

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
MAY 17, 2016 AGENDA**

| Subject: | Type: | Submitted By: |
|--|---|--|
| CONDITIONAL USE PERMIT – CAUBLE SPORTS LLC LOT 24A, BROOK VALLEY BUSINESS PARK (NE OF 109 TH & SKINNER DRIVE | ◆ 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 to locate and operate an indoor recreational facility on Lot 24A, Brook Valley Business Park, generally located northeast of 109th Street and Skinner Drive.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approval.

BACKGROUND

A public hearing has been scheduled to consider an application submitted by Jeff Cauble for a Conditional Use Permit to locate and operate an indoor recreation facility on Lot 24A, Brook Valley Business Park. The property is zoned I-2 Heavy Industrial; an indoor recreation facility is listed in the I-2 District as a conditional use. The applicant proposes to operate an indoor cross-training facility in a 5,000 sq. ft. bay of an existing 30,000 sq. ft. building located northeast of 109th Street and Skinner Drive.

A detailed staff report is attached.

The Planning Commission held a public hearing on April 21, 2016, and unanimously recommended approval of the Conditional Use Permit to City Council conditional on the resolution of the issues listed within the Review Comments prior to issuance of a Certificate of Occupancy as the CUP request is consistent with the Comprehensive Plan and the Zoning Ordinance.

I:\Administration\BRENDA\My Documents\COUNCIL\16 Memos\CUP - Cauble Sports.Doc

RESOLUTION NO. 16-__

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE EXECUTION OF A CONDITIONAL USE PERMIT FOR CAUBLE SPORTS, LLC, TO ALLOW FOR AN INDOOR RECREATIONAL FACILITY ON LOT 24A, BROOK VALLEY BUSINESS PARK.

WHEREAS, Cauble Sports, LLC, on behalf of the property owner, LSREF4 Bison, LLC, has applied for a Conditional Use Permit for to allow for an indoor recreation facility on Lot 24A, Brook Valley Business Park located northeast of 109th Street and Skinner Drive; 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 Cauble Sports, LLC, to allow for an indoor recreation facility on Lot 24A, Brook Valley Business Park.

PASSED AND APPROVED THIS 17th DAY OF MAY, 2016.

CITY OF LA VISTA

ATTEST:

Douglas Kindig, Mayor

Pamela A. Buethe, CMC
City Clerk



**CITY OF LA VISTA
PLANNING DIVISION**

RECOMMENDATION REPORT

CASE NUMBER: 2016-CUP-03

FOR HEARING OF: May 17, 2016
Report Prepared on May 4, 2016

I. GENERAL INFORMATION

- A. APPLICANT:** Jeff Cauble, Cauble Sports LLC
- B. PROPERTY OWNER:** LSREF4 Bison, LLC
- C. LOCATION:** 7009 South 109th Street
- D. LEGAL DESCRIPTION:** Lot 24A, Brook Valley Business Park
- E. REQUESTED ACTION(S):** Use of a portion of the building for an indoor recreational facility as conditionally permitted in the I-2 Heavy Industrial district of the La Vista Zoning Ordinance.
- F. EXISTING ZONING AND LAND USE:**
I-2 Heavy Industrial; the property contains one existing building which houses six bays for permitted industrial uses.
- G. PROPOSED USES:** The Conditional Use Permit would allow for indoor recreation, specifically cross-training in an approximately 5,000 sq. ft. bay within a 30,933 sq. ft. building.
- H. SIZE OF SITE:** 2.53 acres

II. BACKGROUND INFORMATION

- A. EXISTING CONDITION OF SITE:** The property contains one building which has tenant bays for industrial flex space. Carlson Systems, Berg Helix, and Integrated Life Choices operate in separate bays of the same building.
- B. GENERAL NEIGHBORHOOD/AREA LAND USES AND ZONING:**
 - 1. **North:** Brook Valley Business Park; I-2 Heavy Industrial
 - 2. **East:** Brook Valley Business Park; I-2 Heavy 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:** N/A
- C. **TRAFFIC AND ACCESS:**
1. Access would be from existing drives providing egress / ingress to S. 109th Street and Skinner Drive. Two access points currently exist on the property.
 2. After review of the application it was determined that the additional traffic load would have no significant impact on the peak-hour traffic loads as the proposed activities do not include tournaments or other large events. Other conditional use permits for indoor recreation facilities in industrial areas have included large events and we have asked for Traffic Impact Studies in those circumstances, but that is not applicable to this case.
- D. **UTILITIES:** All utilities are available to the site.
- E. **PARKING REQUIREMENTS:**
1. Parking requirements would follow the minimum needed for a recreational facility. The zoning requirement for recreational facilities is 1 parking space per 4 occupants. The zoning requirement for industrial flex space is 1 parking space per 3,000 square feet of gross floor area (this would apply to the other tenants in the building).

The proposed use will utilize a 5,000 square foot bay. Based on the building code, this space would allow for a maximum of 75 occupants. This equates to a need for 19 parking spaces for the proposed conditional use. The other tenants of the building utilize 25,000 square feet of the remaining space within the facility, creating a need for a minimum of 9 spaces to be reserved for the other tenants.

The applicant has noted an expected peak parking demand of 15 parking spaces within the attached Operational Statement. Although this calculation is less than what is calculated through the zoning regulations, the expected younger pre-driving age clientele, as described within the Operational Statement, would limit the need for additional parking. Regardless of the activity at a youth-oriented indoor recreation facility, a varying percentage of the children are dropped off, to be picked up after the activity has been completed. This reduces the typical parking demand.

A total of 87 parking spaces exist on-site now, which is well in excess of what is required for the current and proposed uses of the bays within the building.

F. LANDSCAPING: N/A

IV. REVIEW COMMENTS:

1. The facility will need to comply with building ingress/egress requirements and restroom requirements for the type of use being proposed.
2. The facility will need to comply with fire code regulations as enforced by the Papillion Fire Marshall. As the occupancy and use type for this bay will change from the previous tenant, the applicant will need to verify whether or not there is fire resistive construction on the adjoining inside wall.

V. STAFF RECOMMENDATION:

Approval of the Conditional Use Permit for Cauble Sports, conditional on the resolution of the issues listed within the Review Comments prior to issuance of a Certificate of Occupancy as the CUP request is consistent with the Comprehensive Plan and the Zoning Ordinance.

VI. PLANNING COMMISSION RECOMMENDATION:

The Planning Commission held a public hearing on April 21, 2016 and unanimously recommended approval of the Conditional Use Permit for Cauble Sports, conditional on the resolution of the issues listed within the Review Comments prior to issuance of a Certificate of Occupancy as the CUP request is consistent with the Comprehensive Plan and the Zoning Ordinance.

VII. ATTACHMENTS TO REPORT:

1. Vicinity Map
2. Applicant's Operational Statement
3. Draft CUP

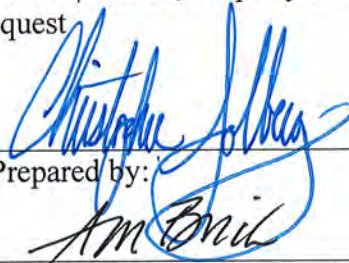
VIII. COPIES OF REPORT TO:

1. Jeff Cauble, Applicant
2. Dale Novacek, CBRE|MEGA, Property Manager
3. Public Upon Request

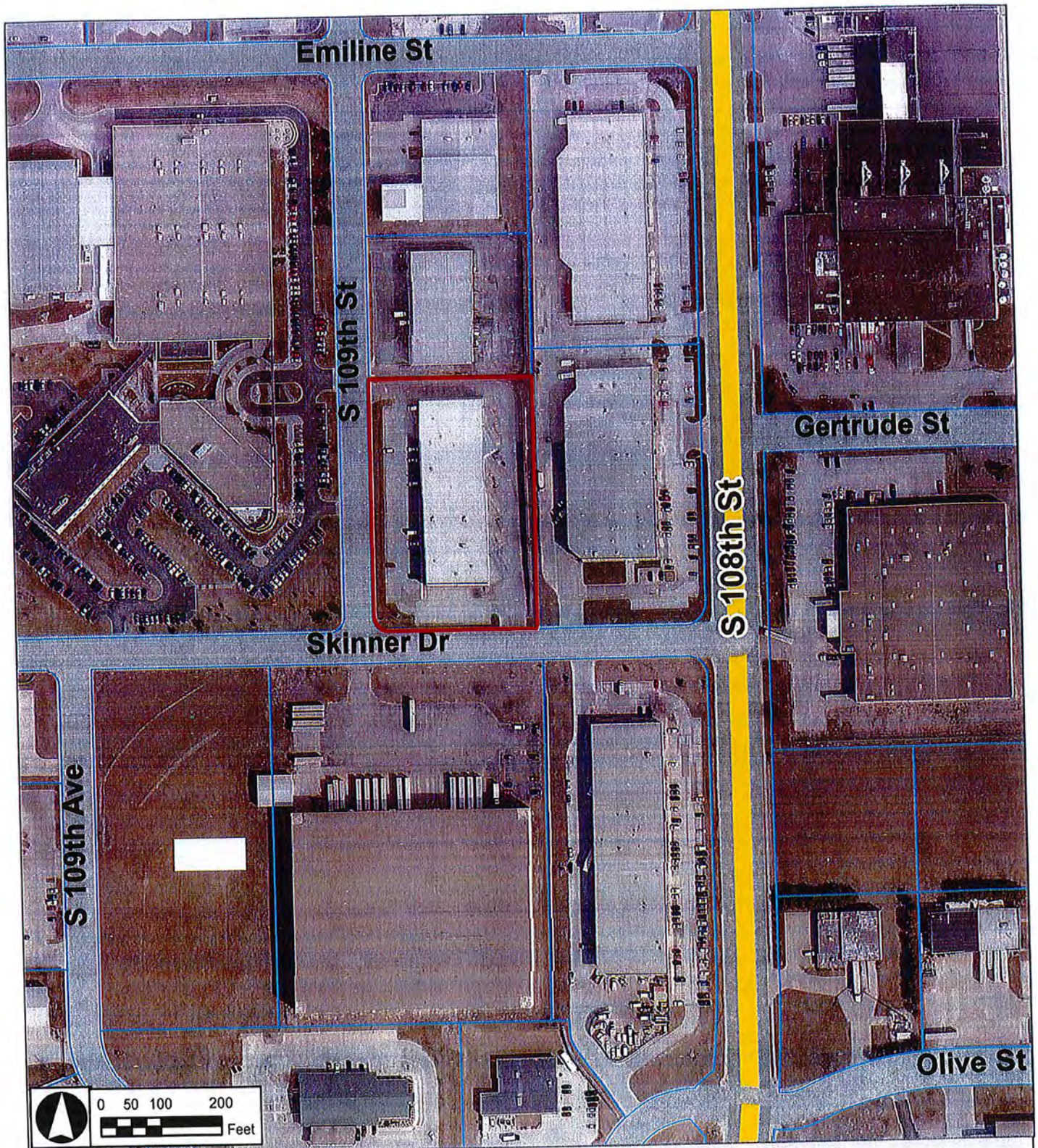
Prepared by:

Community Development Director

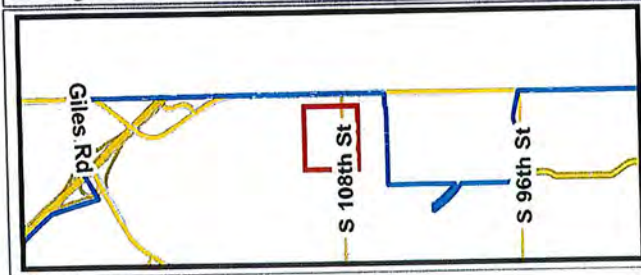
Date



5-9-16



Project Vicinity Map

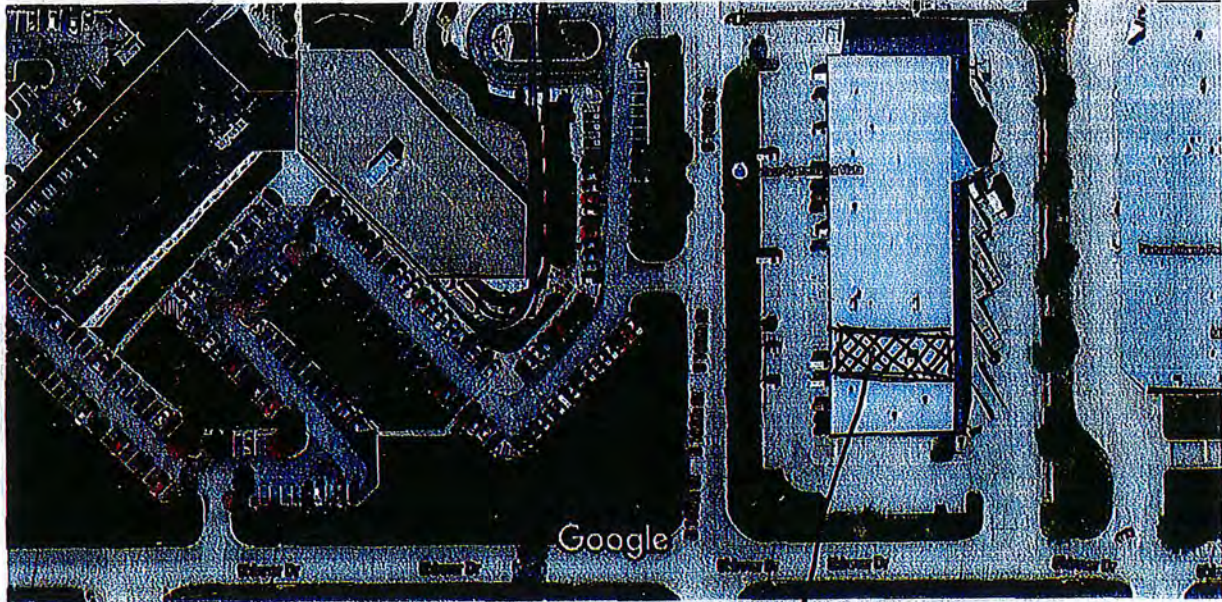


Cauble Sports CUP

4-13-2016
JMC



Google Maps



Imagery ©2016 DigitalGlobe, U.S. Geological Survey, Map data ©2016 Google 50 ft

Google Maps

*Proposed
SPACE*

Property Detail Report

from maps.sarpy.com



Parcel Information

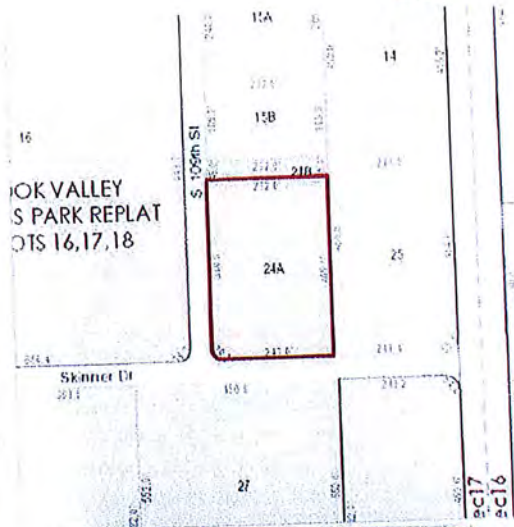
PIN: 011229039
Property Address: 7001 S 109TH ST

Owner: LSREF4 BISON LLC

C/O:
Mailing Address: 888 SEVENTH AVE 11TH FLOOR
NEW YO NEW YO, RK

Legal Description: LOT 24A BROOK VALLEY BUSINESS PARK (2.53 AC)

Approximate Acreage: 2.52387301
Tax District: 27142



Jurisdiction Information

PLSS: NE 1/4 Section 17 T14N R12E
City Limit: La Vista
ETJ: La Vista
Subdivision: BROOK VALLEY BUSINESS PARK



Zoning Information

Zoning Classification: I-2
Zoning Jurisdiction: La Vista

Flood Zone Information

Drainage Basin: Missouri River
Floodway:
Flood Zone(s): X

Future Land Use(s): IND

Service Area Information

School District: Papillion-La Vista
Police District: LA VISTA POLICE
Fire District: PAPIILLION FIRE
OPPD District: Subdivision 4
MUD District: MUD
Wastewater Agreement Area: LaVista

This report was dynamically assembled from various layers of geographical information, some of which is not maintained by Sarpy County. This report may or may not accurately represent the source parcel completely and correctly and is dependant on where the user clicked on the map to create it. Any reliance on this data is at the sole risk of the user.

Printed on Mar 25, 2016



March 21, 2016

Jeff Cauble
Cauble Sports LLC
5006 S 171st Circle
Omaha, NE 68135

RE: Conditional Use Permit
Cauble Sports

Mr. Cauble:

Thank you for your submittal of the Cauble Sports CUP request to allow for an indoor recreation facility in an existing multi-tenant industrial flex-space building at 7009 S. 109th Street. Based on the elements for consideration set forth in Article 6.05 of the Zoning Ordinance, our staff has reviewed the submittal and has provided the following comments:

1. A comment needs to be included in the Operational Statement that states the maximum number of parking spaces is anticipated to be used during peak periods for the business.
2. The operational statement also needs to identify that all activities will be conducted inside the facility.
3. The facility will need to comply with ingress/egress and restroom requirements for the type of use being proposed.
4. The facility will need to comply with fire code regulations as enforced by the Papillion Fire Marshall. As the occupancy and use type for this bay will change from the previous tenant, applicant will need to verify fire resistive construction on adjoining inside wall.
5. In relation to Article 6.05.10, after review of the application it was determined that the additional traffic load would have no significant impact on the peak-hour traffic loads as the proposed activities do not include tournaments or other large events. Other conditional use permits for indoor recreation facilities in industrial areas have included large events and we have asked for Traffic Impact Studies in those circumstances, but that is not applicable in this case.

Please submit four copies of revised documents by March 28th in order to continue to be considered for the April Planning Commission meeting. If you cannot re-submit by this date, or additional changes are required after the next submittal, the application will be considered for the May Planning Commission meeting.

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

www.cityoflavista.org
info@cityoflavista.org

Should you have any questions please contact me at 331-4343.

Sincerely,



Christopher Solberg, AICP
City Planner

Cc: Ann Birch, Community Development Director
John Kottmann, City Engineer
Jeff Sinnett, Chief Building Official

Cauble Sports

Operational Statement:

Cauble Sports LLC is looking to open a personal fitness facility at 7001 S. 109th St in LaVista. This space would be used for small fitness classes (8-12 clients) and children's birthday parties (8-12 kids). This gym will not be the YMCA and the like. We will have limited memberships available, with the Gym time being used for small group classes and parties. All activities will take place inside the premises.

Hours of Operation:

Monday-Friday 2:00pm-9:00pm

Saturday-Sunday 10:00am-5:00pm

*The busiest times for customers will be during the after school and weekend hours with the need for a maximum of 15 parking spaces.

Employees:

We will have approximately 8-10 employees on staff. A maximum of 2 employees on duty during business hours.

City of La Vista Conditional Use Permit

Conditional Use Permit for Indoor Recreational Facility (Training Facility)

This Conditional Use Permit issued this 17th day of May, 2016, by the City of La Vista, a municipal corporation in the County of Sarpy County, Nebraska (“City”) to, Cauble Sports, LLC, DBA Cauble Sports (“Owner”), pursuant to the La Vista Zoning Ordinance.

WHEREAS, Owner wishes to locate and operate an indoor recreational facility upon the following described tract of land within the City of La Vista zoning jurisdiction:

Lot 24A, Brook Valley Business Park located in the NE ¼ Section 17, Township 14 North, Range 12 East of the 6th P.M. Sarpy County, Nebraska, located at 7009 S. 109th Street (5,000 sq. ft. of the building).

WHEREAS, Owner has applied for a conditional use permit for the purpose of locating and operating a indoor recreational facility; 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 “B” hereto for an indoor recreational facility, 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. The use shall be limited to the type of operation as described in the applicant's Operational Statement (Exhibit “A”) and staff report. Any change in the operational characteristics including, but not limited to, the hours of operation and additional services provided, shall require review by the Planning Department and may require an amendment to the Conditional Use Permit, subject to either City Planner or Planning Commission and City Council approval, depending on the nature of the proposed change.
 - b. A site 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 B”.
 - c. Hours of operation for said indoor recreational facility will generally be Monday through Friday from 2:00 p.m. – 9:00 p.m.; and Saturday and Sunday from 10:0 a.m. – 5:00 p.m.
 - d. There will be approximately 8-10 staff members on site for the Permitted Use. During peak use, approximately 12 clients will utilize the facility at any one time.
 - e. Occupancy of the facility is limited to 45 persons based on the requirements of the Fire Code.

- f. There shall be no storage, placement or display of goods, supplies or any other material, substance, container or receptacle outside of the indoor recreational facility, except trash receptacles and those approved in writing by the City.
 - g. There shall not be any games, tournaments, or other events that draw a larger spectator crowd than typical training activities.
 - h. Off-street parking shall be provided for the Permitted Use and the number of parking spaces shall be adequate to accommodate the patrons and guests of the Permitted Use without negatively impacting or limiting the number of parking spaces for other existing or future tenants.
 - 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: Jeff Cauble
Cauble Sports LLC
5006 S 171st Circle
Omaha, NE 68135
(402) 578-4228

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
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.

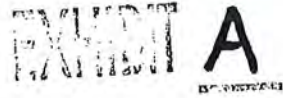
Owner:

By: _____

Title: _____

Date: _____

Cauble Sports



Operational Statement:

Cauble Sports LLC is looking to open a personal fitness facility at 7001 S. 109th St in LaVista. This space would be used for small fitness classes (8-12 clients) and children's birthday parties (8-12 kids). This gym will not be the YMCA and the like. We will have limited memberships available, with the Gym time being used for small group classes and parties. All activities will take place inside the premises.

Hours of Operation:

Monday-Friday 2:00pm-9:00pm

Saturday-Sunday 10:00am-5:00pm

*The busiest times for customers will be during the after school and weekend hours with the need for a maximum of 15 parking spaces.

Employees:

We will have approximately 8-10 employees on staff. A maximum of 2 employees on duty during business hours.

Google Maps

EXHIBIT B



Imagery ©2016 DigitalGlobe, U.S. Geological Survey, Map data ©2016 Google 50 ft

Google Maps

*Proposed
Space*

Property Detail Report

from maps.sarpy.com

Parcel Information

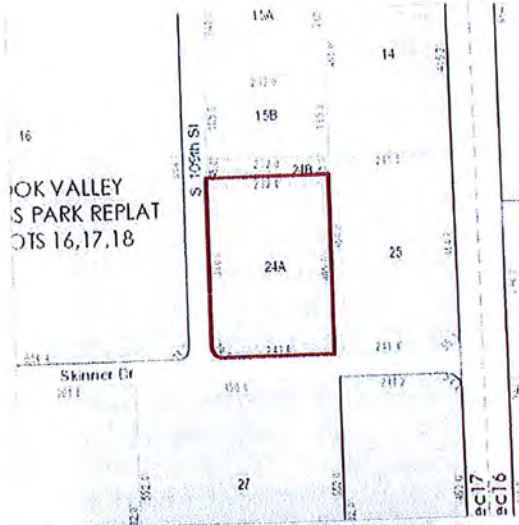
PIN: 011229039
Property Address: 7001 S 109TH ST

Owner: LSREF4 BISON LLC

C/O:
Mailing Address: 888 SEVENTH AVE 11TH FLOOR
 NEW YO NEW YO, RK

Legal Description: LOT 24A BROOK VALLEY BUSINESS PARK (2.53 AC)

Approximate Acreage: 2.52387301
Tax District: 27142



Jurisdiction Information

PLSS: NE 1/4 Section 17 T14N R12E
City Limit: La Vista
ETJ: La Vista
Subdivision: BROOK VALLEY BUSINESS PARK



Zoning Information

Zoning Classification: I-2
Zoning Jurisdiction: La Vista

Flood Zone Information

Drainage Basin: Missouri River
Floodway:
Flood Zone(s): X

Future Land Use(s): IND

Service Area Information

School District: Papillion-La Vista
Police District: LA VISTA POLICE
Fire District: PAPIILLION FIRE
OPPD District: Subdivision 4
MUD District: MUD
Wastewater Agreement Area: LaVista

This report was dynamically assembled from various layers of geographical information, some of which is not maintained by Sarpy County. This report may or may not accurately represent the source parcel completely and correctly and is dependant on where the user clicked on the map to create it. Any reliance on this data is at the sole risk of the user.