

BELLEVUE PLANNING COMMISSION

Thursday, November 17, 2022 6:00 PM

Bellevue City Hall

1500 Wall Street

Bellevue, NE 68005

1. CALL TO ORDER:

a. Pledge of Allegiance

b. Roll Call

c. The Open Meetings Act location

d. Approve Minutes of October 27, 2022 Regular Meeting

e. Accept into the record all staff reports, attachments, memos, and handouts regarding each application.

2. CONSENT AGENDA/PUBLIC HEARINGS:

3. PUBLIC HEARINGS:

a. Request for a conditional use permit for Lot 2, Bellevue Business Park Replat VI, for the purpose of an auto repair shop. Applicant: Dennis R. Schworer, LLC. General location: 10th Street and Alberta Avenue. Case #: CUP-2210-05.

4. CURRENT BUSINESS

a. Approval of 2023 Planning Commission Uniform Review Schedule

5. ADJOURNMENT

MINUTE RECORD

Bellevue Planning Commission Meeting, October 27, 2022, Page 1

The Bellevue Planning Commission held a regular meeting on Thursday, October 27, 2022 at 6:00 p.m. in the Bellevue City Council Chambers. Upon roll call, present were Commissioners Hankins, Ritz, Sims, Cutsforth, Bennett, Jacobson, and Perrin. Absent were Commissioners Aerni and Ackley. Also present were Tammi Palm, Planning Department Manager, and Angela Curry, Assistant Planning Manager.

Notice of this meeting was given in advance thereof by publication in the Gretna Guide and News and posting in two public places and was also given to the Chairperson and members prior to the meeting. These minutes were written and available for public inspection within ten days of the meeting.

Cutsforth announced a copy of the Open Meetings Act was posted in the entry to the City Council Chambers.

Motion was made by Bennett, seconded by Jacobson, to approve the minutes of the August 25, 2022 regular meeting as presented. Upon roll call, all present voted yes. Motion carried unanimously.

Cutsforth asked if there were any updates or additions to staff reports. Palm advised Public Hearing agenda Item 3.a. has been withdrawn by the applicant therefore there would be no public hearing for that item.

Motion was made by Ritz, seconded by Perrin, to accept into the record all staff reports, attachments, memos, and handouts regarding each application including the update on Item 3.a. Upon roll call, all present voted yes. Motion carried unanimously.

Cutsforth explained the public hearing procedures.

PUBLIC HEARING was held on a request to annex miscellaneous Rights-of-Way. Applicant: City of Bellevue.

Cutsforth asked staff if there were any updates. Palm stated there were no updates but gave a brief overview. She stated over the years when various annexations were proposed State Statutes allowed for annexation of adjacent rights-of-way so these areas should have been annexed when the adjacent areas were annexed however; some of these areas were not included in prior ordinances. Palm stated the application is designed to clean up some of these corridors that should have been taken into the city limits in the past. Palm stated the impact of this annexation is minimal but would give the Bellevue Police Department jurisdiction to respond to accidents or other incidents along the proposed stretches of Highway 75.

John Iske, 15402 S. 5th St., Bellevue, NE questioned whether the City of Bellevue would be responsible for snow removal and maintenance on Highway 75 with this annexation. Palm stated the NDOT (Nebraska Department of Transportation) would remain responsible for snow removal and maintenance. Discussion ensued regarding access to Normandy Hills Subdivision.

MOTION was made by Jacobson, seconded by Perrin to recommend APPROVAL of a request to annex eight miscellaneous rights-of-way. Applicant: City of Bellevue. APPROVAL as presented. Upon roll call, all present voted yes. MOTION carried unanimously.

This item will proceed to City Council for PUBLIC HEARING ON December 6, 2022.

Meeting adjourned at 6:13 p.m.



Dianna Van Horn
Planning Secretary

**CITY OF BELLEVUE
PLANNING DEPARTMENT**

3.a.

RECOMMENDATION REPORT # 1

CASE NUMBERS: CUP-2210-05

FOR HEARING OF:

REPORT #1: November 17, 2022

I. GENERAL INFORMATION

A. APPLICANT:

Dennis R. Schworer, LLC
417 Ridgewood Drive
Bellevue, NE 68005

B. PROPERTY OWNERS:

Dennis R. Schworer, LLC
417 Ridgewood Drive
Bellevue, NE 68005

C. GENERAL LOCATION:

South 10th Street and Alberta Avenue

D. LEGAL DESCRIPTION:

Lot 2, Bellevue Business Park Replat VI, located in the Northeast ¼ of Section 22, T14N, R13Ehte 6th P.M., Sarpy County, Nebraska.

E. REQUESTED ACTIONS:

Conditional Use Permit for Lot 2, Bellevue Park Replat VI.

F. EXISTING ZONING AND LAND USE:

FX, Flex Space/Vacant

G. PURPOSE OF REQUEST:

The purpose of this request is to obtain approval for a conditional use permit request to allow for the construction of an automobile repair shop.

H. SIZE OF SITE:

The site is approximately 9.10 acres.

II. BACKGROUND INFORMATION

A. EXISTING CONDITION OF SITE:

The property is currently vacant and covered in vegetation.

B. GENERAL NEIGHBORHOOD/AREA LAND USES AND ZONING:

- 1. **North:** Single Family Residential, RS-84 (across Cary Street)
- 2. **East:** Light Manufacturing, ML
- 3. **South:** Light Manufacturing, ML
- 4. **West:** Residential Estates, RE/Vacant; AG, and Single Family Residential, RS-120

C. RELEVANT CASE HISTORY:

- 1. On June 28, 2004, the City Council approved a change of zone from RG-20-PD to BGH for Lot 2, Bellevue Business Park Replat VI. Along with the change of zone, a conditional use permit for the purpose of an auto body repair shop was also approved.
- 2. On February 16, 2021, the City Council approved a request to rezone Lot 2, Bellevue Business Park Replat VI, from AG to FX, for the purpose of flex development.

D. APPLICABLE REGULATIONS:

- 1. Section 5.26, Zoning Ordinance, regarding FX uses and requirements.
- 2. Article 6, Zoning Ordinance, regarding Conditional Use Permits.

III. ANALYSIS

A. COMPREHENSIVE PLAN:

The Future Land Use Map of the Comprehensive Plan designates this area as flex space.

B. OTHER PLANS:

None

C. TRAFFIC AND ACCESS:

1. There is no MAPA traffic data information available for this area.
2. The property currently has access from Albert Avenue on the south. No access will be allowed to unimproved Cary Street on the north until such time as Cary Street is improved to city standards.

D. UTILITIES:

All utilities are available to this property.

E. ANALYSIS:

1. Dennis R. Schworer, LLC has submitted a request for a conditional use permit for Lot 2, Bellevue Business Park Replat VI, for the purpose of an automobile repair shop.
2. The property is presently vacant and covered in vegetation. Mr. Schworer states he would like to use the site for vehicle repair and storage of his personal and company vehicles. Under the FX district this use is permitted only with a conditional use permit and site plan approval.
3. The applicant has submitted a site plan showing his proposed building, which will be located at the southern end of the property. The site plan shows the building to be approximately 9,600 square feet in size. Based on the size of the building, the Zoning Ordinance requires 24 parking spaces. The site plan shows 30 spaces will be provided.
4. A six-foot security fence will surround the rear parking area to allow for the temporary placement of vehicles being repaired and stored. This is in compliance with the requirements of Article 9 of the Zoning Ordinance for landscaping, screening, and fencing requirements. Per Article 9, the six-foot fence will be required to be a wood privacy fence.
5. The applicant has submitted a landscape plan which conforms to the requirements of the zoning ordinance.
6. The applicant intends to access the property from Alberta Avenue on the south. Access will not be allowed to Cary Street until such time as Cary Street is improved to city standards.

7. The southernmost portion of the property is within the 100-year or 500-year flood plain. FEMA's preliminary updated floodplain maps show the risk in the southeastern portion of the property will be decreased from a 1% annual chance of flood hazard (effective) to no flood risk (preliminary). These maps will likely be effective within the next 12 months. Development within the flood plain will require a Flood Plain Development Permit. An elevation certificate will be required as well.
8. This application was sent out to the following departments for review: Public Works, Permits and Inspections, Chief of Police, Offutt Air Force Base, Fire Inspector, Sarpy County Engineer, Sarpy County Administrator, Sarpy County Planning Department, Sarpy County Surveyor, and the Bellevue Public School District. The cover letter indicated a deadline to send comments back to the Planning Department, and also stated if the requested department did not have comments pertaining to the application, no response was needed.

Public Works Engineer Matt Knight requested technical revisions to the site layout plan, site grading plan, site utilities plan, and landscaping plan. The applicant's surveyor has since satisfied these comments.

No other comments were received in this case.

9. The Future Land Use Map of the Comprehensive Plan shows this property as flex space.
10. The applicant will have to meet the minimum requirements of Section 8.12, Zoning Ordinance, for design standards as part of the building permit process.
11. Per Section 6.06, the Zoning Ordinance requires no conditional use permit shall be granted unless the Planning Commission or City Council has found:
 - 6.06.01 That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, moral, comfort, or general welfare of the community.
 - 6.06.02 That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
 - 6.06.03 That the establishment of the conditional use will not impede the normal and orderly development of the surrounding property for uses permitted in the district.
 - 6.06.04 Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.
 - 6.06.05 Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

6.06.06 The use shall not include noise which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.

6.06.07 The use shall not involve any pollution of the air by fly-ash, dust, vapors or other substance which is harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, or irritation.

6.06.08 The use shall not involve any malodorous gas or matter which is discernible on any adjoining lot or property.

6.06.09 The use shall not involve any direct or reflected glare which is visible from any adjoining property or from any public street, road, or highway.

6.06.10 The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.

6.06.11 The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.

The Planning Department believes this application meets the criteria for approval of the Conditional Use Permit.

F. TECHNICAL DEFICIENCIES:

None

IV. DEPARTMENT RECOMMENDATION

APPROVAL based upon conformance with the Zoning Ordinance, and lack of perceived negative impact upon the surrounding area.

V. PLANNING COMMISSION RECOMMENDATION

Under Review

VI. ATTACHMENTS TO REPORT

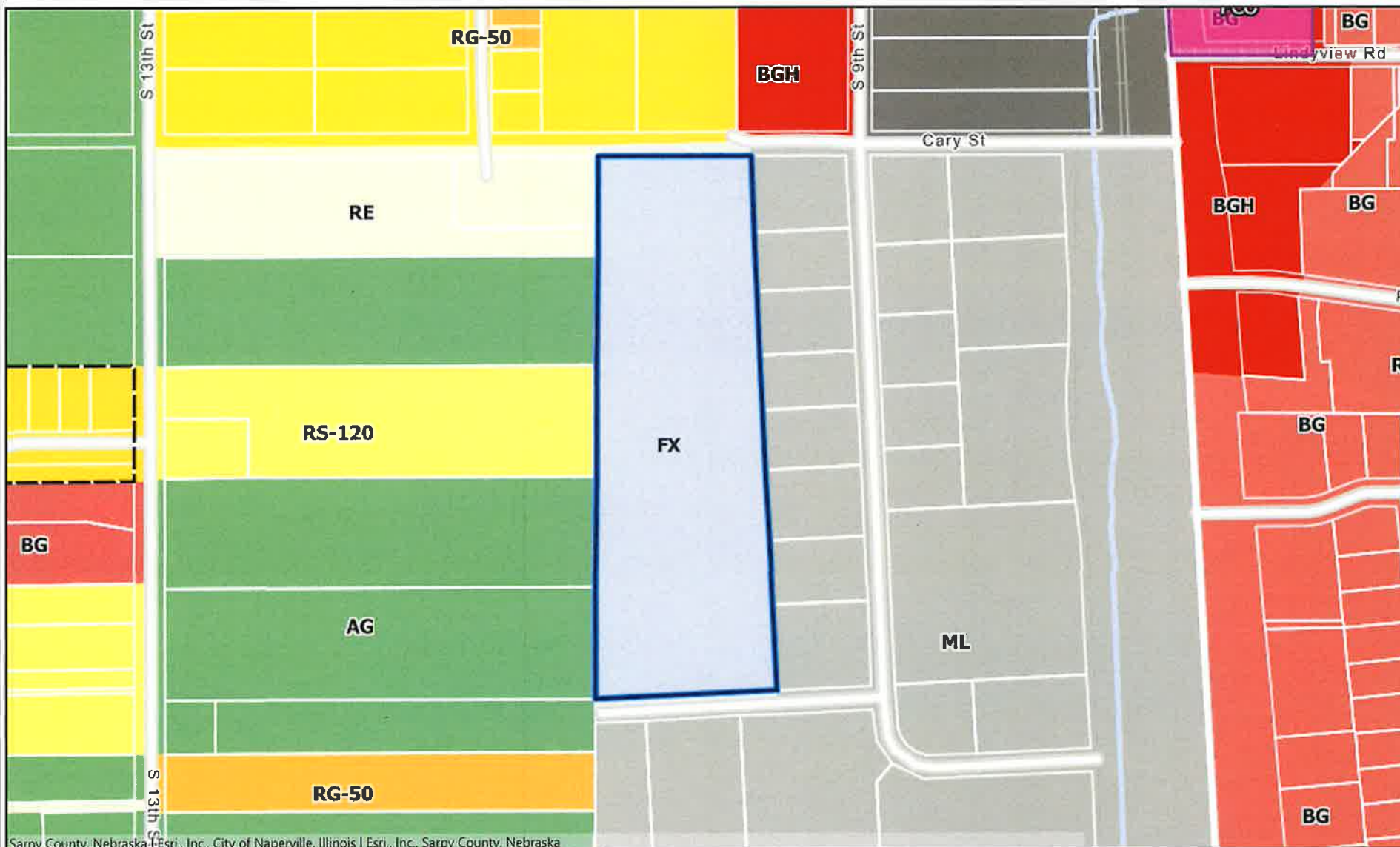
1. Zoning Map
2. 2020 GIS aerial
3. Justification letter received October 19, 2022
4. Site Plan received November 7, 2022
5. Landscape Plan received November 7, 2022
6. Conditional Use Permit Agreement

VII. COPIES OF REPORT TO:

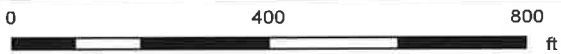
1. Dennis R. Schworer, LLC
2. Public Upon Request


Assistant Planning Manager


Planning Manager Date of Report



Sarpy County, Nebraska | Esri, Inc., City of Naperville, Illinois | Esri, Inc., Sarpy County, Nebraska



Map Scale 1: 4514

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Notes





Esri, Inc., City of Naperville, Illinois | Esri, Inc., Sarpy County, Nebraska



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Notes





Honda Cars of Bellevue
510 Fort Crook Rd North
Bellevue, NE 68005
402-734-3330
Fax 402-734-8451



Schworer Volkswagen
3301 Schworer Drive
Lincoln, NE 68504
402-435-3300

dschworer@hondacarsofbellevue.com

Dennis R. Schworer
President

OCTOBER 4, 2022

ANGELA CURRY
ASSISTANT PLANNING MAMAGER
CITY OF BELLEVUE
1510 WALL STREET
BELLEVUE, ME 68005

ANGELA:

DON HEINE INFORMS ME THAT YOU NOW HAVE EVERYTHING YOU NEED
FOR THE SITE PLAN.

THE ONLY OTHER ITEM FROM ME IS A STATEMENT OF INTENDED USE.

HERE GOES:

THIS BUILDING WILL BE USED PRIMARILY FOR VEHICLE STORAGE---
MY COLLECTIBLE CARS AND COMPANY VEHICLES. SINCE I SOLD
THE OLD SATURN OF BELLEVUE BUILDING-----I NEED TO REPLACE
SOME OF THE USES.

ALSO THE BUILDING IS SET UP TO DO VEHICLE REPAIR-----

LET ME KNOW IF YOU NEED ANY ADDITIONAL INFORMATION.

DENNIS 

CC- DON HEINE VIA E-MAIL

DON----PLEASE FWD THIS LETTER VIA E-MAIL TO ANGELA

RECEIVED
OCT 19 2022
PLANNING DEPT.

Record & Return To:
City of Bellevue Planning Department
1510 Wall Street
Bellevue, NE 68005

CITY OF BELLEVUE
CONDITIONAL USE PERMIT
LOT 2, BELLEVUE BUSINESS PARK REPLAT VI,
LOCATED IN THE NORTHEAST ¼ OF SECTION 22, T14N, R13E OF THE 6TH P.M., SARPY
COUNTY, NEBRASKA

Conditional Use Permit for Dennis R. Schworer, LLC

This Conditional Use Permit issued this 20th day of December, 2022 by the City of Bellevue, a municipal corporation in the County of Sarpy County, Nebraska (“City”) to Dennis R. Schworer, LLC, (“Applicant”), pursuant to the Bellevue Zoning Ordinance.

WHEREAS, Dennis R. Schworer, LLC, is the legal owner of Lot 2, Bellevue Business Park Replat VI, located in the Northeast ¼ of Section 22, Township 14 North, Range 13 East of the 6th P.M., Sarpy County, Nebraska, consisting of approximately 9.10 acres (“Property”). Applicant desires to use the Property for the purpose of an automobile repair shop and automobile storage; and

WHEREAS, Applicant has applied for a conditional use permit for the purpose of using the Property as described above; and

WHEREAS, the Mayor and City Council of the City of Bellevue are agreeable to the issuance of a conditional use permit to the Applicant for such purpose, subject to certain conditions and agreements as hereinafter provided (the “Permit”).

NOW, THEREFORE, BE IT KNOWN THAT subject to the conditions hereof, this Permit is issued to the Applicant to use the Property for the purpose described above, said use hereinafter being referred to interchangeably as a “Permitted Use” or “Use”.

Conditions of Permit

The conditions to which the granting of this Permit is subject are as follows:

1. Development and operation on the Property is governed by this Permit. The rights granted by this Permit are transferable and any breach of any terms hereof shall cause Permit to expire and terminate, subject to the rights of the Applicant to cure such default or deficiency as set forth in this Permit.
2. In respect to the proposed Use:
 - a. A site plan showing the Property’s boundaries, proposed structures, parking, access points, and drives, is attached hereto and incorporated herein as Exhibit “A.”

- b. The Property shall be developed and maintained in accordance with the site plan (Exhibit “A”) and all other exhibits, if any, of this Agreement. Any modifications to the site plan must be submitted to the Planning Department for approval. Modifications of any other document or exhibit shall be subject to approval of the City, as directed by the City Administrator, unless otherwise expressly provided in the document or exhibit to be modified.
 - c. Applicant 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 costs) arising out of or resulting from the acts, omissions or negligence of the Applicant or its agents, employees, assigns, suppliers or invitees, including, but not limited to, any liability, loss, claim or expense arising out of or resulting from any violations of any applicable environmental or safety law, rule or regulation relating to the Applicant’s Use of the Property.
3. The Applicant’s right to maintain the Use of the Property, as contemplated by this Permit, shall be based on the following conditions:
- a. A periodic inspection to determine compliance with the conditions of this Permit. The Permit may be revoked only upon a finding by the City that there is a material violation of the material terms of this Permit if the violation occurs after written notice from the City to Applicant and the opportunity to cure in the time and manner described below.
 - b. The Use authorized by this Permit must be initiated within 12 months after the date of the approval of this Permit otherwise such Permit shall become void.
 - c. The Use shall be in compliance with all State of Nebraska regulations regarding the sale of automobiles. A copy of required license shall be provided to the Planning Department.
 - d. The applicant may maintain an automobile repair shop.
 - e. No access will be allowed to unimproved Cary Street on the north until such time as Cary Street is improved to city standards.
 - f. All obsolete or unused structures, accessory facilities or materials with an environmental or safety hazard shall be abated and/or removed from the Property at Applicant’s expense within twelve (12) months of cessation of the Use of the Property.
 - g. All signage on Property related to Use shall be in conformance with the City Zoning Ordinance.
 - h. Applicant shall record this Permit with the Sarpy County Register of Deeds at Applicant’s expense.
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. Applicant’s abandonment of the Permitted Use. There shall be a presumption that the project on the Property has been abandoned if the Applicant fails to use the Property for the Permitted Uses for any twelve (12) consecutive month period.
 - b. Cancellation, revocation, denial or failure to maintain any federal, state or local permit required for the Use, and such cancellation, revocation, denial or failure to maintain any federal, state or local rights are provided under laws, rules and regulations governing said permit.
 - c. Applicant’s breach of other terms hereof and its failure to cure such breach in the time and manner set forth below.
5. In the event the Applicant fails to promptly remove any safety, environmental or other hazard or nuisance from the Property, or upon the expiration or termination of this Permit the Applicant fails to promptly remove any remaining safety, environmental or other hazard or nuisance, the City may at its option (but without any obligation to the Applicant or any third party to exercise said option) cause the

same to be removed at Applicant's cost (including, but not limited to, the cost of any excavation and earthwork that is necessary or advisable in connection with the removal thereof) and the Applicant shall reimburse the City the costs incurred to remove the same. Applicant hereby irrevocably grants the City, its agents and employees, the rights, provided notice is furnished to the Applicant along with a reasonable time to remove or cure such hazard, to enter the Property and to take whatever action as is necessary or appropriate to remove any such hazards, nuisances in accordance with the terms of this Permit, and the right of the City to enter the Property as may be necessary or appropriate to carry out any other provision of this Permit.

6. If any provisions, or any portion thereof, contained in this Permit are 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.

7. The conditions and terms of this Permit shall be binding upon Applicant, its successors and assigns.

a. Delay of City to terminate this Permit on account of breach of Applicant of any terms hereof in accordance with the terms hereof shall not constitute a waiver of City's right to terminate this Permit, unless the City has expressly waived said breach. 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.

b. Cure Rights. Notwithstanding any other provision of this Permit to the contrary, Applicant shall be entitled to notice and opportunity to cure a breach of this Permit as follows. City will notify the Applicant of any breach of this Permit. Cure shall be commenced and completed as soon as possible and in all cases within thirty (30) days after City provides notice of breach; provided, however, in any case that cure cannot be completed within 30 days, additional time will be allowed, so long as cure is commenced within the time required in this Section b and diligently pursued and completed as soon as possible, and allowing additional time does not present or increase risk of harm to persons or property. City shall have the right to terminate this Permit if a breach is not timely cured.

c. 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.

d. 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 as follows:

Dennis R. Schworer, LLC
417 Ridgewood Drive
Bellevue, NE 68005

e. All recitals at the beginning of this document and exhibits or other documents referenced in this Permit shall be incorporated herein by reference.

Effective Date:

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

The City of Bellevue

By: _____
Rusty Hike, Mayor

ATTEST:

Susan Kluthe, City Clerk

STATE OF NEBRASKA)
)SS:
COUNTY OF SARPY)

The undersigned, a notary public qualified in and for said county, does hereby certify that Rusty Hike and Susan Kluthe, whose names as Mayor and City Clerk respectively, of the City of Bellevue, Nebraska, a municipal corporation, are signed to the foregoing instrument and who are each known to me and known to be such officers, acknowledged before me on this day and they, in their respective capacities as Mayor and Deputy City Clerk, executed and delivered said instrument as their voluntary act and deed and voluntary act and deed of such corporation.

Witness my hand and notarial seal this ____ day of _____, 2022.

Notary Public

Dennis R. Schworer

STATE OF NEBRASKA)
)SS:
COUNTY OF _____)

The undersigned, a notary public qualified in and for said county, does hereby certify that Dennis R. Schworer signed the foregoing instrument, acknowledged before me on this day and he executed and delivered said instrument as his voluntary act and deed.

Witness my hand and notarial seal this ____ day of _____, 2022.

Notary Public

PLANNING COMMISSION

Uniform Review Schedule – 2023

| SUBMITTAL ^{1,2} DEADLINE FOR ALL APPLICATIONS | FINAL REVISIONS DEADLINE | PLANNING COMMISSION PUBLIC HEARING | SMALL ³ SUBDIVISION OR FINAL PLAT APPLICATIONS NOT REQUIRING ZONING ACTION | CITY COUNCIL ³ ZONING/PRELIM INARY PLAT APPLICATIONS |
|---|--------------------------------|---|--|--|
| December 23, 2022 | January 16, 2023 | January 26, 2023 | February 07, 2023 | February 21, 2023 |
| January 20, 2023 | February 13, 2023 | February 23, 2023 | March 07, 2023 | March 21, 2023 |
| February 17, 2023 | March 13, 2023 | March 23, 2023 | April 04, 2023 | April 18, 2023 |
| March 24, 2023 | April 17, 2023 | April 27, 2023 | May 02, 2023 | May 16, 2023 |
| April 21, 2023 | May 15, 2023 | May 25, 2023 | June 06, 2023 | June 20, 2023 |
| May 19, 2023 | June 12, 2023 | June 22, 2023 | July 05, 2023 | July 18, 2023 |
| June 23, 2023 | July 17, 2023 | July 27, 2023 | August 01, 2023 | August 15, 2023 |
| July 21, 2023 | August 14, 2023 | August 24, 2023 | September 05, 2023 | September 19, 2023 |
| August 25, 2023 | September 18, 2023 | September 28, 2023 | October 03, 2023 | October 17, 2023 |
| September 22, 2023 | October 16, 2023 | October 26, 2023 | November 07, 2023 | November 21, 2023 |
| October 13, 2023 | November 06, 2023 | *November 16, 2023 | December 05, 2023 | December 19, 2023 |
| November 17, 2023 | December 11, 2023 | *December 21, 2023 | January 16, 2024 | January 16, 2024 |
| December 22, 2023 | January 15, 2024 | January 25, 2024 | February 06, 2024 | February 20, 2024 |

Approved by the Bellevue Planning Commission

Chairman

Date

*Please note meeting dates reflect the third Thursday of the month.

¹ A preapplication meeting with the Planning Department Staff is required PRIOR to the submission of an application for a preliminary plat.

² Preliminary plats shall be scheduled on the Planning Commission agenda upon submittal of revised plans in accordance to Section 3-6 (3) of the Subdivision Regulations

³ Dates shown for City Council hearings are shown as a guide for planning purposes only. The City Council will not meet on January 2, 2024 due to the New Years Holiday.