure directions are estimated, the trips are assigned to the street network. Figure 6 displays the general distribution of the site trips. The

assignment of the trips generated by Harrison Heights to the study area traffic network during the AM and PM peak hours is presented in Figure 7.

Figure 6. Trip Distribution



5.3 Total Traffic

The project generated traffic is combined with the background traffic to produce the expected total traffic volumes for the horizon year. Total traffic for the AM and PM peaks was calculated for year 2011. The total volumes were adjusted and plotted on a study area roadmap to ensure reasonableness and logic. Figure 8 presents the 2011 total traffic volumes.

6 - TRAFFIC ANALYSIS

6.1 Capacity and Level of Service Description

Capacity analysis methodology is based on the concepts and procedures of the 2000 Highway Capacity Manual (HCM). The primary result of capacity analysis is the assignment of Level of Service (LOS) to traffic facilities. The concept of LOS is defined as a qualitative measure describing the operational conditions within the traffic stream and their perception by motorists and/or passengers. Six levels of service are defined for signalized intersections. They are given letter designations from A to F, with LOS A representing the best operating conditions and LOS F the worst.

Levels of service for all movements at signalized and unsignalized intersections were determined using Synchro 7.0, a traffic analysis package that implements the methods of the 2000 HCM and is accepted by the industry. The HCM LOS reports on the average delay experienced by motorists. Table 2 summarizes the LOS criteria for HCM analysis.

Table 2. LOS Criteria for HCM Analysis.

LOS	Control Delay Signalized Intersection (seconds)	Control Delay Unsignalized Intersection (seconds)	Traffic Flow Characteristics
A	≤ 10	≤ 10	Free flow, insignificant delays.
B	10.1 - 20	10.1 - 15	Stable operation, minimal delays.
C	20.1 - 35	15.1 - 25	Stable operation, acceptable delays.
D	35.1 - 55	25.1 - 35	Restricted flow, regular delays.
E	55.1 - 80	35.1 - 50	Maximum capacity, extended delays. Volumes at or near capacity. Long queues form upstream from intersection.
F	>80	>50	Forced flow, excessive delays. Represents jammed conditions. Intersection operates below capacity with low volumes. Queues may block upstream intersections.

In most urban areas, overall LOS ratings of A to D are typically considered acceptable for signalized intersections during the peak hour of traffic. For this study, LOS D for the overall intersection was used as the minimum standard.

6.2 Signal Warrant Assessment

Signal warrants were examined at the study area unsignalized intersections on Harrison Street based on the 2003 Manual on Uniform Traffic Control Devices (MUTCD). Typically, traffic signalization is warranted based on a complete review of traffic volume information including pedestrians, crash experience, and traffic progression. The preliminary need for signalization was evaluated based on the peak hour volume warrant (Warrant 3). The peak hour signal warrant is intended for use at a location where traffic conditions are such that for a minimum of one (1) hour of an average day, the minor-street traffic suffers undue delay when entering or crossing the major street.

The MUTCD provides guidance as to how right-turn volumes should be utilized in the analysis. The degree of conflict that minor street right-turn traffic has on major street traffic should be considered in the warrant evaluation. Based on engineering judgment, 100% of the northbound right turns at Gertrude Street and 74th Street were included in the warrant analysis due to the impact on the eastbound traffic.

The signal warrant analysis is shown in the Appendix. Following is the summary of the warrants assessment:

- *Harrison Street and 74th Street*
This intersection does not meet the MUTCD peak hour warrant.
AM Peak – 1,299 vph v/s 73 vph
PM Peak – 1,617 vph v/s 65 vph
- *Harrison Street and Gertrude Street*
This intersection does not meet the MUTCD peak hour warrant.
AM Peak – 1,272 vph v/s 41 vph
PM Peak – 1,556 vph v/s 35 vph

6.3 Existing Traffic Capacity and LOS Analysis - 2009

AM and PM weekday peak traffic analysis of existing traffic conditions was performed for the following intersections:

- Harrison Street and 72nd Street
- Harrison Street and 74th Street
- Harrison Street and Gertrude Street
- Harrison Street and 78th Street
- 74th Street and Gertrude Street

Signalized intersection of Harrison Street and 72nd Street is operating at LOS B during the AM peak and at LOS C during the PM peak hour. Intersection signal delay of 18.7 seconds is observed during the AM peak with a maximum v/c ratio of 0.80. 21.8 seconds of intersection delay is observed during the PM peak with a maximum v/c ratio of 1.02.

Unsignalized intersection of Harrison Street and 74th Street is currently operating at LOS C on its critical southbound approach during the AM peak and at LOS D on the same approach during the PM peak hour.

Unsignalized intersection of Harrison Street and Gertrude Street is currently operating at LOS C on its critical northbound approach on both AM and PM peaks.

Signalized intersection of Harrison Street and 78th Street is operating at LOS A during both the AM and PM peak hours. Intersection signal delay of 6.0 seconds is observed during the AM peak with a maximum v/c ratio of 0.45. 6.5 seconds of intersection delay is observed during the PM peak with a maximum v/c ratio of 0.48.

Unsignalized intersection of Gertrude Street and 74th Street is currently operating at LOS A on its eastbound approach on both AM and PM peaks.

Summary LOS output reports of the analysis are included in the appendix.

6.4 Total Traffic Capacity and LOS Analysis - 2011

The analysis of the transportation impacts of the site on the surrounding roadway network is based on the distribution of the site generated traffic onto the roadway network as previously discussed. The procedure involved traffic intersection capacity analysis for all intersections directly impacted by the proposed development. This analysis was performed for the future buildout conditions assumed to be 2011 for the AM and PM peak hours. The analysis was performed for the same intersections included above, along with the access driveways on Gertrude and Harrison Street.

The following assumptions were made regarding the level of improvements and intersection operations for the buildout analysis:

- Two unsignalized right-in right-out only access driveways at Harrison Street.
- A 90 second cycle length was used at the 72nd and 78th Street signalized intersections.

Signalized intersection of Harrison Street and 72nd Street would operate at LOS C during both the AM and the PM peak hours. Intersection signal delay of 20.5

seconds is observed during the AM peak with a maximum v/c ratio of 0.82. 28.1 seconds of intersection delay is observed during the PM peak with a maximum v/c ratio of 1.34.

Unsignalized intersection of Harrison Street and 74th Street would operate at LOS C on its critical southbound approach during the AM peak and at LOS E on the same approach during the PM peak hour.

Proposed unsignalized right-in right-out only access driveways on Harrison Street would operate at LOS B on their northbound approach during both AM and PM peaks.

Unsignalized intersection of Harrison Street and Gertrude Street would operate at LOS C on its northbound approach on both AM and PM peaks.

Signalized intersection of Harrison Street and 78th Street would operate at LOS A during both the AM and PM peak hours. Intersection signal delay of 6.1 seconds is observed during the AM peak with a maximum v/c ratio of 0.46. 6.4 seconds of intersection delay is observed during the PM peak with a maximum v/c ratio of 0.48.

Unsignalized intersection of Gertrude Street and 74th Street would operate at LOS A on its eastbound approach on both AM and PM peaks.

All of the unsignalized access driveways on Gertrude Street would operate at LOS A on their critical approaches during both the AM and PM peak hours. This is due to the projected low traffic volume entering and/or existing Harrison Heights during the peak hours, as well as the existing light traffic volumes on Gertrude Street.

Summary LOS output reports of the analysis are included in the appendix.

6.5 Queue Length Analysis

A queue analysis was performed for 2011 total traffic scenario. Synchro software was used to determine the expected vehicle queue lengths. The purpose for this analysis is to determine if new generated trips create situations where left turning vehicle queue up and block through traffic or if through lanes queues block entrance to the left-turn storage bay for given signal-operating parameters. The queue lengths are for a given cycle with 50th and 95th percentile traffic that follows a normal distribution. The 95th percentile shows the five highest representative volumes of one hundred cycles and can be considered to be the maximum queue length that will be experienced at the intersection. The 50th percentile shows the maximum queue for a typical cycle.

A queue length is used to determine if the reported queue lengths extended out of the existing turning bays and back through traffic or upstream intersections. Normally, it is sufficient to store a single cycle of queues, since through and left traffic will move at different times during the cycle and enough storage should be provided so the two movements do not block each other from using their green time effectively.

The main result of the queuing analysis and the 95% percentile cycle is the following:

- At the intersection of 72nd Street and Harrison Street the eastbound left-turn movement queues are expected to be close to 305 feet during the AM peak and to 350 feet during the PM peak under the 2011 total traffic scenario. Currently, 2009 traffic volumes' estimated queues are close to 286 feet during the A.M. peak and to 349 feet during the P.M. peak. These queues, existing 2009 and future 2011, may block the through eastbound movement. Existing storage bay for this movement includes a single left-turn lane with approximately 200 feet of storage length. This problem may be mitigated to some extent by increasing left-turn lane storage length. However, site constraints may limit the addition of more storage length to this movement.
- Additional queue issues were not identified at this time. Existing roadway infrastructure should be able to support normal traffic growth and additional traffic generated by Harrison Heights.

6.6 Intersection Sight Distance at Proposed Access on Harrison Street

Each proposed access intersection has the potential for different types of vehicular conflicts. The possibility of these conflicts actually occurring can be greatly reduced through the provision of proper sight distances and appropriate traffic controls. An intersection sight distance analysis was conducted at the proposed site access driveway/intersection on Harrison Street. A review of the analysis for the intersection is provided below.

Harrison Street and Proposed Right-In Right-Out Only Access Driveways

The proposed standard intersection geometry provides for adequate operations for both east and northbound right-turn movements. An intersection sight distance of 530 feet looking west of the proposed access driveways is achieved without any obstacles. These intersections should operate adequately.

A sight distance figure is presented in the Appendix.

6.7 Right Turn Deceleration Lanes along Harrison Street

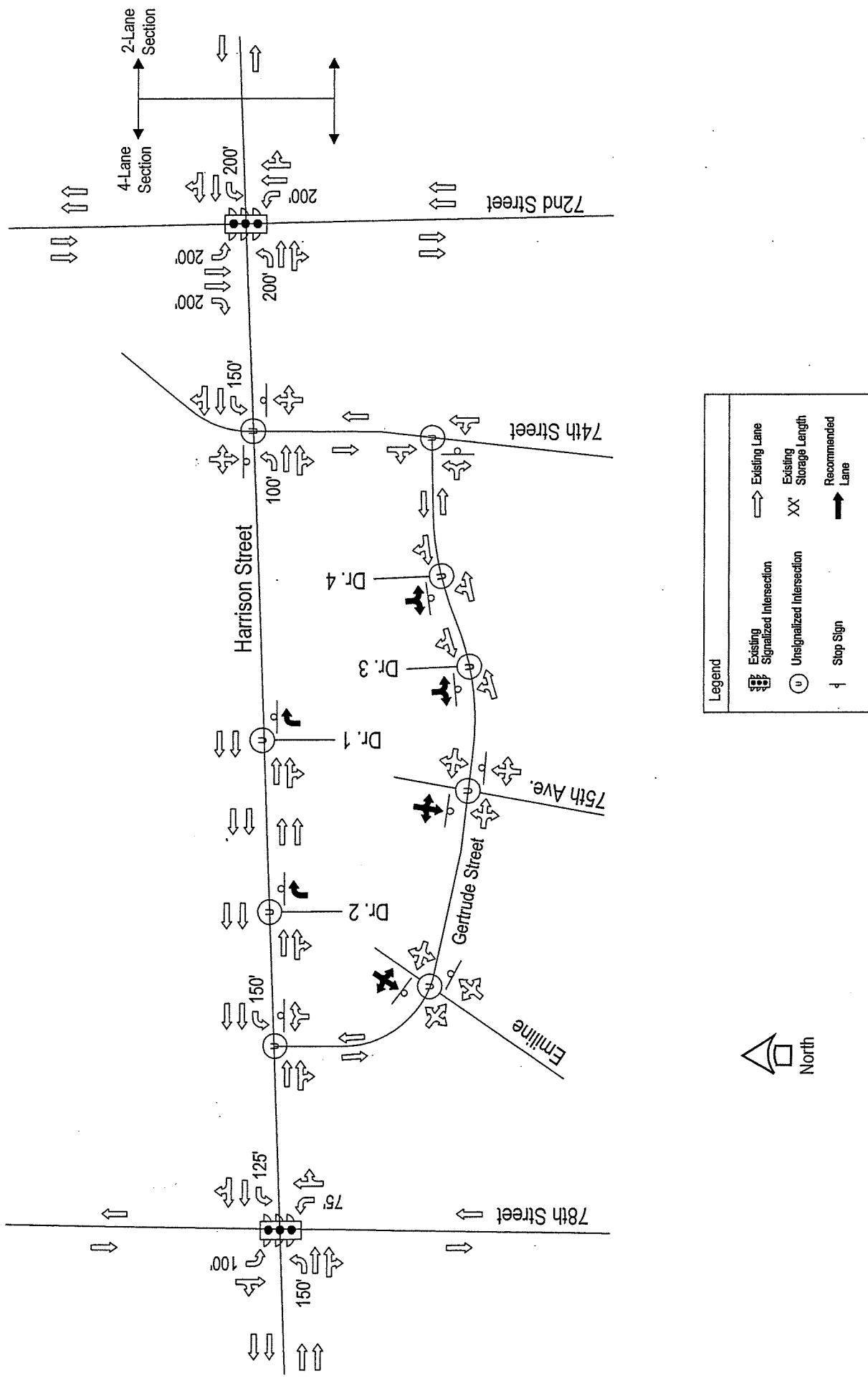
An analysis of the right-turn deceleration lane requirements along Harrison Street was undertaken at the following intersections: Gertrude Street, 74th Street and proposed limited access driveways.

In order to determine the need of a deceleration lane at each of these intersections, the expected right-turn volume and Harrison Street eastbound volume at each intersection was used.

- *Harrison Street and Gertrude Street*
AM Peak – 680 vph v/s 12 vph
PM Peak – 750 vph v/s 34 vph
- *Harrison Street and 74th Street*
AM Peak – 710 vph v/s 11 vph
PM Peak – 725 vph v/s 32 vph
- *Harrison Street and Proposed Access Driveway 1*
AM Peak – 685 vph v/s 3 vph
PM Peak – 731 vph v/s 5 vph
- *Harrison Street and Proposed Access Driveway 2*
AM Peak – 679 vph v/s 11 vph
PM Peak – 721 vph v/s 5 vph

Based upon the results, none of the analyzed intersections warrant a right-turn deceleration lane. Full analysis results are presented in the Appendix.

Figure 9 presents the recommended lane configurations and traffic control.



7 – FINDINGS AND RECOMMENDATIONS

The purpose of this traffic study was to determine the anticipated traffic operations at the intersections in the study area and to identify the roadway infrastructure necessary to support the development of Harrison Heights. Based on the results of this analysis, the following summarizes the key findings and recommendations of this study.

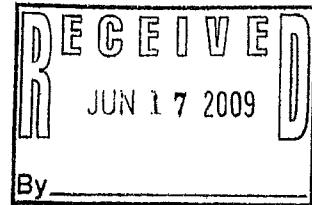
- Harrison Heights is a 12-acre planned unit development, which is projected to generate approximately 1,300 vehicle trips per day with a total of 95 vehicle trips during the weekday AM peak period and 76 vehicle trips during the PM peak period.
- Signal warrant analysis performed at unsignalized Gertrude, 74th and proposed access driveways intersections along Harrison Street showed that none of the intersections warranted signalization upon development of Harrison Heights.
- Right-turn deceleration lane warrants were evaluated at Gertrude, 74th and proposed access driveways on Harrison Street. The evaluation demonstrated that none of the intersections warranted a right-turn deceleration lane.
- Capacity and LOS analysis conducted for the study area intersections showed that intersections along Harrison Street and Gertrude Street experience minor impacts in traffic operations as a result of the new trips generated by Harrison Heights.
Existing signalized intersections have sufficient capacity to maintain a LOS C or better upon the build-out of the proposed development.
Existing and proposed unsignalized intersections would operate satisfactorily at LOS C or better on their critical approaches, with the only exception of the PM peak southbound approach on 74th Street. This approach is estimated to operate at LOS E. However, it is not unusual for unsignalized side street movements to operate adequately at LOS E during peak periods under normal traffic conditions.
- A queue length analysis was performed at the two signalized intersections on Harrison Street at 72nd and 78th Street. There are no significant queues on this roadway system. The only exception is at the intersection of 72nd Street, where at present, the eastbound left-turn movement queues extend beyond the existing turning bay during both AM and PM peak periods. This situation will likely be observed under the 2011 traffic volumes scenario. This problem may be mitigated to some extent by increasing the left-turn lane storage length. However, site constraints may limit the addition of adequate storage length to this movement. Yet, based on a review of the general operation of this

intersection, this situation should not be a significant problem since the eastbound-through traffic volume at this intersection is light (196 vph in 2011), with an estimated queue length of 114 feet. Therefore, even though the left-turning traffic extends beyond the storage bay, it should not block the eastbound through traffic in a way that negatively affects the general operation of the intersection.

- It is recommended that upon build-out of Harrison Heights, signal timings at 72nd and 78th Street be adjusted taking into account normal traffic growth on Harrison Street and added Harrison Heights traffic. This measure will help to improve traffic operations at these intersections.
- Proposed limited access driveways on Harrison Street should operate satisfactorily with proposed lane configuration and stop control on the northbound approach. Sight distance requirements were also met.
- The existing infrastructure and proposed lane configurations and traffic control at the development access driveways will provide for adequate traffic operations at all of the study intersections.

7101 South 75th Street
La Vista, Nebraska 68128
June 15, 2009

Marcus Baker
La Vista Planning Commission
8116 Park View Blvd.
La Vista, NE 68128



Dear Sir,

Thank you for listening to our concerns over the rezoning of the property from 74th to 77th Street between Gertrude and Harrison Streets. As homeowners in the Crestview Heights neighborhood we appreciate you addressing our concerns to the best of your ability. We realize that we have lost our "bit of the country", but want to make sure that our neighborhood remains safe and quiet, and maintains its small town appeal.

Our concerns include the following:

1. Reliability and Credibility of Developers:

One of the primary concerns is that the developers misrepresented their intention for the land. The Planning Commission as well as many neighbors fully supported the idea of an ASSISTED LIVING facility as not only would it supply a much needed service for the aging population, it would also be a nice asset to maintain a quiet neighborhood. The concern now: if the Planning Commission and City Council approve the zoning to include multiple units for those 55 and up, will the developers again change their minds to create multiple family units (i.e. apartments) based on low income? Has there been a study to justify this type of facility? How will the added influx of population density affect the quiet atmosphere of our neighborhood? How will so many low income housing units affect a home owner's resale value? How many neighbors will overlook this market and move anyway? The Developer's plans have far too many unanswered questions for home owners and the city to consider.

2. Businesses in a Residential Neighborhood:

Aside from the misrepresentation of the proposed housing units, the Developers want to place three commercial buildings within our residential area. Numerous empty commercial buildings exist on 84th Street as well as unoccupied bays in the strip mall on the corner of 72nd and Harrison. Numerous vacant bays exist in the strip malls on 72nd Street in Ralston as well as Papillion. The small strip mall containing a restaurant on 79th and Harrison has changed owners numerous times due to lack of business.

The Developers do not have any contracts or definite plans for the three commercial buildings they propose to construct. They have not even done a study of the area to determine if certain businesses would be successful and therefore want to rent or purchase their buildings. They feel that "If they build it, businesses will come," when this has clearly not been the case for others in the area. These continued vacancies deter new businesses as they fear that the location is not lucrative. They also deter prospective residents who fear an objectionable business might move in. As vacant buildings begin to deteriorate, they deem the area as undesirable to live due to the aesthetic value and fear of crime infiltrating these run down areas. The Developers need to present a concrete, well thought out plan before they request the area to be rezoned for commercial use.

3. Problems of Increasing Population Density:

a. Crime Rate:

The Developers also requested the agricultural land be rezoned as a High Density Residential District. Regardless of whether the residential properties are designated for individuals age 55 and above or for family units, both concern us as home owners. Next to this property, there are presently 154 Crestview Village Townhomes which are based on income. According to the following website: <http://www.hud.gov/apps/section8/> there are six other properties in Sarpy County that are based on income through HUD as well. Four of the six are housing for the elderly. Despite this, looking at the Crime Reports website, <http://crimereports.com/map/>, all but our location have a high amount of various crimes ranging from assaults, robbery, domestic violence, etc. We are

concerned that by adding an additional 158 living units (1 & 2 bedroom apartments), this density may change our quiet neighborhood so that its crime rate is similar to the other six similar properties.

b. Power Outages

The increase in population density brings about other concerns as well. Our area presently experiences numerous power outages. Although these might be expected during the summer months or during peak times, these outages occur year round during various times of the day and night. If the land were rezoned as the Developers hope it will, this would dramatically increase the electrical feed to include 158 additional living units and three business buildings. This would further tax the existing electrical facility which is clearly inadequate for the current load.

c. Parking:

The Developers obviously have an ill conceived understanding about the increase in population density's affect on parking. Rather than including additional parking for their residents, they took it away. By providing more green space they felt they were going to ease the home owners concern about losing the bean field as well as additional flooding that will result due to water running off the new acres of concrete. Unfortunately, rather than simply solving that problem, they created a new one: inadequate parking

If each one bedroom apartment contained only one tenant and each two bedroom, two tenants, they would require 239 stalls/garages. From the information presented, they are providing only 233 spots. The reasoning was based on the misconception that few people over 55 actually drive and therefore not everyone would need a parking spot or garage! Unfortunately their misguided conclusion does not take into account that two people may be living in a 1-bedroom apartment and EACH may have a car to drive, nor does it address parking needed for visitors.

Overflow parking would be forced onto the narrow street of Gertrude. This then narrows the traffic to one lane. This also forces the residents of the housing complex to park on side streets in front of the already crowded residential homes; thereby, eliminating the homeowners' parking spaces.

Another concern is the road conditions during the winter months. Run-off from the higher elevations flows down hill to the intersections of Gertrude and 75th and 74th Streets where it refreezes. Motorists headed downhill (east) frequently fail to slow to safe enough speeds to navigate the turns successfully and often either end up in driveways or upon curbs. With parking forced onto Gertrude, this causes more concerns with accidents

d. Traffic Flow:

Aside from parking concerns, the increase in the residential density by 154-308 individuals, and the staff from the three businesses will greatly increase the flow of traffic in our quiet neighborhood. Currently there are plans to have only **one** exit from the entire development onto the main road, Harrison Street, with four exits onto Gertrude, a residential street. This street, as mentioned previously, is narrow and with the overflow parking taking up half the road, it narrows to one lane. This would no doubt divert traffic onto the side streets winding dangerously through residential neighborhoods. With the many children in the town homes and residential neighborhoods, this causes much alarm especially during the evening hours when running children are difficult to see. Weekly, as we are driving through the neighborhood, at least one child darts out into oncoming traffic. This problem will only increase as the population of our neighborhood doubles and so does the traffic.

The credibility of these developers is questionable and the future of our neighborhood due to adding businesses and increased population presents numerous concerns. Hopefully the traffic study as well as information you requested from the developers will allow you to make the best decision for our small neighborhood. If our quiet, safe, and picturesque neighborhood no longer exists, then we, like a few other neighbors, will choose a new one that does.

Sincerely,

Mary Jillson and James Heesacker

7105 South 75th Street
La Vista, NE 68128
June 7, 2009

Marcus Baker
La Vista Planning Commission
8116 Park View Blvd.
La Vista, NE 68128

Dear Sir:

Thank you for your time and patience at the Planning Commission meeting Thursday, May 21. As homeowners in the Crestview Heights neighborhood, we appreciate your efforts as you plan the future of our neighborhood and of La Vista. As I'm sure you realize from the meeting, the residents of our neighborhood have a number of concerns regarding the development of the property from 74th to 77th between Gertrude and Harrison Streets.

Our neighborhood now is primarily single-family housing along with 154 Crestview Village Townhomes managed by the Sisters of Mercy. The addition of 158 apartments in the same general area more than doubles the number of apartment units within a few square blocks of 74th and Gertrude, thus tremendously increasing the population density in the neighborhood.

Traffic is already a problem in our neighborhood, especially near the corner of 74th and Gertrude. Gertrude Street between 74th and 75th is often reduced to a single lane of traffic since residents of the townhomes regularly park along Gertrude Street. This creates not only a traffic concern but also a safety issue as numerous children cross the street at that intersection as well as ride their bicycles and mini-bikes in the street. Children whose parents park along Gertrude Street run across the street to their townhomes without looking for on-coming traffic. The addition of 158 apartments would increase these traffic concerns.

Related to this is the matter of power usage. We frequently experience power outages. As these might be expected during the summer months and during peak times, these outages, in fact, occur year round and in what would appear to be off-peak hours. The addition of 158 units would substantially add to the power usage in the area and, we suspect, contribute to the outage problem.

The addition of a commercial development on the west end of the property is another concern. There are numerous empty commercial buildings on 84th Street as well as at least two unoccupied bays in the strip mall on the corner of 72nd and Harrison. The commercial developer indicated that he hoped to use the commercial space for a day care center, a veterinary clinic, and a hair salon. The area already has a day care center on 74th and Gertrude, a major veterinary clinic on 78th and Harrison, and a hair salon on 72nd and Harrison. We doubt that the neighborhood could support two of each of these businesses. The result could easily be even more unoccupied buildings in La Vista.

We also have concerns regarding the reliability and credibility of the developers. The lack of a market study of the businesses currently in the neighborhood prior to the development of an additional commercial facility causes some alarm as do the developers' hiring decisions. The grading company seems to have disregarded the Storm Water Pollution Protection Plan that it filed. As the graders cleared and leveled the property, they scooped and loaded dirt in winds in excess of 45 m.p.h., creating a virtual dust storm in the neighborhood. In addition, they used a dry-sweep kick-broom to sweep the streets in violation of the Best Management Practices dictated by the conditions of the permit. This continued even after a complaint was filed. We are concerned that the developers will continue to hire contractors with the same lack of integrity as the grading company.

Even more disconcerting is the fact that the developer of what was supposed to be an assisted living facility appears to have misled us. The original proposal states that the developer requests to "subdivide Lots 13 and 14 in Crestview Heights into 5 lots for the development of elderly/retirement housing, an assisted living facility, and three commercial uses as a Planned Unit Development." The developers appear to have taken it upon themselves to substitute the word or for the word and in the proposal.

We received notification from the Planning Commission indicating a public hearing for Harrison Heights elderly housing and assisted living, plus commercial retail space. Accompanying the notification was a letter from the developers inviting us to attend an open house which would provide information regarding the subdivision of the property into a commercial building plus a complex with 110 senior independent living units and a complex with 48 senior independent living units. (Unfortunately, our neighbors told us that their letter arrived the day after the developers' meeting; another neighbor never received a letter.) As the Planning Commission indicated, the original plan consisting of a 48 unit assisted living complex would supplement the Granville Assisted Living Facility which is currently the only assisted living facility in La Vista. The Granville units do not have kitchens, have wheel-chair accessible doors and bathrooms, shower facilities that accommodate those needing assistance, and have full-time medical assistants on duty. At the meeting developers told us that the units were not assisted living, a fact that was evident when looking at the renderings of the interior of the apartments which presented the typical one or two bedroom units. The developers have demonstrated a lack of honesty, forthrightness, and transparency regarding the proposed project. We are concerned that this will continue in future dealings with the developers as they proceed with the project.

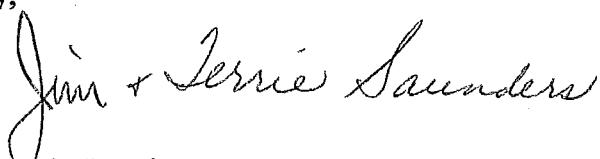
The Granville Assisted Living Facility, like other assisted living facilities, has very few or no residents who drive. (The Granville facility currently has no one driving.) An independent living complex—as the name suggests—would have residents who are independent and, therefore, still driving. An assisted living facility would add very little traffic to the neighborhood whereas the independent living complexes would add considerable traffic to an area that already has traffic issues as noted previously.

We urge you to consider our neighborhood of Crestview Heights as you make your decisions regarding the rezoning of this property and the proposal of the developers. We are an established neighborhood of modest income residents who were told by real estate agents that the property in question could never be sold as it was part of the MUD pumping facility. Many of us bought our homes with that information in the forefront of our decision, thinking that we would have green-space near us as a buffer and barrier to the traffic noise on Harrison. We are now facing the possibility that our green-space will be replaced with buildings, concrete, and traffic noise--not only from Harrison Street but now from Gertrude Street as well.

We understand that we have lost our green-space and that it cannot be replaced; however, we ask you to consider the problems that would be created by the addition of 158 apartments in a neighborhood that is primarily single-family residential. With our concerns in mind, we respectfully request that you consider rezoning the area as single-family residential or at least insist that the developers adhere to their original proposal for an assisted living facility.

Sincerely,

Jim and Terrie Saunders

A handwritten signature in black ink that reads "Jim & Terrie Saunders". The signature is fluid and cursive, with "Jim" and "Terrie" on the first line and "Saunders" on the second line.

Marcus Baker

From: Mark Smith [msmith7610@yahoo.com]

Sent: Thursday, June 18, 2009 1:33 PM

To: Marcus Baker

Subject: 74th & Harrison Street Development

Marcus,

This e-mail is regarding the proposed plans for the property from 74th to 77th Street between Gertrude and Harrison Street. I understand that the original intention was to construct an Assisted Living Facility toward the east end. However, it has been brought to my attention that the revised plan is to construct an Independent Living Facility based on income for those above the age of 55. It was also explained that there will be a hearing tonight regarding the development of this land.

Is what I've stated in the above paragraph accurate information?

I am unable to attend the hearing scheduled for tonight. Please accept this e-mail as my concern for this development. I am in favor of the land being developed in the way it was originally proposed (Assisted Living Facility) and am opposed to the revised proposal (Independent Living Facility).

Sincerely,

Mark Smith
7610 Emilie St.
LaVista, NE 68128
402-321-5825

Brenda Gunn

From: Mary Alex
Sent: Tuesday, July 14, 2009 4:03 PM
To: Brenda Gunn
Subject: FW: Rezoning of Crestview Heights Lots 13 & 14 and the Proposed Harrison Heights Development

From: Abraham, Quinn [mailto:Quinn.Abraham@Kenexa.com]
Sent: Tuesday, July 14, 2009 2:23 PM
To: Brenda Carlisle; Mark Ellerbeck; Tony Gowan; Mayor; MCrawford@cityoflavista.org; Teri Quick; Kelly Sell; Ron Sheehan; Alan Ronan
Cc: qa7691@aol.com
Subject: Rezoning of Crestview Heights Lots 13 & 14 and the Proposed Harrison Heights Development

Dear Mayor and Council,

I am a resident of La Vista living at 7605 Gertrude Street directly across from the proposed rezoning and development. I want to express my concerns to the council and mayor regarding the rezoning of Crestview Heights Lots 13 & 14 and the proposed Harrison Heights development. I have been a resident of La Vista for 16 years and have been pleased with the sense of community, level of service and responsive government we have experienced over the years. The land directly across the street from my house has been zoned transitional agricultural since we moved into our house in 1993. I knew that someday this would change, however I did not count on it being zoned for high density residential and certainly did *not* think a portion of the land would be zoned commercial. Needless to say I am opposed to the commercial zoning designation as it sits directly across from my property. My issues with the high density residential senior living involves the height of the building, building materials being used, and the landscaping, or lack thereof being proposed. Reading the report done by the city planner I was very disappointed in the lack of concerns that he had regarding issues around the commercial development, traffic, and look of the development. I realize it is a balancing act when looking at the neighborhood vs. the developer but here it seemed he was very pro developer with little concern for the neighborhood.

I did attend both planning commission meeting and expressed my concerns to them. Below I have listed specifically what I told the planning board. The reason for the detailed e-mail is I will be unable to attend the July 21st council meeting as I will be out of town.

- 1) The commercial development proposed directly across from my property is not acceptable or compatible with the residential nature of the neighborhood. Even though there is commercial close by those areas are centered around major intersections where commercial development makes sense. Those commercial areas are currently suffering from vacancies and it does not seem to make sense to have more commercial space sitting empty in the area. I am also concerned that the rear of one of the proposed commercial buildings sits only 120 feet from my front door and roughly 80 feet from my property line. This is too close and would surely impact property values. From my front yard I will be exposed to three commercial building and a large parking lot with lights which begs the question, would you want this across the street from your house? I'm guessing the answer would be no, so why should we in Crestview Heights suffer this fate. The developer is also proposing only the minimum of what La Vista requires for landscaping. If the commercial zoning is to be successful the council should require better screening from this area then just the minimum and a guarantee that all but a few of the mature

trees be removed . These trees are our only buffer to the property and Harrison Street. This proposed development does not fit into the neighborhood and I oppose any portion of the property being zoned commercial.

- 2) The proposed three story senior living apartment building is not acceptable. In a neighborhood setting these would tower over the neighborhood even with some of the building being below grade. These buildings are too tall for the neighborhood and the rezoning to multifamily should be contingent on the building being no more than two stories. The developer will tell you, as he did at the planning board meeting, that the building will be only 6 feet above grade. That is if you are looking at it straight on, not from the side as will be the view from my property. I will have a full three story view which, according to the developer, would be allowed under the current zoning code. The approval of the zoning needs to be contingent on it being a max. of two stories. There is also a concern around how these buildings will look and what materials will be used. The proposal shows almost all vinyl siding and little in architectural features. There needs to be more brick and variances in the roof line etc. Apartments in other areas of the city, such as the recently approved complex in Cimarron Woods had to have these features, why not in Crestview Heights as well.
- 3) Traffic is also a concern. Harrison Street will only have one right in right out access point while there will be four access points off of Gertrude. We were told traffic would not increase significantly but that is hard to believe with the number of entrances/exits as well as the limited access to Harrison. A full access intersection into this development is much more desirable then what is proposed. Some traffic already speeds on Gertrude Street as there is nothing to slow them down between Harrison and 74th street. Please consider increasing access off of Harrison Street and reducing the number off of Gertrude Street.

Thank you for your time and I hope you consider these concerns when making your decision.

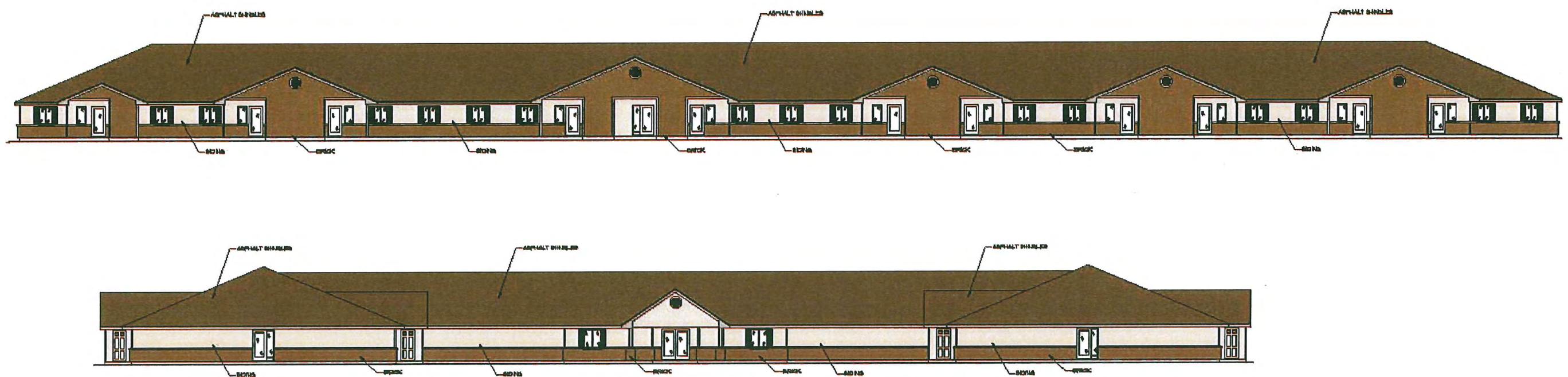
Sincerely,

Quinn Abraham

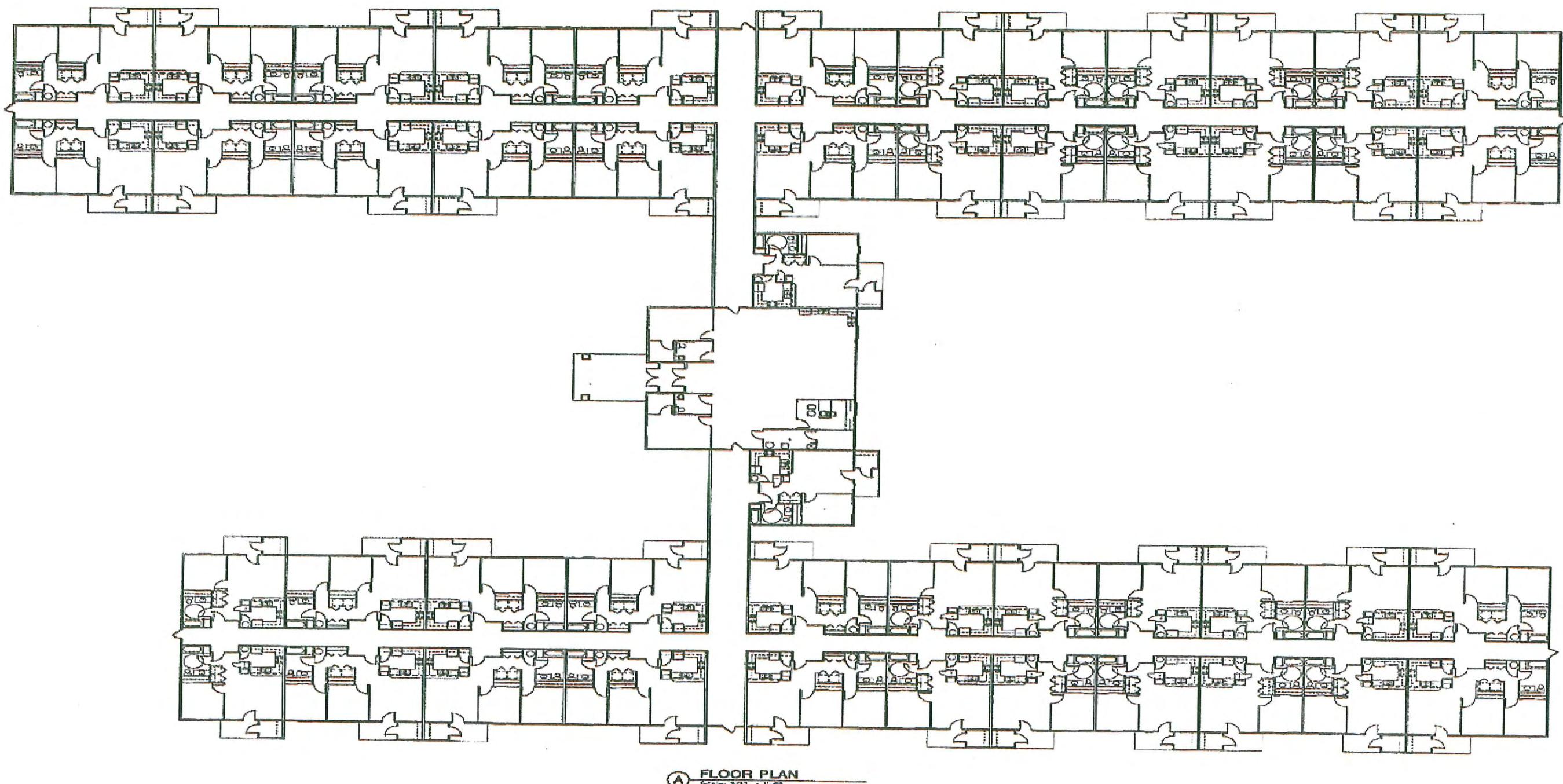
Proposed Project

Lot 5

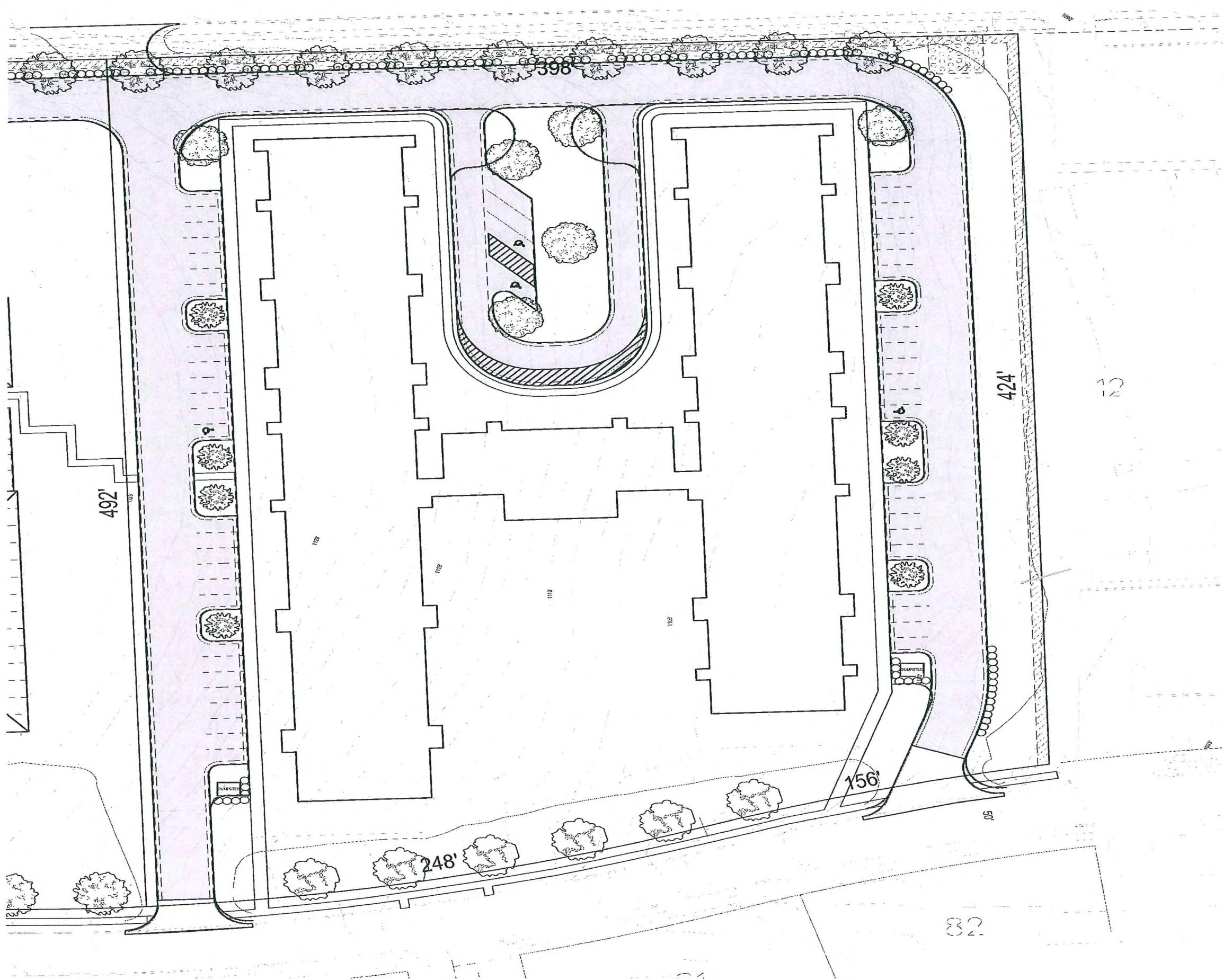
The Orchards at Wildewood



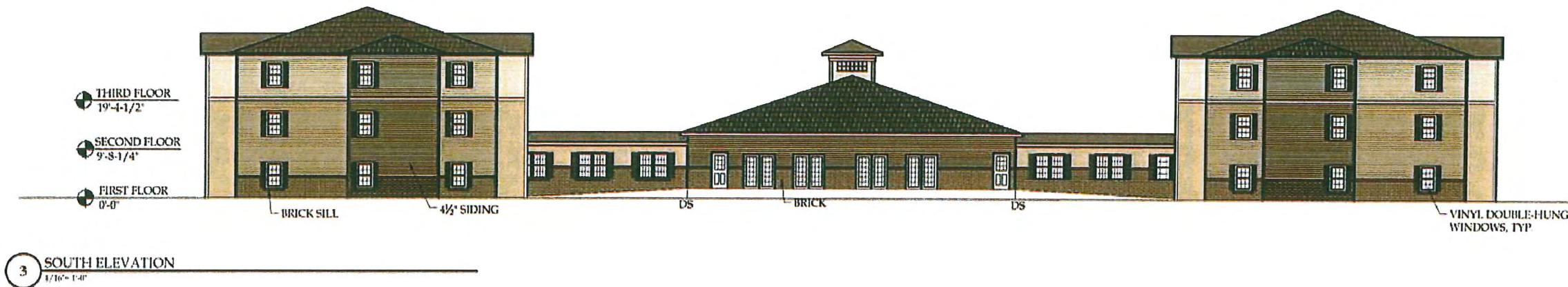
Lot 5 Floor Plan



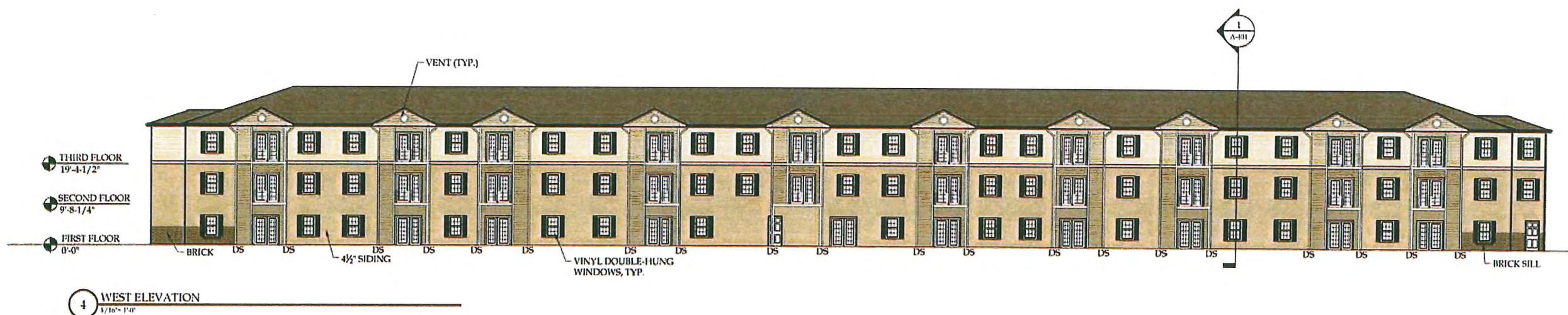
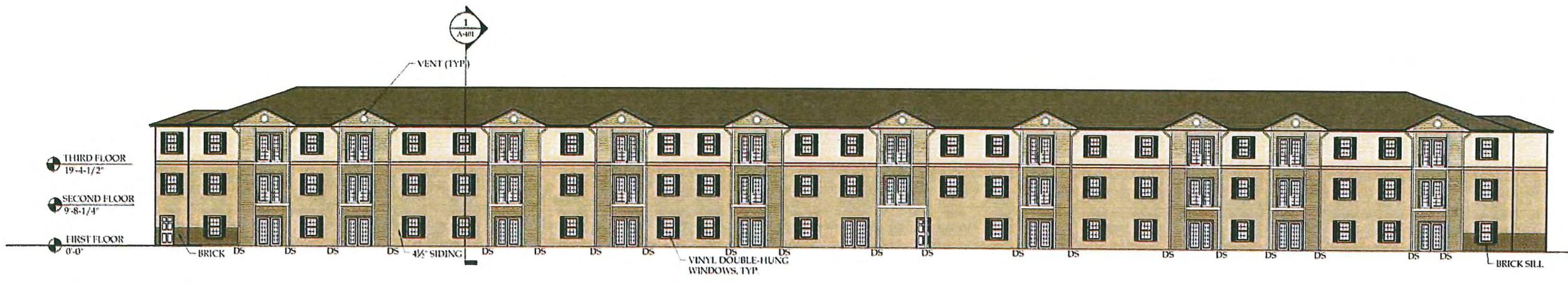
Lot 5 Site Plan



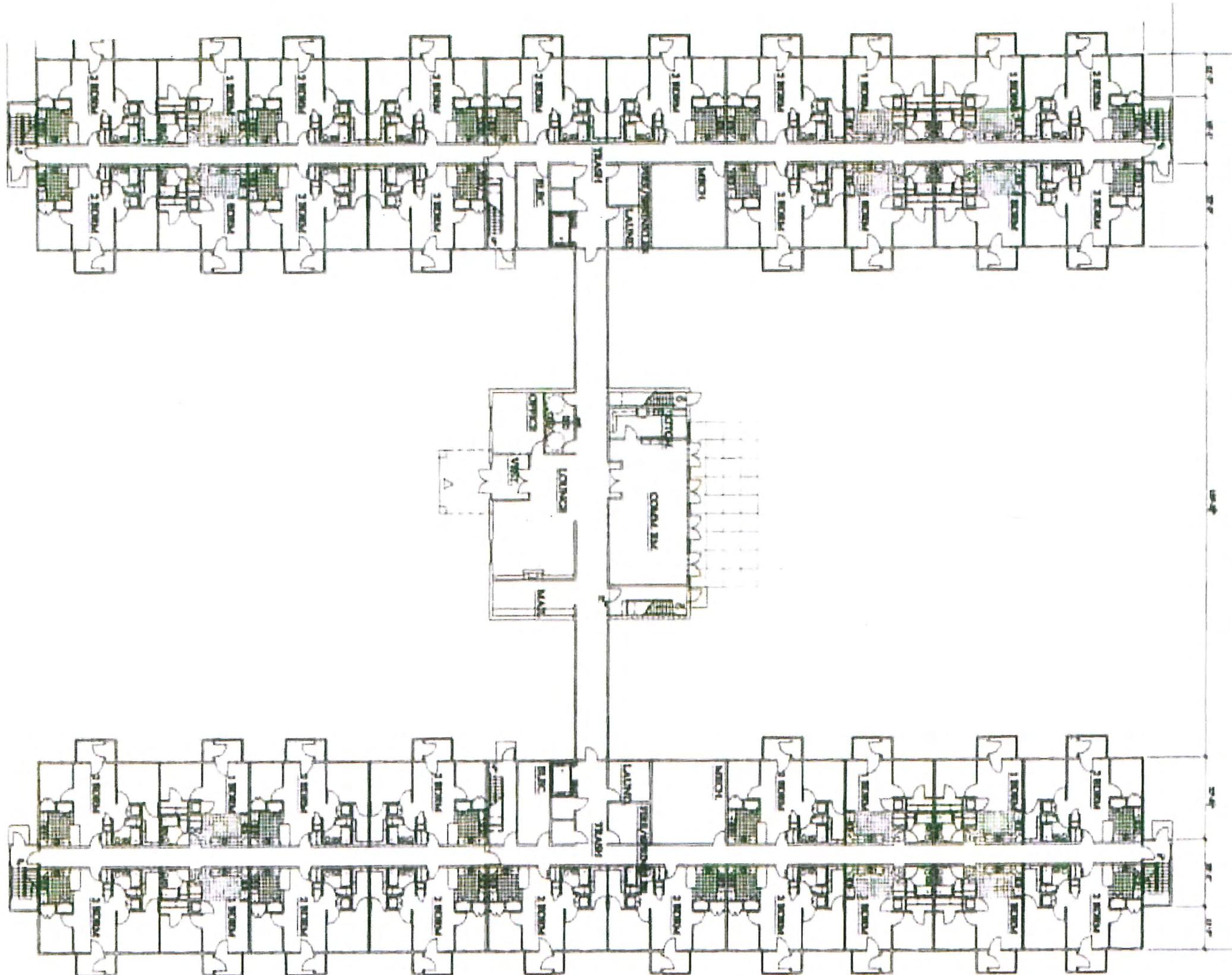
Lot 4 – Market-Rate Senior Housing



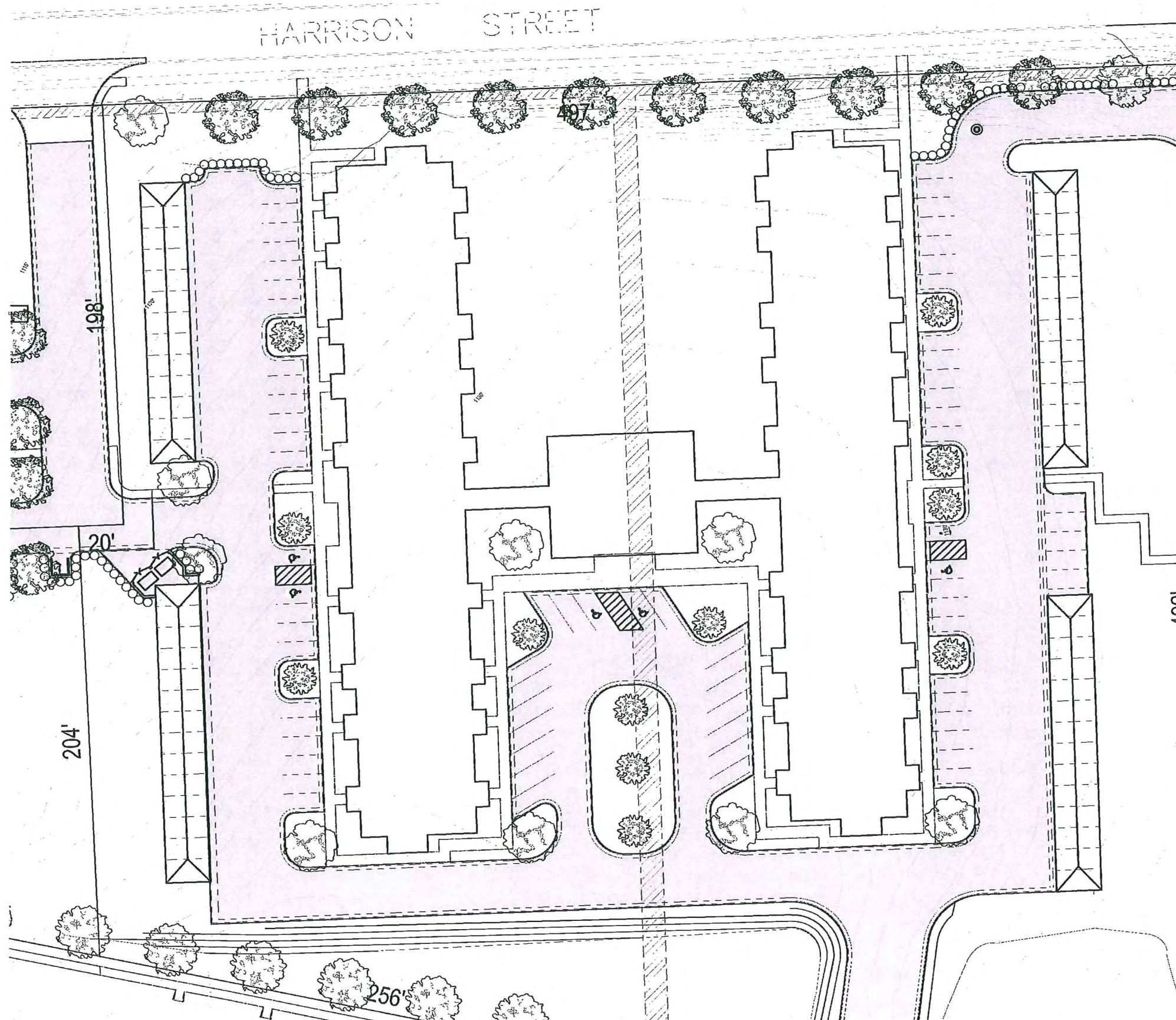
Lot 4 – Market-Rate Senior Housing



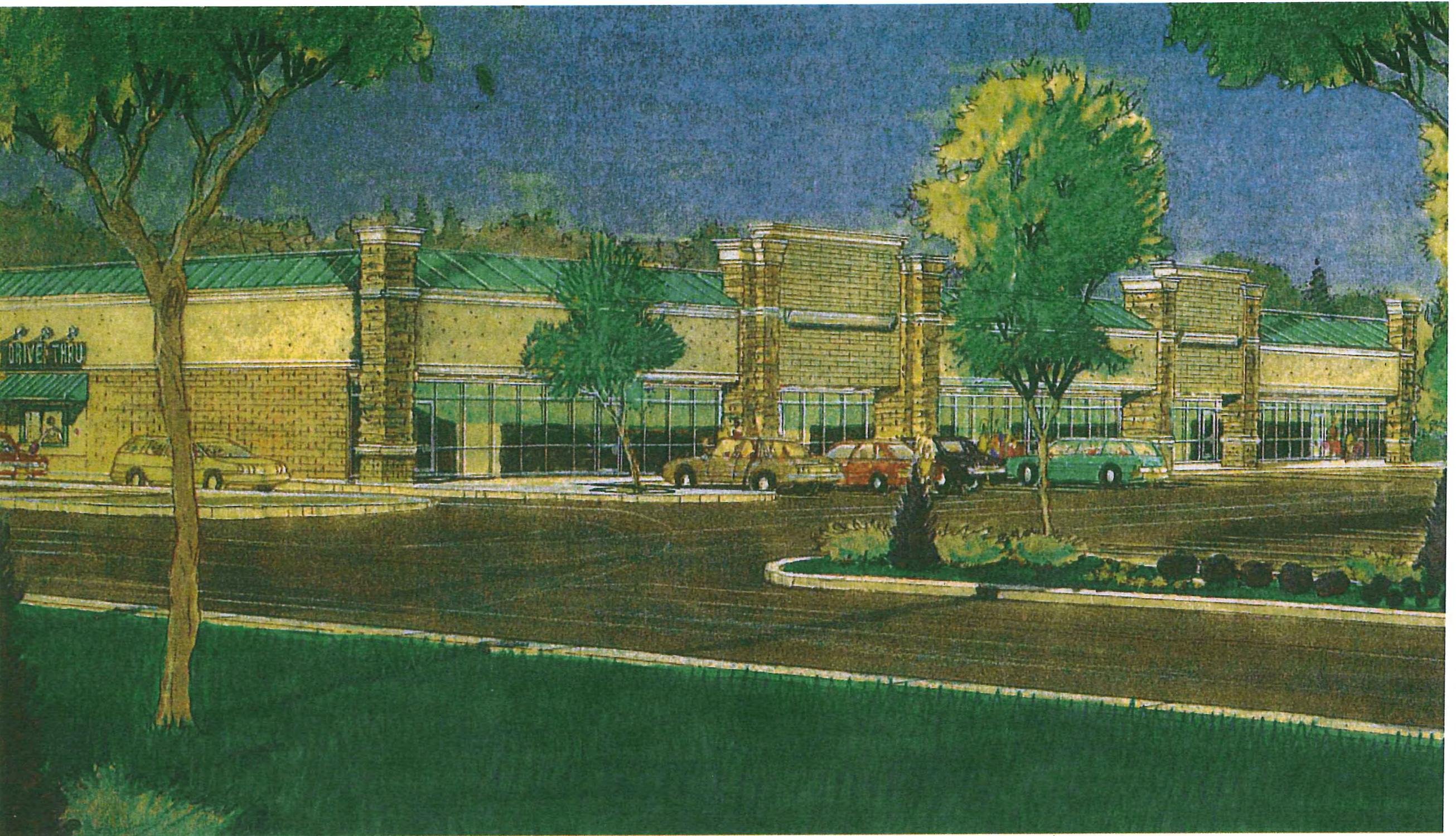
Lot 4 – Market-Rate Senior Housing Three Levels



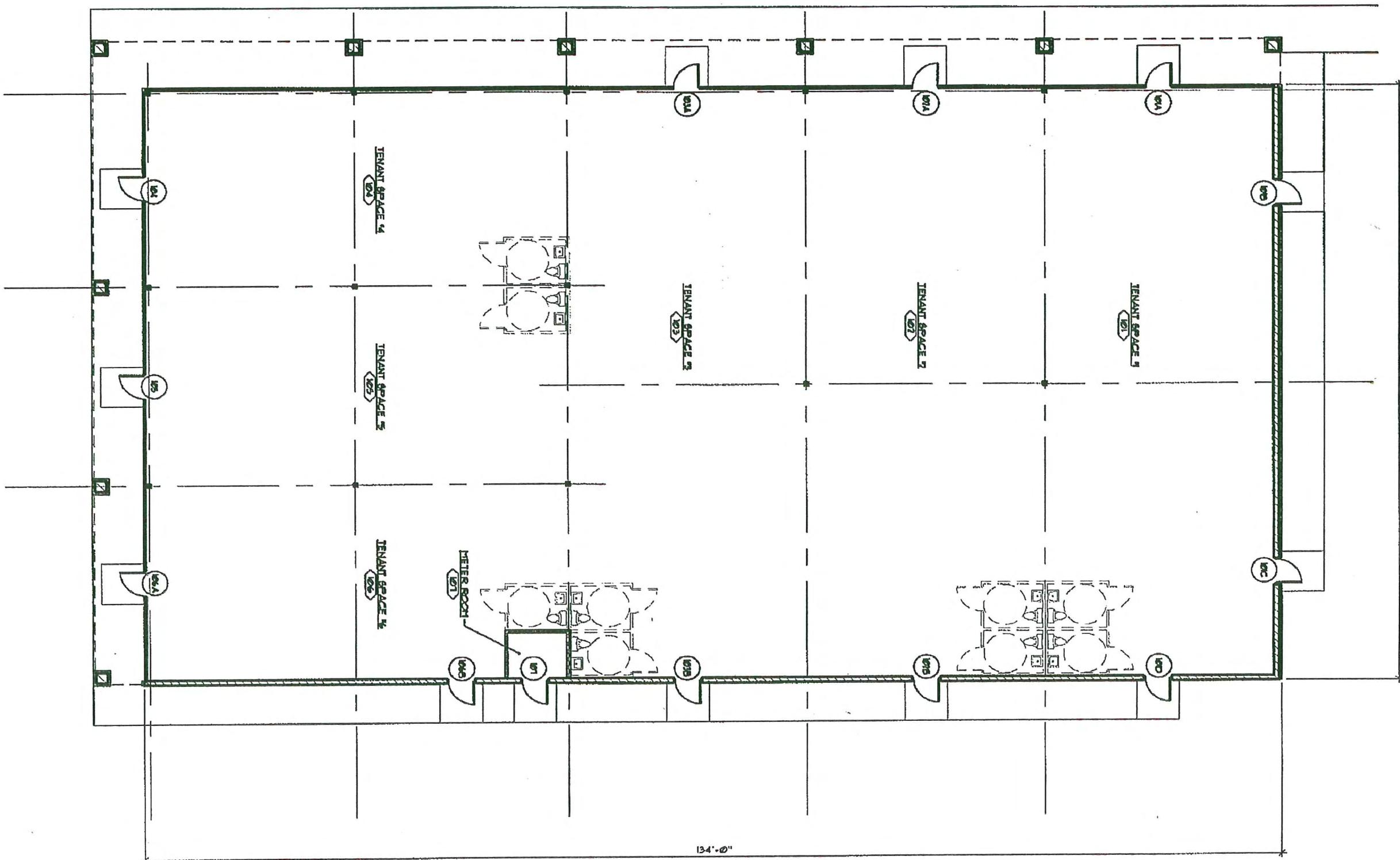
Lot 4 Site Plan



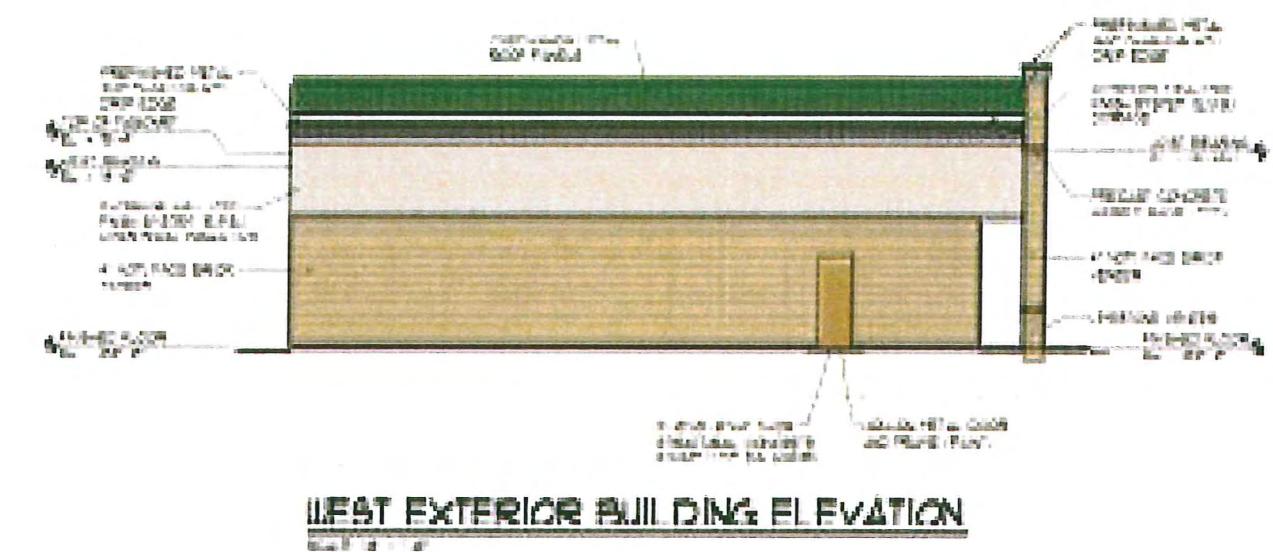
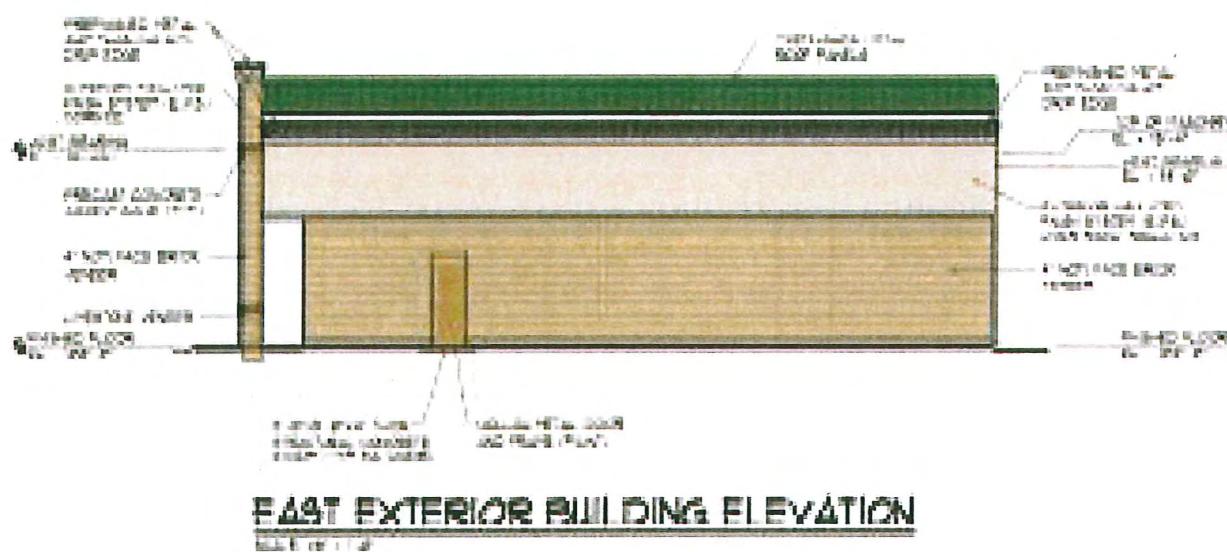
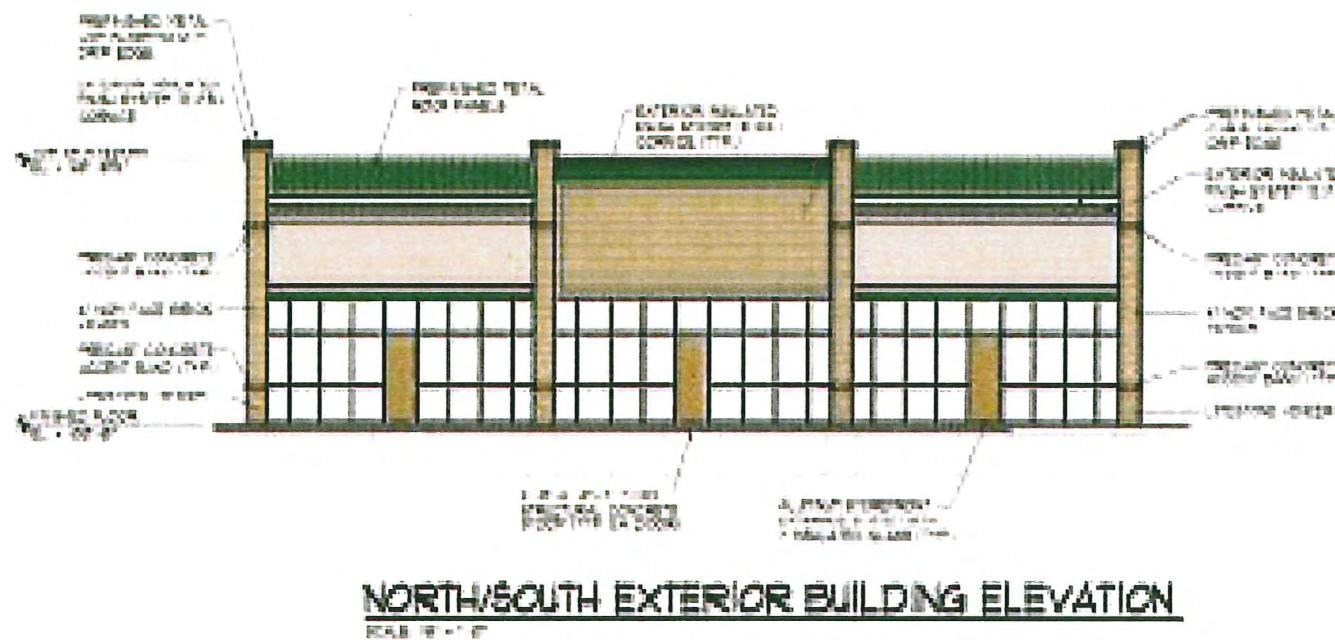
Lot 1 Rendering



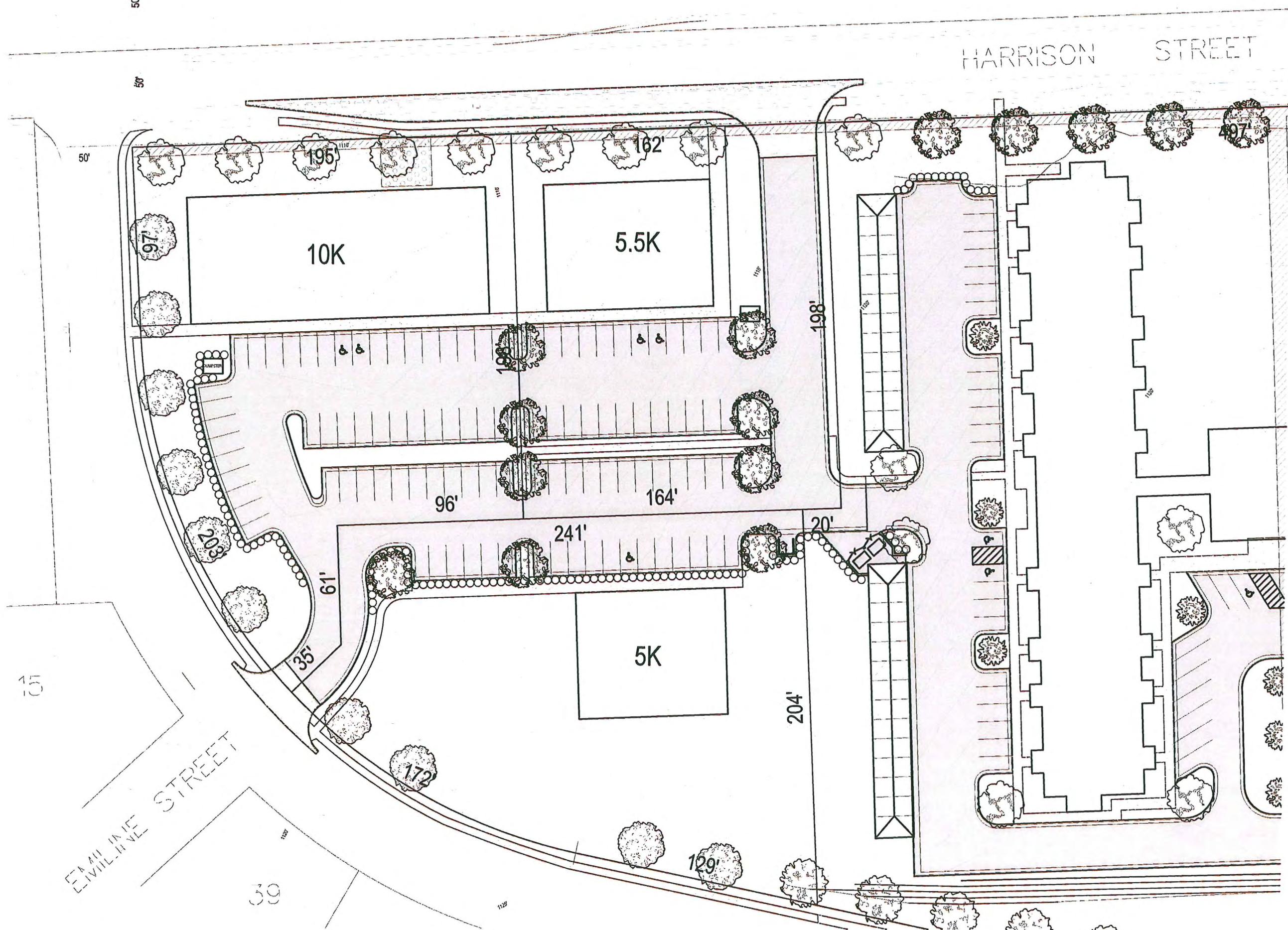
Lot 1 Floor Plan



Lot 2 Elevations



Lots 1, 2 & 3 Site Plan



CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
JULY 21, 2009 AGENDA

Subject:	Type:	Submitted By:
NDOR PROGRAM AGREEMENT – 108 TH & CHANDLER ROAD SAFETY IMPROVEMENTS	◆ RESOLUTION ORDINANCE RECEIVE/FILE	JOE SOUCIE PUBLIC WORKS DIRECTOR

SYNOPSIS

A resolution has been prepared authorizing the Mayor to execute a Program Agreement with the Nebraska Department of Roads (NDOR) for safety improvements at the intersection of 108th & Chandler Road. The project has been designated as being eligible for American Recovery and Reinvestment Act (ARRA) Funds by the Department of transportation, Federal Highway Administration.

FISCAL IMPACT

The proposed project is included in the City of La Vista FY 2008/09 Capital Improvement Plan (CIP). The current project cost estimate is \$33,500. The project will be reimbursed for all expenses related to construction engineering and construction. Estimated preliminary engineering is estimated at \$5,000 and is not reimbursable.

RECOMMENDATION

Approval

BACKGROUND

The City of La Vista submitted the 108th & Chandler Intersection Safety Improvement project for ARRA funding in March of 2009 and was subsequently chosen. The project consists of installing warning lights on 108th Street in advance of the Chandler Road intersection to warn drivers that emergency vehicles are entering 108th Street from the District II Fire Station.

RESOLUTION NO._____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE NEBRASKA DEPARTMENT OF ROADS (NDOR) FOR SAFETY IMPROVEMENTS AT THE INTERSECTION OF 108TH & CHANDLER ROAD IN LA VISTA.

WHEREAS, the City Council of the City of La Vista has determined that said safety improvements at the intersection of 108th and Chandler Road are necessary; and

WHEREAS, the FY 2008/09 Capital Improvement Plan includes safety improvements at the intersection of 108th & Chandler Road; and

WHEREAS, the project has been designated as being eligible for American Recovery and Reinvestment Act (ARRA) Funds by the Department of Transportation, Federal Highway Administration; and

WHEREAS, the State agrees to cooperate to the end of obtaining Federal approval of the proposed work and Federal Funds for the construction of the proposed improvement; and

WHEREAS, the City Engineer will prepare necessary plans and specifications for the project.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and City Council of La Vista, Nebraska, authorize the Mayor and City Clerk to enter into an agreement with the Nebraska Department of Roads for safety improvements at the intersection of 108th & Chandler Road in La Vista.

PASSED AND APPROVED THIS 21ST DAY OF JULY 2009

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

AGREEMENT

CITY OF LA VISTA
STATE OF NEBRASKA, DEPARTMENT OF ROADS
PROJECT NO. MAPA-5011(13), STATE CONTROL NO. 22397
INTERSECTION OF 108TH AND CHANDLER ROAD
SAFETY IMPROVEMENTS

THIS AGREEMENT, made and entered into by and between the City of La Vista, hereinafter referred to as the "City", and the State of Nebraska, Department of Roads, hereinafter referred to as the "State",

WITNESSETH:

WHEREAS, certain streets in the City have been designated as being eligible for American Recovery and Reinvestment Act (ARRA) Funds by the Department of Transportation, Federal Highway Administration, hereinafter called the FHWA, in compliance with Federal laws pertaining thereto, and

WHEREAS, ARRA Funds have been made available by Title 23 of the United States Code, providing for improvements on eligible City Streets, and

WHEREAS, the City certifies that it will request and use funds provided by ARRA and that the funds will be used to create jobs and promote economic growth, and certifies that this project meets the requirement of ARRA, and

WHEREAS, regulations for implementing the provisions of the above mentioned act provide that the Federal share of the cost of those projects will be paid only to the State, and

WHEREAS, the regulations further permit the use of funds other than State funds in matching any required Federal Funds for the improvements of those streets, and

WHEREAS, the State is willing to cooperate to the end of obtaining Federal approval of the proposed work and Federal Funds for the construction of the proposed improvement, with the understanding that no State Funds are to be expended on this project, and

WHEREAS, The City is to provide a qualified, full time public employee to be in Responsible Charge (RC) of the project at all times, and

WHEREAS, the State's responsibility is to provide quality assurance and project oversight to ensure that the project is designed, constructed and managed according to Federal rules and regulations. The State will notify the City when Federal funding will be withheld or lost, and

WHEREAS, if the City is to receive Federal participation for any portion of the work on the proposed project, it is necessary all phases of work comply with Federal requirements and procedures, and

WHEREAS, the State shall supervise the contract letting, and

WHEREAS, this project has been designated as a full Federal oversight project, and
WHEREAS, Federal Regulations provide that the City shall not profit or otherwise gain
from local property assessments that exceed the City's share of project costs, and

WHEREAS, the funding for the project under this agreement, includes pass-through
monies from the Federal Highway Administration (FHWA). If a non-Federal entity expends
\$500,000 or more in total Federal awards in a fiscal year, then the A-133 audit is required as
explained further in this agreement, and

WHEREAS, the City desires that this project as shown on attached EXHIBIT "A" be
constructed under the designation of Project No. MAPA-5011(13), as evidenced by the
Resolution of the City dated the _____ day of _____, 2009, attached
as EXHIBIT "B" and made a part of this agreement, and

WHEREAS, the total cost of the project which includes: preliminary engineering, final
design, Right-of-Way, nonbetterment utility rehabilitation, construction and construction
engineering is currently estimated to be \$33,500, and

WHEREAS, the project is described as follows:

At the intersection of 108th and Chandler Road warning lights will be installed.

NOW THEREFORE, in consideration of these facts, the City and State agree as follows:

SECTION 1. This project has been designated as full Federal oversight and the State shall
present this project to the FHWA for its approval, if necessary.

SECTION 2. The City further certified that this project meets the requirements of ARRA as
follows:

1. The investment has received the full review and vetting required by law.
2. The City accepts responsibility that this infrastructure investment is an appropriate
use of taxpayer dollars.
3. This investment will be used for MAPA-5011(13), is included in the Statewide
Transportation Plan, and has an overall cost estimate of \$33,500, of which \$30,000
will be the maximum ARRA payment amount.
4. The City agrees to ARRA reporting requirements and agrees that the State will not
reimburse the City with Federal or State funds unless all ARRA reporting
requirements are met.

SECTION 3. The City understands that payment for the costs of this project, whether they be
services, engineering, Right-of-Way, utilities, material or otherwise, are the sole responsibility of
the City where Federal participation is not allowable or available. Therefore, where the Federal
government refuses to participate in the project or any portion of the project the City is

responsible for full project payment with no cost or expense to the State in the project or portion of the project. Should the project be abandoned before completion, the City shall pay all costs incurred by the State prior to such abandonment.

The City shall maintain all correspondence files, books, documents, papers, field notes, quantity tickets, accounting records and other evidence pertaining to costs incurred and shall make such material available at its office at all reasonable times during the contract period and for three years from the date of final payment under this agreement; such records must be available for inspection by the State and the FHWA or any authorized representatives of the Federal government, and the City shall furnish copies to those mentioned in this section when requested to do so.

SECTION 4. The City shall have on file with the State an acceptable drug-free workplace policy.

SECTION 5. Because the City is to receive Federal Funds for any part of this project, the City shall perform the services for all phases of work, including, but not limited to preliminary engineering, environmental studies, acquisition of Right-of-Way, construction (includes construction engineering), etc., according to Federal procedures and requirements as well as the current version of the Local Public Agencies Guidelines Manual for Federal-Aid Projects. Although Federal Funds may be allocated to the project, all phases or certain phases of work will become ineligible for Federal Funds if Federal procedures and requirements are not met.

Prior to beginning any phase of work on the proposed project, the City shall contact the State's Local Projects Division Urban Engineer for direction and assistance to ensure that all project work will be accomplished according to Federal procedures and requirements.

SECTION 6. If the City performs any part of the work on this project itself, the City shall abide by the provisions of the Nebraska Fair Employment Practices Act as provided by Neb.Rev.Stat. §48-1101, through 48-1126, and all regulations relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49 CFR, Parts 21 and 27 as set forth in the DISCRIMINATION CLAUSES Section of this agreement.

SECTION 7. The funding for the project under this agreement includes pass-through Federal monies from the FHWA. According to the Single Audit Act Amendments of 1996 (signed into law by President Clinton on July 5, 1996) and the implementing regulations contained in OBM Circular A-133, the A-133 Audit is required if the non-Federal entity expends \$500,000 or more in total Federal awards in a fiscal year. Non-Federal entity means State and local governments and non-profit organizations.

The City shall have its finance officer or auditor, review the situation to determine what the City must do to comply with this Federal mandate. If applicable, the expenditures related to the FHWA should be shown in the Supplementary Schedule of Expenditures of the Federal Awards under U.S. Department of Transportation as a pass-through Nebraska Department of Roads, Federal CFDA Number 20.205. If an A-133 Audit is performed, the City shall send the audit report to the Nebraska Department of Roads, Highway Audits Manager, P.O. Box 94759, Lincoln, NE 68509-4759.

SECTION 8. The City shall assign a person to be in RC of the project at all times. The City shall provide the State with current project schedules, submittal dates and critical milestone dates. The City shall notify and keep the State informed on all project issues. The City shall notify the State of all project coordination meetings. The State must be invited to the project environmental scoping meeting, Plan-In-Hand field review, public meetings/hearings, preconstruction meeting and the final inspection.

SECTION 9. The total cost of the project which includes: preliminary engineering, final design, Right-of-Way, nonbetterment utility rehabilitation, construction and construction engineering is currently estimated to be \$33,500. The Federal ARRA Share of the project is to be 100 percent of the awarded construction amount, construction engineering costs (capped at 13 percent of the awarded amount) and flat fee of \$2,500 for ARRA audits is currently estimated to be \$30,000, which is also the maximum reimbursement amount. The City's share of the project is to be 100 percent of all actual eligible costs of preliminary engineering and Right-of-Way and 100 percent of all costs over the capped construction and construction engineering amounts which is currently estimated to be \$3,500. Progress billings may be submitted no more often than monthly. The State will reimburse the contractor using SiteManager. The State will invoice the City for any costs over the maximum ARRA reimbursement amount.

The final settlement between the State and the City will be made after the State accepts the project and the final costs have been determined by the State. The amount of the final settlement between the State and the City will be the difference between:

- (1) (a) the net expenditure by the City for actual cost items
(b) Plus the value of work performed by the City based on agreed prices
(c) Plus cash advances by the City to the State.
(d) Less previous payments by the State to the City AND,
- (2) The City share of the project cost.

If (1) is greater than (2) the State will pay to the City the difference within thirty days after that determination has been made. If (2) is greater than (1) the State will bill the City for the difference. The City agrees to pay the State the amount of such bill within thirty days of its receipt.

Costs incurred by the State with respect to the entire project must be considered as a part of the cost of the project to be paid out of City and Federal funds. The State may, at its discretion, initiate progress invoices for costs incurred by the State during the progression of the project and the City agrees to pay such invoices within thirty days of their receipt. The City's share of the total project cost will be all costs not paid for by Federal funds.

The criteria contained in Part 31 of the Federal Acquisition Regulations System (48 CFR 31) will be applied to determine the allowability of costs incurred by the City under this agreement.

Final payment consisting of the retention withheld minus the State incurred expenses will not be reimbursed to the City until the City has filed a completed State DR Form 299 with the State, and both the City and the State have signed it. Once the DR Form 299 is signed by the City, no reimbursement requests will be accepted by the State and the FHWA.

SECTION 10. The parties agree that preliminary engineering, which includes project design, plan development, environmental studies and final design, will be accomplished by the City or a State certified Consultant selected by the City. If a Consultant is to be selected, the method of procurement and evaluation must follow all guidelines and requirements outlined in the State's Federal Aid Guidelines Manual for LPA's. That State will review and approve the Request for Proposals prior to advertising. Any PE work performed prior to Federal authorization and receipt of a Notice to Proceed will not be eligible for Federal Aid.

It is understood by the parties that the State will rely on the professional performance and ability of the City or their Consultant. Any examination by the State, or acceptance or use of the work product of the City or their consultant will not be considered to be a full and comprehensive examination and will not be considered an approval of the work product of the City or their Consultant which would relieve the City from any liability or expense that would be connected with the City's sole responsibility for the propriety and integrity of the professional work to be accomplished by the City.

SECTION 11. The City or its Consultant shall design the project according to the current AASHTO Policy on Geometric Design of Highways and Streets, the Nebraska Minimum Design Standards of the Board of Public Roads Classifications and Standards and to the Americans with Disabilities Act (ADA) Accessibility Guidelines. All plans, specifications and bid proposals.

permits and any other contract documents must be submitted to the State prior to any bid letting by the State. Any deviations from the above publications must be approved by the State.

SECTION 12. ENVIRONMENTAL RESPONSIBILITY

The City shall be responsible to complete any Federally required environmental actions, commitments, and documents for this project, and receive approval by the State and the FHWA **prior** to proceeding with appraising property, acquiring any Right-of-Way, or final design for the project.

When it is determined that a public hearing is a Federal requirement for the project, the City shall offer an opportunity for a location or design hearing or combined location and design public hearing.

If a public hearing is required, the City shall contact the State's Public Hearing Officer (PHO) prior to doing any public hearing activity, so the PHO can advise the City of the proper procedures and policies for conducting the hearing. The City can contact the State's PHO by calling (402) 479-4871.

SECTION 13. The City shall be responsible for preparing and executing any railroad agreement or agreements required for this project. The City shall send a copy of the executed railroad agreements to the State prior to advertising the project for bids. Should the railroad agreement include work to be performed by the Railroad as part of the project, which is eligible for reimbursement, the City shall pay the Railroad and bill the State for reimbursement. The State will reimburse the City according to the payment section in this agreement.

SECTION 14. Any utility rehabilitations or installations made within the Right-of-Way on this project after execution of this agreement must be in accordance with the provisions of Federal-Aid Highway Policy Guide, 23 CFR 645A, "Utility Relocations, Adjustments and Reimbursement", and Federal-Aid Policy Guide, 23 CFR 645B, "Accommodation of Utilities" issued by the U.S. Department of Transportation, Federal Highway Administration, or a State approved Utility Accommodation Policy. In order to receive Federal-Aid Funds for this improvement, the City shall follow the current "Policy for Accommodating Utilities on State Highway Right-of-Way." Any work within the State Right-of-Way requires a permit. The City shall contact the State's District Engineer or Permits Officer to determine if a permit or permits is needed for the project and to make application for those permits if necessary.

All nonbetterment municipally owned and operated utility rehabilitation costs within the corporate limits of the city will become a project cost, but that outside the corporate limits, only the nonbetterment portion of the rehabilitation costs of facilities currently occupying private Right-of-Way will be reimbursed. Further, there will be no Federal reimbursement for private or

nonmunicipally owned and operated utilities if they are located on public Right-of-Way, however, nonbetterment costs of privately owned and operated utilities will be reimbursed if they exist on privately owned Right-of-Way and it is necessary to rehabilitate the utilities due to this project. All such reimbursements will be based on items and estimates submitted by the utility and approved by the City and State. Should this project necessitate the nonbetterment rehabilitation of any privately owned and operated utilities, then the City shall send the State an estimate of those nonbetterment utility rehabilitation costs prior to the work being done. The City shall pay for utility nonbetterment rehabilitation and then bill the State for those eligible reimbursement costs. All reimbursements will be based on the actual costs of material, services and labor. This will be subject to audit, if the State deems that one is necessary.

SECTION 15. The Federal law governing acquisition and relocation on Federally assisted projects is Public Law 91-646, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, commonly called just the Uniform Act. The City shall comply with the Uniform Act, and the State's Right-of-Way Acquisition guide for new LPA's.

The Uniform Act applies whenever Federal dollars are used in any phase of a project, such as planning, engineering, environmental studies, or construction. **The Uniform Act must be followed even if there is NO Federal funding in the Right-of-Way phase.** The State's Relocation Assistance Act, Neb. Rev. Stat. 76-214 through 76-1238 applies on all projects.

Prior to beginning Right-of-Way appraisals and acquisition, the City shall submit to the Local Projects Division Urban Engineer Right-of-Way plans, legal descriptions and an estimate for review and approval. If acceptable, the State will issue the City a Notice-to-Proceed with the Right-of-Way work phase.

The City shall present to the State, a Right-of-Way Certificate that certifies the City has complied with the Uniform Act requirements and that the project is ready for construction. The State will grant the City authorization to proceed with the construction phase of the project, if the documentation submitted by the City supports the Right-of-Way Certificate.

SECTION 16. The City at no cost to the project, shall clear the present Right-of-Way of this project of all advertising signs. The City at no cost to the project, shall clear any other privately owned facility or thing that may interfere with the construction, maintenance and operation of the improvement planned in this project, and keep the old and new Right-of-Way free of future encroachments, except those authorized by permit.

SECTION 17. The City shall locate and reference or have located and referenced all section corners, quarter section corners and subdivision lot corners required for construction of the proposed project in accordance with Section 39-1708 et. seq., R.R.S. 1943 as amended.

SECTION 18. The Federal share of this project must be reduced by any project specific local property assessments that exceed the appropriate local share on this project. This is subject to State review.

SECTION 19. The City shall certify after accomplishment, that any Right-of-Way for this improvement not donated in compliance with FHWA guidelines will be acquired in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended, 49 CFR 24, and the NDOR Right-of-Way Manual as approved by FHWA.

SECTION 20. Prior to advertising the project for bids, the City shall submit a Right-of-Way Certificate and the final plans package (100 percent full size plans, specifications, summary of quantity sheets, status of utilities, environmental permits and other PS&E required documents) to the State's Local Projects Division Urban Engineer for review. The State and City agree the State is to advertise and conduct a letting and receive bids for the City on the contemplated improvement. The selection of the lowest responsible bidder and the awarding of a contract or contracts must be concurred in by the City prior to State award. The City shall sign the Contract or Contracts.

SECTION 21. The State and City agree that the construction engineering, which is an eligible project expense and which includes construction management, staking, inspection and field testing, will be accomplished by City forces or a State Certified Consultant selected by the City.

The City agrees, if a Consultant is to be selected, that the method of procurement and evaluation and the resulting agreement between the Consultant and the City must conform to the State's standard practices and will be subject to State review and concurrence prior to agreement execution between the City and the Consultant. **Any CE work performed prior to Federal authorization and receipt of a NTP will not be eligible for Federal funding.**

The City shall provide a Project Manager to oversee the project and to ensure that the construction engineering performed by City forces or the City's Consultant comply with requirements for Federal funding. The Project Manager's services include, but are not limited to, arranging the preconstruction conference, keeping the State's District Construction Representative informed of project start and ending dates, and other scheduled construction milestones, and project management as required and preparing contractor change orders and supplemental agreements.

The inspection, sampling and testing of all materials must be done in accordance with the current State of Nebraska Standard Specifications for Highway Construction, the State Materials Sampling Guide, Quality Assurance Program for Construction, and the State Standard Methods of Tests (www.transportation.nebraska.gov) or applicable AASHTO or ASTM

procedures. The City shall provide adequate quality control, construction administration on the project and will be responsible for the sampling and delivery of project materials for testing to a qualified laboratory. In all cases, the State will provide a State District Construction Representative designated by the State on a part-time basis, who will inspect the project, perform quality assurance, and ensure that the City is in compliance with the contract, plans, specifications, scope of work, regulations, statutes, etc., in order that Federal Funds may be expended on the project. Upon project completion, the City shall complete and sign a State DR Form 299, "Notification of Project Completion and Materials Certification" and provide it to the State District Construction Representative for further action.

The City by signing DR Form 299 certifies that all sampling and test results of materials used on the project, manufacturer's certificates of compliance and manufacturer's certified test reports meet contract requirements and are on file with the City and the City shall make them available for inspection to the State and the FHWA or their authorized representatives when requested in writing to do so.

The State District Construction Representative assigned to the project will conduct a final review of the project and will determine if the project is acceptable. If the State District Construction Representative determines the project is acceptable, the State District Construction Representative will sign the DR Form 299 and send it to the State District Engineer for signature. The State District Engineer will forward the form to the State's Local Projects Division Urban Engineer for signing, project closeout and final payment. If the State District Construction Representative determines the project is not acceptable, the State District Construction Representative will notify the City's Project Manager in writing of what needs to be done to bring the project into compliance for acceptability before the State District Construction Representative will sign the DR Form 299 and recommend the project for closeout. The City shall contact the State's District Engineer for State District Construction Representative assignment. It is understood that any construction engineering services furnished by the State will be part of the cost of the project and the State's expenses will be included as costs of the project, as specified in the reimbursement section of this agreement.

SECTION 22. Changes to the City streets which affect the function or operation of the improvement made either during construction or after the project is completed, will require prior approval of the State. Requests for changes during project construction must be made to the State Representative who will then forward it to the Local Projects Division Urban Engineer for final approval.

Upon project completion and final review, the City shall send one set of "As-Built" plans to the State's Local Projects Division Urban Engineer and one set to the State's District Engineer.

SECTION 23. Upon project completion, the City shall maintain the project at its own expense, and agrees to make provisions each year for the maintenance costs involved in properly maintaining this facility. The City shall also be responsible for any required environmental commitments and monitoring after the construction of the project. The City will release and hold harmless the State and FHWA from any suits brought against the State arising out of the City's construction and maintenance.

SECTION 24. Traffic control during project construction must conform with the Manual on Uniform Traffic Control Devices. Before final acceptance of the project by the State, all signing and marking must be in conformance with the current Manual on Uniform Traffic Control Devices.

SECTION 25. DISADVANTAGED BUSINESS ENTERPRISES

A. Policy

The City shall ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal Funds under this agreement. Consequently, the disadvantaged business requirements of 49 CFR Part 26 are hereby made a part of and incorporated by this reference into this agreement.

B. Disadvantaged Business Enterprises Obligation

The City and State shall ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal Funds provided under this agreement. In this regard, the City shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. The City shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of FHWA assisted contracts.

The City, acting as a subrecipient of Federal-aid funds on this project shall adopt the disadvantaged business enterprise program of the State for the Federal-aid contracts the City enters into on this project.

Failure of the City to carry out the requirements set forth above shall constitute breach of contract and, after the notification of the FHWA, may result in termination of the agreement or contract by the State or such remedy as the State deems appropriate.

SECTION 26. NONDISCRIMINATION CLAUSES

During the performance of this agreement, the City, for itself, its assignees and successors in interest agrees as follows:

- (1) Compliance with Regulations: The City shall comply with the Regulations of the Department of Transportation relative to nondiscrimination in Federally assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Parts 21 and 27, hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this agreement.
- (2) Nondiscrimination: The City, with regard to the work performed by it after award and prior to completion of the contract work, shall not discriminate on the basis of disability, race, color, sex, religion or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The City shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix "A," "B," and "C" of Part 21 of the Regulations.
- (3) Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the City for work to be performed under a subcontract, including procurements of materials or equipment, each potential subcontractor or supplier shall be notified by the City of the City's obligations under this agreement and the Regulations relative to nondiscrimination on the basis of disability, race, color, sex, religion or national origin.
- (4) Information and Reports: The City shall provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this

information, the City shall so certify to the State, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of the City's noncompliance with the nondiscrimination provisions of this agreement, the State will impose such contract sanctions as it or the FHWA may determine to be appropriate, including but not limited to,

- (a) withholding of payments to the City under this agreement until the City complies, and/or
- (b) cancellation, termination or suspension of this agreement, in whole or in part.

(6) Incorporation of Provisions: The City shall include the provisions of paragraph (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, order, or instructions issued pursuant thereto. The City shall take such action with respect to any subcontract or procurement as the State or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the City may request the State to enter into such litigation to protect the interests of the State, and in addition, the City may request the United States to enter into such litigation to protect the interests of the United States.

SECTION 27. It is mutually agreed that the final approval of the project will be made by the State and that final project close-out and final payment cannot be made to the City until the project has been approved by the State.

IN WITNESS WHEREOF, the City and State hereto have caused these presents to be executed by their proper officials thereunto duly authorized as of the dates below indicated.

EXECUTED by the City this _____ day of _____, 2009.

WITNESS:
Pamela A. Buethe

CITY OF LA VISTA
Douglas Kindig

City Clerk

Mayor

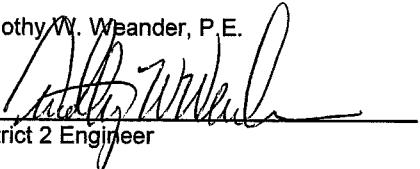
EXECUTED by the State this _____ day of _____, 2009.

STATE OF NEBRASKA
DEPARTMENT OF ROADS
Jim Wilkinson, P.E.

Local Projects Division Engineer

RECOMMENDED:

Timothy W. Weander, P.E.



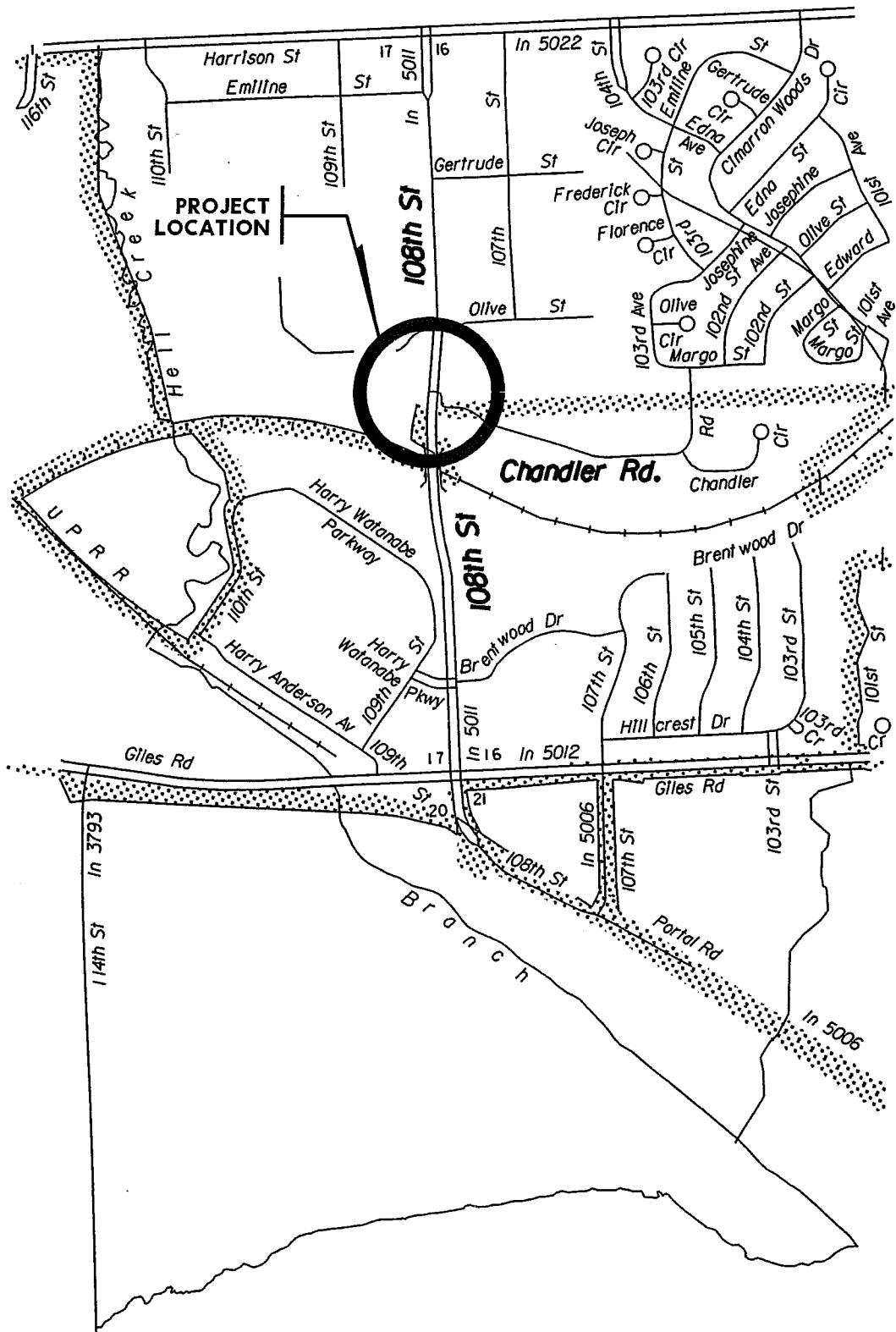
District 2 Engineer

AGR15-ZY

CITY OF LA VISTA

SARPY COUNTY

NEBRASKA



MAPA-5011(13)

EXHIBIT "A"

C.N. 22397

CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
JULY 21, 2009 AGENDA

Subject:	Type:	Submitted By:
NDOR PROGRAM AGREEMENT – GILES ROAD PAVEMENT REPAIR (I-80 TO 107 TH STREET)	◆ RESOLUTION ORDINANCE RECEIVE/FILE	JOE SOUCIE PUBLIC WORKS DIRECTOR

SYNOPSIS

A resolution has been prepared authorizing the Mayor to execute a Program Agreement with Nebraska Department of Roads (NDOR) for pavement repair on Giles Road from I-80 to 107th Street. The project has been designated as being eligible for American Recovery and Reinvestment Act (ARRA) Funds by the Department of Transportation, Federal Highway Administration.

FISCAL IMPACT

The proposed project is included in the City of La Vista FY 2008/09 Capital Improvement Plan (CIP). The current project cost estimate is \$1,100,700, of which \$970,700 will be the maximum reimbursement amount for construction engineering and construction. Estimated preliminary engineering is \$105,000 which is not reimbursable.

RECOMMENDATION

Approval

BACKGROUND

The City of La Vista submitted the Giles Road Pavement Repair project for ARRA funding in March of 2009 and was subsequently chosen. The project consists of installing dowel bars at transverse pavement joints using retro-fit techniques followed by diamond grinding of pavement surface.

RESOLUTION NO._____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE NEBRASKA DEPARTMENT OF ROADS (NDOR) FOR PAVEMENT REPAIR ON GILES ROAD FROM I-80 TO 107TH STREET IN LA VISTA.

WHEREAS, the City Council of the City of La Vista has determined that said pavement improvements to Giles Road are necessary; and

WHEREAS, the FY 2008/09 Construction Fund budget includes funds for pavement repair on Giles Road; and

WHEREAS, the project has been designated as being eligible for American Recovery and Reinvestment Act (ARRA) Funds by the Department of Transportation, Federal Highway Administration; and

WHEREAS, the State agrees to cooperate to the end of obtaining Federal approval of the proposed work and Federal Funds for the construction of the proposed improvement; and

WHEREAS, the City Engineer will prepare necessary plans and specifications for the project.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and City Council of La Vista, Nebraska, authorize the Mayor and City Clerk to enter into an agreement with the Nebraska Department of Roads for pavement repair on Giles Road from I-80 to 107th Street in La Vista.

PASSED AND APPROVED THIS 21ST DAY OF JULY 2009

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

A G R E E M E N T

CITY OF LA VISTA
STATE OF NEBRASKA, DEPARTMENT OF ROADS
PROJECT NO. MAPA-5012(9), STATE CONTROL NO. 22396
GILES ROAD FROM I-80 TO 107TH STREET
PAVEMENT REPAIR

THIS AGREEMENT, made and entered into by and between the City of La Vista, hereinafter referred to as the "City", and the State of Nebraska, Department of Roads, hereinafter referred to as the "State",

WITNESSETH:

WHEREAS, certain streets in the City have been designated as being eligible for American Recovery and Reinvestment Act (ARRA) Funds by the Department of Transportation, Federal Highway Administration, hereinafter called the FHWA, in compliance with Federal laws pertaining thereto, and

WHEREAS, ARRA Funds have been made available by Title 23 of the United States Code, providing for improvements on eligible City Streets, and

WHEREAS, the City certifies that it will request and use funds provided by ARRA and that the funds will be used to create jobs and promote economic growth, and certifies that this project meets the requirement of ARRA, and

WHEREAS, regulations for implementing the provisions of the above mentioned act provide that the Federal share of the cost of those projects will be paid only to the State, and

WHEREAS, the regulations further permit the use of funds other than State funds in matching any required Federal Funds for the improvements of those streets, and

WHEREAS, the State is willing to cooperate to the end of obtaining Federal approval of the proposed work and Federal Funds for the construction of the proposed improvement, with the understanding that no State Funds are to be expended on this project, and

WHEREAS, The City is to provide a qualified, full time public employee to be in Responsible Charge (RC) of the project at all times, and

WHEREAS, the State's responsibility is to provide quality assurance and project oversight to ensure that the project is designed, constructed and managed according to Federal rules and regulations. The State will notify the City when Federal funding will be withheld or lost, and

WHEREAS, if the City is to receive Federal participation for any portion of the work on the proposed project, it is necessary all phases of work comply with Federal requirements and procedures, and

WHEREAS, the State shall supervise the contract letting, and

WHEREAS, this project has been designated as a full Federal oversight project, and
WHEREAS, Federal Regulations provide that the City shall not profit or otherwise gain
from local property assessments that exceed the City's share of project costs, and

WHEREAS, the funding for the project under this agreement, includes pass-through
monies from the Federal Highway Administration (FHWA). If a non-Federal entity expends
\$500,000 or more in total Federal awards in a fiscal year, then the A-133 audit is required as
explained further in this agreement, and

WHEREAS, the City desires that this project as shown on attached EXHIBIT "A" be
constructed under the designation of Project No. MAPA-5012(9), as evidenced by the
Resolution of the City dated the _____ day of _____, 2009, attached
as EXHIBIT "B" and made a part of this agreement, and

WHEREAS, the total cost of the project which includes: preliminary engineering, final
design, Right-of-Way, nonbetterment utility rehabilitation, construction and construction
engineering is currently estimated to be \$1,100,700, and

WHEREAS, the project is described as follows:

Giles Road from 107th Street to the NDOR maintenance limits at the I-80 interchange will
have dowel bars installed at transverse pavement joints using retro-fit techniques followed by
diamond grinding of pavement surface.

NOW THEREFORE, in consideration of these facts, the City and State agree as follows:

SECTION 1. This project has been designated as full Federal oversight and the State shall
present this project to the FHWA for its approval, if necessary.

SECTION 2. The City further certified that this project meets the requirements of ARRA as
follows:

1. The investment has received the full review and vetting required by law.
2. The City accepts responsibility that this infrastructure investment is an appropriate
use of taxpayer dollars.
3. This investment will be used for MAPA-5012(9), is included in the Statewide
Transportation Plan, and has an overall cost estimate of \$1,100,700, of which
\$970,700 will be the maximum payment amount.
4. The City agrees to ARRA reporting requirements and agrees that the State will not
reimburse the City with Federal or State funds unless all ARRA reporting
requirements are met.

SECTION 3. The City understands that payment for the costs of this project, whether they be
services, engineering, Right-of-Way, utilities, material or otherwise, are the sole responsibility of

the City where Federal participation is not allowable or available. Therefore, where the Federal government refuses to participate in the project or any portion of the project the City is responsible for full project payment with no cost or expense to the State in the project or portion of the project. Should the project be abandoned before completion, the City shall pay all costs incurred by the State prior to such abandonment.

The City shall maintain all correspondence files, books, documents, papers, field notes, quantity tickets, accounting records and other evidence pertaining to costs incurred and shall make such material available at its office at all reasonable times during the contract period and for three years from the date of final payment under this agreement; such records must be available for inspection by the State and the FHWA or any authorized representatives of the Federal government, and the City shall furnish copies to those mentioned in this section when requested to do so.

SECTION 4. The City shall have on file with the State an acceptable drug-free workplace policy.

SECTION 5. Because the City is to receive Federal Funds for any part of this project, the City shall perform the services for all phases of work, including, but not limited to preliminary engineering, environmental studies, acquisition of Right-of-Way, construction (includes construction engineering), etc., according to Federal procedures and requirements as well as the current version of the Local Public Agencies Guidelines Manual for Federal-Aid Projects. Although Federal Funds may be allocated to the project, all phases or certain phases of work will become ineligible for Federal Funds if Federal procedures and requirements are not met.

Prior to beginning any phase of work on the proposed project, the City shall contact the State's Local Projects Division Urban Engineer for direction and assistance to ensure that all project work will be accomplished according to Federal procedures and requirements.

SECTION 6. If the City performs any part of the work on this project itself, the City shall abide by the provisions of the Nebraska Fair Employment Practices Act as provided by Neb.Rev.Stat. §48-1101, through 48-1126, and all regulations relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49 CFR, Parts 21 and 27 as set forth in the DISCRIMINATION CLAUSES Section of this agreement.

SECTION 7. The funding for the project under this agreement includes pass-through Federal monies from the FHWA. According to the Single Audit Act Amendments of 1996 (signed into law by President Clinton on July 5, 1996) and the implementing regulations contained in OBM Circular A-133, the A-133 Audit is required if the non-Federal entity expends \$500,000 or more

in total Federal awards in a fiscal year. Non-Federal entity means State and local governments and non-profit organizations.

The City shall have its finance officer or auditor, review the situation to determine what the City must do to comply with this Federal mandate. If applicable, the expenditures related to the FHWA should be shown in the Supplementary Schedule of Expenditures of the Federal Awards under U.S. Department of Transportation as a pass-through Nebraska Department of Roads, Federal CFDA Number 20.205. If an A-133 Audit is performed, the City shall send the audit report to the Nebraska Department of Roads, Highway Audits Manager, P.O. Box 94759, Lincoln, NE 68509-4759.

SECTION 8. The City shall assign a person to be in RC of the project at all times. The City shall provide the State with current project schedules, submittal dates and critical milestone dates. The City shall notify and keep the State informed on all project issues. The City shall notify the State of all project coordination meetings. The State must be invited to the project environmental scoping meeting, Plan-In-Hand field review, public meetings/hearings, preconstruction meeting and the final inspection.

SECTION 9. The total cost of the project which includes: preliminary engineering, final design, Right-of-Way, nonbetterment utility rehabilitation, construction and construction engineering is currently estimated to be \$1,100,700. The Federal ARRA Share of the project is to be 100 percent of the awarded construction amount, construction engineering costs (capped at 13 percent of the awarded amount) and flat fee of \$2,500 for ARRA audits is currently estimated to be \$970,700, which is also the maximum reimbursement amount. The City's share of the project is to be 100 percent of all actual eligible costs of preliminary engineering and Right-of-Way and 100 percent of all costs over the capped construction and construction engineering amounts which is currently estimated to be \$130,000. Progress billings may be submitted no more often than monthly. The State will reimburse the contractor using SiteManager. The State will invoice the City for any costs over the maximum ARRA reimbursement amount.

The final settlement between the State and the City will be made after the State accepts the project and the final costs have been determined by the State. The amount of the final settlement between the State and the City will be the difference between:

- (1) (a) the net expenditure by the City for actual cost items
- (b) Plus the value of work performed by the City based on agreed prices
- (c) Plus cash advances by the City to the State.

(d) Less previous payments by the State to the City AND,
(2) The City share of the project cost.

If (1) is greater than (2) the State will pay to the City the difference within thirty days after that determination has been made. If (2) is greater than (1) the State will bill the City for the difference. The City agrees to pay the State the amount of such bill within thirty days of its receipt.

Costs incurred by the State with respect to the entire project must be considered as a part of the cost of the project to be paid out of City and Federal funds. The State may, at its discretion, initiate progress invoices for costs incurred by the State during the progression of the project and the City agrees to pay such invoices within thirty days of their receipt. The City's share of the total project cost will be all costs not paid for by Federal funds.

The criteria contained in Part 31 of the Federal Acquisition Regulations System (48 CFR 31) will be applied to determine the allowability of costs incurred by the City under this agreement.

Final payment consisting of the retention withheld minus the State incurred expenses will not be reimbursed to the City until the City has filed a completed State DR Form 299 with the State, and both the City and the State have signed it. Once the DR Form 299 is signed by the City, no reimbursement requests will be accepted by the State and the FHWA.

SECTION 10. The parties agree that preliminary engineering, which includes project design, plan development, environmental studies and final design, will be accomplished by the City or a State certified Consultant selected by the City. If a Consultant is to be selected, the method of procurement and evaluation must follow all guidelines and requirements outlined in the State's Federal Aid Guidelines Manual for LPA's. That State will review and approve the Request for Proposals prior to advertising. Any PE work performed prior to Federal authorization and receipt of a Notice to Proceed will not be eligible for Federal Aid.

It is understood by the parties that the State will rely on the professional performance and ability of the City or their Consultant. Any examination by the State, or acceptance or use of the work product of the City or their consultant will not be considered to be a full and comprehensive examination and will not be considered an approval of the work product of the City or their Consultant which would relieve the City from any liability or expense that would be connected with the City's sole responsibility for the propriety and integrity of the professional work to be accomplished by the City.

SECTION 11. The City or its Consultant shall design the project according to the current AASHTO Policy on Geometric Design of Highways and Streets, the Nebraska Minimum Design

Standards of the Board of Public Roads Classifications and Standards and to the Americans with Disabilities Act (ADA) Accessibility Guidelines. All plans, specifications and bid proposals, permits and any other contract documents must be submitted to the State prior to any bid letting by the State. Any deviations from the above publications must be approved by the State.

SECTION 12. ENVIRONMENTAL RESPONSIBILITY

The City shall be responsible to complete any Federally required environmental actions, commitments, and documents for this project, and receive approval by the State and the FHWA **prior to proceeding with appraising property, acquiring any Right-of-Way, or final design for the project.**

When it is determined that a public hearing is a Federal requirement for the project, the City shall offer an opportunity for a location or design hearing or combined location and design public hearing.

If a public hearing is required, the City shall contact the State's Public Hearing Officer (PHO) prior to doing any public hearing activity, so the PHO can advise the City of the proper procedures and policies for conducting the hearing. The City can contact the State's PHO by calling (402) 479-4871.

SECTION 13. The City shall be responsible for preparing and executing any railroad agreement or agreements required for this project. The City shall send a copy of the executed railroad agreements to the State prior to advertising the project for bids. Should the railroad agreement include work to be performed by the Railroad as part of the project, which is eligible for reimbursement, the City shall pay the Railroad and bill the State for reimbursement. The State will reimburse the City according to the payment section in this agreement.

SECTION 14. Any utility rehabilitations or installations made within the Right-of-Way on this project after execution of this agreement must be in accordance with the provisions of Federal-Aid Highway Policy Guide, 23 CFR 645A, "Utility Relocations, Adjustments and Reimbursement", and Federal-Aid Policy Guide, 23 CFR 645B, "Accommodation of Utilities" issued by the U.S. Department of Transportation, Federal Highway Administration, or a State approved Utility Accommodation Policy. In order to receive Federal-Aid Funds for this improvement, the City shall follow the current "Policy for Accommodating Utilities on State Highway Right-of-Way." Any work within the State Right-of-Way requires a permit. The City shall contact the State's District Engineer or Permits Officer to determine if a permit or permits is needed for the project and to make application for those permits if necessary.

All nonbetterment municipally owned and operated utility rehabilitation costs within the corporate limits of the city will become a project cost, but that outside the corporate limits, only

the nonbetterment portion of the rehabilitation costs of facilities currently occupying private Right-of-Way will be reimbursed. Further, there will be no Federal reimbursement for private or nonmunicipally owned and operated utilities if they are located on public Right-of-Way, however, nonbetterment costs of privately owned and operated utilities will be reimbursed if they exist on privately owned Right-of-Way and it is necessary to rehabilitate the utilities due to this project. All such reimbursements will be based on items and estimates submitted by the utility and approved by the City and State. Should this project necessitate the nonbetterment rehabilitation of any privately owned and operated utilities, then the City shall send the State an estimate of those nonbetterment utility rehabilitation costs prior to the work being done. The City shall pay for utility nonbetterment rehabilitation and then bill the State for those eligible reimbursement costs. All reimbursements will be based on the actual costs of material, services and labor. This will be subject to audit, if the State deems that one is necessary.

SECTION 15. The Federal law governing acquisition and relocation on Federally assisted projects is Public Law 91-646, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, commonly called just the Uniform Act. The City shall comply with the Uniform Act, and the State's Right-of-Way Acquisition guide for new LPA's.

The Uniform Act applies whenever Federal dollars are used in any phase of a project, such as planning, engineering, environmental studies, or construction. **The Uniform Act must be followed even if there is NO Federal funding in the Right-of-Way phase.** The State's Relocation Assistance Act, Neb. Rev. Stat. 76-214 through 76-1238 applies on all projects.

Prior to beginning Right-of-Way appraisals and acquisition, the City shall submit to the Local Projects Division Urban Engineer Right-of-Way plans, legal descriptions and an estimate for review and approval. If acceptable, the State will issue the City a Notice-to-Proceed with the Right-of-Way work phase.

The City shall present to the State, a Right-of-Way Certificate that certifies the City has complied with the Uniform Act requirements and that the project is ready for construction. The State will grant the City authorization to proceed with the construction phase of the project, if the documentation submitted by the City supports the Right-of-Way Certificate.

SECTION 16. The City at no cost to the project, shall clear the present Right-of-Way of this project of all advertising signs. The City at no cost to the project, shall clear any other privately owned facility or thing that may interfere with the construction, maintenance and operation of the improvement planned in this project, and keep the old and new Right-of-Way free of future encroachments, except those authorized by permit.

SECTION 17. The City shall locate and reference or have located and referenced all section corners, quarter section corners and subdivision lot corners required for construction of the proposed project in accordance with Section 39-1708 et. seq., R.R.S. 1943 as amended.

SECTION 18. The Federal share of this project must be reduced by any project specific local property assessments that exceed the appropriate local share on this project. This is subject to State review.

SECTION 19. The City shall certify after accomplishment, that any Right-of-Way for this improvement not donated in compliance with FHWA guidelines will be acquired in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended, 49 CFR 24, and the NDOR Right-of-Way Manual as approved by FHWA.

SECTION 20. Prior to advertising the project for bids, the City shall submit a Right-of-Way Certificate and the final plans package (100 percent full size plans, specifications, summary of quantity sheets, status of utilities, environmental permits and other PS&E required documents) to the State's Local Projects Division Urban Engineer for review. The State and City agree the State is to advertise and conduct a letting and receive bids for the City on the contemplated improvement. The selection of the lowest responsible bidder and the awarding of a contract or contracts must be concurred in by the City prior to State award. The City shall sign the Contract or Contracts.

SECTION 21. The State and City agree that the construction engineering, which is an eligible project expense and which includes construction management, staking, inspection and field testing, will be accomplished by City forces or a State Certified Consultant selected by the City.

The City agrees, if a Consultant is to be selected, that the method of procurement and evaluation and the resulting agreement between the Consultant and the City must conform to the State's standard practices and will be subject to State review and concurrence prior to agreement execution between the City and the Consultant. **Any CE work performed prior to Federal authorization and receipt of a NTP will not be eligible for Federal funding.**

The City shall provide a Project Manager to oversee the project and to ensure that the construction engineering performed by City forces or the City's Consultant comply with requirements for Federal funding. The Project Manager's services include, but are not limited to, arranging the preconstruction conference, keeping the State's District Construction Representative informed of project start and ending dates, and other scheduled construction milestones, and project management as required and preparing contractor change orders and supplemental agreements.

The inspection, sampling and testing of all materials must be done in accordance with the current State of Nebraska Standard Specifications for Highway Construction, the State Materials Sampling Guide, Quality Assurance Program for Construction, and the State Standard Methods of Tests (www.transportation.nebraska.gov) or applicable AASHTO or ASTM procedures. The City shall provide adequate quality control, construction administration on the project and will be responsible for the sampling and delivery of project materials for testing to a qualified laboratory. In all cases, the State will provide a State District Construction Representative designated by the State on a part-time basis, who will inspect the project, perform quality assurance, and ensure that the City is in compliance with the contract, plans, specifications, scope of work, regulations, statutes, etc., in order that Federal Funds may be expended on the project. Upon project completion, the City shall complete and sign a State DR Form 299, "Notification of Project Completion and Materials Certification" and provide it to the State District Construction Representative for further action.

The City by signing DR Form 299 certifies that all sampling and test results of materials used on the project, manufacturer's certificates of compliance and manufacturer's certified test reports meet contract requirements and are on file with the City and the City shall make them available for inspection to the State and the FHWA or their authorized representatives when requested in writing to do so.

The State District Construction Representative assigned to the project will conduct a final review of the project and will determine if the project is acceptable. If the State District Construction Representative determines the project is acceptable, the State District Construction Representative will sign the DR Form 299 and send it to the State District Engineer for signature. The State District Engineer will forward the form to the State's Local Projects Division Urban Engineer for signing, project closeout and final payment. If the State District Construction Representative determines the project is not acceptable, the State District Construction Representative will notify the City's Project Manager in writing of what needs to be done to bring the project into compliance for acceptability before the State District Construction Representative will sign the DR Form 299 and recommend the project for closeout. The City shall contact the State's District Engineer for State District Construction Representative assignment. It is understood that any construction engineering services furnished by the State will be part of the cost of the project and the State's expenses will be included as costs of the project, as specified in the reimbursement section of this agreement.

SECTION 22. Changes to the City streets which affect the function or operation of the improvement made either during construction or after the project is completed, will require prior approval of the State. Requests for changes during project construction must be made to the State Representative who will then forward it to the Local Projects Division Urban Engineer for final approval.

Upon project completion and final review, the City shall send one set of "As-Built" plans to the State's Local Projects Division Urban Engineer and one set to the State's District Engineer.

SECTION 23. Upon project completion, the City shall maintain the project at its own expense, and agrees to make provisions each year for the maintenance costs involved in properly maintaining this facility. The City shall also be responsible for any required environmental commitments and monitoring after the construction of the project. The City will release and hold harmless the State and FHWA from any suits brought against the State arising out of the City's construction and maintenance.

SECTION 24. Traffic control during project construction must conform with the Manual on Uniform Traffic Control Devices. Before final acceptance of the project by the State, all signing and marking must be in conformance with the current Manual on Uniform Traffic Control Devices.

SECTION 25. DISADVANTAGED BUSINESS ENTERPRISES

A. Policy

The City shall ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal Funds under this agreement. Consequently, the disadvantaged business requirements of 49 CFR Part 26 are hereby made a part of and incorporated by this reference into this agreement.

B. Disadvantaged Business Enterprises Obligation

The City and State shall ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal Funds provided under this agreement. In this regard, the City shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. The City shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of FHWA assisted contracts.

The City, acting as a subrecipient of Federal-aid funds on this project shall adopt the disadvantaged business enterprise program of the State for the Federal-aid contracts the City enters into on this project.

Failure of the City to carry out the requirements set forth above shall constitute breach of contract and, after the notification of the FHWA, may result in termination of the agreement or contract by the State or such remedy as the State deems appropriate.

SECTION 26. NONDISCRIMINATION CLAUSES

During the performance of this agreement, the City, for itself, its assignees and successors in interest agrees as follows:

- (1) Compliance with Regulations: The City shall comply with the Regulations of the Department of Transportation relative to nondiscrimination in Federally assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Parts 21 and 27, hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this agreement.
- (2) Nondiscrimination: The City, with regard to the work performed by it after award and prior to completion of the contract work, shall not discriminate on the basis of disability, race, color, sex, religion or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The City shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix "A," "B," and "C" of Part 21 of the Regulations.
- (3) Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the City for work to be performed under a subcontract, including procurements of materials or equipment, each potential subcontractor or supplier shall be notified by the City of the City's obligations under this agreement and the Regulations relative to nondiscrimination on the basis of disability, race, color, sex, religion or national origin.
- (4) Information and Reports: The City shall provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this

information, the City shall so certify to the State, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of the City's noncompliance with the nondiscrimination provisions of this agreement, the State will impose such contract sanctions as it or the FHWA may determine to be appropriate, including but not limited to,

- (a) withholding of payments to the City under this agreement until the City complies, and/or
- (b) cancellation, termination or suspension of this agreement, in whole or in part.

(6) Incorporation of Provisions: The City shall include the provisions of paragraph (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, order, or instructions issued pursuant thereto. The City shall take such action with respect to any subcontract or procurement as the State or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the City may request the State to enter into such litigation to protect the interests of the State, and in addition, the City may request the United States to enter into such litigation to protect the interests of the United States.

SECTION 27. It is mutually agreed that the final approval of the project will be made by the State and that final project close-out and final payment cannot be made to the City until the project has been approved by the State.

IN WITNESS WHEREOF, the City and State hereto have caused these presents to be executed by their proper officials thereunto duly authorized as of the dates below indicated.

EXECUTED by the City this _____ day of _____, 2009.

WITNESS:
Pamela A. Buethe

CITY OF LA VISTA
Douglas Kindig

City Clerk

Mayor

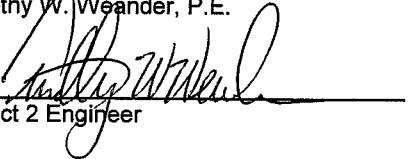
EXECUTED by the State this _____ day of _____, 2009.

STATE OF NEBRASKA
DEPARTMENT OF ROADS
Jim Wilkinson, P.E.

Local Projects Division Engineer

RECOMMENDED:

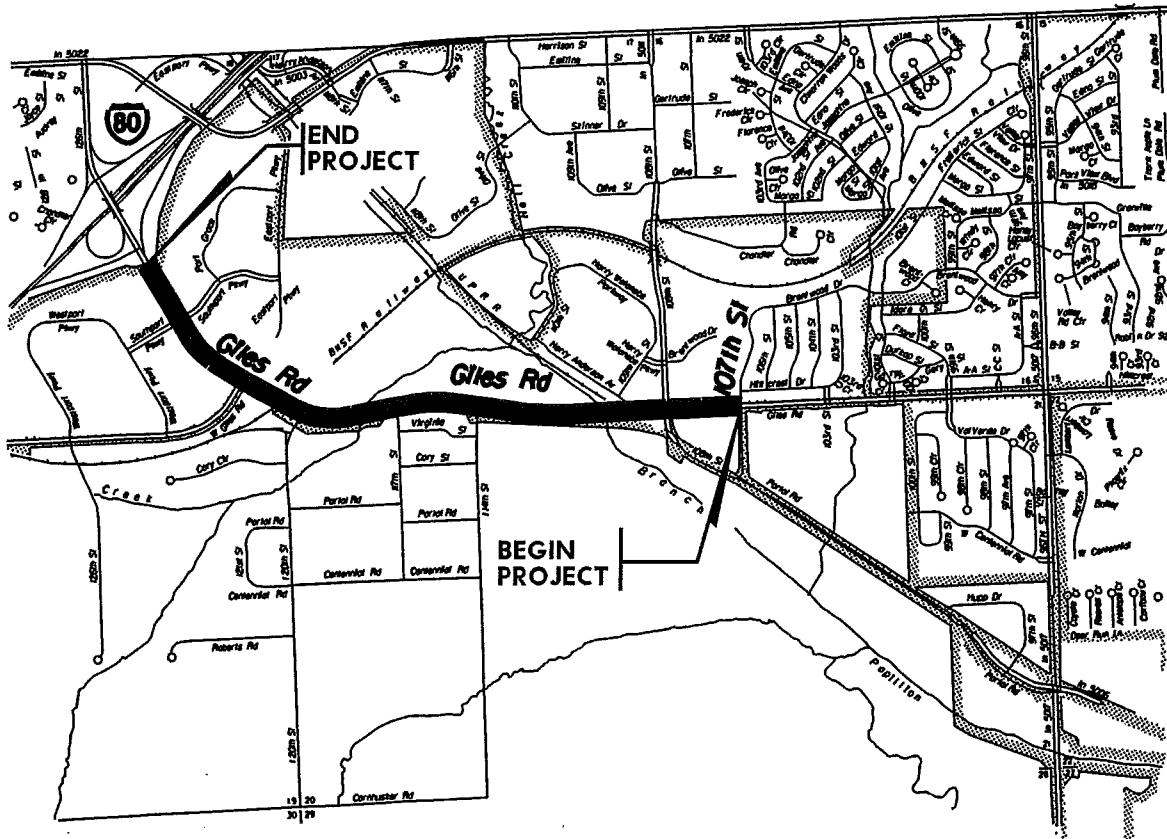
Timothy W. Weander, P.E.



District 2 Engineer

AGR15-ZZ

**CITY OF LA VISTA
SARPY COUNTY
NEBRASKA**



MAPA-5012(9)

C.N. 22396

EXHIBIT "A"