

## **AGENDA ITEM 4B**

**Conditional Use Permit Amendment—  
8802 S 121st Street—The Waldinger Corporation**



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

CASE NUMBERS: PCUP20-0004;

FOR HEARING OF: SEPTEMBER 3, 2020  
REPORT PREPARED ON: AUGUST 7, 2020

**I. GENERAL INFORMATION**

**A. APPLICANT:**

The Waldinger Corporation  
Attn: Chad Westphalen  
8802 S 121<sup>st</sup> Street  
La Vista, NE 68128

**B. PROPERTY OWNER:**

BAP 2018 LLC  
2601 Bell Avenue  
Des Moines, IA 50321

**C. LOCATION:** 8802 S. 121<sup>st</sup> Street; Generally located west of S. 121<sup>st</sup> Street between Portal Road and Centennial Road.

**D. LEGAL DESCRIPTION:** Lot 2 Papio Valley 2 Business Park Replat 1.

**E. REQUESTED ACTION(S):** Approval of an amendment to an existing Conditional Use Permit for outdoor storage.

**F. EXISTING ZONING AND LAND USE:** I-2 Heavy Industrial Zoning District; Flood Plain District (Overlay District) on the western edge of the property.

**G. PURPOSE OF REQUEST:** Amend the Site Plan in the existing Conditional Use Permit to expand the area for which outdoor storage is permitted on the site.

**H. SIZE OF SITE:** Approximately 9.76 acres.

**II. BACKGROUND INFORMATION**

**A. EXISTING CONDITION OF SITE:** The property slopes gradually downward to the west toward Westmont Creek; the site has been developed and houses The Waldinger Corporation.

## B. GENERAL NEIGHBORHOOD/AREA LAND USES AND ZONING:

<u>Direction From Subject Property</u>	<u>Future Land Use Designation</u>	<u>Current Zoning Designation</u>	<u>Surrounding Development</u>
North	Industrial	I-2 Heavy Industrial District; Flood Plain District (Overlay District)	The Weitz Company
East	Industrial	I-2 Heavy Industrial District	MH Equipment & ADI Global Distribution
South	Industrial	I-2 Heavy Industrial District; Flood Plain District (Overlay District)	Nebraska Atlantic Transportation, Inc.
West	Industrial	I-1 Light Industrial District; Flood Plain District (Overlay District)	Westmont Creek; GILES Warehouse

## C. RELEVANT CASE HISTORY:

1. The applicant applied for and was granted a Conditional Use Permit for outdoor storage by the City Council of the City of La Vista on June 16, 2009. However, the use did not commence within the required time period and the permit lapsed.
2. The applicant reapplied for the Conditional Use Permit in 2014 and it was granted by the City Council on January 20, 2015. The necessary site improvements were constructed, and the use was commenced.
3. A CUP Violation letter was sent to the applicant on February 8, 2019 notifying the applicant that materials were being stored outside of the permitted area per the existing CUP.
4. A meeting was held between the applicant and the Community Development Department in February of 2019 to discuss the concerns and a plan was created to bring the applicant back into compliance with the CUP. The plan included removal of stored materials, the construction of additional screened fencing, and an application for an amendment to the CUP to partially expand the area where storage is permitted.
5. The issue was partially corrected, and a follow-up letter was sent to the applicant on December 13, 2019 inquiring on the status of the plan to bring Waldinger back into compliance.
6. The applicant confirmed their intention to move forward with the plan to come into compliance and submitted an application for this Conditional Use Permit amendment on 2/25/2020. The applicant worked with City Staff to refine their submittal and received the final documents on 8/3/2020.

**D. APPLICABLE REGULATIONS:**

1. Section 5.14 of the Zoning Regulations – I-2 Heavy Industrial
2. Section 5.18 of the Zoning Regulations – FF/FW Flood Plain Districts (Overlay District)
3. Article 6 of the Zoning Regulations – Conditional Use Permits

**III. ANALYSIS**

**A. COMPREHENSIVE PLAN:**

1. This proposal is consistent with the Future Land Use Map of the Comprehensive Plan, which designates Lot 2 Papio Valley 2 Business Park Replat 1 for industrial development.

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

**C. TRAFFIC AND ACCESS:**

1. The property has two driveway connections to S 121<sup>st</sup> Street, a public street that connects to 120<sup>th</sup> Street through Centennial Road and Portal Road.

**D. UTILITIES:**

1. The property has access to sanitary sewer, water, gas, power, and communication utilities.

**E. PARKING REQUIREMENTS:**

1. The principle building meets the minimum parking requirements of the Zoning Ordinance. The expansion of the outdoor storage will not displace any of the existing striped parking stalls.

**F. LANDSCAPING:**

1. The landscaping that was installed with the construction of the building exceeded the landscaping requirements for industrial properties per Section 7.17 of the Zoning Ordinance. Landscaping was utilized to aid in the visual screening of the originally planned outdoor storage.
2. Additional evergreen trees will be installed to improve the visual screening for the expanded outdoor storage, and are called out in Exhibit "A" (Site Plan) of the attached draft Conditional Use Permit.

**IV. REVIEW COMMENTS:**

**A.** Screened fencing will be installed south of the building along the east edge of the property (as displayed in Exhibit "A" of the attached draft CUP) in order to reduce visibility of the outdoor storage from the street. Additional evergreen trees will be planted along the south edge of the property to serve the same purpose. The 6' tall fencing and the additional trees will be installed/planted this fall.

- B. The gate that will provide access to the south parking lot and outdoor storage through the screened fencing will be kept open during the day for ease of access by employees and trucks, but will be closed and locked at night for security.
- C. The applicant confirmed that staff perform daily walk-throughs at the end of each workday to ensure a clean and secure site.

**V. STAFF RECOMMENDATION – PUD SITE PLAN:**

Staff recommends approval of the Conditional Use Permit Amendment for Lot 2 Papio Valley 2 Business Park Replat 1, as the request is consistent with La Vista's Comprehensive Plan and Zoning Ordinance.

**VI. ATTACHMENTS TO REPORT:**

- A. Vicinity Map
- B. Review Letters
- C. Draft Conditional Use Permit
- D. CUP Violation Letters

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

- A. Chad Westphalen, The Waldinger Corporation
- B. Public Upon Request

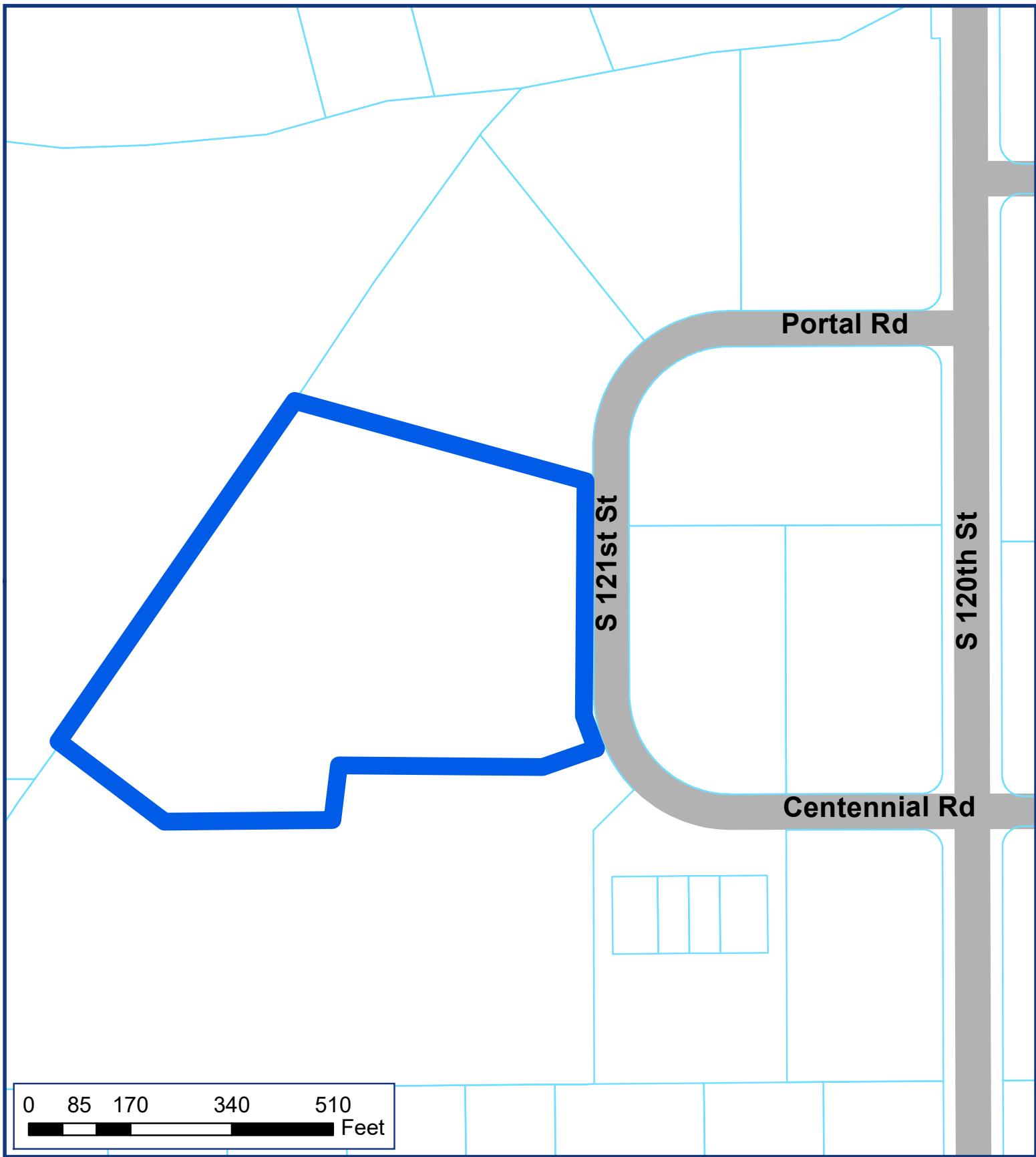


Prepared by: Assistant Planner

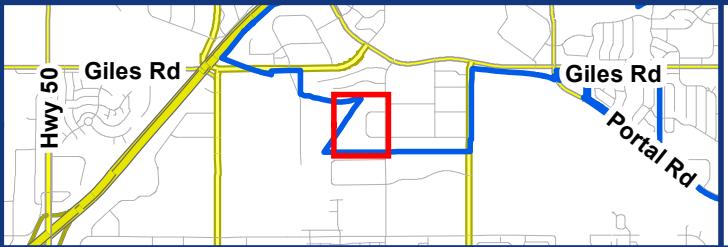


Community Development Director

8/26/2020  
Date



### Conditional Use Permit Vicinity Map



**Waldinger Outdoor Storage**  
**8802 S 121st Street**

8/10/2020 CB



March 24, 2020

The Waldinger Corporation  
Attn: Chad Westphalen  
8802 S. 121<sup>st</sup> Street  
La Vista, NE 68128

RE: Conditional Use Permit Amendment – Initial Review  
Waldinger

Mr. Westphalen,

Thank you for your submittal of the above referenced Conditional Use Permit (CUP) amendment application. Staff have reviewed the initial submittal and has provided the following initial comments:

1. Please submit an operations plan/statement that addresses the following concerns:
  - a. Will the parking lot within the gated area continue to be used by employees?
  - b. How will Waldinger meet the required parking spaces if these are to be used for storage?
  - c. Please state if the increase in stored materials will cause an impact to traffic and or delivery staging offsite within the local roadway network. Operations plans should address any traffic related issues as to not adversely impact traffic in the general vicinity of the site.
  - d. Will the gate close between deliveries to ensure that it is effective at screening or will it need to be open during all operating hours to allow for employee parking and truck traffic?
  - e. Please explain any housekeeping measures that will be taken to ensure that materials and debris are kept on-site, and that they will not impact neighboring properties or the general public.
2. The updated site plan does not sufficiently depict the entire property and the area proposed as the new outdoor storage area (see attached original site plan for contrast). Please submit an updated site plan that clearly outlines the following:

**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 Buildings & Grounds**  
8112 Park View Blvd.  
p: 402-331-4343  
f: 402-331-4375

**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

[www.cityoflavista.org](http://www.cityoflavista.org)  
[info@cityoflavista.org](mailto:info@cityoflavista.org)

- a. Proposed outdoor storage area.
- b. If you intend to include the entire south parking area within the proposed outdoor storage area, fencing needs to continue along the south side of the intended area to assist in the screening and limitation of materials blowing onto adjacent properties.
- c. Location of additional parking spaces (if necessary due to any potentially displaced spaces).

3. Part of the outdoor storage is currently on unimproved areas on the west-side of the property without a paved or rock base or a fence to keep materials out of the adjoining creek area. These materials must be removed, and no other materials shall be permitted in this area.

4. The types of materials and/or quantities of materials may have an impact to the stormwater runoff anticipated onsite. You may need to install BMPs and/or other provisions to ensure there are no concerns with the qualitative properties of the stormwater runoff.

5. Any gate that will be locked that is necessary for fire department access must have a lock with a key readily available to the fire department in a Knox box or have a Knox box brand lock if the gate is solely for fire department access.

6. The proposed gate appears to interfere with existing plantings that are intended to screen the proposed outdoor storage area. Will these plantings be impacted?

Please submit any revised documents and responses for further review by the City. If you have any questions regarding these comments, please feel free to contact me at any time.

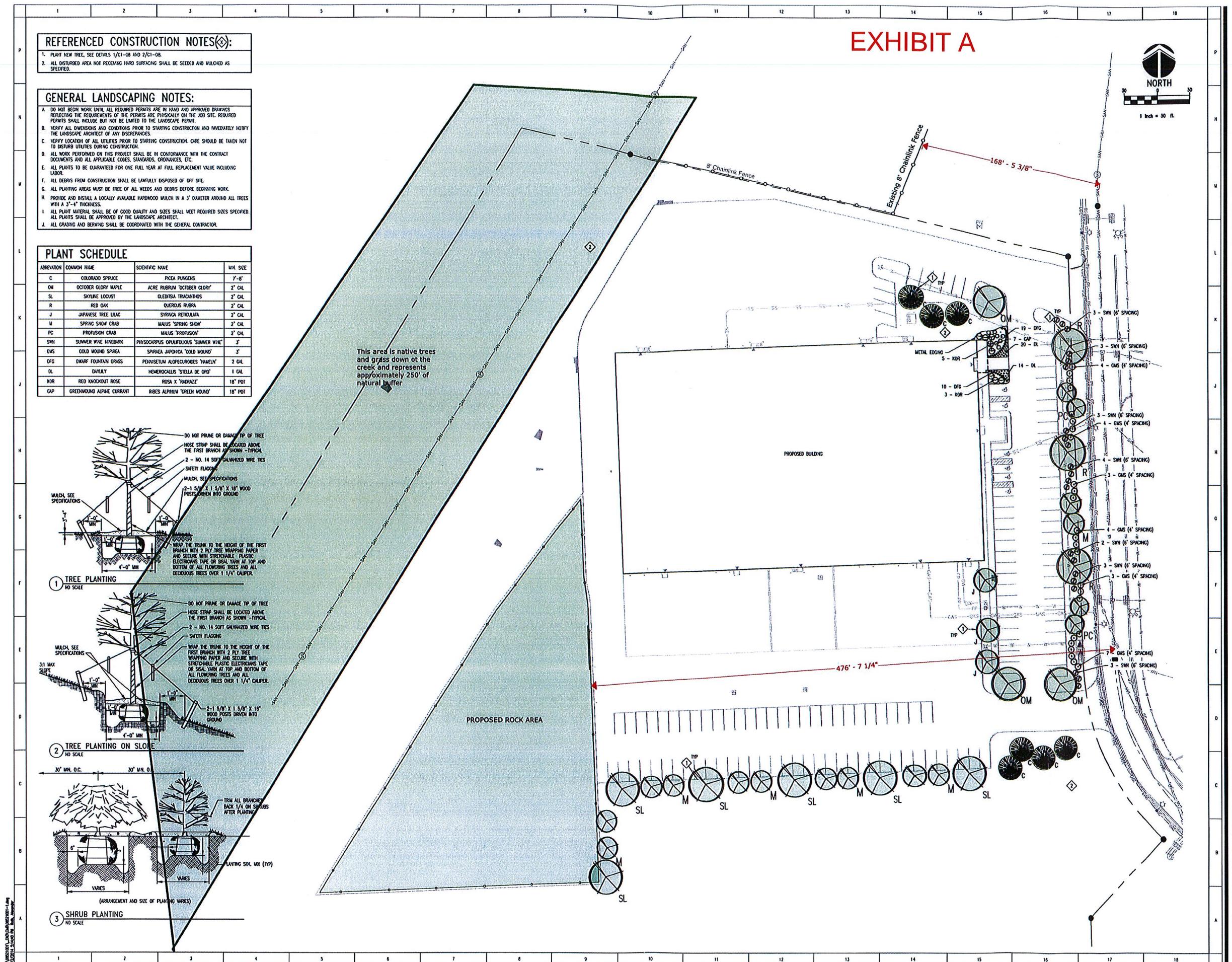
Sincerely,



Cale Brodersen  
Assistant Planner  
City of La Vista  
[cbrodersen@cityoflavista.org](mailto:cbrodersen@cityoflavista.org)  
(402) 593-6400

Attachment

# EXHIBIT A



DESIGNED:	MAN:	ISSUE DATE:	01/02/2014
DRAWN:	AM:	REVISIONS:	01
checked:	DATE:	BY:	

THIS DRAWING IS FOR THE USE OF THE CONTRACTOR AND IS NOT TO BE COPIED OR USED BY ANYONE ELSE. IT IS THE PROPERTY OF THE CONTRACTOR.

THIS DOCUMENT WAS DRAWN AND SIGNED BY MATTHEW A. KELLY, E.I.T. THE CONTRACTOR IS NOT TO CONSIDER A DRAWING AS DRAWN UNTIL IT IS DRAWN AND SIGNED BY THE CONTRACTOR.



Over 100 Years of Excellence -  
People, Process, Productivity

May 8<sup>th</sup>, 2020

City of LaVista  
8116 Park View Blvd.  
LaVista, NE 68128-2198

 E-MAILED  
5/8/20

Attention: Cale Brodersen  
Reference: Conditional Use Permit Amendment – Initial Review  
Subject: Waldinger Response

Cale-

I appreciate the initial review on our plan for the amendment application. Below are itemized responses to your questions.

1. Plan responses below.
  - a) The current parking lot will be continually used for parking and the marked stalls will not be altered.
  - b) The required parking spaces will not be altered.
  - c) The stored materials will not increase and not cause an impact to the local roadway network.
  - d) The gate will need to be open to allow for continuous employee traffic and general truck traffic.
  - e) We currently have our staff do site walks at the end of their work day to aid in housekeeping measures. Our outdoor storage consists of prefabricated piping and sheet metal duct work that is awaiting transport to construction projects. Typically, these items are not blown around and do not create excess trash.
2. Exhibit A has been updated with the requested layout.
  - a) Storage will occur in the highlighted hatched areas.
  - b) We are not including the entire south parking lot as storage.
  - c) N/A – parking will not be altered.
3. The items in question have been removed.
4. We do not currently see an impact to the stormwater runoff.
5. Understood.
6. Our current proposed layout of the fence and gate have taken in account the current plantings and we do not foresee an impact.

Again, I appreciate your willingness to work with us on a solution that we both agree upon.

If there are any questions or additional information is required feel free to contact me.

Sincerely,



Chad Westphalen  
The Waldinger Corporation

## EXHIBIT A

**REFERENCED CONSTRUCTION NOTES (X):**

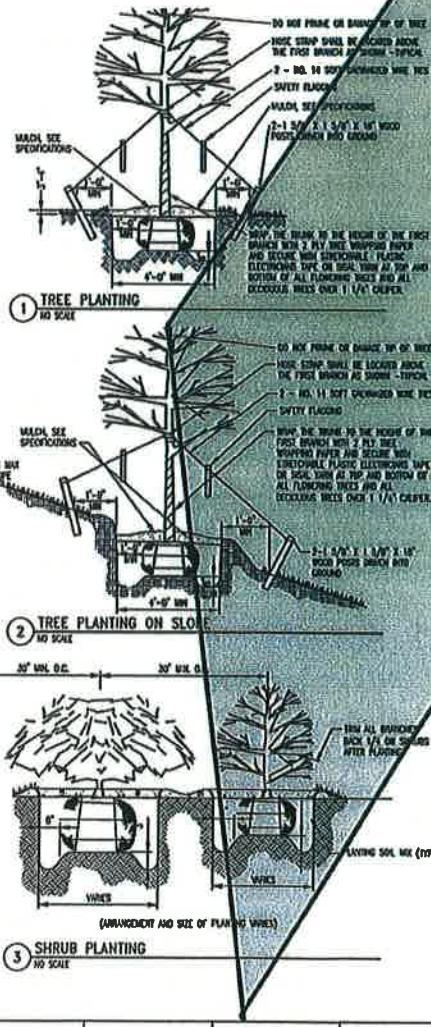
1. PLANT NEW TREE, SEE DETAILS 1/C1-08 AND 2/C1-08.
2. ALL DISTURBED AREA NOT RECOVERING HARD SURFACING SHALL BE SODDED AND MAINTAINED AS  
SPECIFIED.

#### **GENERAL LANDSCAPING NOTES:**

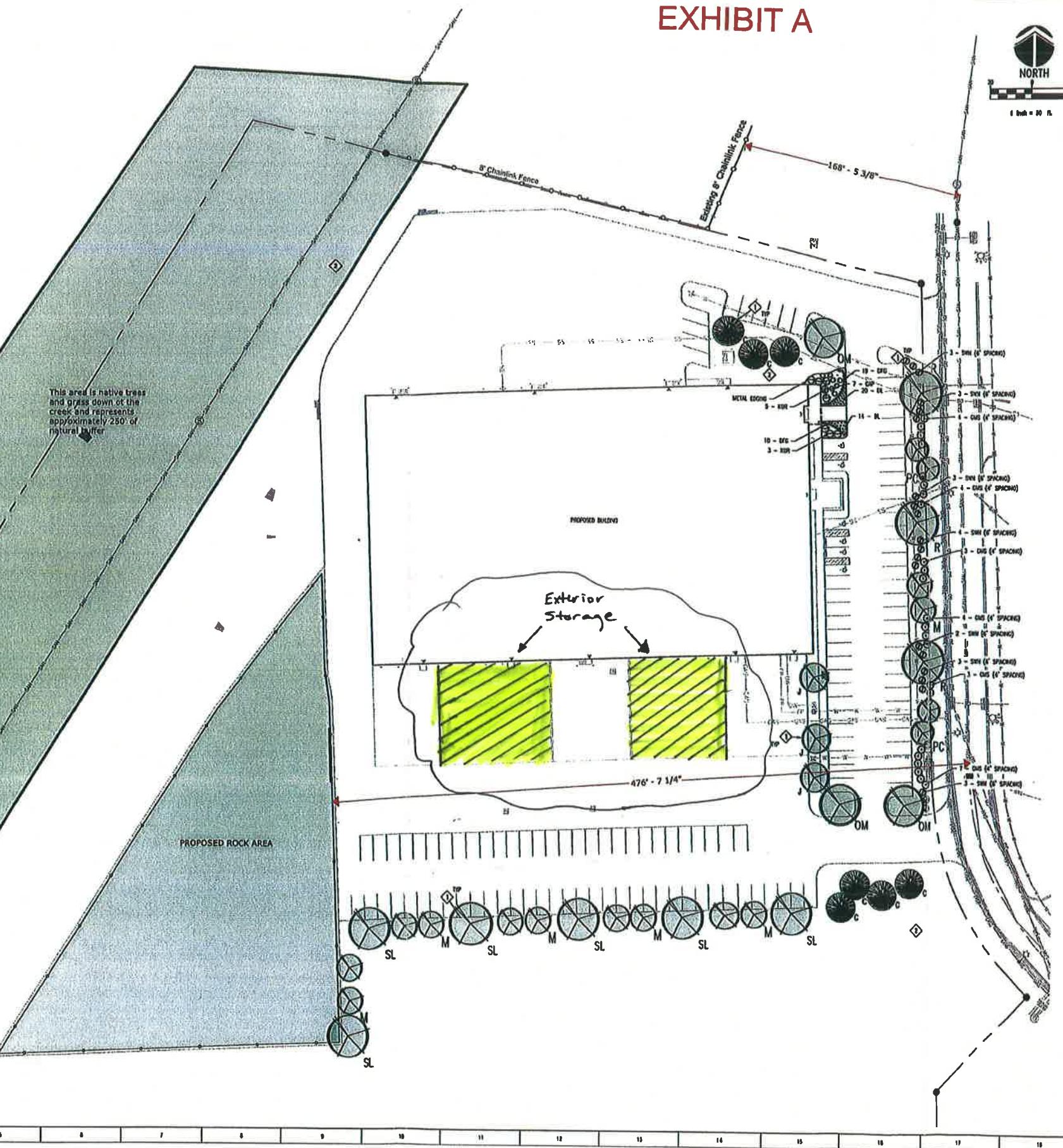
- A. NO NEW WORK UNLESS ALL REQUIRED PERMIT ARE IN HAND AND APPROVED BY THE AUTHORITY REFLECTING THE REQUIREMENTS OF THE PERMIT ARE PHYSICALLY ON THE JOB SITE. REQUIRED PERMITS SHALL INCLUDE BUT NOT BE LIMITED TO THE LANDSCAPE PERMIT.
- B. VERIFY ALL DIVISIONS AND CONDITIONS PRIOR TO STARTING CONSTRUCTION AND IMMEDIATELY NOTIFY THE LANDSCAPE ARCHITECT OF ANY DISCREPANCIES.
- C. VERIFY LOCATION OF ALL UTILITIES PRIOR TO STARTING CONSTRUCTION. CARE SHOULD BE TAKEN AND TO RESTORE UTILITIES DURING CONSTRUCTION.
- D. ALL WORK PERFORMED ON THIS PROJECT SHALL BE IN CONFORMANCE WITH THE CONTRACT DOCUMENTS AND ALL APPLICABLE CODES, STANDARDS, ORDINANCES, ETC.
- E. ALL PLANTS TO BE COMPENSATED FOR ONE FULL YEAR AT FULL REPLACEMENT VALUE INCLUDING LABOR.
- F. ALL DEBRIS FROM CONSTRUCTION SHALL BE LAWFULLY DISPOSED OF AT SITE.
- G. ALL PLANTING AREAS MUST BE FREE OF ALL WEEDS AND DEBRIS BEFORE BEGGINING BORING.
- H. PROVIDE AND INSTALL A LOCALLY AVAILABLE HARBORWOOD MULCH IN A 2" BALEKURE AROUND ALL TREES WITH A 3"-4" THICKNESS.
- I. ALL PLANT MATERIALS SHALL BE OF GOOD QUALITY AND SIZE SHALL BE AS SPECIFIED. ALL PLANTS SHALL BE APPROVED BY THE LANDSCAPE ARCHITECT.
- J. ALL GRADE AND BORING SHALL BE COORDINATED WITH THE GENERAL CONTRACTOR.

## PLANT SCHEDULE

COMMON NAME	SCIENTIFIC NAME	SIZE
Colorado Spruce	PICEA PUNGENS	7'-8'
OCTOBER GLORY MAPLE	ACER SPICULIFOLIUM 'OCTOBER GLORY'	2' CAL
SATIN LOUCHE	CLERODENDRON TRACHYPHYLLUM	2' CAL
RED BAR	QUEENIE RUBRA	2' CAL
JAPANESE TREE LILAC	SYRINGA HEDDORIGII	2' CAL
SPRING SHOW CRAB	MALUS 'SPRING SHOW'	2' CAL
PROVINCIAL CRAB	MALUS 'PROVINCIAL'	2' CAL
BRAMBER WINE HORNBEAN	PHACELIAUS CULTRIFOLIUS 'BRAMBER WINE'	3'
COLD WOOD BANANA	BANANA JAPONICA 'COLD WOOD'	3'
DWARF FOUNTAIN GRASS	POA SPAREN 'AUREOCOLORE' 'WHEAT'	2' CAL
DRIFTY	HEUCHERA 'STELLA DE OMBRE'	1' CAL
RED KNOCKOUT ROSE	ROSIA 'KNOBRAZ'	18" POR
GREENWOOD ALPINE CURRANT	IBISIA ALPINA 'GREEN WOOD'	1' POR



This area is native tree and grass down of the creek and represents approximately 250' of natural buffer.



121ST & CENTENNIAL RD  
OFFICE & SHOP  
8802 S. 121ST STREET  
LAVISTA, NEBRASKA

---

SITE LANDSCAPING PLAN

C1-08



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

### **Conditional Use Permit for Outdoor Storage for Waldinger Corporation**

This Conditional Use Permit issued this \_\_\_\_ day of \_\_\_\_\_, 2020, by the City of La Vista, a municipal corporation in the County of Sarpy County, Nebraska ("City") to The Waldinger Corporation (Owner"), pursuant to the La Vista Zoning Ordinance.

WHEREAS, Owner wishes to construct and operate an outdoor storage area upon the following described tract of land within the City of La Vista zoning jurisdiction:

Lot 2, Papio Valley 2 Business Park Replat 1 located in the NE ¼ Section 19, Township 14 North, Range 12 East of the 6th P.M. Sarpy County, Nebraska, located at 8802 S. 121<sup>st</sup> Street.

WHEREAS, Owner has applied for a conditional use permit for the purpose of storing materials and finished product outdoors; 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 outdoor storage, 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 Landscaping 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. A security fence with a minimum height of six feet has been constructed around the graveled surface to reduce the chance of gravel dust going airborne due to vehicles driving or parking on the graveled area. The fence shall be maintained in good repair by the property owner or business owner.
  - c. Screened fencing and a gate shall be installed on the west end of the south parking lot, as designated on the site plan attached as "Exhibit A". The fence type shall be approved by the Community Development Department of the City of La Vista.
  - d. Additional evergreen trees shall be planted in the locations depicted in the site plan attached as "Exhibit A" to provide for additional screening of the proposed outdoor storage.
  - e. There will be no parking of vehicles, motorized machinery, or trailers within the designated area.
  - f. There shall be no storage, placement or display of goods, supplies or any other material, substance, container or receptacle outside of the designated exterior storage area and the rock area for the Permitted Use, except trash receptacles and those approved in writing by the City.

- g. Landscaping requirements from Section 7.17.03 and 7.17.04 of the City of La Vista Zoning Ordinance shall be satisfied and maintained by the property owner. Attached to the permit as "Exhibit A" is the Site Landscaping Plan for the property.
- h. Owner is required to control weed growth in the storage area as per City Code Section 92.15.
- i. 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.
- j. 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.
- k. 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. 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:** Chad Westphalen  
The Waldfinger Corporation  
8802 S 121<sup>st</sup> Street  
La Vista, NE 68128

### **Effective Date:**

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

THE CITY OF LA VISTA

By \_\_\_\_\_  
Douglas Kindig, Mayor

Attest:

---

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: \_\_\_\_\_

## ACKNOWLEDGMENT OF NOTARY

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, a Notary Public duly commissioned and qualified in and for said County and State, appeared Douglas Kindig and Pamela A. Buethe, personally known by me to be the Mayor and City Clerk of the City of La Vista, and the identical persons whose names are affixed to the foregoing Agreement, and acknowledged the execution thereof to be their voluntary act and deed and the voluntary act and deed of said City.

---

## Notary Public

## ACKNOWLEDGMENT OF NOTARY

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, a Notary Public duly commissioned and qualified in and for said County and State, appeared Chad Westphalen personally known by me to be the Waldinger Division President of The Waldinger Corporation, and the identical person whose name is affixed to the foregoing Agreement, and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said company.

---

## Notary Public

## EXHIBIT A



1 Inch = 39 mm

REFERENCED CONSTRUCTION NOTES (X):

1. PLANT NEW TREE, SEE DETAILS 1/C1-08 AND 2/C1-08.
2. ALL DISTURBED AREA NOT RECEIVING HARD SURFACING SHALL BE SEEDED AND MULCHED AS SPECIFIED.

#### GENERAL LANDSCAPING NOTES:

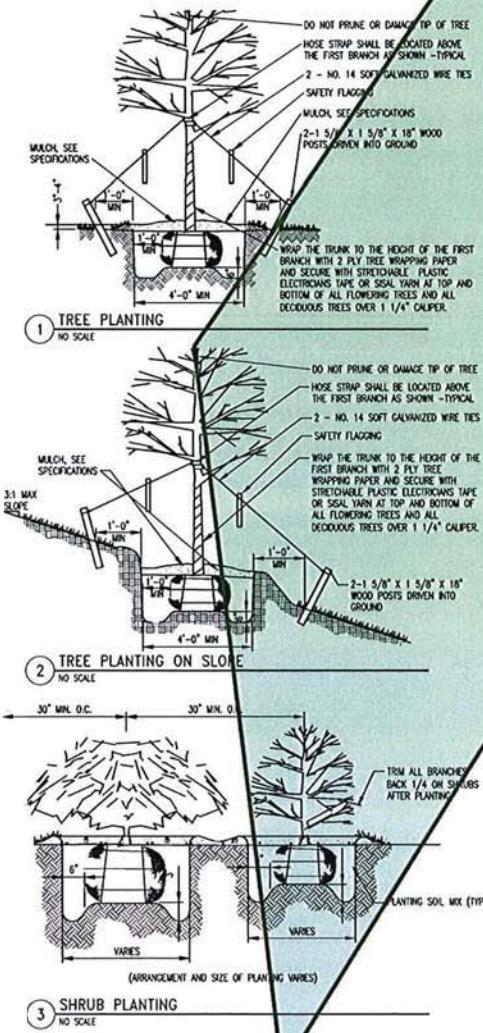
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- A. DO NOT BEGIN WORK UNTIL ALL REQUIRED PERMITS ARE IN HAND AND APPROVED DRAWINGS REFLECTING THE REQUIREMENTS OF THE PERMITS ARE PHYSICALLY ON THE JOB SITE. REQUIRED PERMITS SHALL INCLUDE, BUT NOT BE LIMITED TO THE LANDSCAPE PERMIT.
- B. VERIFY ALL DIMENSIONS AND CONDITIONS PRIOR TO STARTING CONSTRUCTION AND IMMEDIATELY NOTIFY THE LANDSCAPE ARCHITECT OF ANY DISCREPANCIES.
- C. VERIFY LOCATION OF ALL UTILITIES PRIOR TO STARTING CONSTRUCTION. CARE SHOULD BE TAKEN NOT TO DISTURB UTILITIES DURING CONSTRUCTION.
- D. ALL WORK PERFORMED ON THE PROJECT SHALL BE IN CONFORMANCE WITH THE CONTRACT DOCUMENTS AND ALL APPLICABLE CODES, STANDARDS, ORDINANCES, ETC.
- E. ALL PLANTS TO BE GUARANTEED FOR ONE FULL YEAR AT FULL REPLACEMENT VALUE INCLUDING LABOR.
- F. ALL DEBRIS FROM CONSTRUCTION SHALL BE LANDFILL TYPED DISPOSED OF OFF SITE.
- G. ALL PLANTING AREAS MUST BE FREE OF ALL WEEDS AND DEBRIS BEFORE BEGINNING WORK.
- H. PROVIDE AND INSTALL A LOCALLY AVAILABLE HARDWOOD MULCH IN A 3' DIAMETER AROUND ALL TREES WITH A 3"-4" THICKNESS.
- I. ALL PLANT MATERIAL SHALL BE OF GOOD QUALITY AND SIZES SHALL MEET REQUIRED SIZES SPECIFIED. ALL PLANTS SHALL BE APPROVED BY THE LANDSCAPE ARCHITECT.
- J. ALL GRADING AND BERNING SHALL BE COORDINATED WITH THE GENERAL CONTRACTOR.

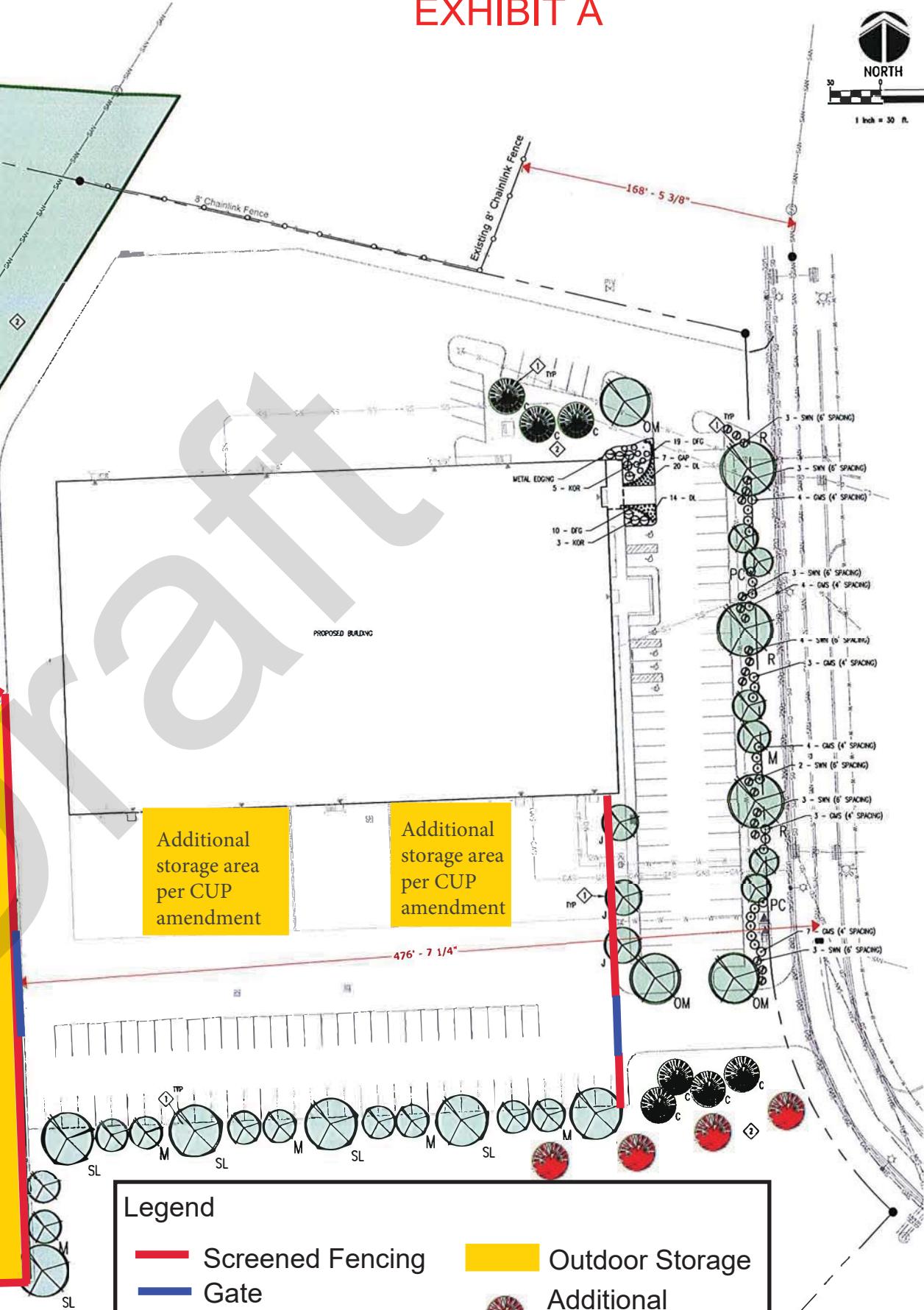
## PLANT SCHEDULE

ABREVIATION	COMMON NAME	SCIENTIFIC NAME	MIN. SIZE
C	COLORADO SPRUCE	PISTIA PLUMENS	7"-8"
ONI	OCTOBER GLORY MAPLE	ACER RUBRUM 'OCTOBER GLORY'	2" CAL
SL	SKYLIN LOCUST	LOCUSTA TIAHANTHOS	2" CAL
R	RED OAK	QUEUERA RUBRA	2" CAL
J	JAPANESE TREE LILAC	SYRINGA PETULCA	2" CAL
W	SPRING SHOW CRAB	MALUS 'SPRING SHOW'	2" CAL
PC	PROFUSION CRAB	MALUS 'PROFUSION'	2" CAL
SWN	SUMMER WINE HONEYSUCKLE	PYRACANTHUS OPULIFOLIUS 'SUMMER WINE'	3"
GWS	COLD WOUND SPAREA	SPIRAEA JAPONICA 'COLD WOUND'	3"
DFG	DIKWAT FOUNTAIN GRASS	PEENISSETUM ALOPECUROIDES 'HAWAIIAN'	2 CAL
DL	DAULIFL	HEMEROCALLIS 'STELLA DE ORO'	1 GALLON
KOR	RED KNOCKOUT ROSE	ROSA X 'RADRIZZ'	18" POT
GAP	GREENWOOD ALPINE CurrANT	RIBES ALPINUM 'GREEN WOUND'	18" POT



This area is native trees and grass down at the creek and represents approximately 250' of natural buffer

Original outdoor  
storage area  
permitted with  
2015 CUP



## Legend

- Screened Fencing
- Gate
- Outdoor Storage
- Additional Evergreen Trees

## SITE LANDSCAPING PLAN

PROJECT NO.: 06521.001

C1-08



February 8, 2019



Blaine Wilcoxon  
Bell Avenue Properties, Inc.  
2601 Bell Avenue  
Des Moines, IA 50321

RE: Violation of Conditional Use Permit – **1<sup>st</sup> NOTICE**

To Whom It May Concern:

On January 31, 2019, an annual site review was conducted as required by the Conditional Use Permit (CUP) issued by the City to Bell Avenue Properties, Inc. dba The Waldinger Corporation on January 20, 2015 for the address of 8802 S 121<sup>st</sup> St. These annual reviews are required to ensure that the business remains in compliance with the terms and conditions of the permit.

There was one condition of the permit noted as non-compliant: **the requirement to keep all outdoor storage within the designated area.** According to Condition 2d of the Conditional Use Permit, “there shall be no storage, placement or display of goods, supplies or any other material, substance, container or receptacle outside of the designated area for the Permitted Use, except trash receptacles and those approved in writing by the City”. The approved Conditional Use Permit has been attached for reference.

During the initial inspection on January 31, items that could be considered outdoor storage were located on the south, west, and northwest areas of the property outside of the designated outdoor storage area. Staff returned to the property on February 4, 5, and 6 and determined that these items had not moved and are considered outdoor storage. Photos of these violations are attached.

Failure to comply with these regulations shall be subject to the enforcement remedies provided by the La Vista Zoning Ordinance and by state law.

If you have any questions, please call me at (402) 593-6400.

Respectfully,

Christopher Solberg, AICP  
City Planner

Enclosure:

**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 Buildings & Grounds**  
8112 Park View Blvd.  
p: 402-331-4343  
f: 402-331-4375

**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



December 13, 2019

Blaine Wilcoxson  
Bell Avenue Properties, Inc.  
2601 Bell Avenue  
Des Moines, IA 50321

**RE: Violation of Conditional Use Permit – 2nd NOTICE**

To Whom It May Concern:

On February 8<sup>th</sup>, 2019 a letter was sent to the address listed above to serve as a notification that the Conditional Use Permit (CUP) issued by the City of La Vista to Bell Avenue Properties, Inc. dba The Waldinger Corporation was in non-compliance due to the existence of outdoor storage not contained to the area designated in the CUP (see attached 1st Notice Violation letter).

Through subsequent conversations we had the understanding that you were going to work to clean up the site and propose some changes to your fenced-in outdoor storage area to bring your Conditional Use Permit into compliance. Through site inspections on 11/7/2019 and 12/13/2019, we have noted that you still have storage outside of the approved area. Could you please update us on the status of your work and plan to come into compliance?

Failure to comply with these regulations shall be subject to the enforcement remedies provided by the La Vista Zoning Ordinance and by state law. Let me know if you have any questions.

Respectfully,

Cale Brodersen  
Assistant Planner  
[cbrodersen@cityoflavista.org](mailto:cbrodersen@cityoflavista.org)  
(402) 593-6400

Enclosure:  
Violation of Conditional Use Permit – 1<sup>st</sup> Notice Letter

CC: Bruce Fountain, Community Development Director  
Chris Solberg, Senior Planner  
Colin Ruppert, Code Enforcement Officer

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