

CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
DECEMBER 1, 2009 AGENDA

Subject:	Type:	Submitted By:
APPLICATION FOR FINAL PUD PLAN, FINAL PLAT, CUP AND SUBDIVISION AGREEMENT APPROVAL — LOTS 13 & 14, CRESTVIEW HEIGHTS	◆RESOLUTION (3) ◆ORDINANCE (1) RECEIVE/FILE	ANN BIRCH COMMUNITY DEVELOPMENT DIRECTOR

SYNOPSIS

A public hearing has been scheduled, and three resolutions and an ordinance have been prepared to approve a Final PUD Plan, a Final Plat, a Conditional Use Permit for proposed Lot 4, and a Subdivision Agreement for Lots 13 & 14, Crestview Heights (proposed as Lots 1 thru 5, Harrison 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 at 75th.

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. Approval of a Final PUD Plan for 112 units of senior housing with 52 garages and 75 parking stalls; 48 units of affordable senior housing with 60 parking stalls; and three buildings for commercial development totaling 20,500 square feet of commercial flex space with 102 parking stalls.
2. Approval of a Final Plat to subdivide Lots 13 and 14, Crestview Heights, into five lots for residential and commercial purposes, to be known as Lots 1 thru 5, Harrison Heights.
3. Approval of a Conditional Use Permit for 112 multiple family dwellings for seniors on proposed Lot 4, Harrison Heights.
4. Approval of a Subdivision Agreement.

The property is located north and east of Gertrude Street and south of Harrison Street at approximately 75th Street. The application has been submitted by Victor Pelster on behalf of the property owner, the Empire Group, LLC.

On August 4, 2009 the City Council approved an amendment to the City's Future Land Use Map to high density residential and commercial uses. A rezoning was also approved to R-3 PUD, High Density Residential Planned Unit Development, and C-2 PUD, 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: proposed Lot 4, Harrison Heights includes 112 units of senior independent market rate housing with surface parking and 52 enclosed garages, and proposed Lot 5 identifies 48 units of senior affordable housing with surface parking. A Conditional Use Permit application has been submitted for only proposed Lot 4 at this time. The owner of proposed Lot 5 will be required to obtain a Conditional Use Permit prior to approval of a building permit.

The application also includes three lots for commercial development. Three buildings totaling 20,500 square feet are proposed with shared parking and access.

The property is not within the Gateway Corridor Overlay District however the applicant agreed to adopt the design guidelines as part of the PUD approval. Architectural review of the buildings and garages proposed to be located on all five lots has been completed and the colored elevation renderings are attached as an exhibit to the Final PUD Plan. Minor revisions based comments from the City’s design review architect can be completed at the time of building permit review.

A traffic impact study was performed at the time of preliminary review and approval. The study identified 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. Staff recommends approval based on the fact that the final plans are in substantial conformance with the preliminary plans as approved.

The Planning Commission held public hearings on September 17, 2009, and October 15, 2009, and recommended approval of the Conditional Use Permit for Lot 4, the Final PUD Plan and the Final Plat of the Harrison Heights subdivision with the four conditions as stated in the staff report.

NOTE: Some of the exhibits are the same for each document (PUD plan, CUP and Subdivision Agreement). They have not been copied more than once.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LA VISTA, NEBRASKA, AMENDING THE ZONING DISTRICT MAP OF THE CITY OF LA VISTA, NEBRASKA; TO PROVIDE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT; AND TO PROVIDE FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM.

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 three 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 or multi-family housing.
- 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 12.044 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 is attached as Exhibit "C" entitled "Final Planned Unit Development" plan. All development on each parcel shall be in substantial conformance with this plan.

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 and the exterior appearance shall be in substantial conformance with the Colored Elevation Renderings attached hereto as Exhibit "D". 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

Exhibit "B" and Exhibit "C" 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 City's most current off-street parking requirements for the uses proposed on the property. Commercial uses for Lots 1, 2 and 3 shall be coordinated to ensure the required parking for each use is provided on Lots 1, 2 and 3 as determined by the City of La Vista. 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.
- (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 a 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, as 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 1ST DAY OF DECEMBER 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 FINAL PLAT 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 Final Plat 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 final plat; and

WHEREAS, on October 15, 2009, the La Vista Planning Commission held a public hearing and reviewed the final plat 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 plat 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. The Final PUD Plan has been reviewed for conformance to the approved Preliminary PUD Plan and found to be in substantial conformance.
2. The necessary mylar copies of the final plat must be submitted with all required signatures.
3. A staking bond or letter certifying that lot corners have been pinned should be provided prior to the Mayor signing the final plat mylars. If provided, the staking bond should be based on \$150 per lot.
4. The Subdivision Agreement is under review by the City Attorney.

PASSED AND APPROVED THIS 1ST DAY OF DECEMBER 2009.

CITY OF LA VISTA

ATTEST:

Douglas Kindig, Mayor

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE EXECUTION OF A CONDITIONAL USE PERMIT FOR MULTIPLE FAMILY DWELLINGS FOR SENIORS ON PROPOSED LOT 4, HARRISON HEIGHTS

WHEREAS, Scott Kennedy, on behalf of Calamar, has applied for a conditional use permit for the purpose of having multiple family dwellings for seniors on proposed Lot 4, Harrison Heights; and

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

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

NOW THEREFORE, BE IT RESOLVED, that the Mayor and City Council of the City of La Vista hereby authorize the execution of a Conditional Use Permit in form and content submitted at this meeting, for Calamar, represented by Scott Kennedy for the purpose of having multiple family dwellings for seniors on proposed Lot 4, Harrison Heights.

PASSED AND APPROVED THIS 1ST DAY OF DECEMBER 2009.

CITY OF LA VISTA

ATTEST:

Douglas Kindig, Mayor

Pamela A. Buethe, CMC
City Clerk

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA APPROVING A SUBDIVISION AGREEMENT FOR LOTS 1 THRU 5, HARRISON HEIGHTS SUBDIVISION IN A FORM SATISFACTORY TO THE CITY ADMINISTRATOR AND CITY ATTORNEY.

WHEREAS, the City Council did on December 1, 2009 approve the final plat for lots 1 thru 5 Harrison Heights Subdivision subject to certain conditions; and

WHEREAS, the Developer, Empire Group, LLC, has agreed to execute a subdivision Agreement satisfactory in form to the City Attorney and City Administrator; and

NOW THEREFORE, BE IT RESOLVED, that the Subdivision Agreement presented at the December 1, 2009 City Council meeting for the Harrison Heights Subdivision be, and hereby is approved and the Mayor and City Clerk be and hereby are, authorized to execute same on behalf of the City with such revisions or amendments thereto that the City Administrator and City Attorney may determine necessary to carry out the intent of the City Council.

PASSED AND APPROVED THIS 1ST DAY OF DECEMBER 2009.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

**CITY OF LA VISTA
PLANNING DIVISION**

RECOMMENDATION REPORT

FOR HEARING OF: December 1, 2009
REPORT DATED: November 19, 2009

I. GENERAL INFORMATION

A. APPLICANT:

<u>Final PUD Plan and Final Plat:</u>	<u>CUP:</u>
Empire Group, LLC	Calamar
1941 S. 42 nd Street	6614 S. 118 th Street
Omaha, NE 68105	Omaha, NE 68137

B. PROPERTY OWNER:

Empire Group, LLC

C. LOCATION:

North and east of Gertrude Street and South of Harrison Street at approximately 75th.

D. LEGAL DESCRIPTION:

Lots 13 & 14, Crestview Heights, being replatted as Lots 1 thru 5, Harrison Heights

E. REQUESTED ACTION(S):

Approval of Final PUD Plan, Final Plat and Conditional Use Permit for proposed Lot 4, Harrison Heights

F. EXISTING ZONING AND LAND USE:

R-3 PUD, High Density Residential Planned Unit Development, and C-2 PUD, General Commercial Planned Unit Development

G. PURPOSE OF REQUEST:

Subdivide Lots 13 & 14, Crestview Heights into five lots; two to be developed for senior multi-family housing, and three lots for commercial development.

H. SIZE OF SITE:

12.044 acres

II. BACKGROUND INFORMATION

A. EXISTING CONDITION OF SITE:

The site has been graded for development; mature pine trees and deciduous trees have been preserved on the southern perimeter of the property.

B. GENERAL NEIGHBORHOOD/AREA LAND USES AND ZONING:

1. **North:**
City of Ralston, residential subdivision
2. **East:**
Crestview Village, R-3 High Density Residential
3. **South:**
Crestview Heights, R-1 Single Family Residential
4. **West:**
Crestview Heights, R-1 Single Family Residential

C. RELEVANT CASE HISTORY:

On September 4, 2008, the property was sold by the Metropolitan Utilities District to the Empire Group. Prior to the sale the property had remained undeveloped and was being farmed.

On August 4, 2009 the City Council approved an amendment to the Future Land Use Plan of the Comprehensive Plan and a rezoning from T-A, Transitional Agriculture, to R-3 PUD, High Density Residential Planned Unit Development, and C-2 PUD, General Commercial Planned Unit Development. The Preliminary PUD Plan was approved with 112 units of senior market rate housing, with 55 garages; and 48 units of affordable senior housing with all surface parking. Three commercial buildings were also approved with a total of 20,500 square feet of commercial flex space.

D. APPLICABLE REGULATIONS:

1. Section 5.08, Zoning Ordinance, regarding the R-3 High Density Residential District.
2. Section 5.11, Zoning Ordinance, regarding the C-2 General Commercial District.
3. Section 5.15, Zoning Ordinance, regarding the PUD Planned Unit Development Overlay District
4. Article 6, Zoning Ordinance, regarding Conditional Use Permits
5. Section 3.05, Subdivision Regulations, regarding Final Plat Specifications.

III. ANALYSIS

A. COMPREHENSIVE PLAN:

The Future Land Use Map of the Comprehensive Plan identifies this site for high density residential and commercial development. The Comprehensive Plan also identifies one of the General Community Goals as “Provide all residents with access to a variety of safe, decent, sanitary housing types, including elderly and persons with disabilities.” The Housing Policies also state “Promote development of residential options for La Vista’s residents of all income levels” and “Actively access affordable housing programs available from local, state and federal agencies/departments.”

B. OTHER PLANS:

Traffic Impact Analysis.

C. TRAFFIC AND ACCESS:

1. Access to Harrison Street from the site is restricted to one location for right-

in/right-out turns only.

2. Access to Gertrude Street from the site is identified at four locations.
3. A traffic impact analysis was prepared by the applicants engineer and reviewed by the City's consulting traffic engineer. The study identifies the Level of Service (LOS) on the surrounding roads and intersections are within acceptable ranges with the addition of the development.

D. UTILITIES:

All utilities are available to the site.

IV. REVIEW COMMENTS

1. The Final PUD Plan has been reviewed for conformance to the approved Preliminary PUD Plan and found to be in substantial conformance.
2. The necessary mylar copies of the final plat must be submitted with all required signatures.
3. A staking bond or letter certifying that lot corners have been pinned should be provided prior to the Mayor signing the final plat mylars. If provided, the staking bond should be based on \$150 per lot.
4. The Subdivision Agreement is under review by the City Attorney.

V. STAFF RECOMMENDATIONS

APPROVE the Final PUD Plan and Final Plat for Lots 1 thru 5, Harrison Heights, subject to satisfactory completion of a Subdivision Agreement, and APPROVE a Conditional Use Permit for Lot 4, Harrison Heights, for multi-family senior housing.

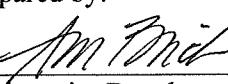
VI. ATTACHMENTS TO REPORT

1. Vicinity Map
2. Final PUD Plan
3. Final Plat
4. Subdivision Agreement
5. Conditional Use Permit for Lot 4, Harrison Heights

VII. COPIES OF REPORT TO

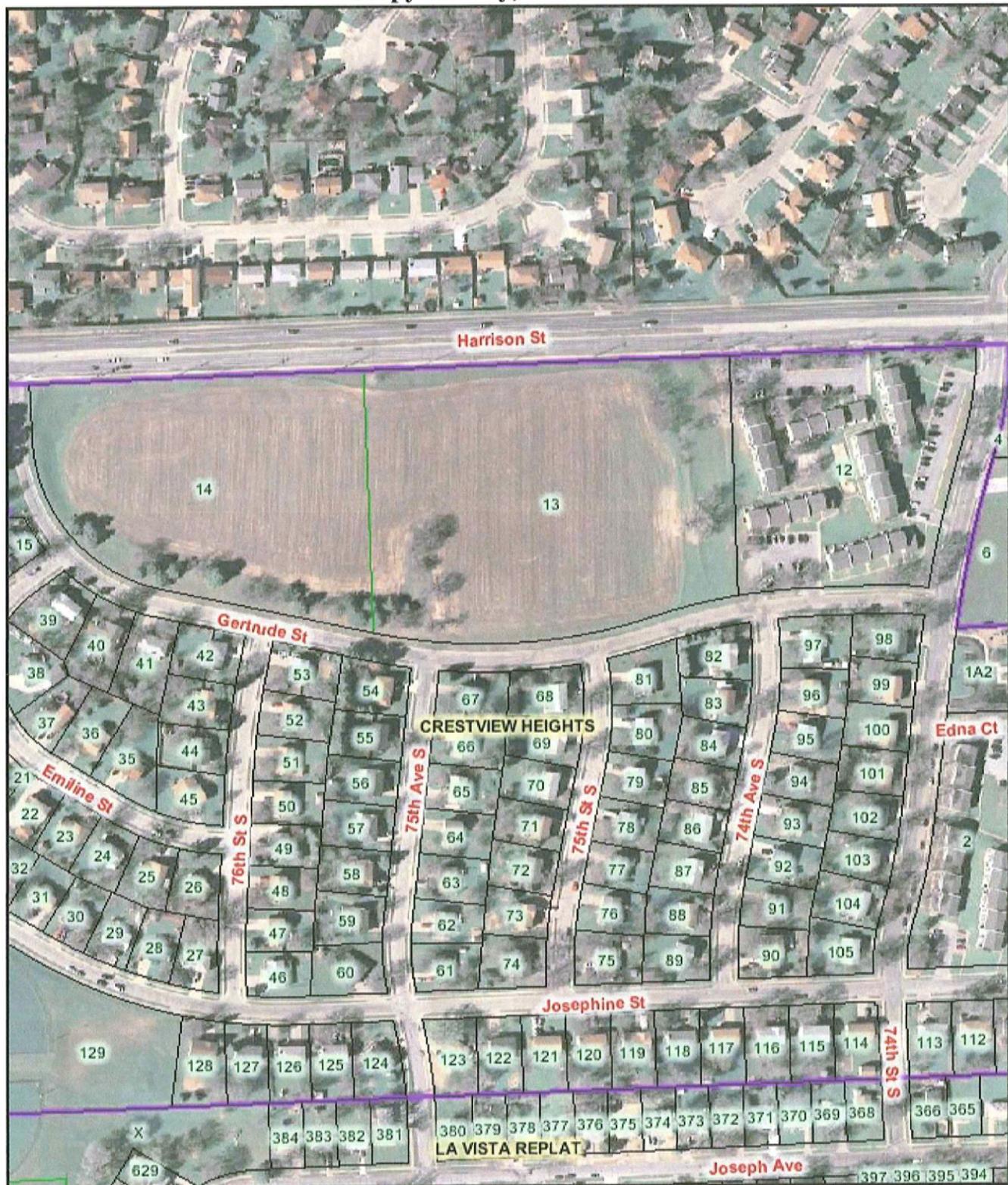
1. Victor Pelster, Empire Group, LLC
2. Scott Kennedy, Calamar
3. Homer Hunt, E & A Consulting
4. Public Upon Request


Prepared by:

 11-23-09
Community Development Director

Date

Sarpy County, Nebraska



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

Map Scale
1 inch = 256 feet

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 three 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 or multi-family housing.
- 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 12.044 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 is attached as Exhibit "C" entitled "Final Planned Unit Development" plan. All development on each parcel shall be in substantial conformance with this plan.

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:

- 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:

- 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 and the exterior appearance shall be in substantial conformance with the Colored Elevation Renderings attached hereto as Exhibit "D". 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

Exhibit "B" and Exhibit "C" 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 berming 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 City's most current off-street parking requirements for the uses proposed on the property. Commercial uses for Lots 1, 2 and 3 shall be coordinated to ensure the required parking for each use is provided on Lots 1, 2 and 3 as determined by the City of La Vista. 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.
- (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 a 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, and 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

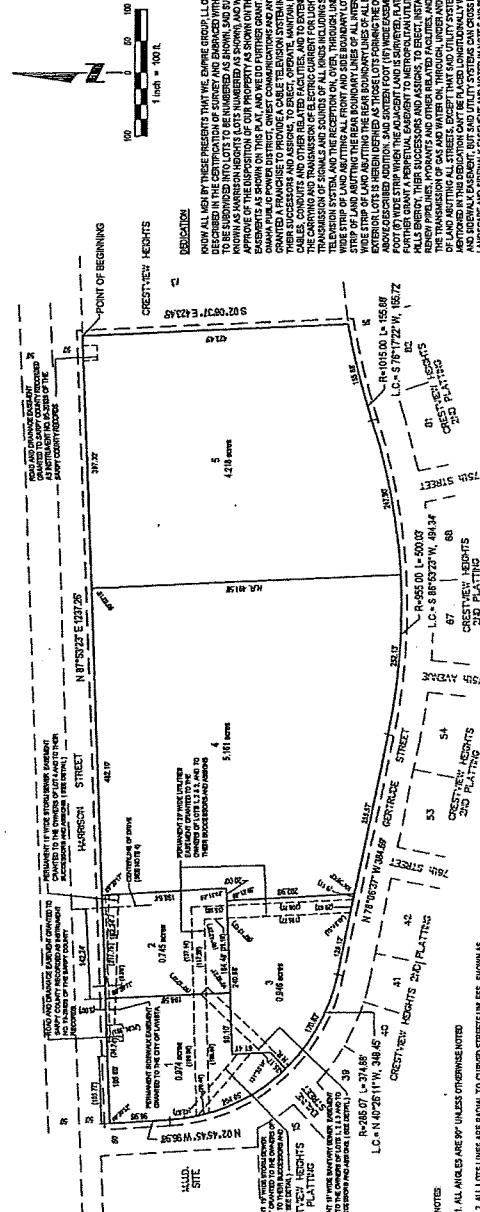
EXHIBIT "A"
LEGAL DESCRIPTION

BEING A REPLATTING OF LOTS 13 AND 14,
CRESTVIEW HEIGHTS (2ND PLATTING), A SUBDIVISION LOCATED IN THE NE 1/4 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 LOT 12, CRESTVIEW HEIGHTS, A SUBDIVISION LOCATED
IN SAID NE 1/4 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 423.45 FEET TO THE SOUTHEAST CORNER OF SAID LOT 13, CRESTVIEW HEIGHTS (2ND
PLATTING), SAID POINT ALSO BEING THE SOUTHWEST CORNER OF SAID LOT 12, CRESTVIEW HEIGHTS, SAID
POINT ALSO BEING ON THE NORTHERLY RIGHT-OF-WAY LINE OF GERTRUDE STREET; THENCE WESTERLY
ALONG SAID NORTHERLY RIGHT-OF-WAY LINE OF GERTRUDE STREET AND ALSO THE EASTERLY
RIGHT-OF-WAY LINE OF SAID GERTRUDE STREET, SAID LINE ALSO BEING THE SOUTHERLY LINE OF SAID
LOTS 13 AND 14, CRESTVIEW HEIGHTS (2ND PLATTING), AND ALSO THE WESTERLY LINE OF SAID LOT 14,
CRESTVIEW HEIGHTS (2ND PLATTING) ON THE FOLLOWING DESCRIBED COURSES; THENCE
SOUTHWESTERLY ON A CURVE TO THE LEFT WITH A RADIUS OF 1015.00 FEET, A DISTANCE OF 155.88 FEET,
SAID CURVE HAVING A LONG CHORD WHICH BEARS S76°17'22"W, A DISTANCE OF 155.72 FEET; THENCE
WESTERLY ON A CURVE TO THE RIGHT WITH A RADIUS OF 955.00 FEET, A DISTANCE OF 500.03 FEET, SAID
CURVE HAVING A LONG CHORD WHICH BEARS S86°53'23"W, A DISTANCE OF 494.34 FEET; THENCE
N78°06'37"W, A DISTANCE OF 384.69 FEET; THENCE NORTHERLY ON A CURVE TO THE RIGHT WITH A RADIUS
OF 285.07 FEET, A DISTANCE OF 374.88 FEET, SAID CURVE HAVING A LONG CHORD WHICH BEARS
N40°26'11"W, A DISTANCE OF 348.45 FEET; THENCE N02°45'45"W, A DISTANCE OF 96.98 FEET TO THE
NORTHWEST CORNER OF SAID LOT 14, CRESTVIEW HEIGHTS (2ND PLATTING), SAID POINT ALSO BEING THE
POINT OF INTERSECTION OF SAID EASTERLY RIGHT-OF-WAY LINE OF GERTRUDE STREET AND SAID SOUTH
RIGHT-OF-WAY LINE OF HARRISON STREET; THENCE N87°53'23"E ALONG SAID SOUTH RIGHT-OF-WAY LINE
OF HARRISON STREET, SAID LINE ALSO BEING THE NORTH LINE OF SAID LOTS 14 AND 13, CRESTVIEW
HEIGHTS (2ND PLATTING), A DISTANCE OF 1237.26 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS AN AREA OF 12.044 ACRES, MORE OR LESS.

HARRISON HEIGHTS

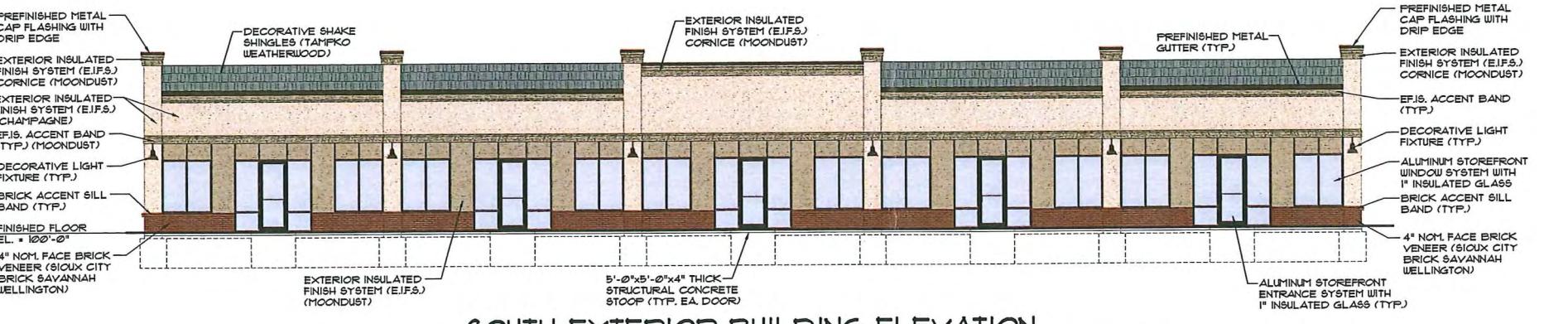




NORTH EXTERIOR BUILDING ELEVATION

SCALE: 1/8" = 1'-0"

Labels: PREFINISHED METAL CAP FLASHING WITH DRIP EDGE, EXTERIOR INSULATED FINISH SYSTEM (EIFS), CORNICE (MOONDUST), EXTERIOR INSULATED FINISH SYSTEM (EIFS) (CHAMPAGNE), EIFS, ACCENT BAND (TYP) (MOONDUST), DECORATIVE LIGHT FIXTURE (TYP), BRICK ACCENT SILL BAND (TYP), FINISHED FLOOR EL. = 100'-0", 4" NOM. FACE BRICK VENEER (SIOUX CITY BRICK SAVANNAH WELLINGTON), DECORATIVE SHAKE SHINGLES (TAMPAKO WEATHERWOOD), EXTERIOR INSULATED FINISH SYSTEM (EIFS) CORNICE (MOONDUST), EIFS, ACCENT BAND (TYP), DECORATIVE LIGHT FIXTURE (TYP), BRICK ACCENT SILL BAND (TYP), 4" NOM. FACE BRICK VENEER



SOUTH EXTERIOR BUILDING ELEVATION

SCALE: 1/8" = 1'-0"

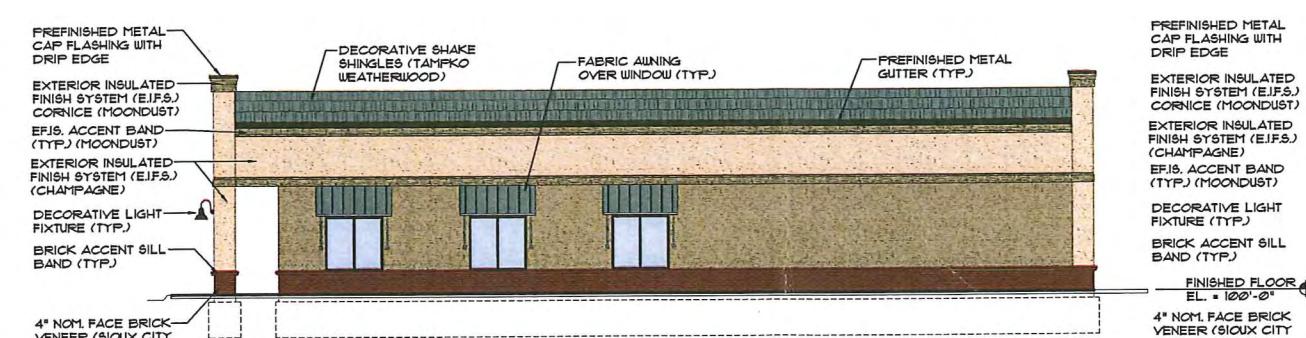
Labels: PREFINISHED METAL CAP FLASHING WITH DRIP EDGE, EXTERIOR INSULATED FINISH SYSTEM (EIFS), CORNICE (MOONDUST), EXTERIOR INSULATED FINISH SYSTEM (EIFS) (CHAMPAGNE), EIFS, ACCENT BAND (TYP) (MOONDUST), DECORATIVE LIGHT FIXTURE (TYP), BRICK ACCENT SILL BAND (TYP), FINISHED FLOOR EL. = 100'-0", 4" NOM. FACE BRICK VENEER (SIOUX CITY BRICK SAVANNAH WELLINGTON), DECORATIVE SHAKE SHINGLES (TAMPAKO WEATHERWOOD), EXTERIOR INSULATED FINISH SYSTEM (EIFS) CORNICE (MOONDUST), EIFS, ACCENT BAND (TYP), DECORATIVE LIGHT FIXTURE (TYP), BRICK ACCENT SILL BAND (TYP), ALUMINUM STOREFRONT ENTRANCE SYSTEM WITH 1" INSULATED GLASS (TYP), 5'-0"x5'-0"x4" THICK STRUCTURAL CONCRETE STOOP (TYP, EA. DOOR)



EAST EXTERIOR BUILDING ELEVATION

SCALE: 1/8" = 1'-0"

Labels: PREFINISHED METAL CAP FLASHING WITH DRIP EDGE, EXTERIOR INSULATED FINISH SYSTEM (EIFS), CORNICE (MOONDUST), EXTERIOR INSULATED FINISH SYSTEM (EIFS) (CHAMPAGNE), EIFS, ACCENT BAND (TYP) (MOONDUST), DECORATIVE LIGHT FIXTURE (TYP), BRICK ACCENT SILL BAND (TYP), FINISHED FLOOR EL. = 100'-0", 4" NOM. FACE BRICK VENEER (SIOUX CITY BRICK SAVANNAH WELLINGTON), DECORATIVE SHAKE SHINGLES (TAMPAKO WEATHERWOOD), FABRIC AWNING OVER WINDOW (TYP), PREFINISHED METAL GUTTER (TYP), 4" NOM. FACE BRICK VENEER



WEST EXTERIOR BUILDING ELEVATION

SCALE: 1/8" = 1'-0"

Labels: PREFINISHED METAL CAP FLASHING WITH DRIP EDGE, EXTERIOR INSULATED FINISH SYSTEM (EIFS), CORNICE (MOONDUST), EXTERIOR INSULATED FINISH SYSTEM (EIFS) (CHAMPAGNE), EIFS, ACCENT BAND (TYP) (MOONDUST), DECORATIVE LIGHT FIXTURE (TYP), BRICK ACCENT SILL BAND (TYP), FINISHED FLOOR EL. = 100'-0", 4" NOM. FACE BRICK VENEER (SIOUX CITY BRICK SAVANNAH WELLINGTON), DECORATIVE SHAKE SHINGLES (TAMPAKO WEATHERWOOD), FABRIC AWNING OVER WINDOW (TYP), PREFINISHED METAL GUTTER (TYP), 4" NOM. FACE BRICK VENEER

HARRISON HEIGHTS
LOT 1

75th AND HARRISON STREET
LA VISTA, NEBRASKA

**ROBERT W. ENGEL AND
ASSOCIATES, ARCHITECTS**

2110 South 156th Circle
Omaha, NE 68130-2503
(402) 330-8287 Fax: (402) 330-8331
email: RWEArchitects@RWEArchitects.com

Project Number: 2609

Issue Date: August 13, 2009

Revisions:

Drawn by: RWE

Checked by: RWE

Date:

Description:

Sheet Name: EXTERIOR BUILDING ELEVATIONS

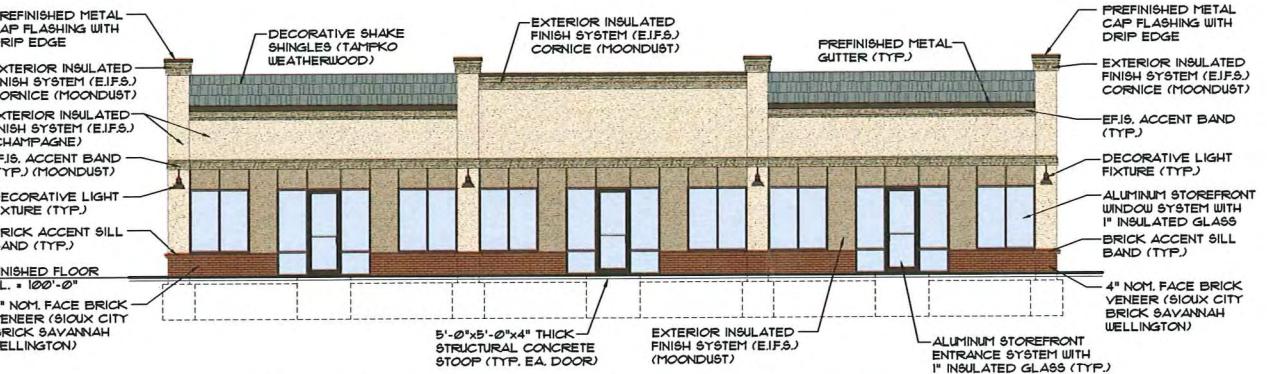
© COPYRIGHT 2009
THE DRAWING AND ITS DESIGN ARE THE PROPERTY
OF ROBERT W. ENGEL AND ASSOCIATES, ARCHITECTS
AND IS NOT TO BE USED OR REPRODUCED WITHOUT
THE PERMISSION OF ROBERT W. ENGEL AND
ASSOCIATES, ARCHITECTS

A2.1



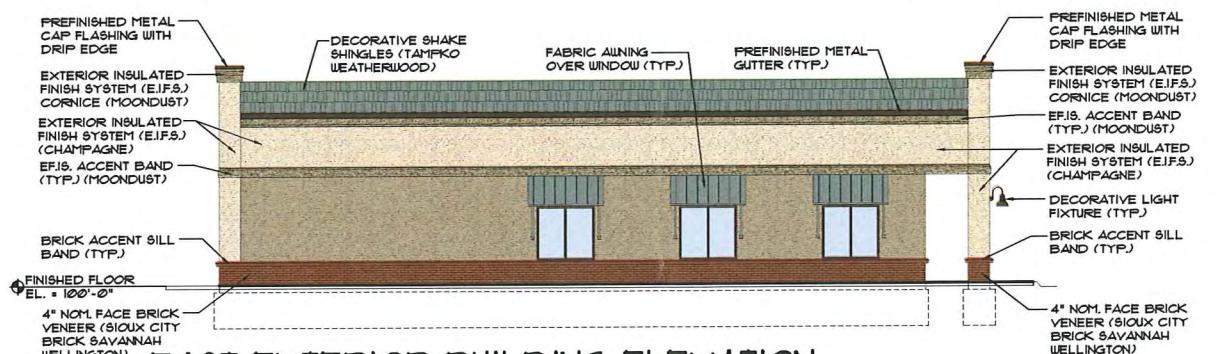
NORTH EXTERIOR BUILDING ELEVATION

SCALE: 1/8" = 1'-0"



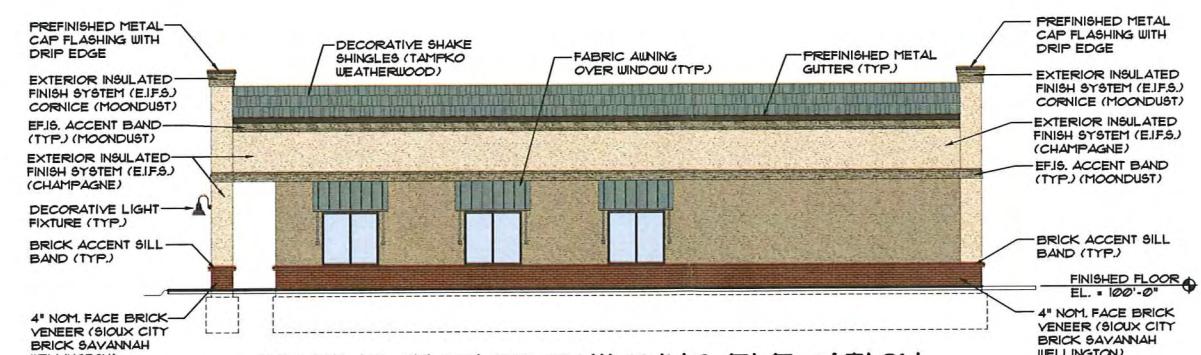
SOUTH EXTERIOR BUILDING ELEVATION

SCALE: 1/8" = 1'-0"



EAST EXTERIOR BUILDING ELEVATION

SCALE: 1/8" = 1'-0"



WEST EXTERIOR BUILDING ELEVATION

SCALE: 1/8" = 1'-0"

**HARRISON HEIGHTS
LOTS 2 AND 3**

75th AND HARRISON STREET
LA VISTA, NEBRASKA

**ROBERT W. ENGEL AND
ASSOCIATES, ARCHITECTS**

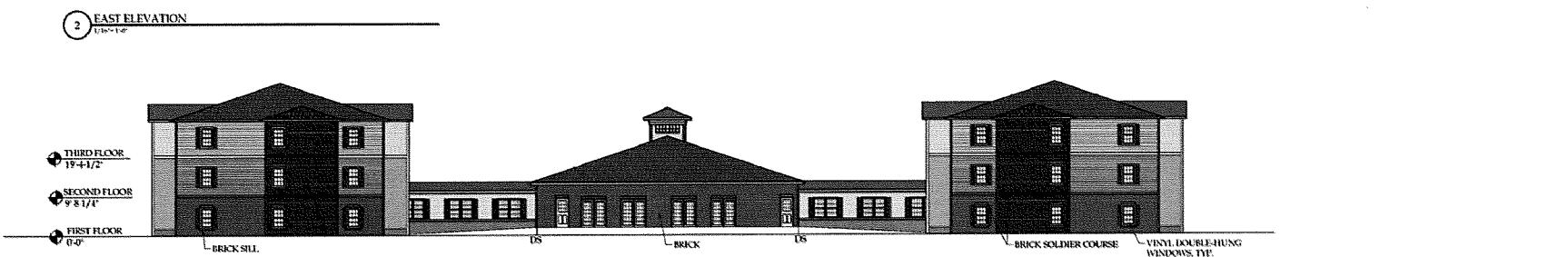
2110 South 156th Circle
Omaha, NE 68130-2503
(402) 330-8287 Fax: (402) 330-8331
email: RWEArchitects@RWEArchitects.com



Project Number:	2609	Issue Date:	August 13, 2009	Revisions
Drawn by:	RGA	Date	Description	
Checked by:	RWE	No.		
Sheet Name:	EXTERIOR BUILDING ELEVATIONS			

A2.2

© COPYRIGHT 2009
THIS DRAWING AND ITS DESIGN ARE THE PROPERTY
OF ROBERT W. ENGEL AND ASSOCIATES, ARCHITECTS
AND IS NOT TO BE USED OR REPRODUCED WITHOUT
THE PERMISSION OF ROBERT W. ENGEL AND
ASSOCIATES, ARCHITECTS



Lot 4

NOTICE

is document, the property of, prepared and issued by the architect, is submitted for the specific project named.

and the recipient by accepting this document assumes, agrees to study and agrees that this document will not be copied or reproduced in part or whole and any special features or details contained in this document will not be used on any other project, unless prior agreement has been obtained in writing. This document will be returned immediately upon completion of the project or upon the request of the architect.

This document is the exclusive property of the architect, no rights are given to the architect to be the host by the architect for this document, which will be and all publications made for purpose of compliance with Codes and or Ordinances, Building Permit, etc.

CALAMAR

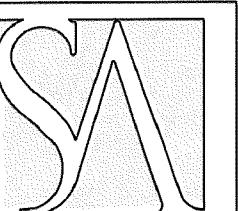
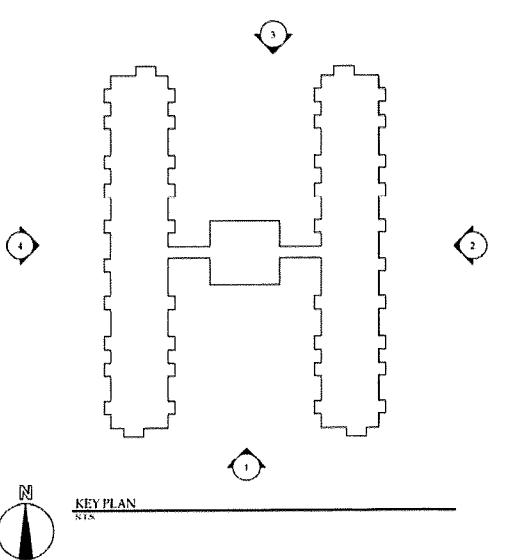
CRESTVIEW
SENIOR
HOUSING
RM 9
4TH AND HARRISON
A VISTA, NEBRASKA

REVISED:

PROJECT TEAM: PRINCIPAL P. Silvers
ARCH. A. Basco JR. ARCH. C. Barnett
INTERIOR D. Miller M. T. ...

261

EXTERIOR
ELEVATIONS



**SILVESTRI
ARCHITECTS, PC**

10 PINEVIEW DRIVE PH. 716.691.0900
WHEATSBY, NY 14228 FAX 716.691.4773

DB #: 08151 DATE: 09.09.09

WING #:

A-301

NOTICE
Property of, prepared and issued by the
for the specific project named
accepting this document assumes
that this document will not be copied or
in whole, and any special features
shall not be incorporated in any other
document that has been obtained in writing,
or returned immediately upon
request or upon the request of the architect.

exclusive property of the architect, no
re transferable, or shall be lost by the
client with any and all public authorities for
compliance with Codes and or Ordinances,
etc.



SENIOR
HOUSING
RM 9
LOT 4
HARRISON
HEIGHT

La Vista, Nebraska

SIONS:

PROJECT TEAM: PRINCIPAL P. Silvestri
CH. A. Raso JR. ARCH. C. Barnett

1

PROPOSED
GARAGE
PLANS,
ELEVATIONS
& SECTIONS

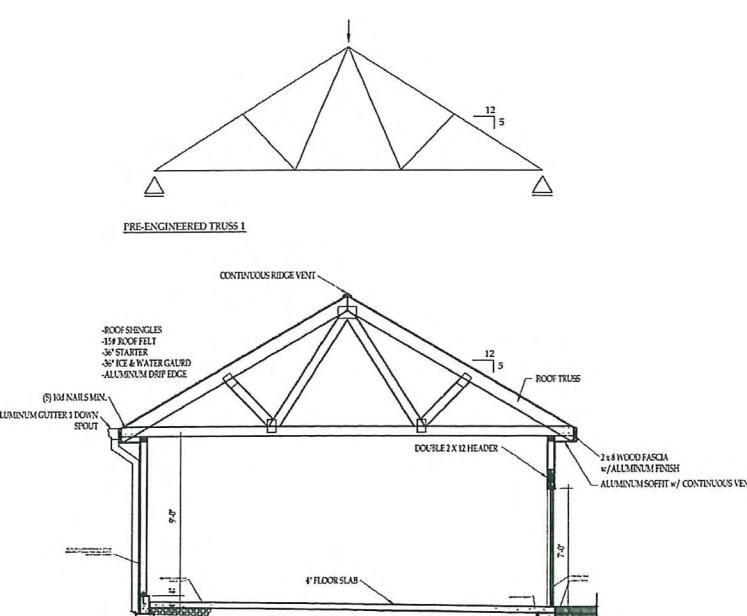
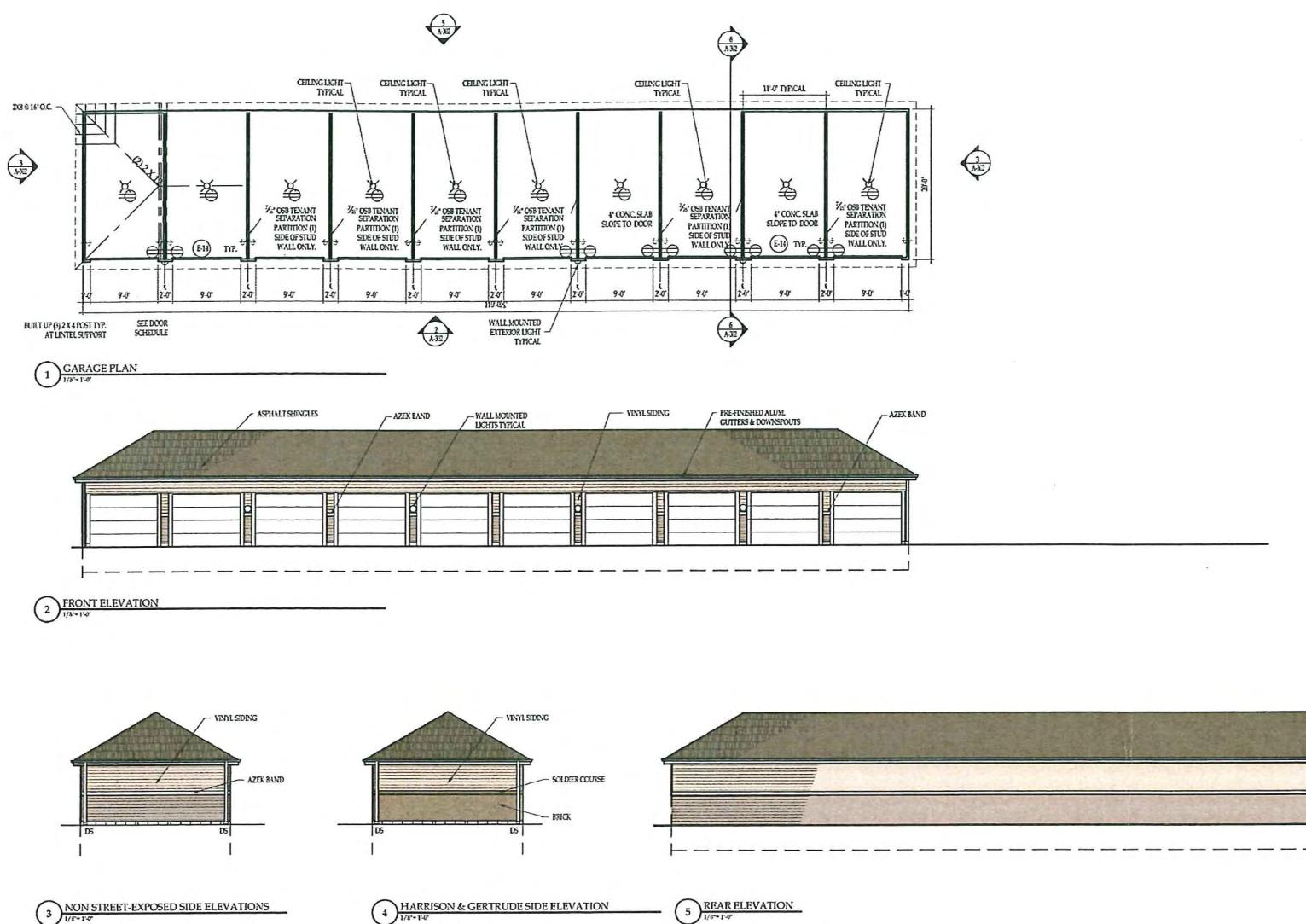


SILVESTRI ARCHITECTS - PC

10 PINEVIEW DRIVE PH. 716.691.0900
MUNYER, NY 14223 FAX 716.691.4773

AP # DATE:

CONTENTS



5 14 STALL GARAGE SECTION

The Orchards at Wildewood



Lot 5

SUBDIVISION AGREEMENT
(Harrison Heights Subdivision)

THIS AGREEMENT, made this _____ day of _____, 2009, by and between EMPIRE GROUP, LLC, hereinafter referred to as "Subdivider" and the City of La Vista, hereinafter referred to as "City".

WITNESSETH:

WHEREAS, Subdivider is the lawful owner of the land included within the proposed plat attached hereto as Exhibit "A", which parcel of land (hereinafter referred to as the "Area to be Developed") is within the corporate limits of the City and within the City's zoning and platting jurisdiction; and,

WHEREAS, the Subdivider proposes to build public improvements and common area private improvements in the Area to be Developed; and,

WHEREAS, the Subdivider wishes to connect the system of sanitary sewers to be constructed, within the Area to be Developed, to the sewer system of the City; and,

NOW, THEREFORE, IT IS AGREED by Subdivider and City as follows:

SECTION I

Subdivider shall construct the following public and common area private improvements:

- A. A concrete deceleration lane for eastbound traffic on Harrison Street for the site drive east of Gertrude Street. Plans and specifications for said deceleration lane improvements shall be approved by City prior to starting construction of said improvements as shown on Exhibit "B".
- B. Concrete drive returns located within the public street right-of-way of Gertrude Street at four locations. Plans and specifications for said drive return improvements shall be approved by City prior to starting construction of said improvements as shown on Exhibit "B".
- C. Permanent stormwater detention basins, riser structures, discharge pipes and other related appurtenances constructed in association with the Post Construction Stormwater Management Plan as shown on Exhibit "C". Detailed plans of the permanent risers and discharge pipes shall be submitted to and approved by the City.
- D. A private shared drive constructed to City public street standard providing access to Lots 1-4, inclusive of the Area to be Developed and providing ingress and egress to Harrison Street and Gertrude Street as shown on Exhibit "D", the Final Planned Unit Development Plan.
- E. A public water providing water service to Lots 1-3, inclusive of the Area to be Developed and providing looped water service by connecting to the existing water main

in Gertrude Street at two locations as shown on Exhibit "D", the Final Planned Unit Development Plan.

F. A private sanitary sewer line providing sanitary sewer service to Lots 1-3, inclusive of the Area to be Developed and connecting to the existing sanitary sewer in Gertrude Street as shown on Exhibit "D", the Final Planned Unit Development Plan.

SECTION II

The parties agree that the entire cost of all public improvements shall be paid for privately by the Subdivider.

SECTION III

A. City hereby grants permission to the Subdivider, his successors and assigns, to connect its sewer system to the sewer system of the City, in such manner and at such place or places designated on plans submitted by the Subdivider and approved by the City.

SECTION IV

A. Perimeter Sidewalks. Each Lot owner, or its assigns, shall, at their cost, install and maintain perimeter sidewalks abutting and within the platted area. Said sidewalks shall be installed on and abutting each lot prior to the certificate of occupancy for the first building being issued on such lot.

B. Grading Plan. A Grading and Erosion Control Plan for the platted area has been prepared and previously approved in accordance with the Papillion Creek Watershed Partnership requirements.

C. Site Approval Precondition to Building Permit. Nothing herein shall be deemed a waiver or lessening of any of City's requirements for City approved site plan for any building prior to the issuance of a building permit therefore.

D. Public Access Roads or Driveways. Direct vehicular access to abutting streets shall be limited as indicated on the Plat. Any publicly used roads and driveways within the Plat to the extent shown on Exhibit "D", the Final Planned Unit Development Plan, shall be constructed to City approved specifications. The City shall have access to and over such roadways and driveways for any purpose it deems appropriate in the exercise of its general governmental powers, including but not limited to, inspection, police, fire and rescue and other public safety purposes, and the exercise of all rights granted to City by the terms of the Subdivision Agreement.

E. Staking Bond. Subdivider shall provide the City a staking bond satisfactory to City Engineer prior to City's release of the final plat.

F. Tract Sewer Connection Fees. Tract sanitary sewer connection fees shall be due and payable to the City in the following amounts prior to the issuance of a building permit for a particular lot:

Lot 1, Harrison Heights	0.974 acres @ \$5,973/Ac. = \$5,817.70
Lot 2, Harrison Heights	0.745 acres @ \$5,973/Ac. = \$4,449.89
Lot 3, Harrison Heights	0.946 acres @ \$5,973/Ac. = \$5,650.45
Lot 4, Harrison Heights	112 Units @ \$858/Unit = \$94,976.00
Lot 5, Harrison Heights	48 Units @ \$858/Unit = <u>\$41,184.00</u>
Total	<u>\$152,078.04</u>

The aforesated fees per acre or per unit are the rates now in effect and are subject to increase. The rates in effect at time of connection to the sanitary sewer system will be the rates paid.

- G. **Infrastructure to be at Private Expense.** The cost of all infrastructure, improvements and easements within and serving the Plat Area, including those public improvements described in Section I including but not limited to parking and internal street improvements, sidewalks, landscape features, ingress and egress, sanitary sewer, storm sewer, power, CATV, gas, water, cost of connection to external infrastructure shall be constructed and maintained at private expense and no part thereof shall be the responsibility of or at the expense of the City. The initial installation costs of these services shall be paid in full by the Subdivider. All on-going maintenance, repair and replacement shall be at the cost of the individual Lot owners and paid on a proportionate basis in accordance with the Maintenance Agreement shown as Exhibit "E" ..
- H. **Street Lighting.** The cost of the installation of street lighting along any private roadway within the platted area shall be the obligation of the Subdivider, his successors and assigns.
- I. **Performance Guarantees.** Subdivider shall provide financial guarantees acceptable to the City for all public improvements and private common area improvements prior to the Mayor signing the Final Plat mylars.
- J. **Covenants Running With the Land.** The obligations and agreements of Subdivider herein are perpetual covenants running with the land and shall be binding on the Subdivider and all of Subdivider's successors and assigns in title. City shall have the right, but not the obligation, to enforce any and all covenants.
- K. **Exhibit Summary.** The Exhibits proposed by E & A Consulting Group, Inc. engineers for the Subdivider, attached hereto and made a part hereof, are as follows:

Exhibit "A":	Final Plat
Exhibit "B":	Final Planned Unit Development Exhibit
Exhibit "C"	Post Construction Stormwater Management Plan
Exhibit "D"	Final Planned Unit Development Plan
Exhibit "E"	Common Area Maintenance Agreement

- L. **Right to Enforce.** Provisions of this Agreement may be enforced at law or in equity by the owners of land within the platted area and may be enforced by the City at law, in equity or such other remedy as City determines appropriate.

IN WITNESS WHEREOF, we, the parties hereto, by our respective duly authorized agents, hereto affix our signatures the day and year first above written.

ATTEST:

EMPIRE GROUP, LLC
FIRST MANAGEMENT GROUP, INC. Manager of
Empire Group, LLC

ATTEST:

By _____
Its: Randall Wiesler, President of First
Management, Inc.

CITY OF LA VISTA

Pamela A. Buethe, City Clerk

By: _____
Douglas Kindig, Mayor

ACKNOWLEDGMENT OF NOTARY

STATE OF NEBRASKA)
COUNTY OF _____)
) ss.
)

On this _____ day of _____, 2009, before me a Notary Public, duly
commissioned and qualified in and for said County, appeared _____,
_____ of First Management Group, Inc, personally known by me to be the
_____ and the identical person whose name is affixed to the foregoing
Agreement, and acknowledged the execution thereof to be his/her voluntary act and deed, and
the voluntary act and deed of said limited liability company.

WITNESS my hand and Notarial Seal the day and year last above written.

Notary Public

ACKNOWLEDGMENT OF NOTARY

STATE OF NEBRASKA)
COUNTY OF _____) ss.
)

On this _____ day of _____, 2009, before me a Notary Public, duly commissioned and qualified in and for said County, appeared Douglas Kindig, personally known by me to be the Mayor of the City of La Vista and Pamela A. Buethe, to me personally known to be the City Clerk of the City of La Vista, and the identical persons whose names are affixed to the foregoing Ninth Amendment to Subdivision Agreement, and acknowledged the execution thereof to be their voluntary act and deed, and the voluntary act and deed of said City.

WITNESS my hand and Notarial Seal the day and year last above written.

Notary Public

**RECIPROCAL PERMANENT ACCESS
EASEMENT AND MAINTENANCE AGREEMENT**

THIS RECIPROCAL PERMANENT ACCESS EASEMENT AND MAINTENANCE AGREEMENT is made as of this _____ day of _____, 2009, (hereinafter referred to as the "Effective Date") by EMPIRE GROUP, LLC ("Empire").

RECITALS:

WHEREAS, Empire is the lawful owner of Lots 1 through 5, inclusive, Harrison Heights, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska;

WHEREAS, by virtue of the recording of this Reciprocal Permanent Access Easement and Maintenance Agreement (the "Agreement"), the above legally described real property (hereinafter referred to individually as a "Lot" and collectively as the "Lots") shall be owned, held, transferred, sold, conveyed, used, and occupied and mortgaged or otherwise encumbered subject to the provisions of this Agreement and every grantee of any interest in any said Lot, by acceptance of a deed or other conveyance of such interest, and every person or entity owning an interest in any portion of any said Lot, whether or not such deed or other conveyance of such interest shall be signed by such person and whether or not such person shall otherwise consent in writing, shall own and take subject to the provisions of this Agreement and shall be deemed to have consented to the terms hereof;

WHEREAS, grantor desires to grant for the benefit of all future owners, occupants and mortgagees of the Lots or any part thereof and their respective officers, directors, members, partners, employees, tenants, agents, contractors, customers, invitees, licensees, vendors, subtenants or concessionaires ("Permittees"), fire, rescue and other emergency vehicles, and the landowners association formed or to be formed by Empire, a right-of-way easement (but not parking), over and upon each of the Lots or any portion thereof within the area depicted on Exhibit A (the "Private Drive") for the purpose of providing pedestrian and vehicular ingress and egress to the Lots (but not parking), and intends that all future owners, occupants and mortgagees and any other persons hereafter acquiring any interest in any of the Lots shall hold said interest subject to certain rights, easements and privileges in, over and upon the Lots or any portion thereof for the purpose of providing pedestrian and vehicular ingress and egress, to and from the foregoing described Lots;

NOW, THEREFORE, for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, including the mutual grants and covenants contained herein, the receipt and adequacy of which are hereby acknowledged, Empire does hereby GRANT, SELL and CONVEY unto themselves and the future owners and mortgagees of the Lots and their respective Permittees, fire, rescue and other emergency vehicles, and the landowners association formed or to be formed by Empire, an easement for the perpetual

non-exclusive right for the purpose of providing vehicular and pedestrian ingress and egress (but not parking) over and upon the Private Drive now or hereafter located upon the Lots in the area described on Exhibits A attached hereto; provided, however, that the rights herein granted to any person or entity, or anyone claiming under them, shall terminate and expire at such time as such person or entity ceases to be an owner or mortgagee of the Lots or any portion thereof, as the case may be, and such rights shall thereafter be held by the new owner or mortgagee, or anyone claiming under them.

It is further agreed as follows:

1. Nature of Easements. The foreclosure of any mortgage covering all or a portion of a Lot or Lots shall in no way affect or diminish any easements granted herein, for all such easements shall remain in full force and effect for the benefit of the grantees described herein. The easements hereby created are not public easements, but are permanent, private easements for the use and benefit of the owners, future owners, occupants, mortgagees, and their Permittees, and fire, rescue and other emergency vehicles. The parties hereto expressly disclaim the creation of any rights in or for the benefit of the public generally. It is understood and agreed that the easements shall continue for so long as any Lot remains in existence.

2. Improvements and Costs and Expenses. Empire, its successors and assigns, shall be responsible for installing and constructing the Private Drive and related improvements, including but not limited to storm sewers and drainage structures, within the area depicted on Exhibit A at its sole cost and expense.

3. Maintenance of the Private Drive. The maintenance, repair, replacement and operation of the Private Drive and related improvements shall be the responsibility of the business owner's association formed or to be formed by Empire, as Declarant, pursuant to the Declaration of Covenants, Conditions, Restrictions and Easements for Harrison Heights, as the same may be amended from time to time (the "Association"). The Association shall maintain, repair, operate, replace and otherwise keep the Private Drive and related improvements in good repair in its reasonable judgment and discretion. The maintenance shall include, without limitation, the following:

(1) Maintaining the surfaces in a level, smooth and evenly-covered condition with the type of surfacing material originally installed or such substitute as shall in all respects be equal in quality, use, and durability.

(2) Removing all papers, ice and snow, mud and sand, debris, filth and refuse and thoroughly sweeping the area to the extent reasonably necessary to keep the area in a clean and orderly condition (including, without limitation, removing graffiti and repair of other damage caused by vandalism).

(3) Inspecting, maintaining, repairing and replacing any storm drainage system installed along the private drive.

(4) Inspecting, maintaining, repairing and replacing the lighting, if any, installed along the drive.

4. Restrictions. No barricades, signs, fences, or other dividers will be constructed and nothing will be done to prohibit or discourage the free and uninterrupted flow of pedestrian or vehicular traffic through the access easement area.

5. Effect of Covenants. Each owner of a Lot, its successors and assigns, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, options, liens and charges, and the jurisdiction, rights and powers granted or reserved by this Agreement or to which this Agreement is subject, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land and shall bind any person or entity having at any time any interest of estate in said property, and shall inure to the benefit of such Lot owners on like manner as though the provisions, terms and restrictions of this Agreement were received and stipulated at length in each and every deed of conveyance.

6. Waiver. No covenant, restriction, condition or provision of this Agreement shall be deemed to have been abrogated or waived by reason on any failure to enforce the same at any time, irrespective of the number of violations or breaches which may occur.

7. Savings Clause. The invalidity of any covenant, restriction, condition, limitation or any other provision of this Agreement herein contained, as the case may be, shall not render the remainder of the Agreement invalid, nor any other part therein contained.

8. Amendment, Modification, Notices.

(a) This Agreement may only be amended by the written consent and agreement of the record owners of the Lots or their successors and assigns and the Association. Any such modification or amendment shall be effective when duly recorded in the office of the Register of Deeds in the county in which said property is situated.

(b) Wherever in this Agreement the consent or approval of an owner of a Lot is required, unless otherwise expressly provided herein, such consent or approval shall not be unreasonably withheld or delayed. Any request for consent or approval shall: (a) be in writing; (b) specify the section hereof which requires that such notice be given or that such consent or approval be obtained; and (c) be accompanied by such background data as is reasonably necessary to make an informed decision thereon.

(c) Notices or other communication hereunder shall be in writing and shall be sent certified or registered mail, return receipt requested, or by other national overnight courier company, or personal delivery. Notice shall be deemed given upon receipt or refusal to accept delivery. Each party may change from time to time their respective address for notice hereunder by like notice to the other parties.

Empire: First Management, Inc.
Attention: Randall Wieseler, President
1941 S. 42nd Street
Omaha, NE 68105

9. Reservation of Utilities Easements. Empire hereby reserves for its own use and benefit, and for the use and benefit of all future Owners, the right to grant utility easements within the Private Drive in accordance with the Declaration of Covenants, Conditions, Restrictions and Easements for Harrison Heights.

10. Governing Law. This Agreement shall be construed and governed in accordance with the laws of the State of Nebraska.

EXECUTED this ____ day of _____, 2009.

EMPIRE GROUP, LLC,
a Nebraska limited partnership,

FIRST MANAGEMENT, INC, Manager of Empire Group, LLC

By: _____
Randall Wieseler, President of First Management, Inc.

STATE OF NEBRASKA)
)
COUNTY OF SAARPY)ss.

Before me, a Notary Public qualified for said County and State, personally came Randall Wieseler, President of First Management, Inc., known to me to be the identical person who signed the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed on behalf of said limited partnership.

WITNESS my hand and Notary Seal on this ____ day of _____, 2009.

Notary Public

**City of La Vista
Conditional Use Permit**

Conditional Use Permit for Multi-family Senior Housing on Lot 4, Harrison Heights

This Conditional Use Permit issued this _____ day of _____, 2009, by the City of La Vista, a municipal corporation in the County of Sarpy County, Nebraska (“City”) to _____. (“Owner”), pursuant to the La Vista Zoning Ordinance.

WHEREAS, Owner wishes to construct and operate senior apartments upon the following described tract of land within the City of La Vista zoning jurisdiction:

Lot 4 of Harrison Heights Subdivision, located within the NE $\frac{1}{4}$ of Section 14, Township 14 North, Range 12 East of the 6th P.M. Sarpy County, Nebraska.

WHEREAS, Owner has applied for a conditional use permit for the purpose of constructing an apartment complex for seniors over 55 years of age and designed for independent living; and

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

NOW, THEREFORE, BE IT KNOWN THAT subject to the conditions hereof, this conditional use permit is issued to the owner to use the area designated on Exhibit “A” hereto for multi-family residential, specifically senior apartments for independent living, said use hereinafter being referred to as “Permitted Use or Use”.

Conditions of Permit

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

1. The rights granted by this permit are transferable and any variation or breach of any terms hereof shall cause permit to expire and terminate without the prior written consent of the City (amendment to permit) or unless exempted herein.
2. In respect to the Permitted Use:
 - a. A site plan showing the property boundaries of the tract of land and easements, proposed structures, parking, access points, and drives shall be provided to the City and attached to the permit as “Exhibit A”.
 - b. These apartments are intended for senior independent living - only residents 55 years and older are allowed to rent apartments at this location.
 - c. All parking for residents and visitors is to remain on-site; no on-street parking is allowed on Gertrude Street.
 - d. The building design shall comply with the Gateway Corridor design guidelines and the architectural rendering exhibit attached to the Final PUD Plan narrative.
 - e. There shall be no storage, placement or display of goods, supplies or any other material, substance, container or receptacle outside of the indoor rec. facility, except trash receptacles and those approved in writing by the City.
 - f. There shall not be any outside storage of materials. All trash receptacles, benches and planters shall be placed on property and securely fastened to building or concrete. Trash dumpsters shall be placed with a trash enclosure of six feet in height and screened accordingly.

- g. Landscaping requirements from Section 7.17 of the City of La Vista Zoning Ordinance shall be satisfied and maintained by the property owner.
- h. Owner shall obtain all required permits from the City of La Vista and shall comply with any additional requirements as determined by the Chief Building Official, including, but not limited to, building, fire, and ADA.
- i. Owner shall comply (and shall ensure that all employees, invitees, suppliers, structures, appurtenances and improvements, and all activities occurring or conducted, on the premises at any time comply) with any applicable federal, state and/or local regulations, as amended or in effect from time to time, including, but not limited to, applicable environmental or safety laws, rules or regulations.
- j. Owner hereby indemnifies the City against, and holds the City harmless from, any liability, loss, claim or expense whatsoever (including, but not limited to, reasonable attorney fees and court cost) arising out of or resulting from the acts, omissions or negligence of the owner, his agents, employees, assigns, suppliers or invitees, including, but not limited to, any liability, loss, claim or expense arising out of or resulting from any violation on the premises of any environmental or safety law, rule or regulation.

3. The applicant's right to maintain the use as approved pursuant to these provisions shall be based on the following:

- a. An annual inspection to determine compliance with the conditions of approval. The conditional use permit may be revoked upon a finding by the City that there is a violation of the terms of approval.
- b. The use authorized by the conditional use permit must be initiated within one (1) year of approval and shall become void two (2) years after the date of approval unless the applicant has fully complied with the terms of approval.
- c. All obsolete or unused structures, accessory facilities or materials with an environmental or safety hazard shall be abated and/or removed at owner's expense within twelve (12) months of cessation of the conditional use.

4. Notwithstanding any other provision herein to the contrary, this permit, and all rights granted hereby, shall expire and terminate as to a permitted use hereunder upon the first of the following to occur:

- a. Owner's abandonment of the permitted use. Non-use thereof for a period of twelve (12) months shall constitute a presumption of abandonment.
- b. Cancellation, revocation, denial or failure to maintain any federal, state or local permit required for the Use.
- c. Owner's breach of any other terms hereof and his failure to correct such breach within ten (10) days of City's giving notice thereof.

5. If the permitted use is not commenced within one (1) year from _____, 2009, this Permit shall be null and void and all rights hereunder shall lapse, without prejudice to owner's right to file for an extension of time pursuant to the La Vista Zoning Ordinance.

6. In the event of the owner's failure to promptly remove any safety or environmental hazard from the premises, or the expiration or termination of this permit and the owner's failure to promptly remove any permitted materials or any remaining environmental or safety hazard, the City may, at its option (but without any obligation to the owner or any third party to exercise said option) cause the same to be removed at owner's cost (including, but not limited to, the cost of any excavation and earthwork that is necessary or advisable) and the owner shall reimburse the City the costs incurred to remove the same. Owner hereby irrevocably grants the City, its agents and employees the right to enter the premises and to take whatever action as is necessary or appropriate to remove the structures or any environmental or safety hazards in accordance with the terms of this permit, and the right of the City to enter the premises as necessary or appropriate to carry out any other provision of this permit.

7. If any provision, or any portion thereof, contained in this agreement is held to be unconstitutional, invalid, or unenforceable, the remaining provisions hereof, or portions thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

Miscellaneous

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

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

Contact Name and Address:

Scott Kennedy
Calamar
6614 S. 118th Street
Omaha, NE 68137
(402) 502-7500

Effective Date:

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

THE CITY OF LA VISTA

By _____
Douglas Kindig, Mayor

Attest:

Pam Buethe
City Clerk

CONSENT AND AGREEMENT

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

Owner:

By: _____

Title: _____

Date: _____

LEGAL DESCRIPTION

A REPLATTING OF LOTS 13 AND 14, CRESTVIEW HEIGHTS (SECOND PLATTING), A SUBDIVISION LOCATED IN THE NE 1/4 OF SECTION 14, TOWNSHIP 14 NORTH, RANGE 12 EAST OF THE 6TH P.M., SARPY COUNTY, NEBRASKA.

OWNER EMPIRE GROUP, LLC
1941 S. 42ND STREET SUITE 550
OMAHA, NE. 68105

ENGINEER
E & A CONSULTING GROUP
330 NORTH 117TH STREET
OMAHA, NEBRASKA 68154

DEVELOPER
EMPIRE GROUP, LLC
1941 S. 42ND STREET
OMAHA, NE. 68105

NOTES

1. ZONING:

- EXISTING ZONING: TA
PROPOSED ZONING:
- R3-PUD, LOTS 4

2. PHASE 2: PROPOSED SCHEDULE OF CONSTRUCTION:
 - CITY COUNCIL APPROVAL
 - CLOSING AND BUILDING PERMITS
 - COMPLETION OF 1ST BUILDING
 - ALL BUILDINGS COMPLETE
3. DURING CONSTRUCTION, CONSTRUCTION TRAFFIC CONTROLLED ACCESS TO HARRISON STREET. AFTER ALLOWED TO HARRISON STREET FROM ANY LOTS AND

3. DURING CONSTRUCTION, CONSTRUCTION TRAFFIC WILL BE ALLOWED TO ENTER THE SITE THROUGH A BREAK IN CONTROLLED ACCESS TO HARRISON STREET. AFTER CONSTRUCTION, DIRECT VEHICULAR ACCESS WILL NOT BE ALLOWED TO HARRISON STREET FROM ANY LOTS ABUTTING SAID STREET.

LEGEND:

Legend for Post Construction Site Water Management A:

- X — Existing Fence
- X — Proposed Fence
- R — Ridge Line
- SF — Install Silt Fence
- - - - - Existing Contours
- - - - - Proposed Contours

REQUIRED SETBACK LINE

R3: FRONT YARD SETBACK.....30'
 SIDE YARD SETBACK.....10'
 REAR YARD SETBACK.....30'

PROJECT DENSITIES

PROJECT DENSITIES						
	BUILDING AREA (SF)	LOT AREA (AC)	IMPERVIOUS (AC)	PREVIOUS (AC)	PARKING PER CODE	REGULAR PARKING STALLS
LOT 4	35,419	5.253		3.136	2,795	118
						102
						55
						157

LOT 4, HARRISON HEIGHTS

CONDITIONAL USE SITE PLAN

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

30 NORTHLAND STREET, CUMMING, GA 30041
PHONE: (402) 895-4700 FAX: (402) 895-3598
www.eacg.com