

## **City of La Vista Conditional Use Permit**

### **Conditional Use Permit for a Automotive Repair Service**

This Conditional Use Permit issued this \_\_\_\_th day of May, 2019, by the City of La Vista, a municipal corporation in the County of Sarpy County, Nebraska (“City”) to, Ben and Sandy Toscano (“Owner”), pursuant to the La Vista Zoning Ordinance.

**WHEREAS**, Owner wishes to construct and operate an Automotive Repair Service upon the following described tract of land within the City of La Vista zoning jurisdiction:

Lot 47, Brook Valley Business Park, in Sarpy County, Nebraska, excepting therefrom that portion dedicated to the public for public use in the Plat and Dedication for Street Widening, filed July 1, 2002 as Instrument No. 2002-24348.

**WHEREAS**, Owner has applied for a conditional use permit for the purpose of locating and operating an Automotive Repair Service; 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 an Automotive Repair Service, 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 and orientation, parking, access points, and drives is approved by the City and attached to the permit as “Exhibit A”. Access will be from 110th Street and Emilie Street. The primary entrance will be from the access on 110th Street.
  - b. Hours of operation for said Automotive Repair Service will be from 7:00 a.m. to 6:00 p.m. Monday through Friday and 8:00 a.m to 1:00 p.m. on Saturday.
  - c. There will be up to 10 employees on site per shift.
  - d. The site will be comprised of a 15,000 square building, required parking and landscaping.
  - e. Deliveries must correspond with store business hours and shall be restricted to off-peak traffic hours when reasonable.
  - f. The premises shall be developed and maintained in accordance with the site plan (Exhibit A) and elevations (Exhibit B) as approved by the City and incorporated herein by this reference. Any modifications must be submitted to the Chief Building Official for approval.
  - g. There shall be no storage, placement or display of goods, supplies or any other material, substance,

container, or receptacle outside of the facility, except trash receptacles and those approved in writing by the City. All dumpsters and trash bins shall maintain a solid 6-foot enclosure around each unit constructed of materials complimentary to the main building.

- h. All vehicles on the site for repairs shall be stored behind the screen wall during regular business hours and within the structure after regular business hours.
- i. Automobile sales are limited to ~~four eighteen~~ (418) automobiles available for sale at any one time. Owner shall maintain a dealer license at all times while vehicles for sale are on the lot. All automobiles available for sale shall be parked ~~within the structure after regular business hours in the areas delineated within the Inventory Placement site plan (Exhibit C)~~. No signage advertising the automobile sales shall be allowed, except ~~for one window sign, provided that it meets Section 7.01.05 of the City of La Vista Zoning Ordinance~~ ~~window pennants similar to those depicted in Exhibit D~~.
- j. All trash receptacles, benches and planters shall be placed on property and securely fastened to building or concrete.
- k. All permanent and temporary signs shall comply with the City's sign regulations.
- l. Owner shall abide by all aspects of City of La Vista Zoning Ordinance Section 7.16 – *Performance Standards for Industrial Uses*.
- m. 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.
- n. The owner shall make annual inspections of the premises and structures, and the operation thereof for any hazard or risk, including, but not limited to, those of an environmental or safety nature. The owner shall take immediate action to protect persons, property and the environment from any damage, injury or loss, or risk thereof, arising out of or resulting from any hazard or risk on the premises and to abate any hazard or risk and remove it from the premises in accordance with any applicable laws, rules or regulations, as amended or in effect from time to time.
- o. 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.
- p. 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 construction or placement of a storage tank, structure or other improvement on the premises not specified in this permit.
- d. 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. 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.

6. 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:** Ben & Sandy Toscano  
Gateway ~~Collision and Repair~~~~Holding Co LLC~~  
~~5885 South 118<sup>th</sup> Circle~~~~5811 S 170<sup>th</sup> Street~~  
Omaha, NE ~~68137~~68135

**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:

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Pam Buethe  
City Clerk

**CONSENT AND AGREEMENT**

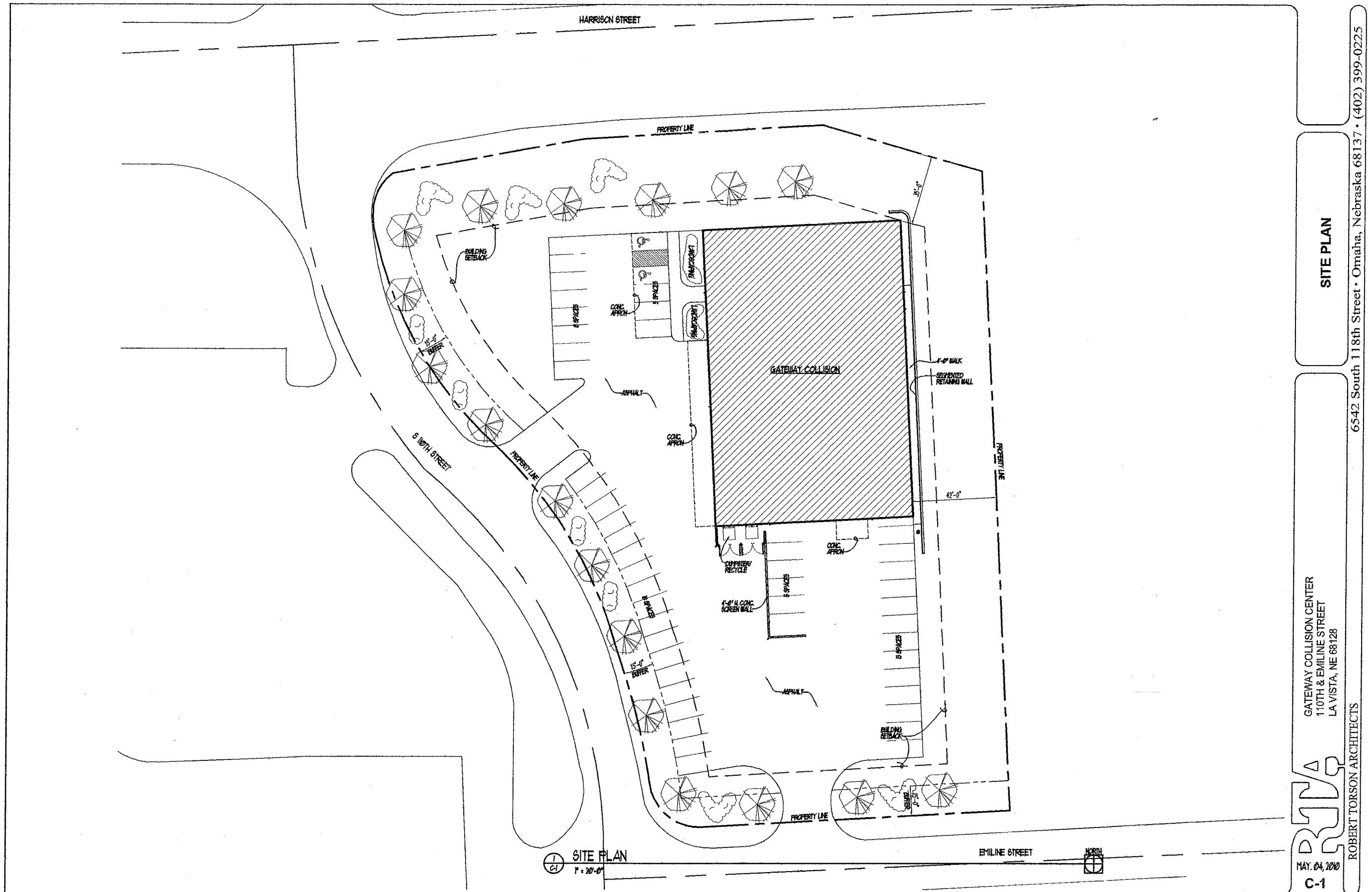
The undersigned does hereby consent and agree to the conditions of this permit and that the terms hereof constitute an agreement on the part of the undersigned to fully and timely perform each and every condition and term hereof, and the undersigned does hereby warrant, covenant and agree to fully and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

Owner:

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

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

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



**A**  
**EXHIBIT**

6542 South 118th Street • Omaha, Nebraska 68137 • (402) 399-0225

## SITE PLAN

GATEWAY COLLISION CENTER  
110TH & EMLINE STREET  
LA VISTA, NE 68128

C-1

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GATEWAY COLLISION CENTER  
110TH & EMILINE STREET  
LA VISTA, NE 68128

ROBERT TORSON ARCHITECTS

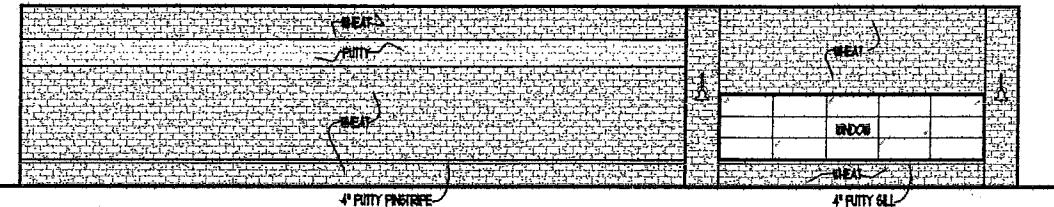
EXHIBIT B

RECEIVED  
MAY 25 2010

EXTERIORS

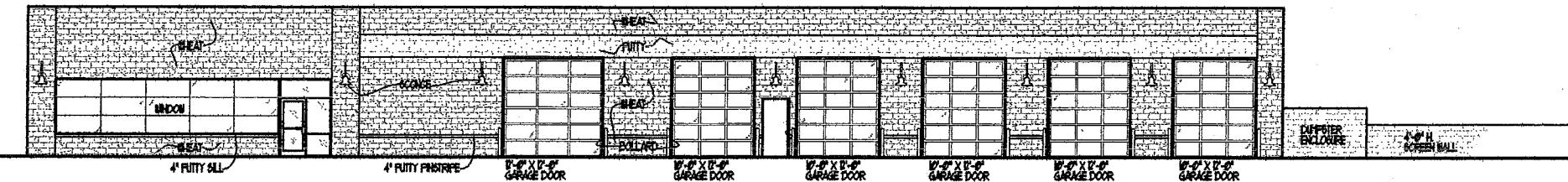
1 NORTH SIDE ELEVATION

10' - 0"



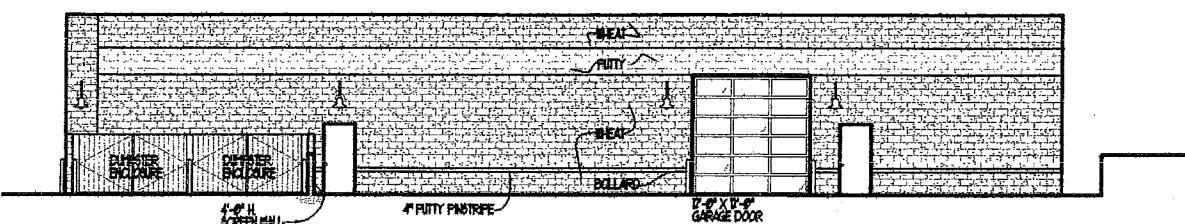
2 WEST SIDE ELEVATION

10' - 0"



3 SOUTH SIDE ELEVATION

10' - 0"



MAY 04, 2010  
A-2



## Exhibit D

