

## **AGENDA ITEM 4 A**

### **PERFORMANCE AUTO PLAZA CONDITIONAL USE PERMIT AMENDMENT**



**CITY OF LA VISTA  
PLANNING DIVISION  
RECOMMENDATION REPORT**

CASE NUMBER:

FOR HEARING OF: May 19, 2011  
Report Prepared on: May 12, 2011

**I. GENERAL INFORMATION**

- A. APPLICANT:**  
90/370, LLC
- B. PROPERTY OWNER:**  
R.S. Land, Inc.
- C. LOCATION:**  
East of Interstate 80, North of Harrison Street
- D. LEGAL DESCRIPTION:**  
Lot 4 Performance Auto Plaza and Lot 16 Southport East, located in the NE ¼ of Section 18, Township 14 North, Range 12 East of the 6th P.M. Sarpy County, Nebraska.
- E. REQUESTED ACTION(S):**  
Amendment of Conditional Use Permit to include Lot 16 Southport East
- F. EXISTING ZONING AND LAND USE:**  
C-3 – Highway Commercial / Office Park District, Vacant
- G. PURPOSE OF REQUEST:**  
Development of lot to allow for automobile display and sales.
- H. SIZE OF SITE:**  
3.53 acres

**II. BACKGROUND INFORMATION**

- A. EXISTING CONDITION OF SITE:**  
Generally flat with extensive slopes outside of property lines that lead up to Harrison Street and the Interstate.
- B. GENERAL NEIGHBORHOOD/AREA LAND USES AND ZONING:**
1. **North:** Vacant – I-1
  2. **East:** Agricultural/Vacant – TA\I-1\C-3
  3. **South:** Commercial – C-3
  4. **West:** Commercial – C-3

**C. RELEVANT CASE HISTORY:** The original Conditional Use Permit was approved on September 20, 2005.

**D. APPLICABLE REGULATIONS:**

1. Section 5.12 – C-3 Highway Commercial / Office Park District
2. Article 6 – Conditional Use Permits

**III. ANALYSIS**

**A. COMPREHENSIVE PLAN:**

The Future Land Use Map designates this property as commercial.

**B. OTHER PLANS: N/A**

**C. TRAFFIC AND ACCESS:**

1. The property has access to Eastport Parkway through the northern edge of the property.

**D. UTILITIES:**

All utilities are available to the site.

**IV. REVIEW COMMENTS:**

1. Proof of the recording of the right-of-way dedication will need to be provided before City Council approval.
2. Amendments to the initial application have appeased items #2-5 of the City Engineer's Report (attached).
3. Applicant has provided documentation approving of the release the property from the Southport East covenants.
4. The design review for Lot 16 Southport East will need to be completed prior to City Council approval.
5. There will be no significant change in impact on existing infrastructure such as utilities and roads as a result of this CUP.

**V. STAFF RECOMMENDATION:**

Staff recommends approval of the amendment to the Conditional Use Permit for Performance Auto Plaza to include Lot 16 Southport East, contingent on the satisfactory resolution of items #1 and #3 in the Review Comments.

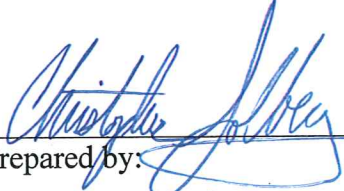
**VI. PLANNING COMMISSION RECOMMENDATION:**


**VII. ATTACHMENTS TO REPORT:**

1. Vicinity Map
2. ALTA\ACSM Land Title Survey – E&A
3. Landscape Plan – E&A
4. Site Lighting Plan – E&A
5. Post-Construction Storm Water Management Plan – E&A
6. City Engineer's Report

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

1. Steve Farrell, 90/370 LLC
2. Mick Diesing, R.S. Land, Inc.
3. Jeff Elliot, E&A Consulting Group
4. Larry Jobeun, Fullenkamp, Doyle & Jobeun
5. Public Upon Request

  
Prepared by: \_\_\_\_\_

  
Community Development Director

 5-13-11  
Date

**City of La Vista  
Conditional Use Permit**

**Conditional Use Permit for Automobile Display, Sales, Service and Repair**

This Conditional Use Permit issued this \_\_\_\_ day of \_\_\_\_\_, 20052011, by the City of La Vista, a municipal corporation in the County of Sarpy County, Nebraska ("City") to, Tal Anderson ("Owner"), pursuant to the La Vista Zoning Ordinance.

WHEREAS, Owner wishes to expand an existing automobile display, sales, service and repair business upon the following described tracts of land within the City of La Vista zoning jurisdiction:

- Lot 4, Performance Auto Plaza located in the NW ¼ NE¼, Section 18, Township 14 North, Range 12 East of the 6th P.M. Sarpy County, Nebraska (7010 S. 124<sup>th</sup> Circle).
- Lot 16, Southport East, an Addition to the City of La Vista, as surveyed, platted and recorded in Sarpy County, Nebraska

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WHEREAS, Owner has applied for a conditional use permit for the purpose of expanding and operating an automobile display, sales, service and repair business; 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-1", and "A-2", and "A-3" hereto for an automobile display, sales, service and repair business, said use hereinafter being referred to as "Permitted Use or Use".

**Conditions of Permit**

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

1. The rights granted by this permit are transferable and any variation or breach of any terms hereof shall cause permit to expire and terminate without the prior written consent of the City (amendment to permit) or unless exempted herein.
2. In respect to the proposed Use:
  - a. A site plan showing the property boundaries of the tract of land and easements, proposed structures, parking, access points, and drives is provided on the Paving Plan, Sheet No. C-1 dated April 16, 2001, and on the Expansion Site Grading and Utilities Plan, Sheet No. C3.1 dated June 30, 2005 and on the Lot 16 Southport East Site Plan dated March 29, 2011, and attached to the permit as Exhibit "B".
  - b. The hours of operation for service will generally be from 7:30 a.m. to 6:00 p.m. Monday through Friday, 7:30 a.m. - 5:30 p.m. Saturday. Sales hours will be 8:30 a.m. to 9:00 p.m. Monday through Thursday and 9:30 a.m. to 6:00 p.m. on Friday and Saturday.
  - c. There will be approximately 870 employees to work full or part time.
  - d. The sales and service will consist of passenger vehicles.

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- e. 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.
  - f. The premises shall be developed and maintained in accordance with the site plans (Sheets C-1 and C3.1 described above) as approved by the City and incorporated herein by this reference. Any modifications must be submitted to the Chief Building Official for approval.
  - g. Exterior lighting, when used, shall enhance the building design and the adjoining landscape. Building fixtures shall be of a design and size compatible with the building and adjacent areas. Lighting shall be restrained in design and excessive brightness avoided. Lighting shall be designed to a standard that does not impact adjoining properties, especially residential areas. Lighting levels shall not exceed 75 foot candles at any point of the site. Street front display shall be designed for an average of 30 to 40 foot candles and any back storage areas shall be designed for an average of 10 to 20 foot candles. If adjoining properties are impacted such alternatives may include 1) reducing the light intensity between the hours of 11:00 p.m. and dusk and 2) turning off the perimeter lighting to the parking lot between 11:00 p.m. and dusk relying on the existing street lighting.
  - 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. In respect to the Gateway Corridor Overlay District and Performance Auto Plaza design criteria:
- a. Building Exterior (Style and Building Materials)
    - i. The elevation plans (Exterior Elevations, Sheet No. A2.1 dated May 2, 2001 and Building Elevations for the addition, Sheet No. A3.1 dated June 30, 2005 and attached as Exhibit C) and material submitted indicate a combination of integrally colored split face CMU, CMU and EIFS.
  - b. Mechanical Units
    - i. The roof top mechanical units will be screened from all sides by roof top screens as shown in the building elevations (Exterior Elevations, Sheet No. A2.1 dated May 2, 2001 and Building Elevations for the addition, Sheet No. A3.1 dated June 30, 2005 and attached as Exhibit C) and the Second Floor and Roof HVAC plan (Sheet No. M2.2 dated May 2, 2001).
  - c. Trash Enclosure
    - i. The Site and Paving Plan, Sheet No. C1.1 dated April 16, 2001 and the Site Dimension Plan, Sheet No. C4.1d dated June 30, 2005 and attached as Exhibit D indicate screening (trash enclosure) around the refuse dumpsters located on the south side of the building. The walls of the trash enclosure are to be split face CMU that matches the building and the two 48" wide x 60" high gates with steel frames will be finished to match the split face block.
  - d. Exterior Light Fixtures
    - i. All exterior light fixtures used on this project according to the lighting plans (Electrical Site Plan, Sheet No. E0.1 dated May 2, 2001 and New Mechanical/Electrical Site Plan, Sheet Number ME1.0 dated June 30, 2005 and attached as Exhibit E) shall be "Design 129-29" by Quality Lighting as shown in the light fixture schedule on the Electrical Site Plan, Sheet No. E0.1 dated May 2, 2001 and shall be a round fixture on 27 ft. tall poles and white in color.
    - ii. All additional exterior light fixtures must be submitted for approval.

e. Landscaping and Site Treatment

- i. The Landscape Plan on Sheet No. LA1.1 dated April 29, 2002 (Exhibit "F-1"), the landscaping drainage channel plan as per wetland mitigation on Sheet No. 881-106 dated July 29, 2004 (Exhibit "F-2"), and the expansion Landscape Plan on Sheet No. LS1.1 dated August 8, 2005 (Exhibit "F-3") and the Lot 16 Southport East Landscape Plan dated March 29, 2011 has identified the required landscaping to the site and shall be incorporated accordingly.
- ii. Any changes to the landscape plan must be approved by the City of La Vista.

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f. Signage

- i. All signs shall comply with the City's sign regulations.
- ii. No signage, easily visible from the interstate, shall be erected.

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4. 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.

5. 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.

6. If the permitted use is not commenced on Lot 16 Southport East within one (1) year from 20052011, this amendment to the 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. If the permitted use is not commenced within the aforementioned period and the Permit is declared null and void, the existing Permit will remain in effect for Lot 4 Performance Auto Plaza.

7. 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.

8. 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: Kevin QuinnSteve Farrell  
Performance Chrysler Jeep Dodge90/370 LLC  
11910 W. Dodge Rd.11301 Davenport Street  
Omaha, NE 68154

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## 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 Harold AndersonDouglas Kindig, Mayor

Attest:

Rita RamirezPamela A. Bueth  
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:

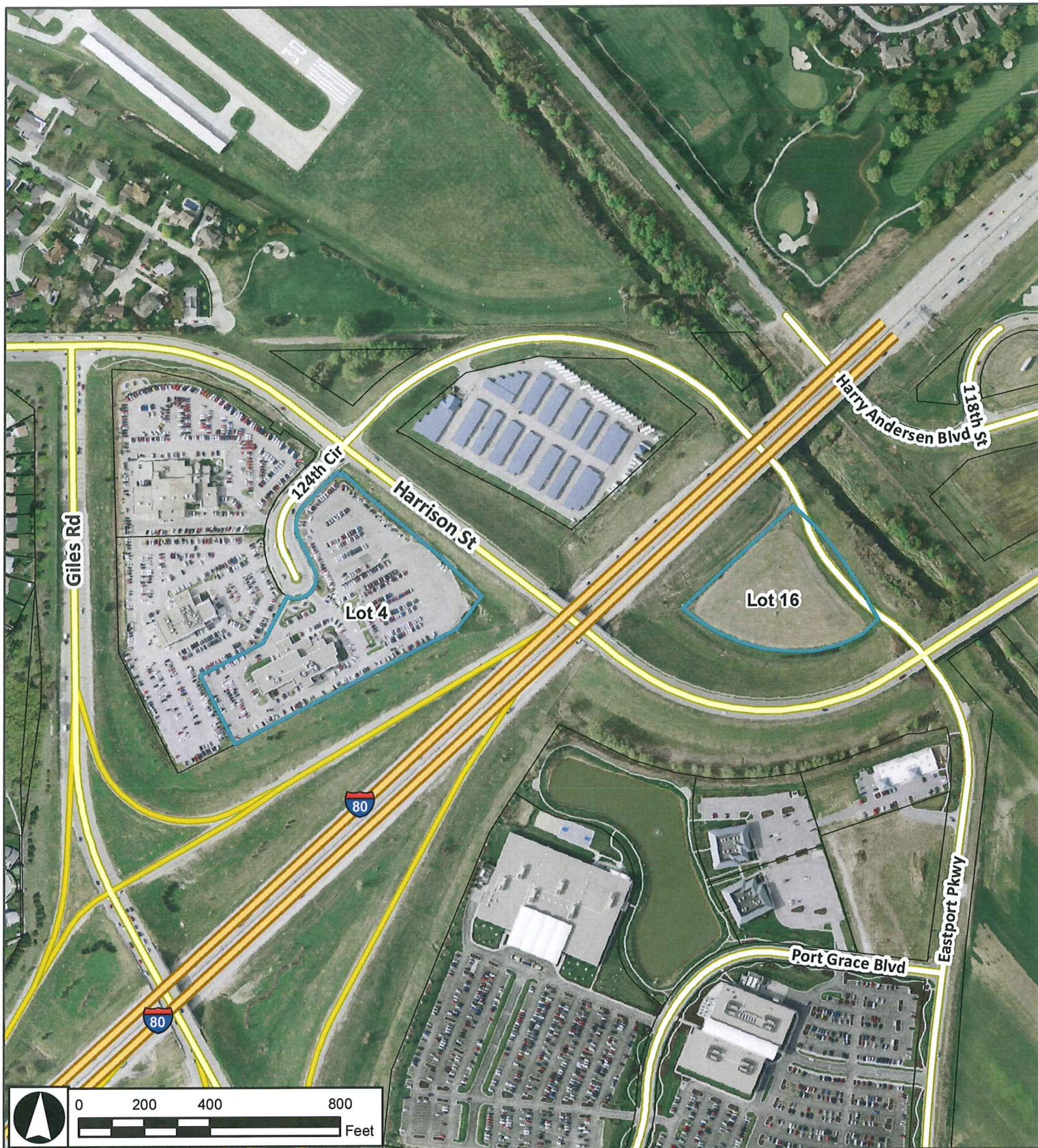


By: \_\_\_\_\_

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

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





Vicinity Map

## Performance Auto CUP Amendment

May 12, 2011  
CAS





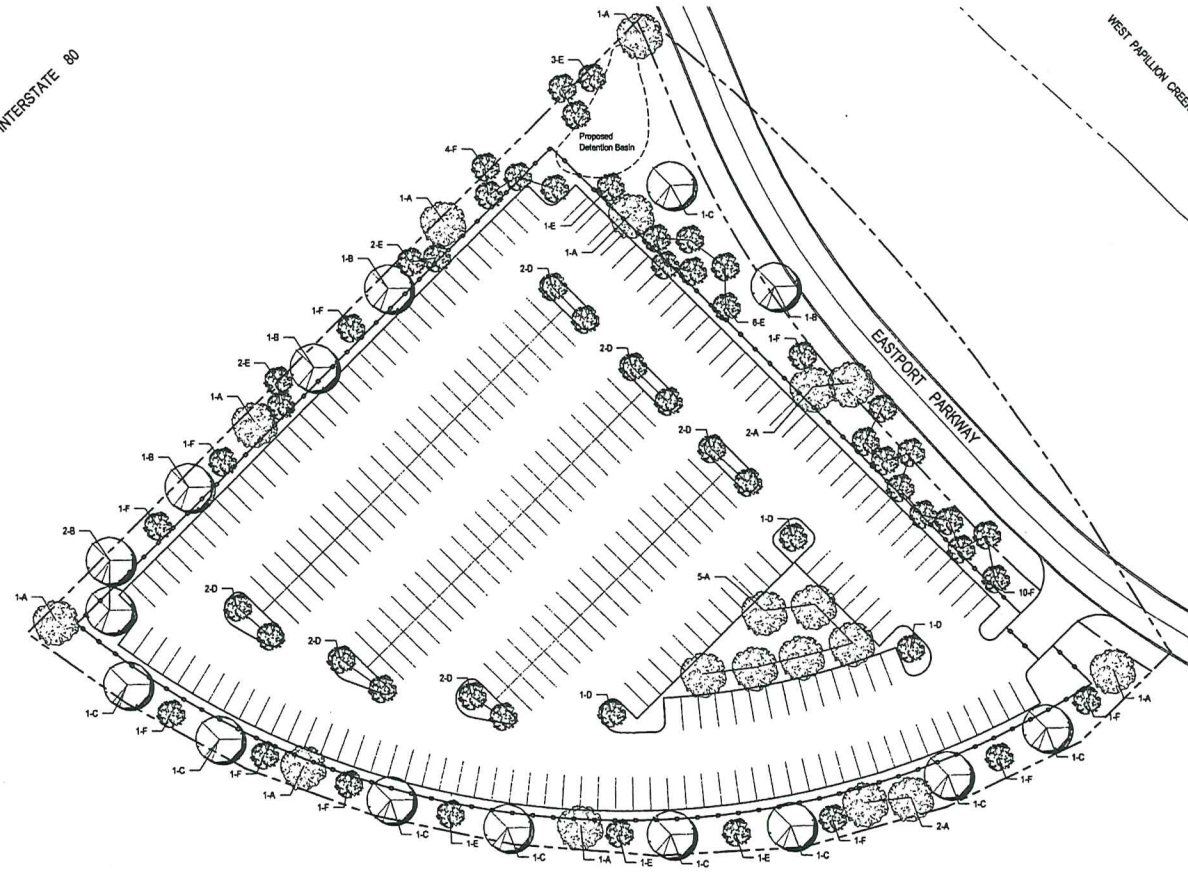
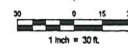
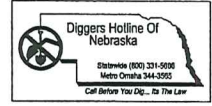




INTERSTATE 80

WEST PAPILLON CREEK

EASTPORT PARKWAY



# PLANT SCHEDULE

SYM	QTY	BOTANICAL NAME	COMMON NAME	SIZE	TYPE
A	17	<i>Gleditsia triacanthos</i> 'Shademaster'	Shademaster Honeylocust	2"	B&B
B	6	<i>Acer rubrum</i> 'Franksred'	Red Sunset Maple	2"	B&B
C	9	<i>Quercus rubra</i>	Northern Red Oak	2"	B&B
D	15	<i>Malus</i> 'Spring Snow'	Spring Snow Crabapple	1 1/2"	B&B
E	17	<i>Malus</i> 'Indian Magic'	Indian Magic Crabapple	1 1/2"	B&B
F	24	<i>Amelanchier canadensis</i>	Shadblow Serviceberry	1 1/2"	B&B

## LANDSCAPE NOTES:

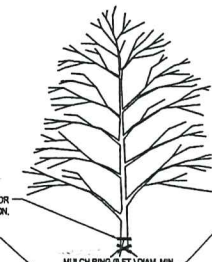
1. Locate and verify the location of all underground utilities prior to the start of any construction. Care should be taken not to disturb any existing utilities during construction. Any damage to utilities or other improvements caused by the Contractor will be repaired at no cost to the Owner.
2. All plant material shall be of good quality and sizes shall meet required size specifications. Owner reserves the right to substitute plant material type, size and/or quantity.
3. All plants are to be watered in immediately after planting and then watered once a week for a period of two months from time of planting.
4. All plant material shall be guaranteed to be in a live and healthy growing condition for two full growing seasons (two years) after final project acceptance or shall be replaced free of charge with the same grade and species including labor.
5. Verify all dimensions and conditions prior to starting construction. The location of plant material is critical and shall be installed as indicated on plans. Field adjustments may be necessary based on field conditions (i.e., root ball and drip inlet conflict). All adjustments must be approved by the landscape architect.
6. The Landscape Contractor shall remove all construction debris and materials injurious to plant growth from planting pits and beds prior to backfilling with planting mix. All planting areas shall be free of weeds and debris prior to any work.
7. Provide locally available shredded hardwood mulch on all trees and in all planting beds to a 3-4 inch minimum depth on top of Landscape fabric unless otherwise noted. Mulch ring to extend 1'-0" minimum beyond planting pit. Minor site grading to be included if needed.
8. All trees are to be staked for a period of not less than one year from time of planting.
9. Contractor to coordinate work with other amenities contractors.

## IRRIGATION NOTES:

1. Irrigation bid to include meter pit and MUD fees.
2. Irrigation controller to be mounted in a steel utility box with hump for pad lock.
3. Irrigation system to be guaranteed for 1 year. Written guarantee to be supplied prior to final payment.
4. Irrigation contractor responsible to winterize system one time.
5. Irrigation contractor to furnish as built drawing of the system and catalogue cuts of the installed equipment prior to final payment.
6. Irrigation contractor to provide owner and engineer an irrigation plan shop drawing and equipment catalogue cuts for approval prior to installation.
7. Contractor to coordinate work with other amenities contractors.

## SEEDING NOTES:

1. Seed to be installed as per City of Omaha specifications. Use the Type A seed in Table 802.06 Seed Application Rates of Part (D) of Section 802.03, which is the Tall Fescue in Table 802.01 Non-Irrigated Lawn and Turf Seed of Part (B) of Section 802.02
2. Contractor to coordinate work with other amenities contractors.



TREE PLANTING DETAIL - B & B TREE  
NOT TO SCALE



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



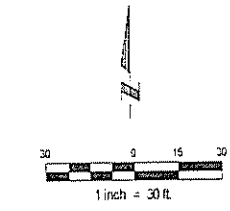
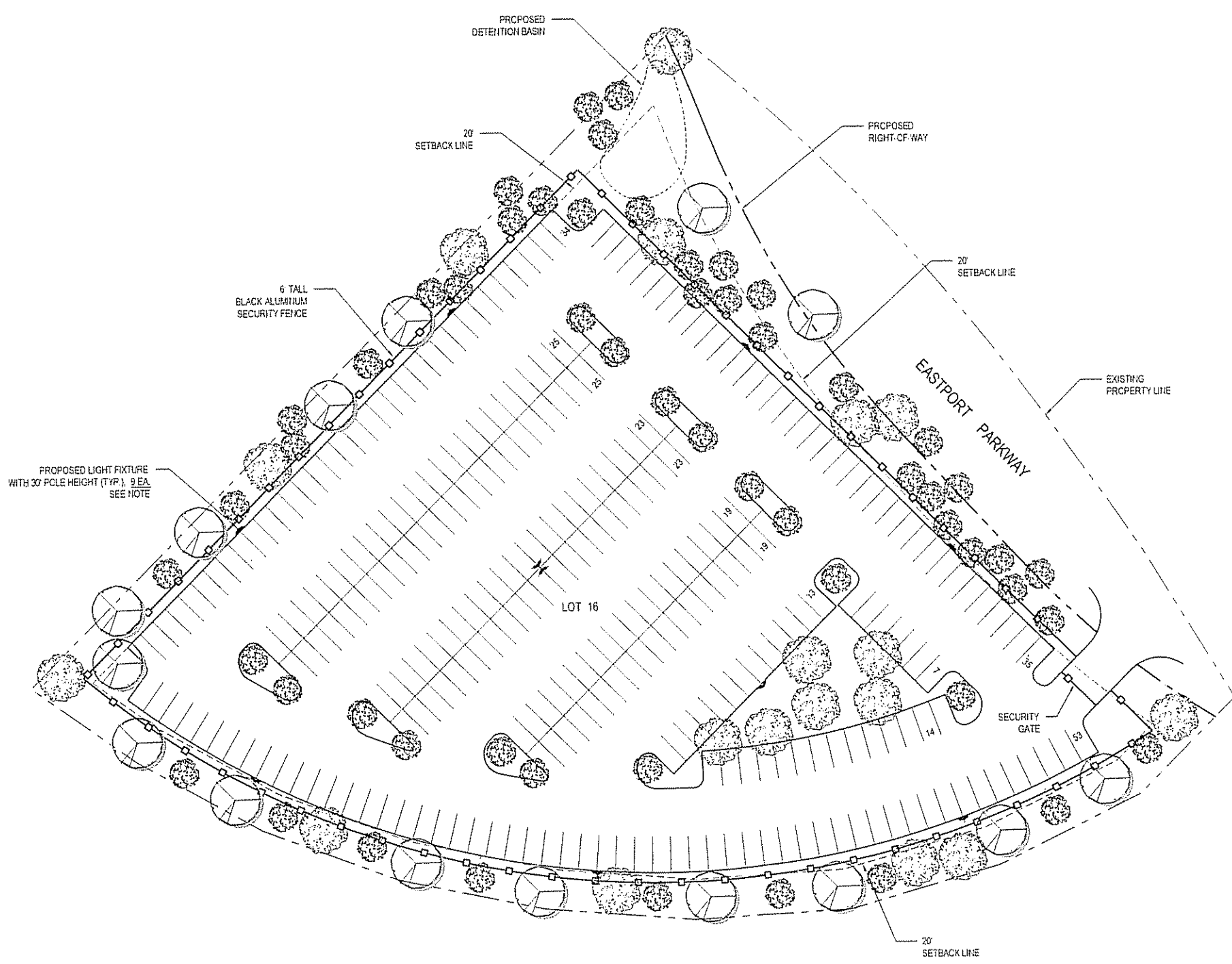
LOT 16 SOUTHPORT EAST  
LA VISTA, MISSOURI

LANDSCAPE PLAN

Function	Review	Date
Prepared By	MAE	
Drawn By	MAE	
Checked By	MAE	
Scale	1" = 1'	

4/15/11





**LEGEND**

- EXISTING PROPERTY LINE
- PROPOSED R.O.W.
- SETBACK LINE
- PROPOSED 6" BLACK ALUMINUM SECURITY FENCE
- PROPOSED LIGHT FIXTURE

**NOTE:**  
LIGHT FIXTURES TO BE SIMILAR TO THOSE USED AT PERFORMANCE AUTO PLAZA OF LA VISTA

**PROJECT INFORMATION:**

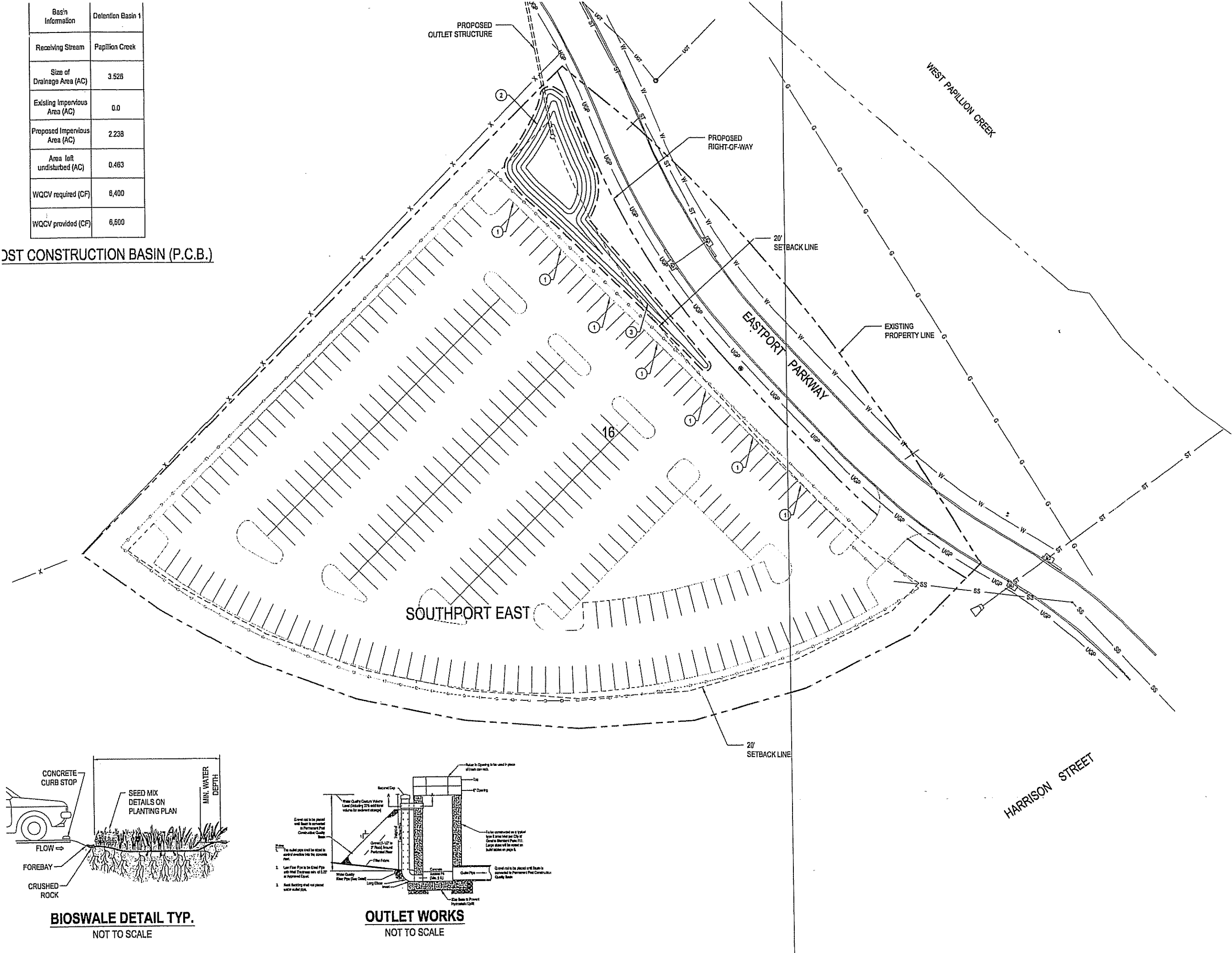
AREA LOT 16	3.526 Ac
AREA LOT 16 LESS ROW	3.063 Ac
OPEN SPACE	1.014 Ac
PAVED IMPERVIOUS AREA	1.202 Ac
PARKING SPACES PROVIDED	250

**LEGAL DESCRIPTION:**

LOT 16, SOUTHPORT EAST, A SUBDIVISION LOCATED IN THE EAST 1/2 OF SECTION 18 AND ALSO THE NW1/4 OF SECTION 17, ALL LOCATED IN TOWNSHIP 14 NORTH, RANGE 12 EAST OF THE 6TH P.M. SARPY COUNTY NEBRASKA.

Basin Information	Detention Basin 1
Receiving Stream	Papillon Creek
Size of Drainage Area (AC)	3.525
Existing Impervious Area (AC)	0.0
Proposed Impervious Area (AC)	2.238
Area left undisturbed (AC)	0.463
WQCV required (CF)	8,400
WQCV provided (CF)	6,500

# DST CONSTRUCTION BASIN (P.C.B.)



- LEGEND**
- EXIST. PROPERTY LINE
  - PROPOSED F.O.W.
  - SETBACK LINE
  - PROPOSED BASIN BOUNDARY
  - PROPOSED 6" BLACK ALUMINUM SECURITY FENCE
  - W --- EXIST. WATER
  - UGP --- EXIST. UNDERGROUND POWER
  - UGT --- EXIST. UNDERGROUND TELEPHONE / TV LINE
  - G --- EXIST. GAS LINE
  - X --- EXIST. FENCE
  - ST --- EXIST. STORM SEWER
  - SS --- EXIST. SANITARY SEWER

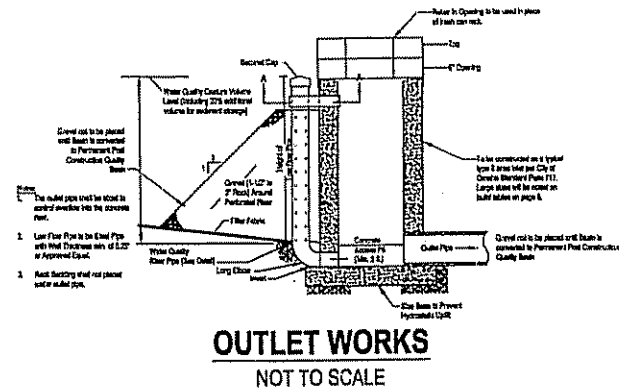
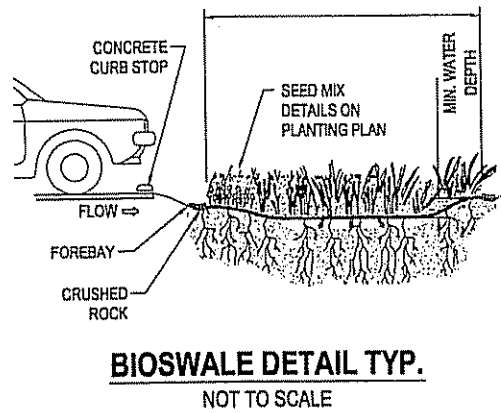
- NOTES**
- 2" CURB CUT
  - PROPOSED DETENTION BASIN
  - PROPOSED BIOSWALE

**PROJECT INFORMATION**

AREA LOT 16	3.520 Ac.
AREA LOT 16 LESS ROW	3.083 Ac.
OPEN SPACE	0.825 Ac.
PAVED IMPERVIOUS AREA	2.238 Ac.
PARKING SPACES PROVIDED	290

**LEGAL DESCRIPTION:**

LOT 16, SOUTHPORT EAST, A SUBDIVISION LOCATED IN THE EAST 1/2 OF SECTION 18; AND ALSO THE NW1/4 OF SECTION 17; ALL LOCATED IN TOWNSHIP 14 NORTH, RANGE 12 EAST OF THE 6TH P.M., SARPY COUNTY, NEBRASKA.





April 26, 2011

Mr. Christopher Solberg  
City Planner  
City of La Vista  
8116 Park View Blvd.  
La Vista, NE 68128

RE: Conditional Use Permit Application-Initial Review  
Performance Auto-Lot 16, Southport East  
Proposed Auto Sales in C-3 Zoning

Chris:

I have reviewed the site plan and documents accompanying the application that I received from you for a proposed conditional use permit for the Performance Auto Plaza expansion of sales area onto Lot 16 of Southport East. Based on the elements for consideration set forth in Article 6.05 of the Zoning Regulations, I have the following comments:

1. The applicant needs to submit a right-of-way dedication for the portion of Eastport Parkway as illustrated on the site plan. This dedication should be processed through the Planning Commission and City Council and is needed whether the CUP is approved or not. The CUP should not be approved if the dedication is not provided.
2. The applicant needs to prepare a conceptual Post Construction Storm Water Management Plan that provides for water quality treatment of the first-half inch of storm water runoff and provides for maintaining no increase in 2-year storm peak runoff flows above existing conditions. This is needed for compliance with the Papillion Creek Watershed Partnership policies. This should be submitted prior to Planning Commission consideration as it could impact the proposed site plan and the quantity of greenspace provided to meet the requirements.
3. I recommend that a Site Electrical/Lighting Plan be part of the CUP. It appears that this type of plan was included in the prior CUP documents.
4. In regards to the text of the CUP document I have a couple of comments as follow:
  - a. In Item 2.c, will the work force increase from the 80 that was previously stated?
  - b. Does Item 6 need to have the date changed to reflect the date of this amendment, if approved, and identified to pertain to the amendment and not the whole CUP?

City Hall  
8116 Park View Blvd.  
La Vista, NE 68128-2198  
p: 402-331-4343  
f: 402-331-4375

Community Development  
8116 Park View Blvd.  
p: 402-331-4343  
f: 402-331-4375

Fire  
8110 Park View Blvd.  
p: 402-331-4748  
f: 402-331-0410

Golf Course  
8305 Park View Blvd.  
p: 402-339-9147

Library  
9110 Giles Rd.  
p: 402-537-3900  
f: 402-537-3902

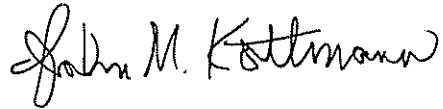
Police  
7701 South 96th St.  
p: 402-331-1582  
f: 402-331-7210

Public Works  
9900 Portal Rd  
p: 402-331-8927  
f: 402-331-1051

Recreation  
8116 Park View Blvd.  
p: 402-331-3455  
f: 402-331-0299

5. The applicant should be aware that they will need to obtain a floodplain development permit, a grading and erosion control permit, and FAA approval as part of obtaining a building permit if the CUP is approved.

Please feel free to contact me if you have questions about my recommendations.

A handwritten signature in black ink, reading "John M. Kottmann". The signature is written in a cursive style with a large, stylized initial "J".

John M. Kottmann

City Engineer