

AGENDA ITEM 4C

**Conditional Use Permit—7303 S 85th Street—
Giandinoto, LLC**



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

CASE NUMBERS: PCUP20-0005;

FOR HEARING OF: SEPTEMBER 3, 2020
REPORT PREPARED ON: AUGUST 19, 2020

I. GENERAL INFORMATION

A. APPLICANT:

Jeff Giandinoto
Giandinoto, LLC
7301 S 85th Street
La Vista, NE 68128

B. PROPERTY OWNER:

Giandinoto, LLC
4242 S 167th Avenue
Omaha, NE 68135

C. LOCATION: 7301 S 85th Street; Generally located east of S 85th Street between Park View Blvd and Maple Ct.

D. LEGAL DESCRIPTION: Lot 16A3B Park View Heights.

E. REQUESTED ACTION(S): Approval of a Conditional Use Permit to operate a private car wash.

F. EXISTING ZONING AND LAND USE: C-2 General Commercial District and Gateway Corridor District (Overlay District).

G. PURPOSE OF REQUEST: Allow for the operation of a private car wash to prepare vehicles to be sold at a dealership off-site.

H. SIZE OF SITE: Approximately 0.29 acres.

II. BACKGROUND INFORMATION

A. EXISTING CONDITION OF SITE: The property slopes gradually downward to the north and to the east; the building on the site previously housed McCann Plumbing and is being renovated for the private car wash use.

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	Commercial	C-2 General Commercial District and Gateway Corridor District (Overlay District)	La Vista Auto Plex
East	Commercial	C-2 General Commercial District and Gateway Corridor District (Overlay District)	84 th Street & Shell Station (previously Dual Stop)
South	Commercial	C-2 General Commercial District and Gateway Corridor District (Overlay District)	Bright Stars Child Care
West	Medium-Density Residential	R-1 Single-Family Residential	Park View Heights Neighborhood

C. RELEVANT CASE HISTORY:

1. N/A

D. APPLICABLE REGULATIONS:

1. Section 5.11 of the Zoning Regulations – C-2 General Commercial District
2. Section 5.17 of the Zoning Regulations – Gateway Corridor District (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 16A3B Park View Heights for commercial development.

B. OTHER PLANS:

1. The Vision 84 Plan (La Vista's long-range plan for the 84th Street Corridor adopted in April of 2010) calls out this area for residential uses.

C. TRAFFIC AND ACCESS:

1. The property has a driveway connection to S 85th Street.

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.

2. Exhibit A of the attached draft Conditional Use Permit designates the area on the lot for which cars waiting to be washed may be parked.
3. A condition included in the draft CUP limits the number of vehicles able to be parked on the lot to 12. Specifically, 4 stalls for employees working on-site and 8 stalls for cars waiting to be washed.

F. LANDSCAPING:

1. N/A

IV. REVIEW COMMENTS:

- A. As a car wash land use, the only activities that will be permitted on the lot are the washing of vehicles and accessory uses like detailing. Activities prohibited by the Zoning Ordinance and the Conditional Use Permit include but are not limited to vehicle body work, repair and maintenance, storage and display of vehicles for sale, and activities related to the sale of vehicles.
- B. As to not expand the legally non-conforming auto sales use on the adjacent lot (Lot 16A3A Park View Heights), advertising of vehicles for sale including pricing and dealership information will be prohibited.
- C. Since the proposed car wash will be for private use only and not open to members of the general public, signage will not be necessary and will be prohibited through the Conditional Use Permit.

V. STAFF RECOMMENDATION – CONDITIONAL USE PERMIT:

Staff recommends approval of the Conditional Use Permit for Lot 16A3B Park View Heights, 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 & Exhibits

VII. COPIES OF REPORT SENT TO:

- A. Jeff Giandinoto, Giandinoto, LLC
- B. Public Upon Request

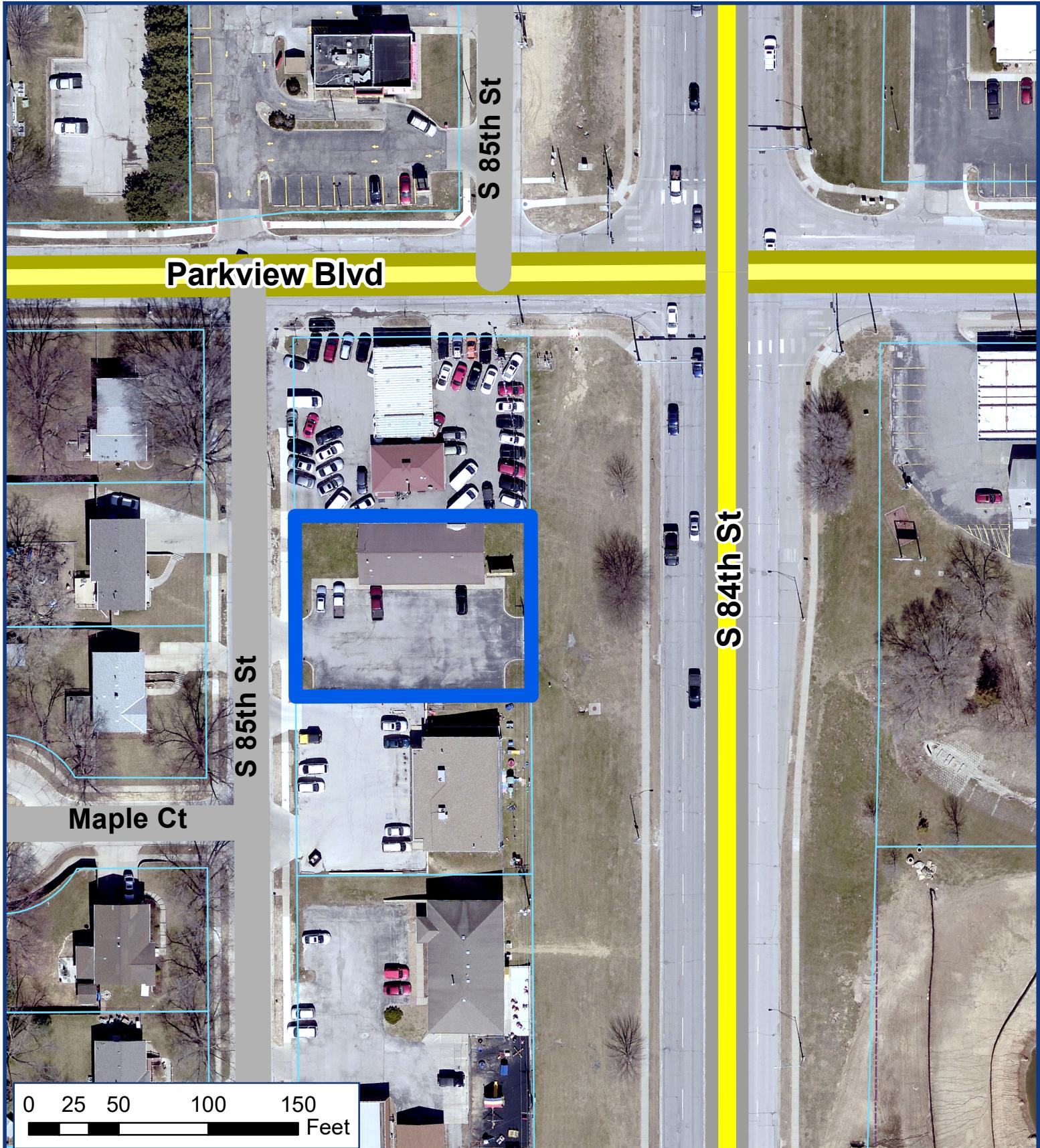


Prepared by: Assistant Planner

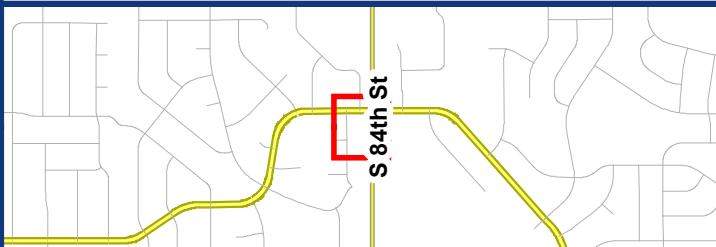

Community Development Director

8/26/2020

Date



Conditional Use Permit Vicinity Map



Giandinoto, LLC Private Car Wash
7303 S. 85th Street

7/21/2020 CB





August 4, 2020

Jeff Giandinoto
Giandinoto LLC
4242 S 167th Avenue
Omaha, NE 68135

RE: Car Wash Conditional Use Permit – Initial Review

Mr. Giandinoto,

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

1. Please confirm that all operations shall be contained within the building, and that no noise related to the operations are anticipated to carry outside the property.
2. Please confirm that any chemicals and/or processes of the operation will not give off any vapors, odors, or particulates outside of the building, or if any filtration system will be necessary to mitigate such items.
3. Please confirm that the ADA parking stall requirements will be met per Section 7.08 of the Zoning Ordinance.
4. A draft Conditional Use Permit will be provided to you next week for your review.

Please submit a response to the items above by August 11, 2020. Upon satisfactory review of this resubmittal, the CUP application will be reviewed by the Planning Commission at the September 3, 2020 meeting at 6:30pm in the La Vista Community Center Gym. We would like for you to be in attendance to answer any questions that the Planning Commission might have. 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
(402) 593-6400

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

From: [Jeff Giandinoto](#)
To: [Cale Brodersen](#)
Subject: [EXT]Re: Initial Review Letter - Car Wash CUP
Date: Wednesday, August 5, 2020 3:27:59 PM

Mr Broderson,

I have reviewed your conditional use permit initial review.

1. All of our operations will be contained inside the building.
2. No chemical vapors or particles will be dispersed outside the building.
3. On completion of the project we will be having the parking lot resurfaced and a ADA parking stall will be added.

Thank you for your questions, hopefully these answers are satisfactory. I look forward to hearing from you on the next step.

Jeff Giandinoto
402.651.0859

City of La Vista Conditional Use Permit

Conditional Use Permit for Car Wash

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, Giandinoto, LLC (“Owner”), pursuant to the La Vista Zoning Ordinance.

WHEREAS, Owner wishes to operate a private, fully enclosed car wash (“Car Wash”) upon the following described tract of land within the City:

Lot 16A3B Park View Heights, La Vista, Nebraska (“Property”).

WHEREAS, Owner owns the Property and has applied for a conditional use permit for the purpose of operating the Car Wash; and

WHEREAS, Owner also owns Lot 16A3A Park View Heights, immediately north of the Property, and uses such lot and the improvements on such lot for the sale of motor vehicles, which use is nonconforming and shall not be enlarged, expanded, or extended (“Car Lot”); and

WHEREAS, the Mayor and City Council of the City of La Vista are agreeable to the issuance of a conditional use permit to Owner for the Car Wash on the Property, subject to the terms and conditions as provided in this Permit.

NOW, THEREFORE, BE IT KNOWN THAT subject to the conditions hereof, this conditional use permit is issued to the Owner to use the area of the Property designated on Exhibit “A” hereto for a Car Wash, 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. This conditional use permit and the right to operate a car wash that comes with it shall expire and terminate with any change of ownership or control of the business, Owner, or Property designated on Exhibit “A”, or of the business, owner, or property on or comprising Lot 16A3A Park View Heights. In addition, any deviation from or breach of any terms hereof shall automatically cause permit to expire and terminate.
2. In respect to the proposed Permitted Use:
 - a. The Property only shall be used for a private, fully enclosed Car Wash. The Car Wash only will be used for washing motor vehicles of Owner that are for sale or lease on the Car Lot. For purposes of this Permit, “wash” shall mean cleaning, washing, polishing, or waxing of motor vehicles, and related vacuuming of motor vehicle carpet and upholstery as an accessory use, as ordinarily provided by car washes in the City. The Property or Car Wash will not be directly or indirectly used for any other purpose.
 - b. Operations on the Property will be limited to and be carried out in accordance with the Operational Statement/Project Narrative attached as Exhibit “B” and incorporated into

this permit by reference. If there is any conflict between or among provisions of Exhibit "B" and this permit, the more restrictive provisions shall apply and govern.

- c. There shall be no storage, placement or display of motor vehicles, goods, supplies or any other materials, substances, containers or receptacles outside of the car wash building, except as approved in writing by the City.
- d. No advertising shall be allowed on vehicles on the Property.
- e. Vehicle parking on the Property is limited to 4 stalls for employees working at the Car Wash and 8 stalls for vehicles waiting to be washed.
- f. Parking of vehicles waiting to be washed shall be limited to the area outlined in red in the attached site plan (Exhibit "A"). No additional paving of unpaved areas shall be permitted after the date this CUP is executed.
- g. The amount of time that any one vehicle may be parked on the lot waiting to be washed shall be limited to 3 days.
- h. Any additional site lighting shall be reviewed and approved by the Community Development Department prior to installation to ensure that it does not have a significant negative impact on neighboring properties.
- i. The existing sign for McCann Plumbing (including the entire structure) shall be removed within 6 months of the commencement of this use. Since the car wash is not open for use by the general public, signage shall be prohibited.
- j. The Property and Car Wash shall be limited to the use as provided in this Permit, subject to the specified terms and conditions of this Permit. The Property or Car Wash will not be directly or indirectly used for any other purpose. Not in limitation of the foregoing sentence, the following activities shall be prohibited:
 - i. Sale, acquisition, transfer, lease, or financing of motor vehicles, or any other activities in support or connection with the Car Lot or motor vehicle purchases, sales, leasing, transfers, or financing;
 - ii. Storage, showing, demonstration, or display of motor vehicles. Display of motor vehicles shall include without limitation vehicle pricing, vehicle information, or dealership information and is prohibited on the Property;
 - iii. Repairs, maintenance, replacement or installation of equipment, parts or components of, on, or in motor vehicles;
 - iv. Body work, painting, or touch-up of motor vehicles; and
 - v. Administration, advertising, financing, closing, processing, managing, or support of motor vehicle purchases, sales, or leasing.
- k. This car wash shall be used only by the Owner for vehicles owned by the Owner, and shall not be open to, or used by, the general public.
- l. Owner shall obtain all required permits, including without limitation all required permits of the City of La Vista, and shall comply with any additional requirements as determined by the La Vista Planning Department or other applicable authorities.
- m. 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 laws, rules, or regulations, as amended or in effect from time to time, including, but not limited to, applicable environmental or safety laws, rules or regulations.
- n. 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, or any agents, employees, assigns, suppliers or invitees of Owner, 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.

- o. Any exhibit attached to or referenced in this permit, together with the recitals at the beginning of this permit, are hereby incorporated by reference.
- p. This Permit shall not add to, subtract from, or modify any rights, obligations, or limitations under the City's Zoning Ordinance, or otherwise have any effect, with respect to the Car Lot.

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, in the event of any authorized administrative extensions for good cause shown, shall in all cases 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 and accessory facilities and any remaining environmental or safety hazard shall be abated and/or removed at owner's expense within the time required by applicable law or regulations, and in all cases no later than twelve (12) months of cessation of the Permitted 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 Conditional 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 failure to correct such breach within ten (10) days of City's giving notice thereof.
- e. Transfer of ownership of the property or business entity.

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 the permitted structures 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 irrevocably grants to City permission to assess, impose and file with the Sarpy County Register of Deeds against the property a lien for any such costs that are not paid within 30 days. Owner hereby irrevocably grants the City, its agents and employees an easement and 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 in writing 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: Jeff Giandinoto
Giandinoto LLC
4242 S 167th Avenue
Omaha, NE 68135

Draft

Effective Date:

This Permit shall take effect upon the filing hereof with the City Clerk a signed original hereof. This Permit shall be filed with the Sarpy County Register of Deeds, shall constitute covenants running with the land, and shall be binding on the Owner and all successors and assigns of the Owner.

THE CITY OF LA VISTA

By: _____
Douglas Kindig, Mayor

Attest:

Pam Buethe, CMC
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 Jeff Giandinoto personally known by me to be the owner of all membership interests of Giandinoto LLC, 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



Giandinoto, LLC Private Car Wash CUP Site Plan

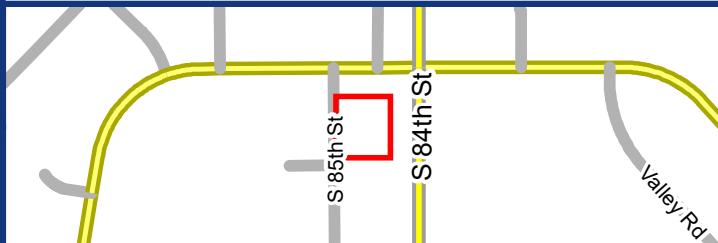


Exhibit A

7303 S. 85th Street

8/5/2020 CB

July 20, 2020

City of La Vista
8116 Park View Blvd
La Vista, NE 68128

RE: Private Car Wash Operating Statement

We are requesting a Conditional Use Permit to operate a private car wash that will wash cars to prepare them to be sold off-site. This will include the washing of vehicles and the accessory uses of vacuuming and light detailing. We anticipate washing approximately four vehicles per day. These activities will occur indoors in the renovated building located at 7303 S 85th Street in La Vista, which provide for a cleaner and more professional business environment. This car washing service is for private use only and will not be open to the general public as a retail establishment. Staff include myself and three employees, and operating hours shall be as follows:

- Monday: 9:00am – 7:00pm
- Tuesday: 9:00am – 7:00pm
- Wednesday: 9:00am – 6:00pm
- Thursday: 9:00am – 7:00pm
- Friday: 9:00am – 6:00pm
- Saturday: 9:00am – 5:00pm
- Sunday: Closed

Parking on-site will include 4 stalls for employees and up to 8 stalls for cars waiting to be washed and detailed.

Sincerely,



Jeff Giandinoto
Giandinoto, LLC
7303 S 85th St
La Vista, NE 68128

Exhibit B