

CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
OCTOBER 6, 2020 AGENDA

Subject:	Type:	Submitted By:
CONDITIONAL USE PERMIT AMENDMENT – THE WALDINGER CORPORATION – 8802 S. 121 ST STREET	◆ RESOLUTION ORDINANCE RECEIVE/FILE	CALE BRODERSEN ASSISTANT PLANNER

SYNOPSIS

A public hearing has been scheduled and resolution prepared for Council to consider an application for an amendment to an existing Conditional Use Permit by The Waldinger Corporation for outdoor storage on Lot 2 Papio Valley 2 Business Park Replat 1.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approval.

BACKGROUND

A public hearing has been scheduled and resolution prepared to consider an application submitted by The Waldinger Corporation for a Conditional Use Permit Amendment to permit additional outdoor storage on Lot 2 Papio Valley 2 Business Park Replat 1.

Waldinger's current Conditional Use Permit was approved by Council on January 20, 2015. Waldinger has since experienced a need for additional outdoor storage space. On routine CUP inspections, City staff noticed that there was outdoor storage being kept outside of the permitted storage area, and a CUP violation letter was sent to the applicant. This request for a CUP Amendment is one part of the applicant's plan to come into compliance. The amendment identifies additional area on the lot for which outdoor storage would be permitted, which would increase the area on the lot designated for outdoor storage by approximately 24%. The applicant worked with City staff to identify some additional screening measures to reduce visibility of the storage area from the street and adjacent properties. These measures include a new screened fence along the east edge of the property and additional evergreen trees.

A detailed staff report is attached.

The Planning Commission held a public hearing on September 3, 2020, and unanimously voted to recommend approval of the Conditional Use Permit Amendment, as the request is consistent with La Vista's Comprehensive Plan and Zoning Ordinance.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE EXECUTION OF AN AMENDMENT TO THE CONDITIONAL USE PERMIT FOR THE WALDINGER CORPORATION FOR OUTDOOR STORAGE ON LOT 2 PAPIO VALLEY 2 BUSINESS PARK REPLAT 1.

WHEREAS, The Waldinger Corporation has applied for approval of a Conditional Use Permit Amendment for outdoor storage on Lot 2 Papio Valley 2 Business Park Replat 1, generally located west of S. 121st Street between Portal Road and Centennial Road; and

WHEREAS, the La Vista Planning Commission reviewed the application on September 3, 2020 and recommends approval; and

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

NOW THEREFORE, BE IT RESOLVED, that the Mayor and City Council of the City of La Vista hereby authorize the execution of a Conditional Use Permit Amendment in form and content submitted at this meeting, with such modifications that the City Administrator or City Attorney may determine necessary or advisable, for The Waldinger Corporation to allow for outdoor storage on Lot 2 Papio Valley 2 Business Park Replat 1.

PASSED AND APPROVED THIS 6TH DAY OF OCTOBER, 2020.

CITY OF LA VISTA

ATTEST:

Douglas Kindig, Mayor

Pamela A. Buethe, CMC
City Clerk



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

CASE NUMBERS: PCUP20-0004;

FOR HEARING OF: OCTOBER 6, 2020
REPORT PREPARED ON: SEPTEMBER 15, 2020

I. GENERAL INFORMATION

A. APPLICANT:

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

B. PROPERTY OWNER:

BAP 2018 LLC
2601 Bell Avenue
Des Moines, IA 50321

C. LOCATION: 8802 S. 121st Street; Generally located west of S. 121st 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 121st Street, a public street that connects to 120th 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. If approved, this request would increase the area for which outdoor storage is permitted on this lot by approximately 24%. Of the total 59,200 square feet, approximately 14,000 square feet would be the newly permitted outdoor storage area.

- B. 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.
- C. 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.
- D. 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 – CONDITIONAL USE PERMIT:

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. PLANNING COMMISSION RECOMMENDATION – CONDITIONAL USE PERMIT:

The Planning Commission held a public hearing on September 3, 2020 and voted unanimously to recommend 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.

VII. ATTACHMENTS TO REPORT:

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

VIII. COPIES OF REPORT SENT TO:

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



Prepared by: Assistant Planner

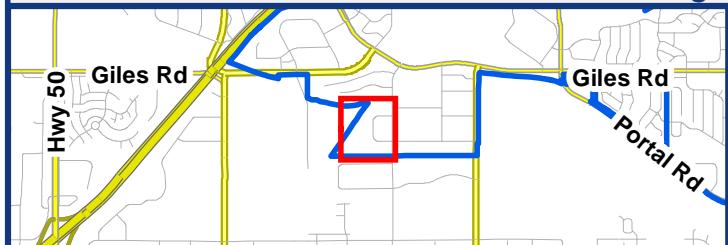


Matthew A. Johnson
Deputy Community Development Director

9/28/2020
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. 121st 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

- 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.

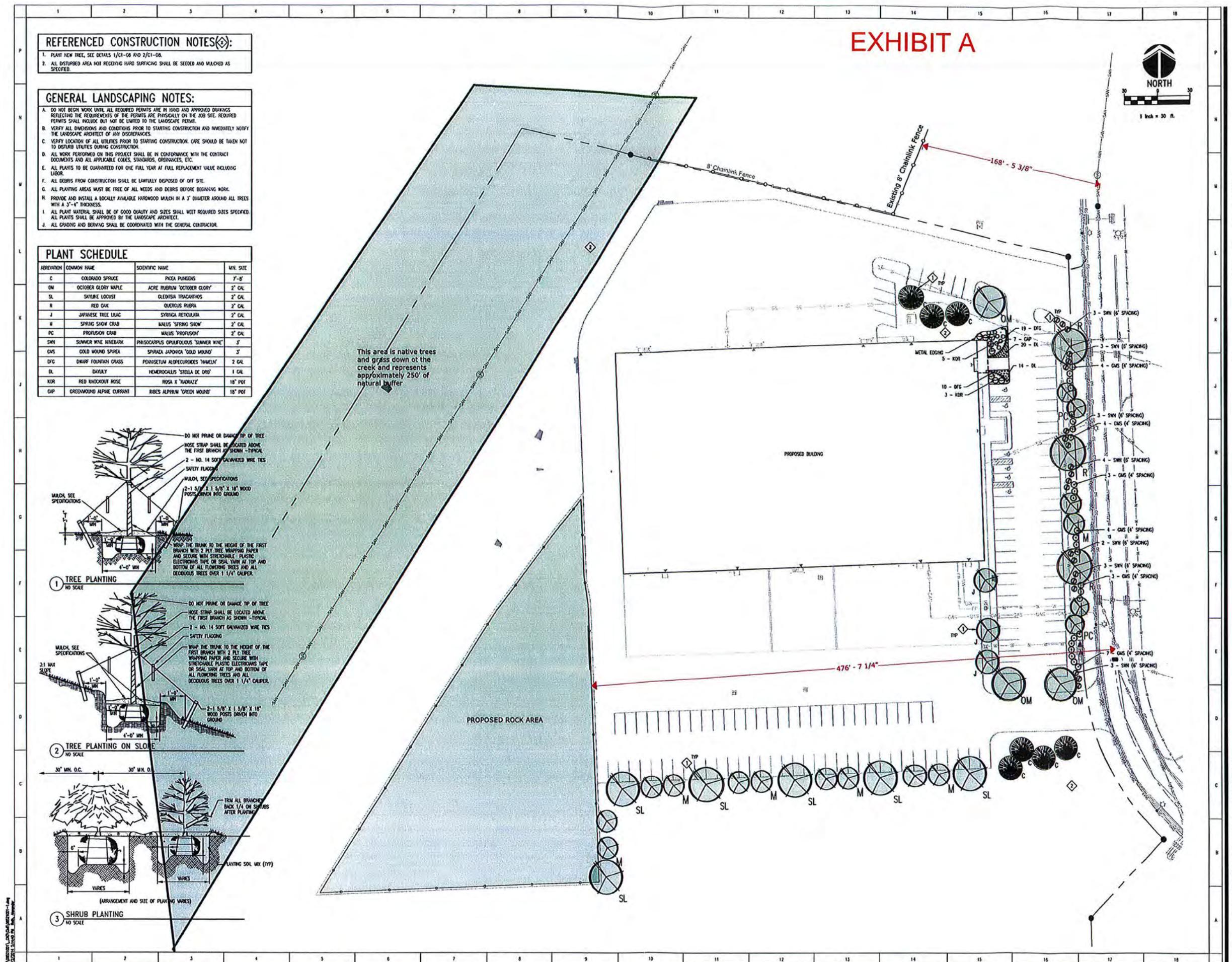
Sincerely,



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

Attachment

EXHIBIT A



May 8th, 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 (S)

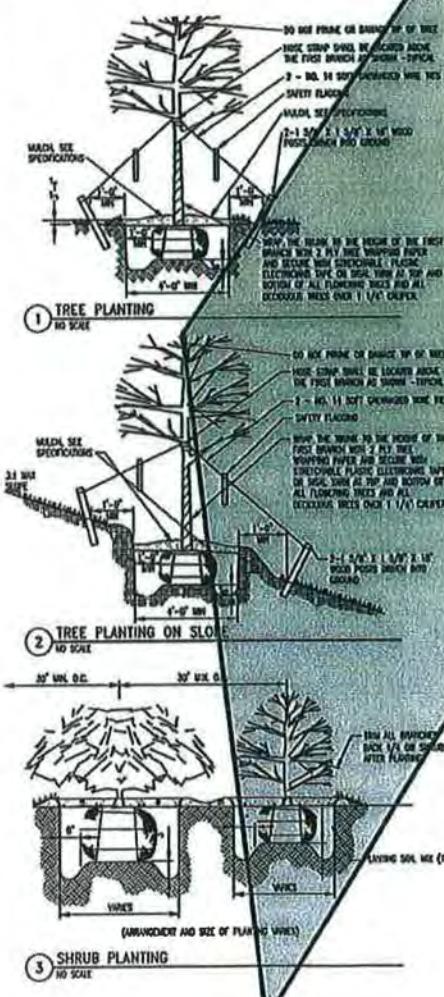
1. PLANT NEW TREES, SEE DETAILS 1/C1-C8 AND 2/C1-C8.
2. ALL DISTURBED AREA NOT RECEIVING HARDO SURFACING SHALL BE SEEDED AND MAINTAINED AS PASTURE.

GENERAL LANDSCAPING NOTES:

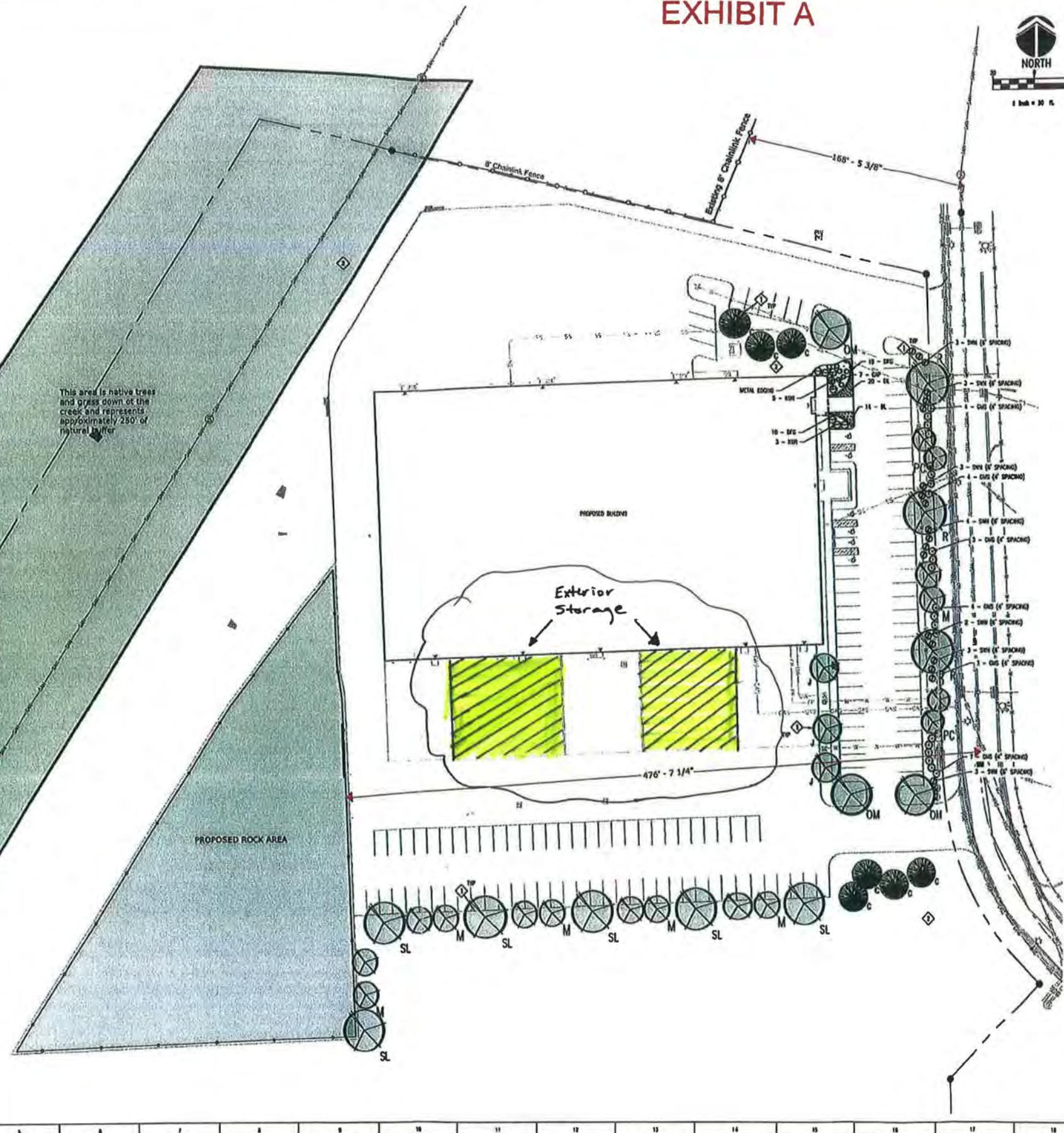
- A. DO NOT REMOVE THE SITE. ALL RECORDED REPORTS ARE IN BUDO AND APPROVED BY BUDCO. THE REPORTS ARE THE PROPERTY OF THE FIRM AND ARE TO BE KEPT ON THE JOB SITE. RECORDED PLANS SHALL NOT INCLUDE, BUT NOT BE LIMITED TO THE LANDSCAPE PLANS.
- B. VERIFY ALL DIMENSIONS AND CONDITIONS PRIOR TO STARTING CONSTRUCTION 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 DESTROY 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 GUARANTEED FOR ONE FULL YEAR AT FULL REPLACEMENT VALUE INCLUDING LABOR.
- F. ALL DERRAPS FROM CONSTRUCTION SHALL BE LABORIALLY REMOVED OR SET ASIDE.
- G. ALL PLANTING AREAS MUST BE FREE OF ALL WEEDS AND DERRAPS BEFORE BEGGINING WORK.
- H. PROVIDE AND DISPLAY A LOCALITY AVAILABLE HAYWOOD MATCH IN A 2" DIAMETER AROUND ALL PLANTS WITH A 3"-5" DIAMETER.
- I. ALL PLANT MATERIAL SHALL BE OF GOOD QUALITY AND SIZE SHALL MEET REQUIRED SIZE SPECIFIED. ALL PLANTS SHALL BE APPROVED BY THE LANDSCAPE ARCHITECT.
- J. ALL CRASHING AND REMOVING SHALL BE CONDUCTED WITH THE GENERAL CONTRACTOR.

PLANT SCHEDULE

ABBRV	COMMON NAME	SCIENTIFIC NAME	ICE DNR
C	COLORADO SPRUCE	PIPSA PICEA	7"-8"
OM	OCTOBER GOLD MAPLE	ACER SACCHARUM "OCTOBER GOLD"	2"-3" CAL
SL	SKYLINE LOCUST	CELESTIA PRIMACRIBOS	3"-4" CAL
R	RED GUM	EGERTONIA RUJANA	2"-3" CAL
J	JAPANESE FINE LEAF	ZINNIA REPLICATA	2"-3" CAL
S	SPRING SHOW CRAB	MALUS "SPRING SHOW"	2"-3" CAL
PC	PROFOUND CRAB	MALUS "PROFOUND"	2"-3" CAL
BNH	BUNNIE THE NARWHAL	PHAEOSPONGIA GRANULIFERA "BUNNIE WHO"	3"
CWS	COLD WOOD SWAMP	SPARICA JAPONICA "COLD WOOD"	3"
DTS	DISMAY FOREST SPURS	PERENNIANTES ALBESCENSUS "DISMAY"	2 CAL
SL	DOTTY	HEUCHERA "DOTTY DE ONE"	1 CAL
RRH	RED ROCKWOOD ROSE	ROSA "RED ROCKWOOD"	18" POR
CAP	GREENWOOD AURIE CURRENT	BEGONIA AURICULATA "GREENWOOD"	10" POR



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



SCHEM
E
D

JAN 7 2015

121ST & CENTENNIAL RD
OFFICE & SHOP
121ST STREET
LAVISTA, NEBRASKA

PROJECT NO.: D6521.001

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. 121st 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 121st 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

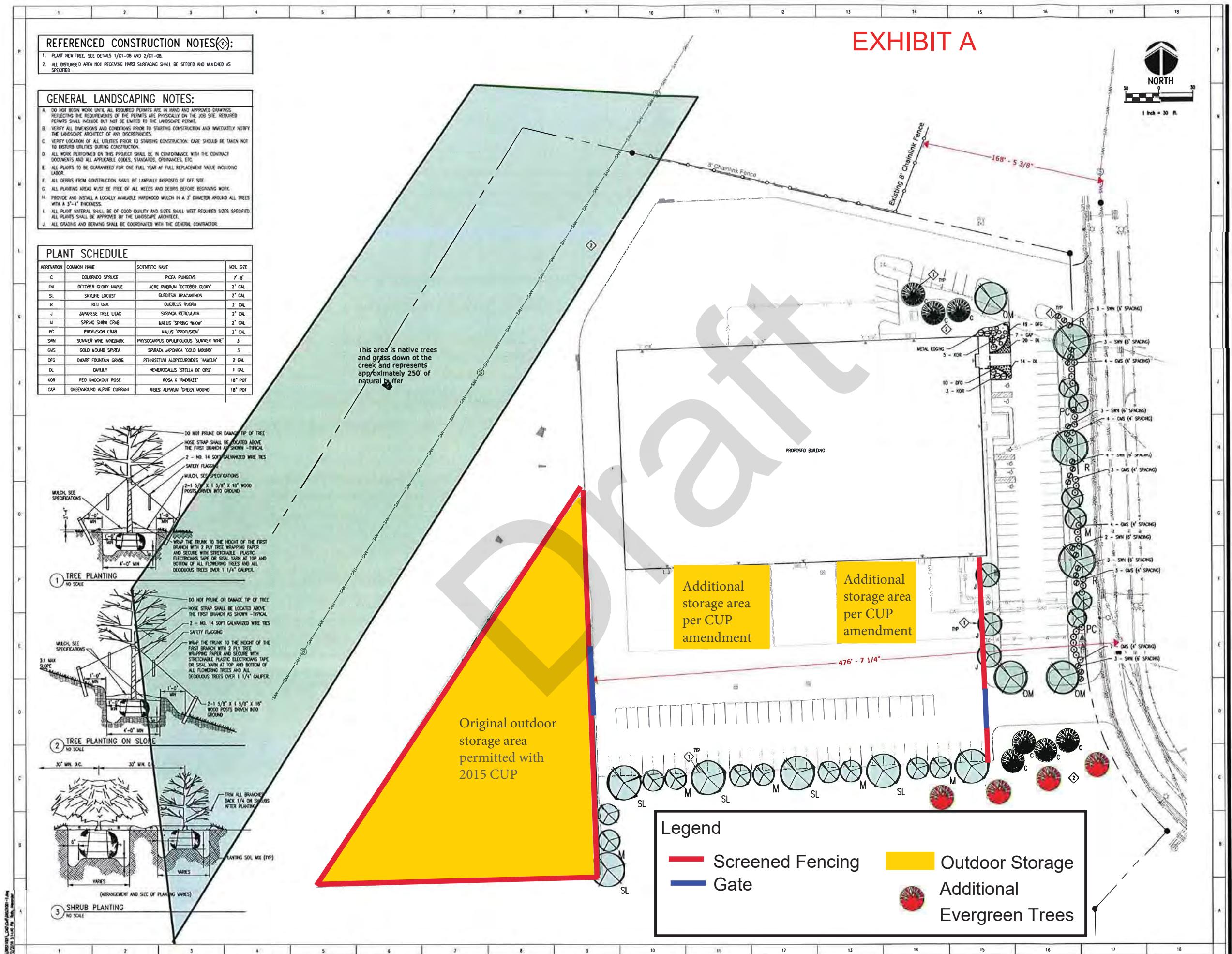
ACKNOWLEDGMENT OF NOTARY

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



February 8, 2019



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

RE: Violation of Conditional Use Permit – **1st 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 121st 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
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Recreation
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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 8th, 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
(402) 593-6400

Enclosure:
Violation of Conditional Use Permit – 1st Notice Letter

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

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

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