

**CITY OF LA VISTA
PLANNING DIVISION**

RECOMMENDATION REPORT

FOR HEARING OF: December 10, 2009
REPORT # 1: December 3, 2009

I. GENERAL INFORMATION

A. APPLICANT:

Nebraska Impact Volleyball Club
Mike & Debi Godek
7785 Greenleaf Drive
La Vista, NE 68128

B. PROPERTY OWNER:

8619 South 137th Cir, LLC
14803 Frontier Rd.
Omaha, NE 68138

C. LOCATION:

8619 S. 137th Circle

D. LEGAL DESCRIPTION:

Lot 2, I-80 Industrial Park Replat 1

E. REQUESTED ACTION(S):

Conditional Use Permit – Indoor Recreational Facility

F. EXISTING ZONING AND LAND USE:

I-1, Light Industrial District; flex-space industrial building

G. PURPOSE OF REQUEST:

Nebraska Impact Volleyball Club is requesting a conditional use permit to operate a volleyball recreational facility which will house four regulation volleyball courts, used for junior girls and boys club volleyball practice, occasional tournaments, camps and clinics.

H. SIZE OF SITE:

20,000 square feet (Suite 2)

II. BACKGROUND INFORMATION

A. EXISTING CONDITION OF SITE:

The site has an existing flex-space industrial building and parking lot. Current businesses in the building include ASAP Express, Vision Auto Sales and some seasonal

work by the Post Office. These uses do not appear to generate any significant customer parking demand within the parking lot. The rear of the building (north side) is used for truck deliveries.

B. GENERAL NEIGHBORHOOD/AREA LAND USES AND ZONING:

1. **North:**
I-1; existing industrial businesses
2. **East:**
I-80
3. **South:**
I-1; existing industrial businesses
4. **West:**
I-1; existing industrial businesses

C. RELEVANT CASE HISTORY:

This volleyball club has been practicing at The Courts facility at 8930 S. 137th Circle (a previously approved CUP) for the past two seasons along with three other clubs.

D. APPLICABLE REGULATIONS:

1. Section 15.13.03.14, Zoning Regulations, regarding indoor recreational facilities as a Permitted Conditional Use in the I-1 District
2. Article 6, Zoning Regulations, regarding Conditional Use Permits

III. ANALYSIS

A. COMPREHENSIVE PLAN:

The Future Land Use Map of the Comprehensive Plan designates this area for industrial land uses.

B. OTHER PLANS:

None.

C. TRAFFIC AND ACCESS:

1. Access to the site is provided at two locations on S. 137th Circle.
2. The applicant has been requested to provide a traffic impact study for the intersection of 137th Circle and Giles Road. A copy of a previous study done in 2006 was provided to the applicant.

D. UTILITIES:

All utilities are available to the site.

IV. REVIEW COMMENTS

1. The applicant needs to provide a plan for the proposed modifications to the building prepared by a qualified professional. Those plans would need to demonstrate compliance with various building code issues such as ingress and egress for life safety and area separation walls. The Chief Building Official, Jeff Sinnett, should be contacted to identify more completely the building code issues that need to be addressed to determine if the proposed use can be safely

accommodated in the existing facility, along with other permitted industrial uses in the building.

2. The applicant has provided a full-size site plan to scale that shows the current conditions on the site, including parking stalls and access drives. There are 115 existing parking stalls and an additional 26 proposed to be added to the rear of the building. Based on staff estimates, it appears that adequate parking will be provided for tournament activities, including teams on the floor, teams waiting, and spectators and staff. This may, however, include adjacent tenant spaces that may be in business on Saturdays or during tournament events. The property owner must submit a statement in writing that they are agreeable to allowing the use of all or a majority of the parking spaces during large events. All parking shall be on-site and delineated.
3. The traffic impact study that was done previously for the intersection of 137th Circle and Giles Road needs to be updated to include the additional traffic generation from this facility since the proposed use will generate higher volumes of traffic than a permitted industrial use, especially during tournament events. The purpose of the study would be to maintain an acceptable level of service during peak traffic generating events at the facility. A copy of the previous Traffic Study prepared for The Courts facility at 8930 S. 137th Circle was provided to the applicant.
5. Approval will be required by the State Fire Marshall prior to building occupancy.

V. STAFF RECOMMENDATIONS

CONTINUE, until applicant has completed the items noted in the staff report.

VI. ATTACHMENTS TO REPORT

1. Vicinity Map (2)
2. Map of Lot 2, I-80 Industrial Park
3. Nebraska Impact Volleyball Business Plan dated October 26, 2009
4. Letter from John Kottmann dated November 5, 2009
5. Draft CUP

VII. COPIES OF REPORT TO

1. Mike and Debi Godek
7785 Greenleaf Drive
2. Herb Lavigne
Lavigne Enterprises
8619 S. 137th Circle
Omaha, NE 68137
3. Public Upon Request

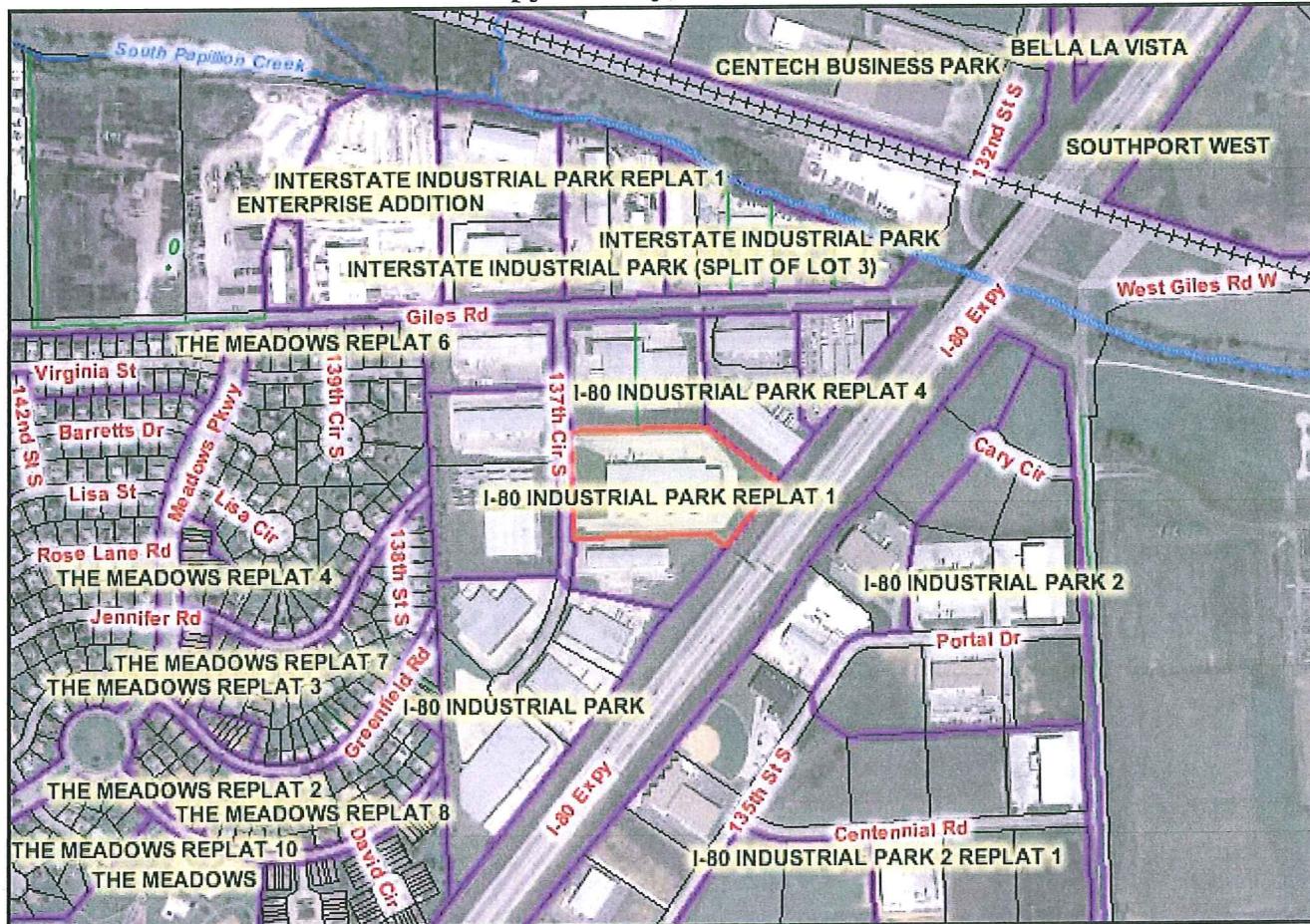
AB

Prepared by:

Am Bni *12-3-09*

Community Development Director Date

Sarpy County, Nebraska



Parcel ID Number	011256796	Neighborhood Code	WH225
Owner Name	8619 SOUTH 137TH CIR, LLC	Property Type	COMM
Mailing Address	14803 FRONTIER RD	Improvements Value	\$1,403,347
City State	OMAHA NE	Land Value	\$706,653
Zip Code	68138-	Total Value	\$2,110,000
Property Address	8619 S 137TH CIR	Tax District	17048
Legal Description	LOT 2 I-80 INDUSTRIAL PARK REPLAT 1		

Disclaimer: This data is for informational purposes only, and should not be substituted for a true titles search, property appraisal, survey, or for zoning district verification. Sarpy County and the Sarpy County GIS Coalition assume no legal responsibility for the information contained in this data.

Map Scale
1 inch = 768 feet

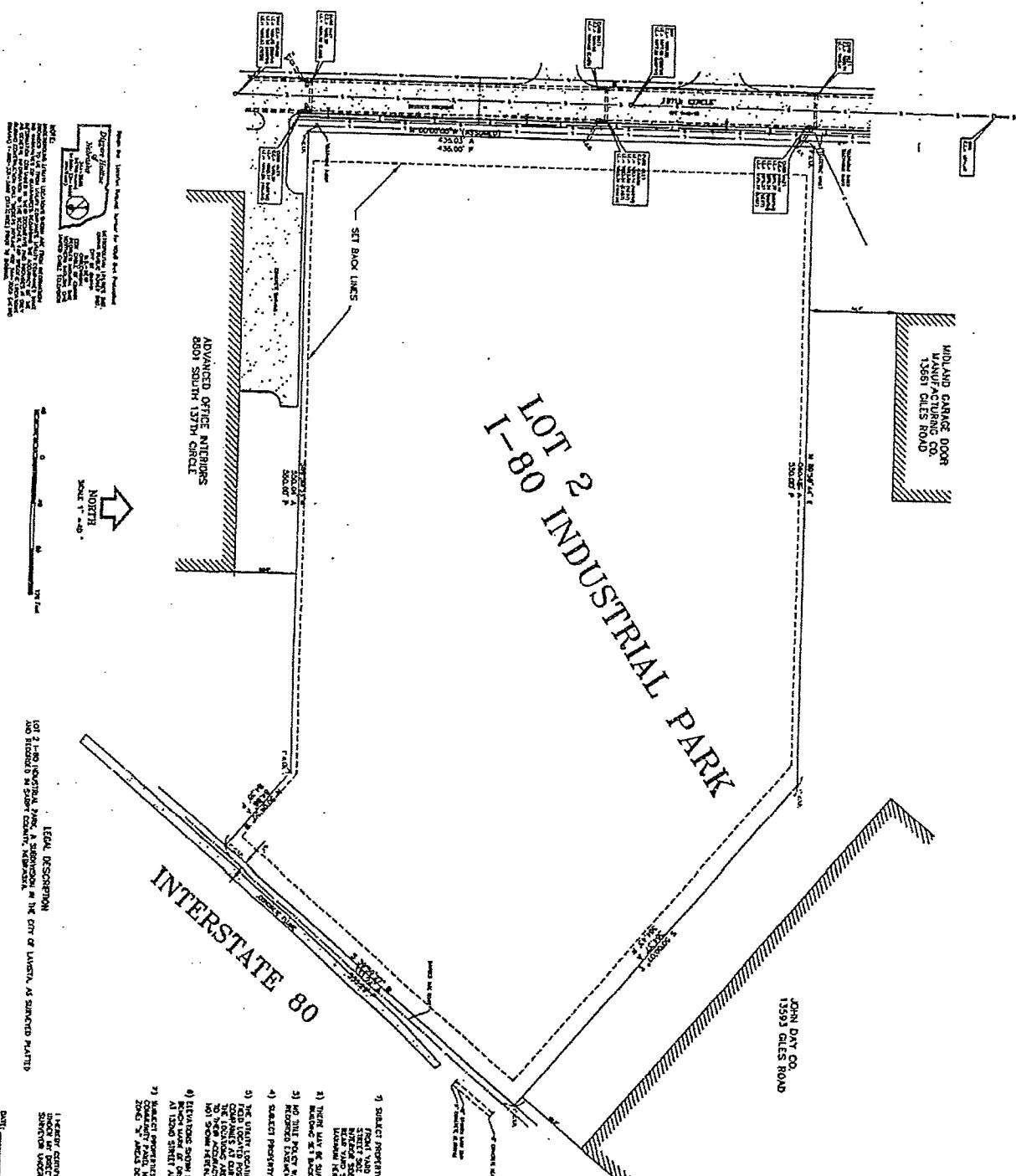
Sarpy County, Nebraska



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Map Scale
1 inch = 256 feet



(LOT 21-180 INDUSTRIAL PARK, A SUBDIVISION IN THE CITY OF LIVESTON, AS SUBDIVIDED PLATTED AND RECORDED IN SUMMIT COUNTY, NEBRASKA.)

לעון א-טראנס

LAND SURVEYOR'S CERTIFICATE
THAT THIS PLAT MAP, PLACED ON REPORT ~~WHICH~~ MADE BY ME, DOCTOR
PERSONAL, SUPERVISION AND THAT I AM A DAILY RESIDENT
IN THE LAKES OF THE STATE OF MICHIGAN.

NEBRASKA WELDING
TOPOGRAPHIC SURVEY
I-80 & 137th CIRCLE
LAVISTA, NEBRASKA

 <p>STATE OF NEBRASKA AUDITOR OF STATE 1870-1990 125th ANNIVERSARY</p>		<h1>NEBRASKA WELDING TOPOGRAPHIC SURVEY</h1> <p>I-80 & 137th CIRCLE LAVISTA, NEBRASKA</p>		<p style="text-align: right;">REVISIONS</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>NO.</th> <th>DESCRIPTION</th> <th>DATE</th> <th>BY</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Initial Survey</td> <td>1991</td> <td>GRIFFIN & ASSOCIATES</td> </tr> <tr> <td>2</td> <td>Survey of I-80</td> <td>1991</td> <td>GRIFFIN & ASSOCIATES</td> </tr> <tr> <td>3</td> <td>Survey of 137th</td> <td>1991</td> <td>GRIFFIN & ASSOCIATES</td> </tr> <tr> <td>4</td> <td>Survey of I-80 & 137th</td> <td>1991</td> <td>GRIFFIN & ASSOCIATES</td> </tr> </tbody> </table>	NO.	DESCRIPTION	DATE	BY	1	Initial Survey	1991	GRIFFIN & ASSOCIATES	2	Survey of I-80	1991	GRIFFIN & ASSOCIATES	3	Survey of 137th	1991	GRIFFIN & ASSOCIATES	4	Survey of I-80 & 137th	1991	GRIFFIN & ASSOCIATES
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4	Survey of I-80 & 137th	1991	GRIFFIN & ASSOCIATES																					
DATE 11/1/91	DESIGNED BY:																							
DRAWN BY:	CHECKED BY:	APPROVED BY:	REV'D BY:	LSD BY:																				
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1 OF 1																								



October 26, 2009

RE: Conditional Use Permit for 8619 South 137th Circle, Omaha, NE

Dear Committee Members:

Business Plan

Nebraska Impact Volleyball Club is asking for a Conditional Use Permit for 8619 South 137th Circle, Omaha, Nebraska, for a volleyball recreational facility. The proposed facility will house four (4) regulation volleyball courts which will be used for junior girls and boys club volleyball practice, occasional tournaments, camps and clinics.

Our club has approximately 150 junior players, ages 10 through 18, and 20+ adult coaches each season. We have been practicing at The Courts at 8930 South 137th Circle for the past two seasons along with three other clubs in the Omaha area. But all of the clubs that share the building have grown so much that court time is not available to our club anymore. For this reason, we are seeking our own facility.

Practice times will be Monday through Friday from 5:30-9:30 p.m. Saturday and Sunday will be used for practice, tournaments, private lessons and clinics. Hours of operation on the weekends will be 8:00 a.m. until approximately 5:00 p.m. There will be one paid employee who will manage the facility.

The club season begins in November by holding tryouts. We plan to have 16 teams this coming season. Each team will practice a minimum of twice a week for two hour sessions. The club season is usually over at the end of April. But if any of our teams qualify for nationals, the teams practice an additional month.

After club season is over, May through October, we plan to conduct juniors camps, clinics, lessons, and leagues until the next club season.

The building has approximately 100+ parking stalls for all of our proposed activities which include handicap parking stalls. There is a large parking lot on the north side of the building which could be lined with additional stalls.

A small concession area will be installed so that beverages and lunch items could be sold during tournaments and leagues.

Page Two

Nebraska Impact VBC

RE: Conditional Use Permit for 8619 South 137th Circle, Omaha, NE

A men's and women's bathroom will be installed to accommodate the required number of toilets and sinks. A handicap toilet will also be installed.

An office will also be installed which will be used for our club's facility manager.

A designated area will be used for conditioning our athletes that will contain weight and plyometric equipment supplied and implemented by Xplosive Edge.

We will also rent open practice time to other clubs. Two other clubs have already expressed their desire to rent.

Our proposed 2009/2010 Budget is attached.

Our club obtained non-profit status in January 2006 under Section 501© (3) of the Internal Revenue Code. The club's Employer I.D. # is 20-1856986. The club is exempt from federal income tax and is qualified to receive tax deductible bequests, devises, transfers or gifts under Section 2055, 2106 or 2522 of the Code.

Personal Background

My name is Michael (Mike) E. Godek. My wife Debra (Debi) and I have been residents of LaVista since 1975. I grew up in the South Omaha and 50th & Grover areas of Omaha and graduated from Archbishop Ryan High School in 1969. My wife grew up in Ralston.

We have two children, a son Michael who is 37 years old and a daughter Michelle who is 34 years old, and three grandchildren. Both of our children attended grade school in the LaVista school system and both graduated from Papillion-LaVista High School. We own our home and have been with the same bank (Wells Fargo) since we married in 1972.

I am currently employed full-time at Ryerson, Inc. in Omaha, Nebraska, as an inventory control manager and have been with the company for 22 years. Ryerson is a distribution center for specialty metal products.

My wife worked for the Great Plains Region of USA Volleyball for approximately 10 years as an administrative assistant to the Commissioner of the Nebraska Region. Previous to that she worked as a legal secretary. She now manages our volleyball club full-time.

Nebraska Impact Volleyball Club was created in the fall of 2000. At that time, I was the head volleyball coach at Omaha Burke High School. I wanted to start a volleyball club for my high school players so they had additional instruction after the high school season was over. I coached at Burke for four years, two years at Omaha Duchesne, one year at Omaha Northwest, and one year at Bennington High School. I am currently co-head coach at Weeping Water High School.

Page Three
Nebraska Impact VBC
RE: Conditional Use Permit for 8619 South 137th Circle, Omaha, NE

Enclosed is a copy of our club flyer for the upcoming season for your review.

Our club website is <http://www.eteamz.com/impactvolleyball>.

Thank you for this opportunity!

Michael E. and Debra A. Godek
Nebraska Impact VBC
7785 Greenleaf Drive
LaVista, NE 68128
402-339-6951 home
402-699-1021 cell

**NEBRASKA IMPACT VOLLEYBALL CLUB
BUDGET**

2009/2010 PROPOSED INCOME PER YEAR	
PLAYER FEES (13 TEAMS @ \$1100 + 3 TEAMS @ \$900)	170,000.00
XPLOSIVE EDGE RENT FOR CONDITIONING PROGRAM	18,000.00
VOLLEYSTRONG COURT RENT	10,000.00
IMPACT TOURNAMENTS (ENTRY FEES FOR 3-4 EVENTS)	20,000.00
VOLLEYSTRONG TOURNAMENTS (3 @ \$500)	1,500.00
OTHER CLUB TOURNAMENTS (3 @ \$400)	1,200.00
VOLLEYSTRONG RENT FOR JUNIOR CAMPS & CLINICS	3,000.00
JUNIOR CAMPS & CLINICS RUN BY CLUB	3,000.00
COACHES RENT FOR LESSONS	500.00
VOLLEYSTRONG RENT FOR LESSONS	500.00
PROFIT FROM CONCESSIONS	3,000.00
RENT FOR COURTS FROM OTHER SPORTS CLUBS	5,000.00
ADULT LEAGUES	8,000.00
TOTAL PROPOSED INCOME	243,700.00
2009/2010 PROPOSED EXPENSES PER YEAR	
LEASE PAYMENT	95,000.00
LOAN FOR EQUIPMENT & INITIAL REMODELING	12,000.00
M.U.D.	12,000.00
O.P.P.D.	12,000.00
TELEPHONE	12,000.00
CLUB UNIFORMS	24,000.00
CONTRACT LABOR (COACHES' PAY & FACILITY MANAGER)	32,000.00
DUES & SUBSCRIPTIONS	2,100.00
OFFICE EXPENSE	3,000.00
PERMITS	500.00
TOURNAMENT EXPENSES	3,000.00
TOURNAMENT SANCTION FEES TO REGION	1,600.00
TOURNAMENT ENTRY FEES FOR TEAMS	20,000.00
INSURANCE	6,000.00
SCHOLARSHIPS	2,200.00
TOTAL PROPOSED EXPENSES	237,400.00

MEET THE COACHES MEETING!

Come to the "Meet The Coaches Day" at The Courts on Sunday, October 18, 2009, at 6:00 p.m. If you are new or old to our club, meet Nebraska Impact VBC's coaches, hear about our club's philosophy, current and future plans, costs, and much more. A question and answer session will follow a short presentation.

NEBRASKA IMPACT VOLLEYBALL CLUB invites you to tryout for the 2009/2010 club season.

Nebraska Impact VBC encourages all of its teams to participate in at least one travel or qualifier tournament each season. A qualifier tournament is held outside of the Great Plains Region (Nebraska). Qualifier tournaments are an additional cost to all players (not included in club fees), but it is well worth it. All players that make Nebraska Impact's Select and 17" teams are required to commit to the club's goal of attending junior nationals if they should qualify either through the region's bid tournament or through a qualifier. Many of the club's players have been awarded college scholarships because they were seen playing at these qualifiers in Indianapolis, Kansas City, Denver and Minneapolis where college coaches do most of their college recruiting for players. Nebraska Impact also focuses on developing new players to the sport of volleyball.

Nebraska Impact has qualified team(s) for the USA Volleyball Junior National Championships for the past five years. The 2008/2009 Season proved to be a record setting season for the club by qualifying three teams for the Junior National Championships.

UNDER ARMOUR will be Nebraska Impact VBC's choice for uniforms this season.

PRACTICE FACILITIES:

Our teams will practice at The Courts located at 137th & Giles Road, LaVista, NE, on Sunday afternoons in December and will move to our new facility in January. After teams are selected, each team will determine what days they will practice. Each team will practice an average of two times per week after January 1st. Our new facility will be available every day of the week for training.

COACHES:

Nebraska Impact VBC's coaches have several years of experience coaching and/or playing. Each coach must submit and pass a background check. They must attend a required Great Plains rules clinic each year and be IMPACT (not associated with the club) certified with USA Volleyball. IMPACT certification is a program developed by USA Volleyball which focuses on player and coach

liability. Nebraska Impact VBC also requires that all of its coaches attend a coaches' clinic conducted by the club's director before each season. Please check out our website for a complete list of our coaches, their bios and what age divisions or teams they will be coaching at <http://www.teamz.com/impactvolleyball>. More coaches could be added and will be announced before tryouts. Below is a tentative list of teams we plan to field this season, our coaches, and their planned age groups (subject to change):

GIRLS

18 Select - Mikle Godek/Ashley Pike
181 - Dan Martin/Scott Comstock
17 Select - Michael Godek/Ir/Carolyn Spichal
171 - Daryck Anderson/TBA
16 Select - Bo Yong/Charlie Jimenez
161 - Nancy Thurston/Jason Weber
15 Select - Mike Godek/Monte Arnold
151 - Vicki Kilgore/Kelly Ketcham
14 Select - Bo Yong/Tessa Hove
141 - Scott Caree/Jessie Clark
13 Select - Mary Mozena/Poc Khamsanit
131 - Brandon Cerny/Austha Perkins
121 - Tracy Matson/Monte Arnold
122/101 - Valerie Wentworth
111 - Dan Martin

BOYS

15, 16, 17 and 18 year old team - Brandon Cerny
12, 13, and 14 year old team - Daryck Anderson

ATTENTION—BEFORE TRYOUTS!! GREAT PLAINS REGION REGISTRATION PROCEDURE!!

Every prospective club volleyball player and coach is required to register as a member of the Great Plains Region. Members will register directly with the Region's on-line database system. Once you register on-line and your membership fee is received at the Great Plains office, your membership will be activated. ALL

registrations **MUST** be completed **AND ACTIVATED** before you can participate in ANY club activity for the 2009/10 season. **THIS INCLUDES PRACTICES AND TRYOUTS!!** All players must print a copy of their membership card and present it at each tryout you attend. Membership cards will be available for print from your database account after your registration fee has been submitted to the Great Plains office and your account has been activated. The registration system is open and available on or after September 1st. Register as soon as possible. [Log onto www.gpvb.org](http://www.gpvb.org) and click the Online Registration tab.

Junior Players: If you register prior to the region's signing date (November 7th, if you are under 14 and November 21st, if you are over 14) you **MUST** select **UNDECIDED** as your club name. Once you sign with a club, you can **log back** into your account and change your club affiliation. (If you originally picked a specific club, and you are not playing for that club, you must contact the registrar - registrar@gpvb.org, to have your club affiliation changed.) Players that are under 11 years of age can register for \$20. You will not see this option listed as a membership option, but the cost will be adjusted when your registration fee is sent to the office. All other players' fees are \$50 which **MUST** be sent directly to the Great Plains RVA in Ralston, NE. **NOTE:** All junior players must complete a medical history and release form and give it to their club director. This form can be printed from the confirmation page or can be obtained from the FORMS section on the Great Plains website or from your club director. The completed form must

be submitted to your club director before you participate in any practices. DO NOT SEND the medical history and release form to the Great Plains office.

Use the following steps when registering for the 2009/2010 USA

Volleyball season!

1) **Register Online:** [Go to www.gpvb.org](http://www.gpvb.org). Click on the **Online Registration** tab. If you are a new member, click **I Am Registering for the First Time**. If you are a returning member AND you know your login, click **Go To Login Screen**. If you do not remember your login, click **I Need My Username and Password**. The email address and birthday of the member must be entered. When retrieving your log-in information, the email address you type in must match the email address in the account. If the email address in that account has changed, contact the Great Plains registrar at registrar@gpvb.org.

2) Once you have logged into your account (for returning members), click on the **Renew Online** button on the left side of the screen or on the top of the page where it says "To apply for your membership online, click here."

3) Verify your personal information and follow the on-screen instructions.

4) On the confirmation screen:
a) You **MUST** open the USA Volleyball Waiver and Release of Liability. Read it. Close the document.
b) You **MUST** open the USA Volleyball Code of Conduct. Read it. Close the document.
c) Check both boxes that you have read and agree with the disclaimers.

d) After reading the 'Use agreement' statement, check the box.

e) Enter the driver's license or state ID number for the individual consenting above. (Note: the driver's license or state ID number is for verification purposes only.)

5) After you click confirm, you will receive a message that states "your membership application has been confirmed".

A check for the \$50 registration fee needs to be sent to:
Great Plains Region
7545 Main St, Ste A
Ralston NE 68127

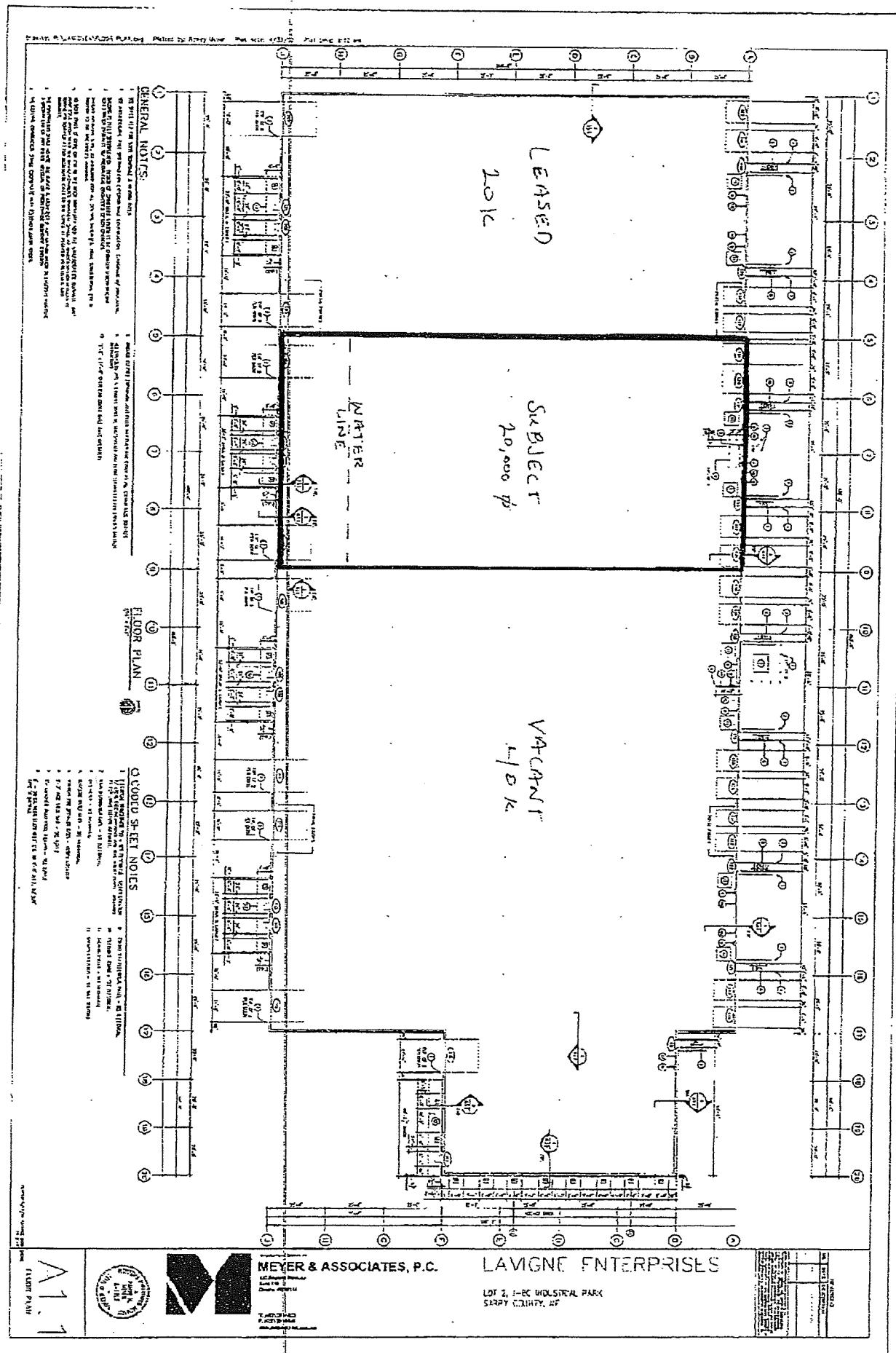
Checks can be made payable to: GPRVA (if possible, write the name of the registered member in the memo section of the check). If you have any questions or problems with the registration process, please contact Bill Stanley (registrar@gpvb.org) at 402-593-9670 between 10 am and 6 pm. After hours, you can contact Sue Mailhot (sue@gpvb.org) at 402-598-4782.

IMPACT'S MISSION STATEMENT:

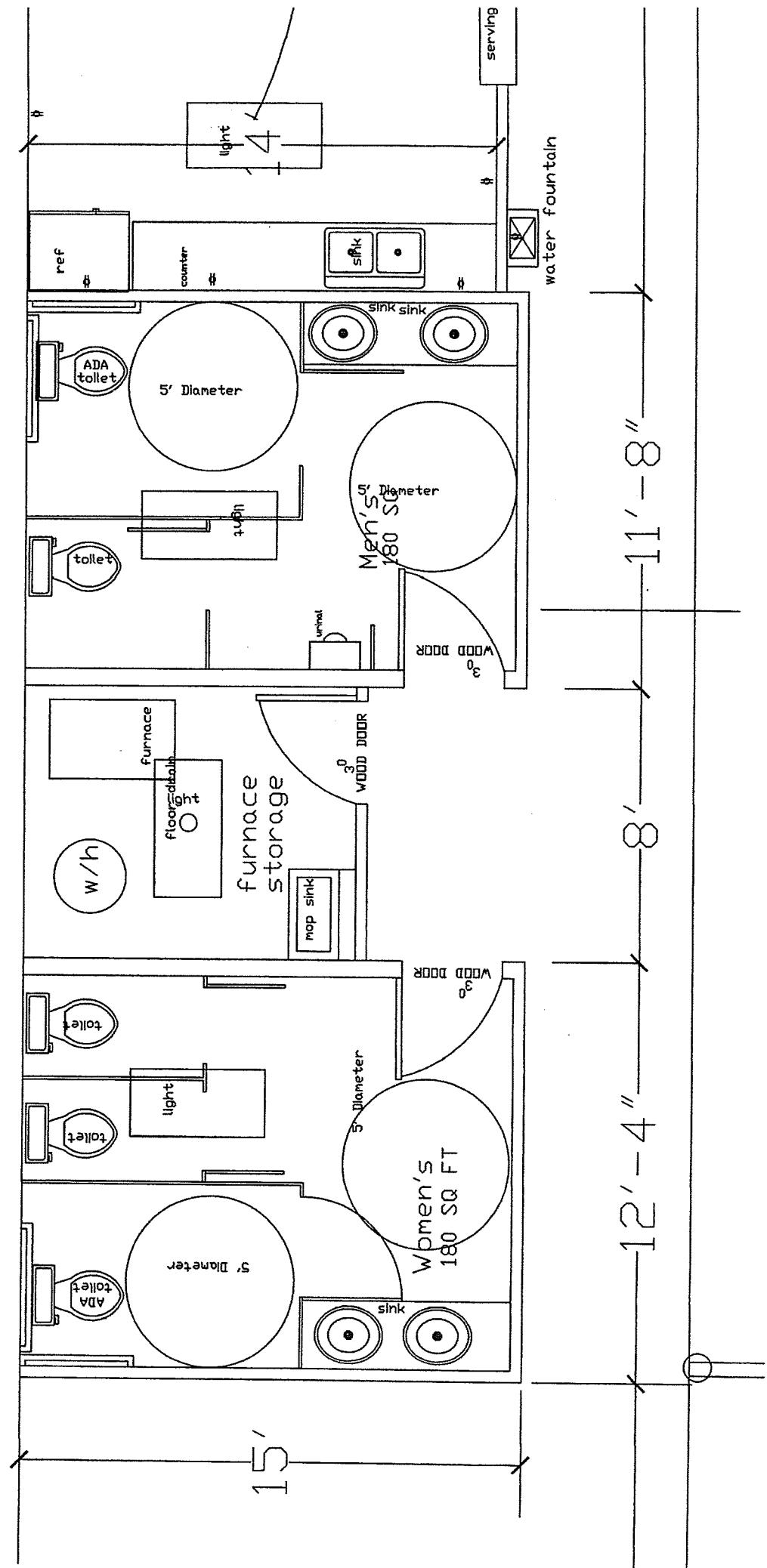
To promote the sport of volleyball by providing more girls the chance to play competitive club volleyball while improving their skills for high school and college.

IMPACT'S VISION:

Compete at the highest level to improve all middle and high school volleyball programs in the Omaha/Metro areas.

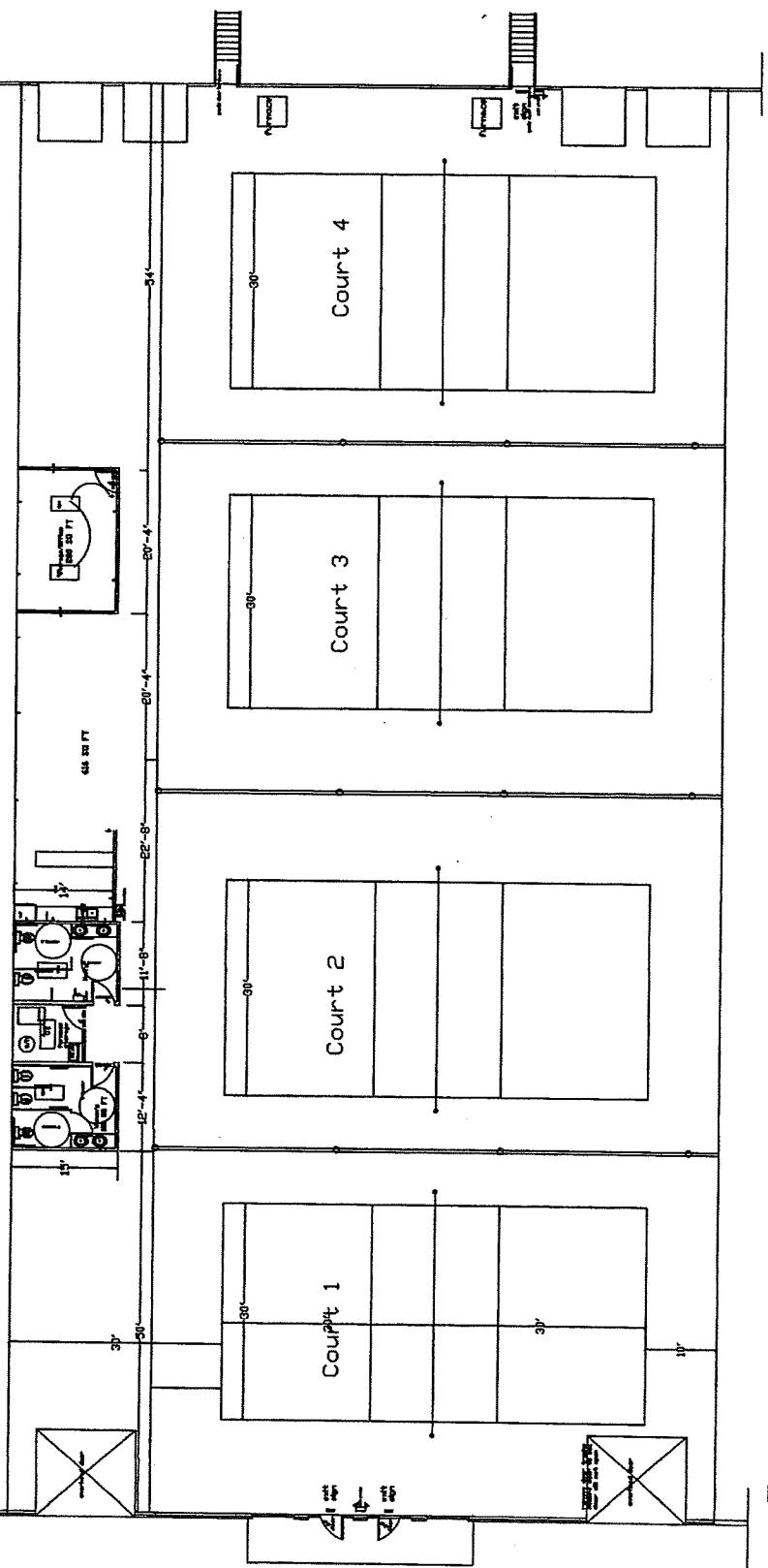


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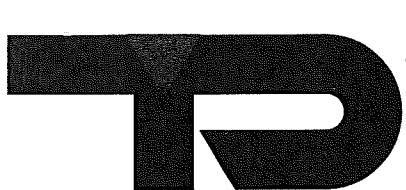


NOV 19 2009

20,000 SQ FT BAY



Proposed use: 4 Volleyball courts, bathroom, office
8619 50 137th circle suite 2



THOMPSON, DREESSEN & DORNER, INC.

Consulting Engineers & Land Surveyors

November 5, 2009

Ms. Ann Birch
Community Development Director
City of La Vista
8116 Park View Blvd.
La Vista, NE 68128

Robert E. Dreessen, P.E.
Ka "Kip" P. Squire III, P.E., S.E.
Douglas S. Dreessen, P.E.
Chris E. Dorner, L.S.
Nelson J. Hymans, P.E.
James D. Warner, L.S.
Charles E. Riggs, P.E.
John M. Kottmann, P.E.
Arthur D. Beccard, P.E.
Dean A. Jaeger, P.E.
Richard M. Broyles, L.S.
David H. Neef, L.S.
Ronald M. Koenig, L.S.
Michael J. Smith, L.S.
Troy J. Nissen, P.E., S.E.
Douglas E. Kellner, P.E.
Gary A. Norton, P.E.
Brian L. Lodes, P.E. LEED AP
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. Störm, P.E.

RE: 8619 South 137th Circle-Initial Review of CUP Application
Nebraska Impact Volleyball
Rezoning & Conditional Use Permits 2009
TD² File No. 171-366.26

Ann:

I have reviewed the documents that you provided to me via your transmittal that I received on October 30, 2009 for the above-referenced project. I offer the following comments:

1. The applicant needs to provide a plan for the proposed modifications to the building prepared by a qualified professional. Those plans would need to demonstrate compliance with various building code issues such as ingress and egress for life safety and area separation walls. The Chief Building Official, Jeff Sinnott, should be contacted to identify more completely the building code issues that need to be addressed to determine if the proposed use can be safely accommodated in the existing facility, along with other permitted industrial uses in the building.
2. The applicant needs to provide a full-size site plan to scale that shows the current conditions on the site and shows the property lines on the same drawing. This is needed to evaluate size and quantity of parking stalls and access drives. The plan needs to demonstrate that adequate parking will be provided during tournament activities, including teams on the floor, teams waiting, and spectators and staff. This should include an allowance for the adjacent tenant spaces that may be in business on Saturdays during tournament events. The parking requirement factors are set forth in the Zoning Ordinance. All parking shall be on-site and delineated.

Ms. Ann Birch
November 5, 2009
Page Two

3. The traffic impact study that was done previously for the intersection of 137th Circle and Giles Road needs to be updated to include the additional traffic generation from this facility since the proposed use will generate higher volumes of traffic than a permitted industrial use, especially during tournament events. The purpose of the study would be to determine whether signals and/or geometric improvements are needed to maintain an acceptable level of service during peak traffic generating events at the facility. A copy of the previous Traffic Study prepared for The Courts facility at 8930 South 137th Circle can be provided to the applicant.

This information needs to be provided before I can render an opinion as to whether the request meets the standards set forth in Section 6.05 of the City of La Vista Zoning Regulations pertaining to standards for conditional use permits.

THOMPSON, DREESSEN & DORNER, INC.



John M. Kottmann, P.E.

JMK/bam

cc: File

City of La Vista Conditional Use Permit

Conditional Use Permit for Indoor Recreational Facility (Volleyball Courts)

This Conditional Use Permit issued this _____ day of _____, 2010, by the City of La Vista, a municipal corporation in the County of Sarpy County, Nebraska ("City") to, 8619 South 137th Cir, LLC ("Owner"), pursuant to the La Vista Zoning Ordinance.

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

Lot 2, I-80 Industrial Park located in the SW ¼ NE ¼ Section 24, Township 14 North, Range 11 East of the 6th P.M. Sarpy County, Nebraska, located at 8619 South 137th Circle (Suite 2).

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 "A" 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 proposed Use:
 - a. 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 "A".
 - b. Hours of operation for said indoor recreational facility will generally be from 5:30 p.m. to 9:30 p.m. Monday through Friday and from 8:00 a.m. to 5:00 p.m. on the weekends. In no event should hours extend beyond 12:00 a.m.
 - c. There will be one paid employee who will manage the facility.
 - d. Indoor recreational facility is primarily intended to accommodate volleyball courts and their related incidental uses, such as limited concessions, an office for the facility manager, and an area containing weight and plyometric equipment (see Exhibit "B" for floor plan). Other similar indoor activities are permitted upon determination by the City. No alcoholic beverages shall be served in this facility.
 - e. The use and facility shall be limited to youth play and practice only. Parking required for this use is identified on Exhibit "A". Parking areas shall be striped and/or separate parking areas shall be

designated by the owner for this use. Additional parking areas may be required if deemed necessary by the City.

- f. Occupancy of the facility is limited to 320 persons based on the requirements of the Plumbing Code for restroom facilities. Additional occupancy will require additional restrooms.
- 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.
- h. 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.
- i. 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.
- j. 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. If the permitted use is not commenced within one (1) year from _____, 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: Herb Lavigne
Lavigne Enterprises
8619 S. 137th 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 Kindig, Mayor

Attest:

Rita Ramirez
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: _____

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