

CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
JULY 17, 2007 AGENDA

Subject:	Type:	Submitted By:
CONDITIONAL USE PERMIT — HOME OCCUPATION (BEAUTY SALON) 9106 GROVE COURT	◆RESOLUTION ORDINANCE RECEIVE/FILE	ANN BIRCH COMMUNITY DEVELOPMENT DIRECTOR

SYNOPSIS

A public hearing is scheduled for Council to consider a Conditional Use Permit for the location and operation of a Home Occupation (Beauty Salon) at 9106 Grove Court.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approval.

BACKGROUND

A public hearing has been scheduled to consider an application submitted by Jina Sedlacek for a conditional use permit to locate and operate a home occupation (beauty salon) at 9106 Grove Court.

The property is zoned R-1 Single Family Residential. According to the La Vista Zoning Ordinance, beauty salons are considered class one home occupations and are permitted within the R-1 Zoning District as a conditional use subject to the following regulations prescribed in Section 7.10:

- 7.10.01 No external evidence of the home occupation with the exception of one unlighted nameplate of not more than two square foot in area attached flat against the building located on local or collector streets. However, four square feet in area attached flat against the building located on arterial streets.
- 7.10.02 Advertising displays and advertising devices displayed through a window of the building shall not be permitted.
- 7.10.03 No more than 25% of the home, not to exceed 400 square feet, can be used for the home occupation, except for Child Care Home.
- 7.10.04 No one other than the resident(s) can work from that site.
- 7.10.05 No retail sales are permitted from the site other than incidental sales related to services provided.
- 7.10.07 No exterior storage is permitted.

7.10.08 There shall not be a stock of goods or material on the premises in excess of one hundred twenty (120) square feet of the area of the home occupation, none of which shall be of a flammable or hazardous nature.

7.10.09 Additional off-street parking may be required for the business.

7.10.10 If home occupation is for a business office for services rendered at another location then not more than two business or employee vehicles parked on or adjacent to the home occupation property at any one time; provided only one said vehicle may be allowed to park on street right-of-way. Construction or maintenance equipment shall not be stored on the property other than in an enclosed garage; provided one piece of equipment shall be counted as one of the two business or employee vehicles allowed. For the purpose of enforcement of the home occupation provisions of this ordinance, a piece of construction equipment parked on a trailer shall be counted as a single business vehicle. A trailer being pulled by another vehicle, however, shall be counted as two vehicles. Personal vehicles of occupants of the residential dwelling shall not be included in the count of number of business or employee vehicles.

7.10.11 No offensive noise, vibration, smoke, odor, heat, or glare shall be noticeable at or beyond the property line.

7.10.12 Home Occupation License shall be required.

7.10.13 Conditional use permit is required, except for Home Occupation II uses and child care homes.

7.10.14 Child Care Homes and Child Care Centers shall require a certificate (CRED 9911) signed by the State of Nebraska Fire Marshall.

7.10.15 All fees shall be paid in accordance with the Master Fee Schedule.

In addition to and in compliance with Section 7.10.12 stated above, a home occupation license as defined in Section 2.02.137 of the Zoning Ordinance must be obtained and includes the following:

2.02.137.01 Application fee in accordance with Master Fee Schedule.

2.02.137.02 A minimum of seventy-five percent (75%) of the households within two hundred feet (200') of the proposed home occupation shall indicate no objections, in writing, to the operation of such home occupation. A "no objections" signature form shall be provided by the City and said residents shall sign next to their respective address.

2.02.137.03 Minimum standards for home occupations as provided in Section 7.10 of the Supplemental Regulations.

2.02.137.04 Conditional use permit, except for Home Occupation II uses and child care homes.

Staff has reviewed the request for a conditional use permit and has determined that the applicant has successfully completed or adhered to the required regulations. Furthermore, it has been determined that parking for such a use is adequate. The application states there is room for four vehicles in the driveway in front of the house; no parking is allowed on Grove Court. Since the applicant has stated that she is the only operator and she takes customers by appointment only, the parking appears to be adequate.

The Planning Commission held a public hearing on June 21, 2007 and recommended approval.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE EXECUTION OF A CONDITIONAL USE PERMIT TO JINA SEDLACEK TO LOCATE AND OPERATE A HOME OCCUPATION (BEAUTY SALON) AT 9106 GROVE COURT.

WHEREAS, Jina Sedlacek has applied for a conditional use permit for the purpose of locating and operating a Home Occupation (Beauty Salon) at 9106 Grove Court; and

WHEREAS, the La Vista Planning Commission has reviewed the application and recommends approval; and

WHEREAS, the Mayor and City Council of the City of La Vista are agreeable to the issuance of a conditional use permit for such purposes, subject to the conditions identified within Section 7.10 of the Zoning Ordinance.

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 for Jina Sedlacek to locate and operate a Home Occupation (Beauty Salon) at 9106 Grove Court.

PASSED AND APPROVED THIS 17TH DAY OF JULY 2007.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

**CITY OF LA VISTA
PLANNING DIVISION**

CASE NUMBER:

**FOR HEARING OF: July 17, 2007
Report prepared on July 10, 2007**

I. GENERAL INFORMATION

- A. APPLICANT:
Jina Sedlacek
- B. PROPERTY OWNER:
Steven and Jina Sedlacek
- C. LOCATION:
9106 Grove Court
- D. LEGAL DESCRIPTION:
Lot 116, Apple Grove Subdivision
- E. REQUESTED ACTIONS(S):
Conditional Use Permit to locate and operate a home occupation (beauty salon).
- F. EXISTING ZONING AND LAND USE:
R-1, Single Family Residential
- G. PURPOSE OF REQUEST:
The applicant requests to operate a beauty shop at her residence from one side of their two car garage. The space will be renovated for 200 square feet to support her business.
- H. SIZE OF SITE: 0.25 acres

II. BACKGROUND INFORMATION

- A. EXISTING CONDITION OF SITE: A single family home exists on the site.
- B. GENERAL NEIGHBORHOOD/AREA LAND USES AND ZONING:
 - 1. North: R-1/Single Family Home
 - 2. East: (same)
 - 3. South: (same)
 - 4. West: R-1, Harvest Hills Drive
- C. REVELANT CASE HISTORY: None.

D. **APPLICABLE REGULATIONS:**

1. Section 5.06, Zoning Ordinance, regarding the Single Family Residential District.
2. Article 6, Zoning Ordinance, regarding Conditional Use Permits.
3. Section 7.10, Zoning Ordinance, regarding Home Occupations

III. ANALYSIS

A. **COMPREHENSIVE PLAN:** The Comprehensive Plan identifies this area as medium density residential.

B. **OTHER PLANS:** None.

C. **TRAFFIC AND ACCESS:**

1. Access to the lot is from Grove Court.
2. Off-street parking must be provided as no parking is allowed in the cul-de-sac.

D. **UTILITIES:** Necessary utilities already serve the single family residence.

E. **PUBLIC COMMENTS:** A letter was received from a neighbor. The following is a list of her concerns:

1. Parking on-street, which is not legal on a cul-de-sac, and partially blocking access to their driveway and/or mailbox.
2. Safety of children playing in neighborhood with regards to added traffic.
3. Snow removal

IV. REVIEW COMMENTS:

1. The application indicates there is space for four vehicles (off-street). According to the City Engineer, no on-street parking is allowed on Grove Court.
2. The applicant will take appointments only Tuesday - Saturday.

V. PLANNING COMMISSION RECOMMENDATION: Approval with the condition that parking will not be allowed in the cul-de-sac and hours of operation will not exceed what has been proposed in the application.

VI. ATTACHMENTS TO REPORTS:

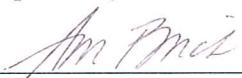
1. Vicinity Map
2. Letter from City Engineer dated April 17, 2007
3. Letter from surrounding property owner, Cindy Mettlen
4. Conditional Use Permit

VII. **COPIES OF REPORT TO:**

1. Jina Sedlacek, Applicant



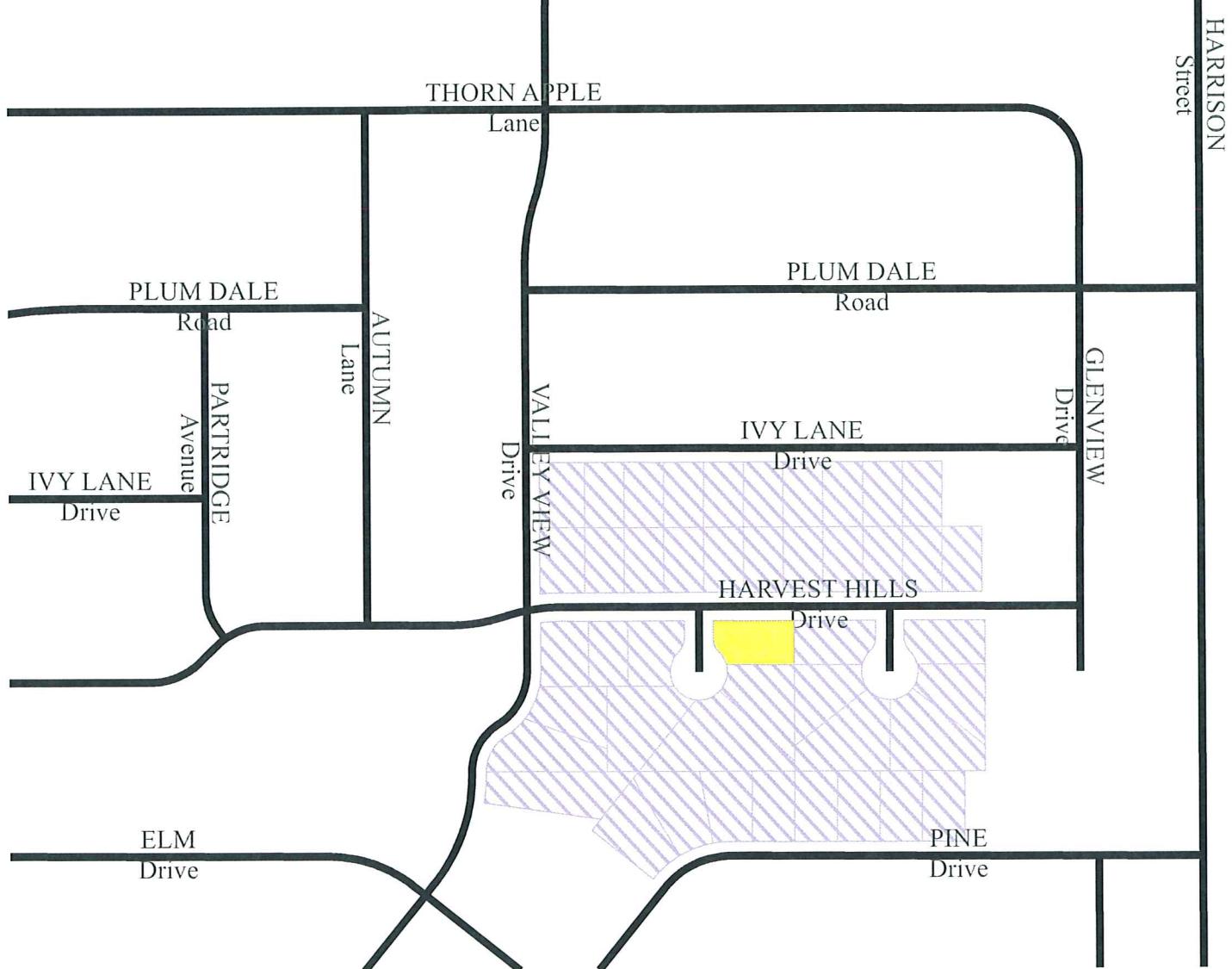
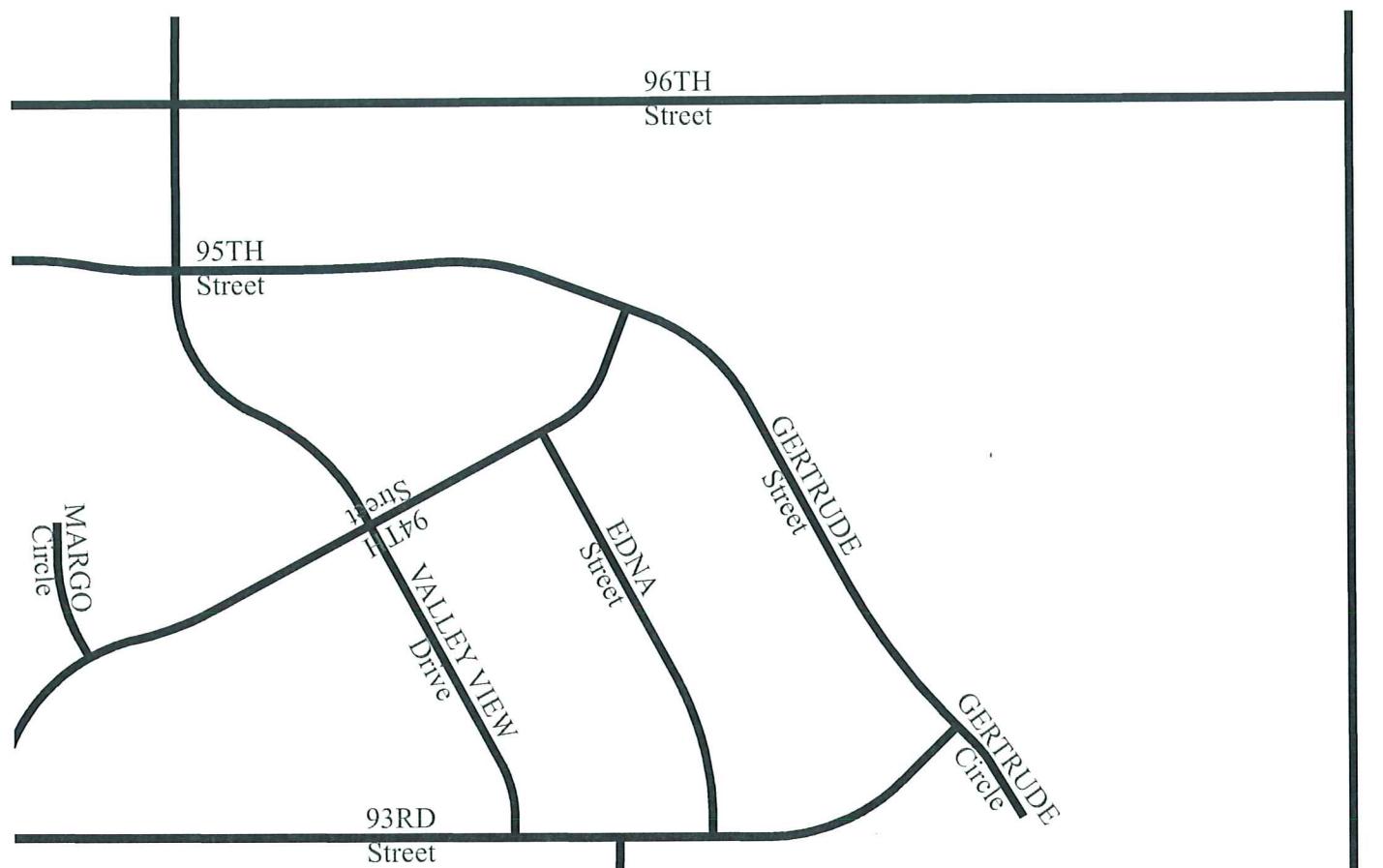
Prepared by:

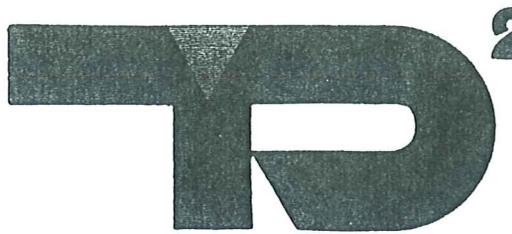


7-12-07

Community Development Director

Date





THOMPSON, DREESSEN & DORNER, INC.
Consulting Engineers & Land Surveyors

May 14, 2007

Mr. Marcus Baker
City Planner
City of La Vista
8116 Park View Boulevard
La Vista, Nebraska 68128

ROBERT E. DREESSEN, P.E.
NELSON J. HYMANS, P.E.
JAMES D. WARNER, L.S.
CHARLES E. RIGGS, P.E.
KA "KIP" P. SQUIRE III, P.E., S.E.
JOHN M. KOTTMANN, P.E.
ARTHUR D. BECCARD, P.E.
JOSEPH G. KOSINOVSKY, P.E.
DOUGLAS S. DREESSEN, P.E.
DEAN A. JABGER, P.E.
RICHARD M. BROYLES, L.S.
DAVID H. NEFF, L.S.
RONALD M. KOENIG, L.S.
CHRIS E. DORNER, L.S.

TIMOTHY T. PAPSTEIN, P.E.
MICHAEL J. SMITH, L.S.
TROY J. NISSEN, P.E., S.E.
DOUGLAS E. KELLNER, P.E.
KEVIN L. TRUE, L.S.
GARY A. NORTON, P.L.
BRIAN L. LODER, P.E.
KURTIS L. ROHN, P.E.
JEFFREY L. THOMPSON, P.E.
DAREN A. KONDA, P.E.
MICHAEL T. CANIGLIA, L.S.
JEREMY T. STEENHOEK, P.E.
JOSHUA J. STORM, P.E.

RE: Home Occupation Conditional Use Permit
9106 Grove Court-Beauty Salon
2007 Rezoning & Use Permit Reviews
City of La Vista
TD² File No. 171-345.7

Mr. Baker:

I have reviewed the application sent to me in your transmittal dated May 7, 2007. This is a corner lot in a cul-de-sac and no on-street parking is allowed along either side of the lot.

The only engineering consideration I have is in regards to parking. The existing driveway is a double width driveway and there is room for four cars as noted in the application. The application states that the business is by appointment only and that only one customer is served at a time. Therefore, this would not be expected to have a parking impact on the neighbors.

Therefore, I recommend that the use permit contain a condition limiting the facility to two customer cars parked on the property at a time. The applicant should also provide information as to the hours of operation for the facility.

Submitted by,

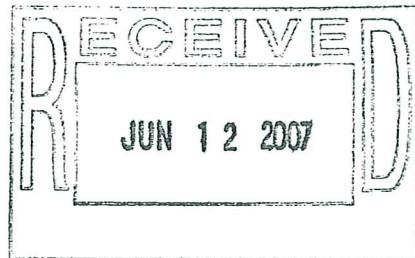
THOMPSON, DREESSEN & DORNER, INC.

John M. Kottmann, P.E.

JMK/jlf

cc: File

June 11, 2007



Marcus Baker
Community Development
City Hall
8116 Park View Blvd.
LaVista, NE 68128

Not mailed out to applicant.

Re: Proposed beauty salon at 9106 Grove Court, LaVista, NE

Dear Mr. Baker:

Please accept this letter as the undersigned's opinion regarding the application of a proposed beauty salon at the above referenced address.

To that end, I have serious concerns regarding the opening of a beauty salon at this address.

My first concern is **parking**. As the next door neighbor to the aforementioned address, I have witnessed the lack of parking for this family, relatives and visitors. The mother and father-in-law of the homeowner's at 9106 Grove Court visit this family **and stay with** this family on a regular basis. That is to say that the mother and father-in-law visit at least three out of four weeks during a one month span. They sometimes stay for the weekend; however, many times they stay for several days during the week. Sometimes they park in the residents' driveway; however, many times they park in the cul-de-sac. When they park in the cul-de-sac they block a portion of our driveway (9104 Grove Court) as well as our mailbox. In addition, the oldest son of the homeowners at 9106 Grove Court has his own vehicle as does his girlfriend, who visits and either parks in the driveway or, again, in the cul-de-sac which again, is in the same place the in-laws park which again, blocks a portion of our driveway and mailbox. When we get home and want to pull into our driveway, we have to go around their vehicles to get into our driveway. In addition, the wife's sister is at this house on a regular basis and either parks in the homeowners' driveway or, once again, in the cul-de-sac, which once again, blocks a portion of our driveway and mailbox.

Also, the family who resides at 9106 Grove Court owns three vehicles: a Ford Explorer, a mini van and a F-150 pickup. It is my understanding half of the garage at this address is being converted into the beauty salon. I presume these vehicles will be parked in their driveway year round. If this is the case, where will the customers for this beauty salon park – in the cul-de-sac blocking a portion of my driveway and mailbox? Where will the family and friends park - in the cul-de-sac blocking a portion of my driveway and mailbox?

Furthermore, there are two signs posted in the cul-de-sac that read: "NO PARKING ANYTIME." I understand someone can get permission to ignore these signs should they have a gathering of some sort at their home for a special occasion; however, I presume these signs are not to be ignored on a daily basis.

In addition, there are four homes in the immediate area of this residence with small children. It is my opinion that, with the additional traffic of customers going to a beauty salon in a residential area, the likelihood of a possible accident occurring regarding the children playing in the neighborhood would only increase.

As well, the residents at 9106 Grove Court let their children play in other people's yards – mine included – as they have a fenced backyard and a dog that is always outside in the backyard (barking I might add). The point here is that there is already lack of respect for neighbors, and to have a business within their home would only lead to more disrespect for their surrounding neighbors, i.e. parking (which already occurs), a place for their children to play, additional traffic which could increase the possibility of an unnecessary accident to occur, etc.

Also, what will the snow removal situation be? If there is additional traffic parking either on the side of the street that allows parking (Harvest Hills Drive) or in the cul-de-sac, how will snow removal in this area be affected? My husband pushes the snow in the cul-de-sac to clear it for the residents who live in the cul-de-sac when he can. If there are cars parked there, how will either he or the city be able to remove the snow? I believe snow removal to become a problem.

In addition, it has just recently been noticed that the cars being parked on Harvest Hills Drive has increased due to customers already going to 9106 Grove Court for hair services. The point being – traffic has already increased and there isn't even a full-fledged beauty salon at this address.

The bottom line is . . . I believe allowing a beauty salon to be put in at 9106 Grove Court would only compound the already "troubled" atmosphere this residence possesses. That is to say, there is **constantly** either family or visitors at this house; their children are either playing in their front yard, our front **and** back yard or in the cul-de-sac, their dog barks constantly, and their family and friends park in the cul-de-sac [blocking a portion of our driveway and our mailbox]. To add a business around this type of atmosphere that already exists only begs for more "trouble."

As a neighbor of 9106 Grove Court, I would caution the City Planning Board/Community Development Dept. in allowing a beauty salon at 9106 Grove Court.

Sincerely,

Cindy Mettlen

**City of La Vista
Conditional Use Permit**

Conditional Use Permit for Home Occupation (Beauty Salon)

This Conditional Use Permit issued this 17th day of July, 2007, by the City of La Vista, a municipal corporation in the County of Sarpy County, Nebraska ("City") to, Jina Sedlacek ("Owner"), pursuant to the La Vista Zoning Ordinance.

WHEREAS, Owner wishes to locate and operate a home occupation (beauty salon) in a single-family dwelling at 9106 Grove Court upon the following legally described property of land within the City of La Vista zoning jurisdiction:

Lot 116, Apple Grove Addition, located in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 15, Township 14 North, Range 12 East of the 6th P.M. Sarpy County, Nebraska.

WHEREAS, Owner has applied for a conditional use permit for the purpose of locating and operating a home occupation (beauty salon); 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 of the property described herein for a home occupation (beauty salon), 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. Permitted use will utilize approximately 198 square feet of the two car garage. Use will consist of equipment and supplies commonly associated with a beauty salon including salon chairs, a sink and dryer area, and a waiting area.
 - b. Hours of operation will be from 1:00 p.m. to 8:00 p.m., Tuesday through Friday; and 9:00 a.m. to 5:00 p.m. on Saturday. Clients are taken by appointment only and total hours worked in a week are not to exceed twenty hours.
 - c. There will be no parking of motor vehicles on Grove Court.
 - d. There will be no employees.
 - e. Fires escapes (36" doors) shall be designated.
 - f. There shall be no storage, placement or display of goods or supplies outside described areas relating to permitted use. Hair care products may be sold, which include hairspray, gel, shampoo, conditioner, and related items.
 - g. Waste materials shall be stored in proper containers. Disposal of perm and color containers are to be wrapped in plastic bags and then placed in the dumpster.

- h. Client parking will consist of owner's driveway (off-street parking).
- i. Owner shall obtain all required permits from the City of La Vista and shall comply with any additional requirements as determined by the Building Inspector.
- j. Owner shall comply (and shall ensure that all, 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/her 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 renewal of a home occupation license and 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 and accessory facilities or materials specifically pertaining to such permitted use shall be removed at owner's expense within twelve (12) months of cessation of the conditional use, if required by the City.

4. Notwithstanding any other provision herein to the contrary, this permit, and all rights granted hereby, shall expire and terminate as 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/her failure to correct such breach within ten (10) days of City's giving notice thereof.

5. If the permitted use is not commenced within one (1) year from July 17, 2007, this Permit shall be null and void and all rights hereunder shall lapse, without prejudice to owner's right to file for an extension of time pursuant to the La Vista Zoning Ordinance.

6. 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 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.

7. 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/her 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: Jina Sedlacek
9106 Grove Court
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:

Pamela A. 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: owner/operator _____

Date: _____