

**CITY OF LA VISTA  
MAYOR AND CITY COUNCIL REPORT  
JULY 20, 2010 AGENDA**

<b>Subject:</b>	<b>Type:</b>	<b>Submitted By:</b>
CONDITIONAL USE PERMIT — GATEWAY COLLISION AND REPAIR	◆ RESOLUTION ORDINANCE RECEIVE/FILE	ANN BIRCH COMMUNITY DEVELOPMENT DIRECTOR

**SYNOPSIS**

A public hearing has been scheduled and a resolution prepared for Council to consider an application for a Conditional Use Permit submitted by Gateway Collision and Repair Center, LLC to allow for automotive repair services, specifically collision and mechanical automotive repair within a 15,000 sq. ft. building on Lot 47, Brook Valley Business Park, generally located at the southeast corner of 110<sup>th</sup> and Harrison Streets.

**FISCAL IMPACT**

N/A.

**RECOMMENDATION**

Approval.

**BACKGROUND**

Gateway Collision and Repair Center, LLC has applied for a Conditional Use Permit (CUP) to allow for automotive repair services, specifically collision and mechanical automotive repair within a 15,000 sq. ft. building on Lot 47, Brook Valley Business Park, generally located at the southeast corner of 110<sup>th</sup> and Harrison Streets. The applicant currently owns a collision center under the same name at 5885 S. 118<sup>th</sup> Circle in the I-80 Business Park north of Harrison Street. The proposed use will include collision repair, mechanical automotive repair, and small-scale automotive sales. The applicant has agreed to the following use-specific conditions as part of the CUP:

- There shall be no storage, placement or display of goods, supplies or any other material, substance, container or receptacle outside of the facility, except trash receptacles and those approved in writing by the City. All dumpsters and trash bins shall maintain a solid 6-foot enclosure around each unit constructed of materials complimentary to the main building.
- Automobile sales are limited to four (4) automobiles available for sale at any one time. Owner shall maintain a dealer license at all times while vehicles for sale are on the lot. All automobiles available for sale shall be parked within the structure after regular business hours. No signage advertising the automobile sales shall be allowed, except for one window sign, provided that it meets Section 7.01.05 of the City of La Vista Zoning Ordinance.
- Owner shall abide by all aspects of City of La Vista Zoning Ordinance Section 7.16 – *Performance Standards for Industrial Uses*.

The Planning Commission held a public hearing on June 17, 2010 and recommended approval with an 8-0 vote.

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 FOR GATEWAY COLLISION AND REPAIR CENTER, LLC TO ALLOW FOR AUTOMOTIVE REPAIR SERVICES ON LOT 47, BROOK VALLEY BUSINESS PARK.

WHEREAS, Gateway Collision and Repair Center, LLC has applied for a conditional use permit for to allow for automotive repair services, specifically collision and mechanical automotive repair within a 15,000 sq. ft. building on Lot 47, Brook Valley Business Park located at the southeast corner of 100<sup>th</sup> and Harrison Streets; 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,

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 in form and content submitted at this meeting, for Gateway Collision and Repair Center, LLC to allow for automotive repair services, specifically collision and mechanical automotive repair within a 15,000 sq. ft. building on Lot 47, Brook Valley Business Park

PASSED AND APPROED THIS 20TH DAY OF JULY, 2010.

CITY OF LA VISTA

ATTEST:

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

\_\_\_\_\_  
Pamela A. Buethe, CMC  
City Clerk

**CITY OF LA VISTA  
PLANNING DIVISION**

**RECOMMENDATION REPORT**

CASE NUMBER: \_\_\_\_

FOR HEARING OF: July 20, 2010  
Report Prepared on June 23, 2010

**I. GENERAL INFORMATION**

- A. APPLICANT:** Gateway Collision and Repair Center, LLC - Ben and Sandy Toscano
- B. PROPERTY OWNER:** Gateway Collision and Repair Center, LLC - Ben and Sandy Toscano (purchase option)
- C. LOCATION:** Southeast corner of 110<sup>th</sup> & Harrison Streets
- D. LEGAL DESCRIPTION:** Lot 47, Brook Valley Business Park, Sarpy County, Nebraska
- E. REQUESTED ACTION(S):** Development of an automotive repair services facility as conditionally permitted in the I-1 District in the City of La Vista Zoning Ordinance.
- F. EXISTING ZONING AND LAND USE:**  
I-1 Light Industrial District; the property is currently vacant.
- G. PROPOSED USES:** The Conditional Use Permit would allow for automotive repair services, specifically collision and mechanical automotive repair within a 15,000 sq.ft. building.
- H. SIZE OF SITE:** 1.93 acres

**II. BACKGROUND INFORMATION**

- A. EXISTING CONDITION OF SITE:** The property is currently vacant, with a gradual downward slope to the west.
- B. GENERAL NEIGHBORHOOD/AREA LAND USES AND ZONING:**
  - 1. **North:** Harrison Street; R-4, High Density Single-Family Residential (Omaha)
  - 2. **East:** Brook Valley Business Park; I-1 Light Industrial
  - 3. **South:** Brook Valley Business Park; I-2 Heavy Industrial
  - 4. **West:** Brook Valley Business Park; I-2 Heavy Industrial
- C. RELEVANT CASE HISTORY:** N/A.

### **III. ANALYSIS**

- A. COMPREHENSIVE PLAN:** The Future Land Use Map of the Comprehensive Plan designates this property for industrial uses.
- B. OTHER PLANS:** If approved, building plans for the construction will be submitted.
- C. TRAFFIC AND ACCESS:**
  - 1. Access would be from egress / ingress drives on 110<sup>th</sup> Street and Emiline Street. The peak hour traffic associated with this facility will be rather light and does not warrant a traffic impact study.
- D. UTILITIES:** All utilities are available to the site.
- E. PARKING REQUIREMENTS:**
  - 1. Parking requirements would follow the minimum needed for an automotive repair services facility. Regulations require 3 stalls per repair stall. The site plan shows 51 parking stalls, meeting the requirement.
- F. LANDSCAPING:**
  - 1. The property is *not* located within the Gateway Corridor. The site plan conforms with the 1 tree per 40 linear feet of perimeter street frontage. The site will need to be developed in conformance with Sections 7.17.03 and 7.17.04 of the Zoning Ordinance.

### **IV. REVIEW COMMENTS:**

- 1. The proposed driveway onto 110<sup>th</sup> Street may have difficulty serving inbound traffic during peak hours due to traffic stacked on northbound 110<sup>th</sup> waiting to access Harrison Street. However, the traffic desiring to enter this site can proceed south to the entrance proposed onto Emiline Street. The peak hour traffic associated with this facility will be rather light and does not warrant a traffic impact study.
- 2. Applicant has noted a desire to conduct auto sales of rebuilt vehicles. A condition included within the draft CUP places limits on the number of vehicles for sale at any one given time and how they are displayed and advertised.
- 3. The site plan includes 51 parking stalls, allowing for the collision and repair center aspects of the proposed use. However, the auto sales aspect pushes the number of parking spaces required beyond the 51 parking spaces supplied within the site plan. A justification report has been provided noting the adequacy of the 51 parking spaces for all the uses

proposed on the site. City Engineer John Kottmann concurs with the findings of this report.

4. The proposed development will require a grading permit with erosion control compliance since the disturbed area will exceed one acre.
5. A post-construction storm water management plan will be required as part of the grading permit and building permit process.

**V. STAFF RECOMMENDATION:**

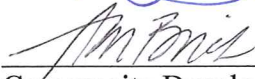
Approval of the Conditional Use Permit for Gateway Collision and Repair, LLC.

**VI. ATTACHMENTS TO REPORT:**

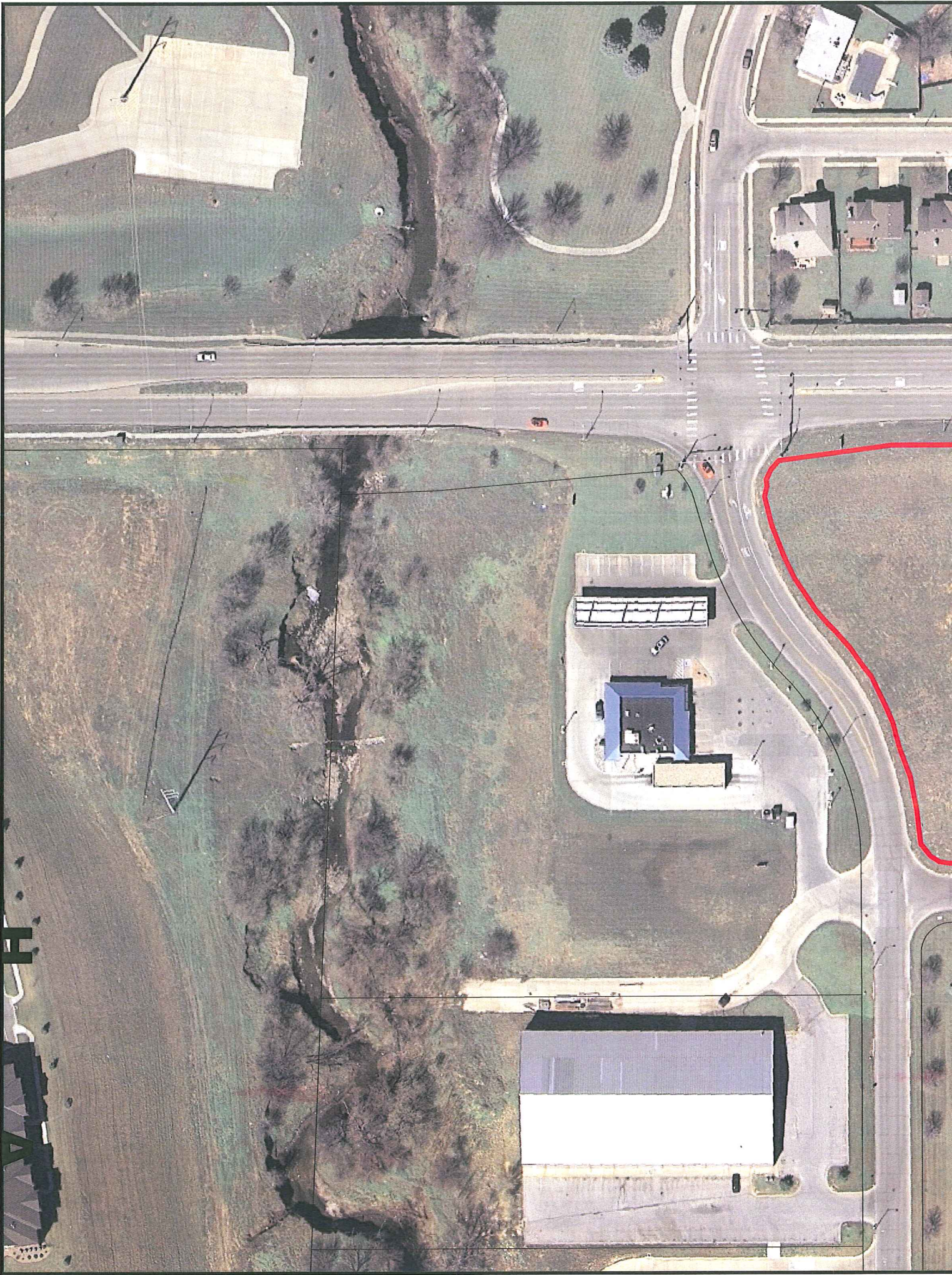
1. Vicinity Map
2. Draft CUP
3. Applicant's written proposal
4. City Engineer's Report

**VII. COPIES OF REPORT TO:**

1. Ben and Sandy Toscano, Applicant
2. Robert Torson, Robert Torson Architects
3. Public Upon Request

  
Prepared by: \_\_\_\_\_ 7/6/10  
  
Community Development Director \_\_\_\_\_ 7-6-10  
Date







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

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

This Conditional Use Permit issued this 20th day of July, 2010, by the City of La Vista, a municipal corporation in the County of Sarpy County, Nebraska ("City") to, Ben and Sandy Toscano ("Owner"), pursuant to the La Vista Zoning Ordinance.

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

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

WHEREAS, Owner has applied for a conditional use permit for the purpose of locating and operating an Automotive Repair Service; and

WHEREAS, the Mayor and City Council of the City of La Vista are agreeable to the issuance of a conditional use permit to the owner for such purposes, subject to certain conditions and agreements as hereinafter provided.

NOW, THEREFORE, BE IT KNOWN THAT subject to the conditions hereof, this conditional use permit is issued to the owner to use the area designated on Exhibit "A" hereto for an Automotive Repair Service, said use hereinafter being referred to as "Permitted Use or Use".

### **Conditions of Permit**

The conditions to which the granting of this permit is subject are:

1. The rights granted by this permit are transferable and any variation or breach of any terms hereof shall cause permit to expire and terminate without the prior written consent of the City (amendment to permit) or unless exempted herein.
2. In respect to the proposed Use:
  - a. A site plan showing the property boundaries of the tract of land and easements, proposed structures and orientation, parking, access points, and drives is approved by the City and attached to the permit as "Exhibit A". Access will be from 110th Street and Emiline Street. The primary entrance will be from the access on 110th Street.
  - b. Hours of operation for said Automotive Repair Service will be from 7:00 a.m. to 6:00 p.m. Monday through Friday and 8:00 a.m to 1:00 p.m. on Saturday.
  - c. There will be up to 10 employees on site per shift.
  - d. The site will be comprised of a 15,000 square building, required parking and landscaping.
  - e. Deliveries must correspond with store business hours and shall be restricted to off-peak traffic hours when reasonable.
  - f. The premises shall be developed and maintained in accordance with the site plan (Exhibit A) and elevations (Exhibit B) as approved by the City and incorporated herein by this reference. Any modifications must be submitted to the Chief Building Official for approval.
  - g. There shall be no storage, placement or display of goods, supplies or any other material, substance,

- container or receptacle outside of the facility, except trash receptacles and those approved in writing by the City. All dumpsters and trash bins shall maintain a solid 6-foot enclosure around each unit constructed of materials complimentary to the main building.
- h. Automobile sales are limited to four (4) automobiles available for sale at any one time. Owner shall maintain a dealer license at all times while vehicles for sale are on the lot. All automobiles available for sale shall be parked within the structure after regular business hours. No signage advertising the automobile sales shall be allowed, except for one window sign, provided that it meets Section 7.01.05 of the City of La Vista Zoning Ordinance.
  - i. There shall not be any outside storage of materials. All trash receptacles, benches and planters shall be placed on property and securely fastened to building or concrete.
  - j. All permanent and temporary signs shall comply with the City's sign regulations.
  - k. Owner shall abide by all aspects of City of La Vista Zoning Ordinance Section 7.16 – *Performance Standards for Industrial Uses*.
  - l. 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.
  - m. The owner shall make annual inspections of the premises and structures, and the operation thereof for any hazard or risk, including, but not limited to, those of an environmental or safety nature. The owner shall take immediate action to protect persons, property and the environment from any damage, injury or loss, or risk thereof, arising out of or resulting from any hazard or risk on the premises and to abate any hazard or risk and remove it from the premises in accordance with any applicable laws, rules or regulations, as amended or in effect from time to time.
  - n. 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.
  - o. Owner hereby indemnifies the City against, and holds the City harmless from, any liability, loss, claim or expense whatsoever (including, but not limited to, reasonable attorney fees and court cost) arising out of or resulting from the acts, omissions or negligence of the owner, his agents, employees, assigns, suppliers or invitees, including, but not limited to, any liability, loss, claim or expense arising out of or resulting from any violation on the premises of any environmental or safety law, rule or regulation.
3. The applicant's right to maintain the use as approved pursuant to these provisions shall be based on the following:
- a. An annual inspection to determine compliance with the conditions of approval. The conditional use permit may be revoked upon a finding by the City that there is a violation of the terms of approval.
  - b. The use authorized by the conditional use permit must be initiated within one (1) year of approval and shall become void two (2) years after the date of approval unless the applicant has fully complied with the terms of approval.
  - c. All obsolete or unused structures, accessory facilities or materials with an environmental or safety hazard shall be abated and/or removed at owner's expense within twelve (12) months of cessation of the conditional use.
4. Notwithstanding any other provision herein to the contrary, this permit, and all rights granted hereby, shall expire and terminate as to a permitted use hereunder upon the first of the following to occur:
- a. Owner's abandonment of the permitted use. Non-use thereof for a period of twelve (12) months shall constitute a presumption of abandonment.
  - b. Cancellation, revocation, denial or failure to maintain any federal, state or local permit required for the Use.



- c. Owner's construction or placement of a storage tank, structure or other improvement on the premises not specified in this permit.
  - d. Owner's breach of any other terms hereof and his failure to correct such breach within ten (10) days of City's giving notice thereof.
5. If the permitted use is not commenced within one (1) year from July 20, 2010, 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 (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.
  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 successors and assigns.

1. Delay of City to terminate this permit on account of breach of owner of any of the terms hereof shall not constitute a waiver of City's right to terminate, unless it shall have expressly waived said breach and a waiver of the right to terminate upon any breach shall not constitute a waiver of the right to terminate upon a subsequent breach of the terms hereof, whether said breach be of the same or different nature.
2. Nothing herein shall be construed to be a waiver or suspension of, or an agreement on the part of the City to waive or suspend, any zoning law or regulation applicable to the premises except to the extent and for the duration specifically authorized by this permit.
3. Any notice to be given by City hereunder shall be in writing and shall be sufficiently given if sent by regular mail, postage prepaid, addressed to the owner as follows:

**Contact Name and Address:** Ben & Sandy Toscano  
Gateway Collision and Repair  
5885 South 118<sup>th</sup> Circle  
Omaha, NE 68137

**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 Kendig, 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: \_\_\_\_\_

HARRISON STREET

PROPERTY LINE

BUILDING SETBACK

CONC. APPROACH

ASPHALT

CONC. APPROACH

S 10TH STREET

PROPERTY LINE

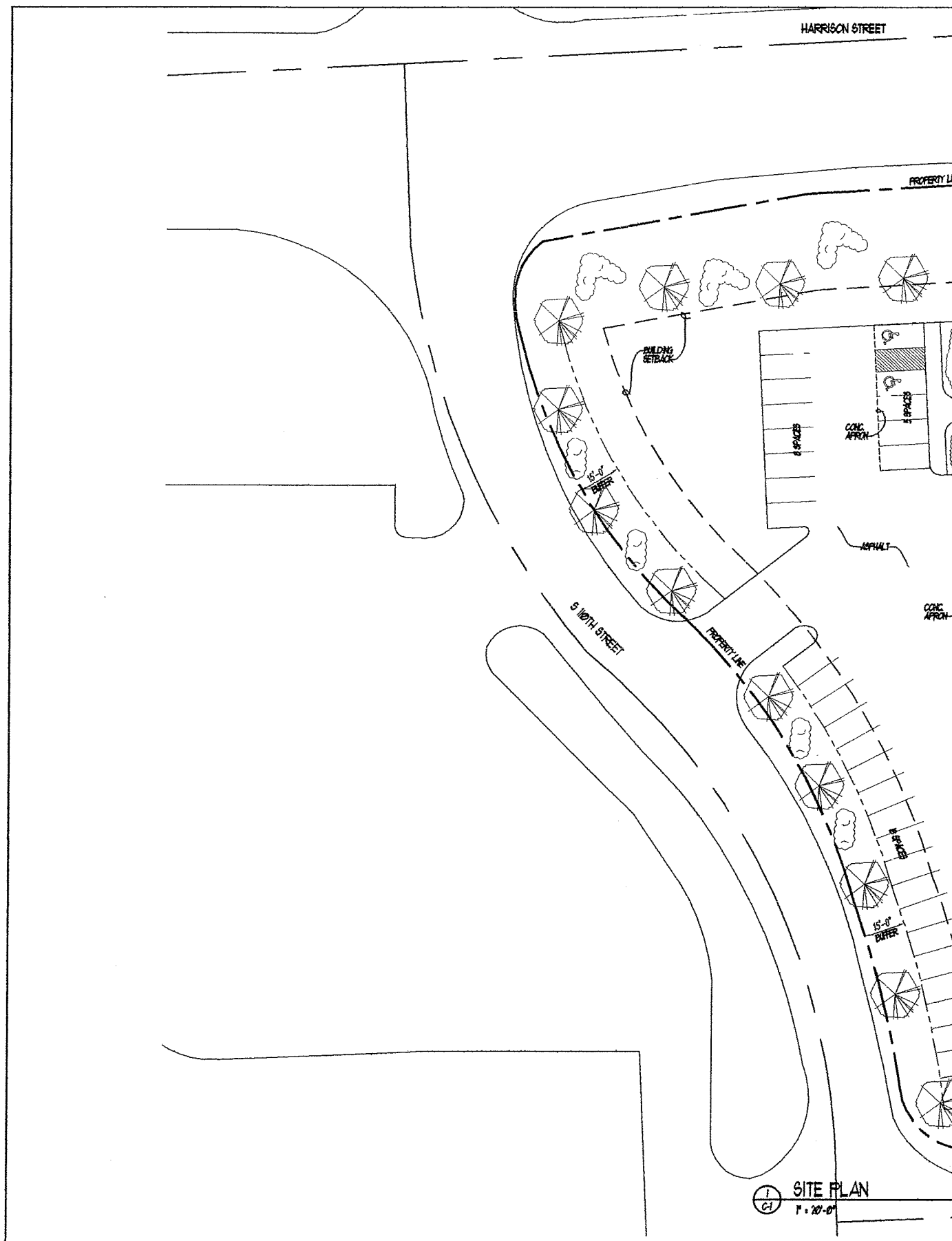
EDUCATION

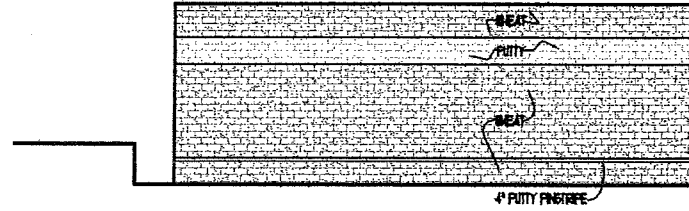
15'-0" BUFFER

1  
61

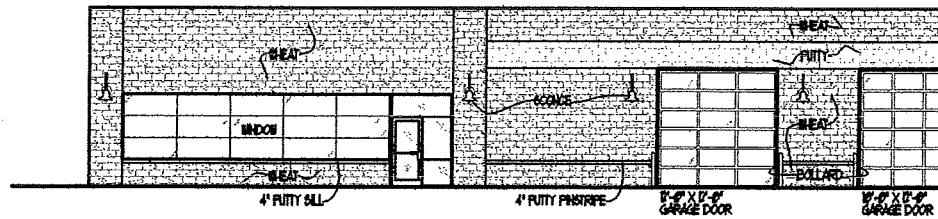
SITE PLAN

1" = 20'-0"

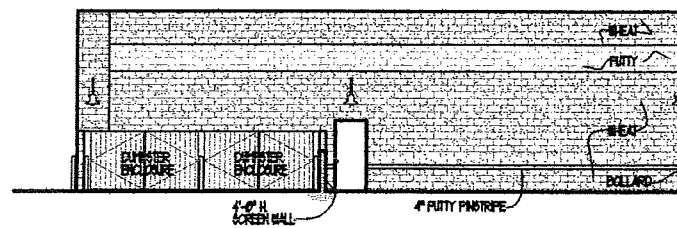




1 NORTH SIDE ELEVATION  
1/8" = 1'-0"



2 WEST SIDE ELEVATION  
1/8" = 1'-0"



3 SOUTH SIDE ELEVATION  
1/8" = 1'-0"





May 12, 2010

Mr. Christopher Solberg  
City Planner  
City of La Vista  
8116 Park View Blvd.  
La Vista, NE 68128

RE: Conditional Use Permit Application-Initial Review  
Gateway Collision-Lot 47, Brook Valley Business Park  
Proposed Auto Repair Services in I-1 Zoning

Chris:

I have reviewed the site plan and documents accompanying the application that I received from you for a proposed conditional use permit for the Gateway Collision and Repair facility. Based on the elements for consideration set forth in Article 6.05 of the Zoning Regulations, I have the following comments:

1. The applicant has identified needing 51 parking stalls based on the code requirement of 3 stalls per service bay for auto repair services. The site plan shows on 49 stalls. Also a stall count of 51 stalls would require 3 ADA stalls instead of 2 stalls as shown.
2. The proposed driveway onto 110<sup>th</sup> Street may have difficulty serving inbound traffic during peak hours due to traffic stacked on northbound 110<sup>th</sup> waiting to access Harrison Street. However, the traffic desiring to enter this site can proceed south to the entrance proposed onto Emiline Street. The peak hour traffic associated with this facility will be rather light and does not warrant a traffic impact study.
3. The proposed development will need to comply with the Post Construction Storm Water Management regulations. In this case that will require maintaining post-construction peak storm water flows for 2-year storm events to pre-development conditions and treating the first one-half inch of runoff for water quality improvements if reasonably practical to do so. The reason for pointing this out at this time is that this could affect the site layout in providing space for storm water management in open areas. The alternative is to use underground storage which will have an economic impact. It also relates to the requirement set forth in Article 6.05.04.
4. The applicant should provide information on the level of noise and odors that can be expected, especially since there are residential properties close by.

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 Works  
9900 Portal Rd.  
p: 402-331-8927  
f: 402-331-1051

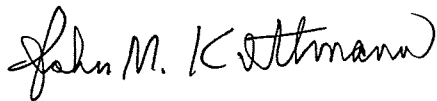
Recreation  
8116 Park View Blvd.  
p: 402-331-3455  
f: 402-331-0299

5. The applicant has noted using waterborne paints. Information is needed as to whether these paints will totally replace solvent-based paints at this facility. Also, information is needed on how cleaning fluids from the water-based paints will be kept from the sewer system prior to a building permit being issued.

I do not have any other comments related to Article 6.05 considerations, however, I have some general comments for your consideration.

- A. The proposed development will require a grading permit with erosion control compliance since the disturbed area will exceed one acre.
- B. A post-construction storm water management plan will be required as part of the grading permit and building permit process.
- C. I have driven by the applicant's current facility at 5885 South 118<sup>th</sup> Circle. I noticed that there is a banner out front stating auto sales. If the applicant proposes such activities at this location, then they will need to include such in their application and address the related parking requirements.

Please feel free to contact me if you have questions about my recommendations.



John M. Kottmann

City Engineer

Cc file