

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
SEPTEMBER 21, 2010 AGENDA**

Subject:	Type:	Submitted By:
CONDITIONAL USE PERMIT — HOME OCCUPATION (FITNESS STUDIO) LOT 3, GILES CORNER REPLAT ONE	◆ 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 for a Home Occupation, to have an in-home fitness studio on Lot 3, Giles Corner Replat One, located at 7226 Peters Street.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approval.

BACKGROUND

A public hearing has been scheduled to consider an application submitted by the property owner, Min Yu, to approve a Conditional Use Permit for a home occupation, to have an in-home fitness studio at 7226 Peters Street, on Lot 3 in the Giles Corner subdivision. The property is zoned "R-1" Single Family Residential and includes an existing single family dwelling. The proposal is to allow for a fitness studio to be located in the basement of the home.

A detailed staff report is attached. The Conditional Use Permit includes, among others, the following conditions:

1. The fitness studio will utilize the basement, approximately 1,000 s.f.
2. The hours of operation will generally be from 7:00 a.m. to 8:00 p.m. Monday through Saturday, by appointment only.
3. Client parking will consist of the owner's driveway.

The Planning Commission held a public hearing on August 19, 2010 and unanimously recommended approval of the Conditional Use Permit to City Council with the conditions as outlined in the CUP.

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 A HOME OCCUPATION TO OPERATE A FITNESS STUDIO AT 7226 PETERS STREET ON LOT 3, GILES CORNER REPLAT ONE, LA VISTA NEBRASKA.

WHEREAS, Min Yu the property owner has applied for a conditional use permit for a home occupation to operate a fitness studio on Lot 3, Giles Corner Replat One, 7226 Peters Street; and

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

WHEREAS, the Mayor and City Council of the City of La Vista are agreeable to the issuance of a conditional use permit for such purposes, subject to the following conditions:

1. The fitness studio will utilize the basement, approximately 1,000 s.f.
2. The hours of operation will generally be from 7:00 a.m. to 8:00 p.m. Monday through Saturday, by appointment only.
3. Client parking will consist of the owner's driveway.

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 Min Yu to operate a home occupation fitness studio on Lot 3 in Giles Corner Replat One, 7226 Peters Street, subject to the conditions listed in the last recital above.

PASSED AND APPROVED THIS 21ST DAY OF SEPTEMBER 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: 2010-CUP-07

FOR HEARING OF: September 21, 2010

Report Prepared on: September 14, 2010

I. GENERAL INFORMATION

- A. APPLICANT:** Min Yu
- B. PROPERTY OWNER:** Min Yu
- C. LOCATION:** 7226 Peters Street
- D. LEGAL DESCRIPTION:** Lot 3, Giles Corner Replat One, a Subdivision of Sarpy County, Nebraska.
- E. REQUESTED ACTION(S):** Approval of a Conditional Use Permit to allow a Home Occupation - Fitness Studio
- F. EXISTING ZONING AND LAND USE:** R-1, Single Family Residential
- G. PURPOSE OF REQUEST:** The proposal is to allow the use of a fitness studio within the basement of a single-family house. Activities will be by appointment only with less than 20 appointments a week.
- H. SIZE OF SITE:** The size of the single-family lot is 0.179 acres. Proposed use will be conducted in a studio that will occupy the basement, approximately 1,000 square feet in size.

II. BACKGROUND INFORMATION

- A. EXISTING CONDITION OF SITE:** Single-family ranch style house constructed on typical residential lot in the Giles Corner subdivision. Lot slopes to the rear of the property, allowing for a walkout basement.
- B. GENERAL NEIGHBORHOOD/AREA LAND USES AND ZONING:**
 - 1. North:** R-1, Single-Family Residential
 - 2. East:** R-1, Single-Family Residential
 - 3. South:** R-1, Single-Family Residential
 - 4. West:** R-1, Single-Family Residential
- C. RELEVANT CASE HISTORY:** N/A

D. APPLICABLE REGULATIONS:

1. Section 5.06, Zoning Ordinance, regarding R-1 Zoning District
2. Section 6.05, Zoning Ordinance, CUP Standards for Approval
3. Section 7.10, Zoning Ordinance, regarding Home Occupations

III. ANALYSIS

A. COMPREHENSIVE PLAN: Community and Economic Development Action Strategies - p.7.10: "Create a mix of businesses appropriate for the City of La Vista"

B. OTHER PLANS: N/A

C. TRAFFIC AND ACCESS:

1. Ingress/egress to the subdivision is through S. 74th Ave. or Michelle Ave., utilizing Peters Street to access the property. With a maximum of 20 appointments per week, traffic impact is minimal. Parking for the use is required to be on the driveway, not on the abutting street.

D. UTILITIES: All utilities are available on the site.

IV. REVIEW COMMENTS:

1. The fitness studio will utilize the basement, approximately 1,000 sq. ft. in size.
2. Hours of operation will generally be from 7:00 a.m. to 8:00 p.m. Monday through Saturday, by appointment only.
3. Client parking will consist of owner's driveway.

V. CITY COUNCIL RECOMMENDATION:

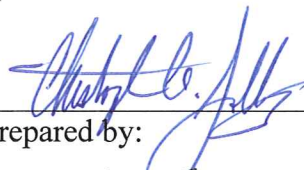
The Planning Staff recommends the approval of the Conditional Use Permit to allow a Home Occupation - Fitness Studio.

VI. ATTACHMENTS TO REPORT:

1. Vicinity Map
2. Draft Conditional Use Permit

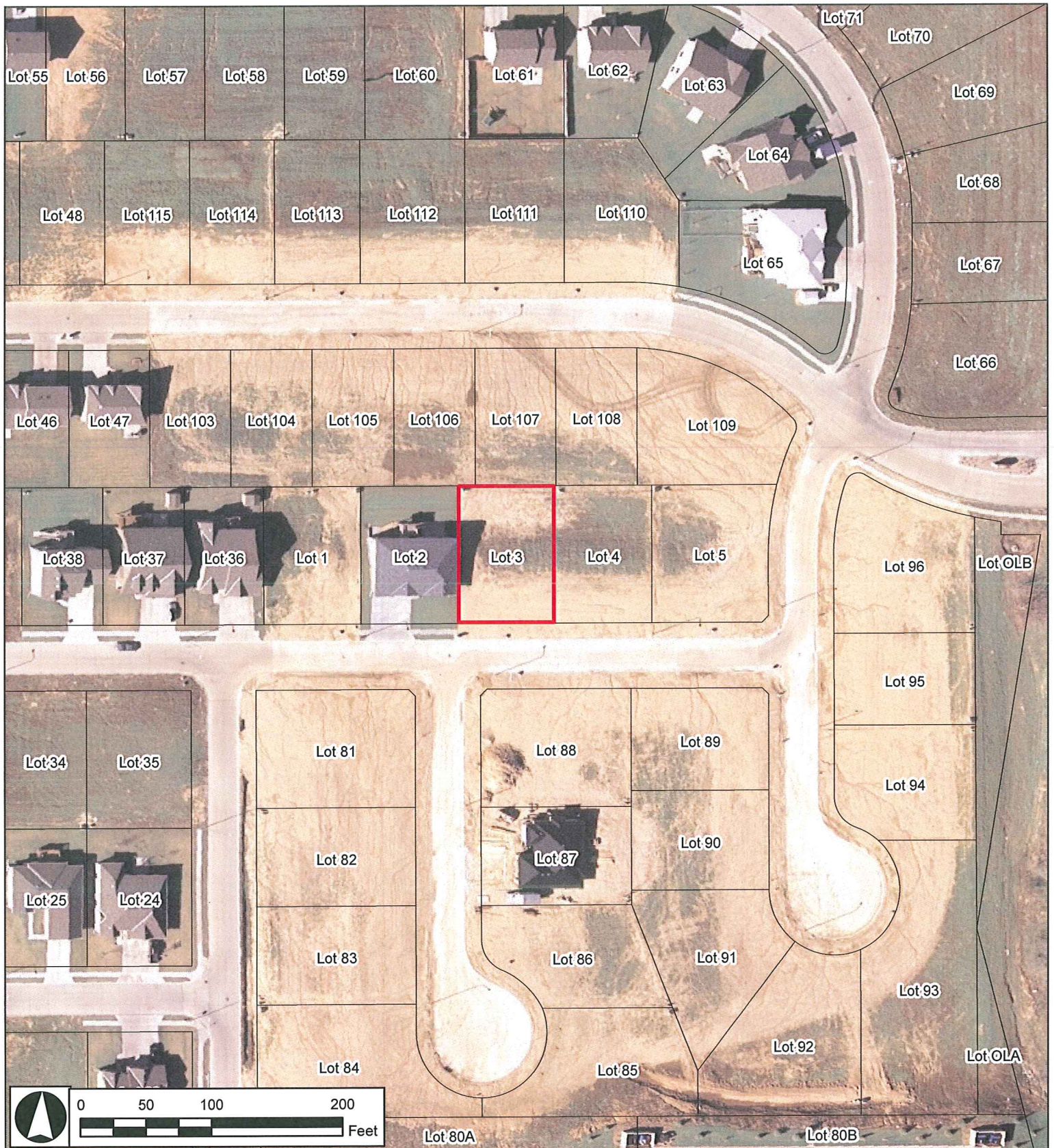
VII. COPIES OF REPORT SENT TO:

1. Min Yu, Applicant/Owner
2. Public Upon Request

Prepared by: 


Community Development Director

9-16-10
Date



Vicinity Map

Min Yu Fitness Studio CUP

August 4, 2010
CAS



City of La Vista Conditional Use Permit

Conditional Use Permit for Home Occupation (Fitness Studio)

This Conditional Use Permit issued this 21st day of September, 2010, by the City of La Vista, a municipal corporation in the County of Sarpy County, Nebraska ("City") to, Min Yu ("Owner"), pursuant to the La Vista Zoning Ordinance.

WHEREAS, Owner wishes to locate and operate a home occupation (fitness studio) in a single-family dwelling at 7226 Peters Street upon the following legally described property of land within the City of La Vista zoning jurisdiction:

Lot 3, Giles Corner Replat One, a Subdivision of Sarpy County, Nebraska.

WHEREAS, Owner has applied for a conditional use permit for the purpose of locating and operating a home occupation (fitness studio); and

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

NOW, THEREFORE, BE IT KNOWN THAT subject to the conditions hereof, this conditional use permit is issued to the owner to use the area of the property described herein for a home occupation (fitness studio), said use hereinafter being referred to as "Permitted Use or Use".

Conditions of Permit

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

1. The rights granted by this permit are transferable and any variation or breach of any terms hereof shall cause permit to expire and terminate without the prior written consent of the City (amendment to permit) or unless exempted herein.
2. In respect to the proposed Use:
 - a. Permitted use will utilize approximately 1000 square feet in the basement.
 - b. Hours of operation will generally be from 7:00 a.m. to 8:00 p.m. Monday through Saturday, by appointment only.
 - c. There will be no employees.
 - d. Fires escapes shall be properly designated.
 - e. There shall be no storage, placement or display of goods or supplies outside described areas relating to permitted use.
 - f. Client parking will consist of owner's driveway.
 - g. Owner shall obtain all required permits from the City of La Vista and shall comply with any additional requirements as determined by the Building Inspector.
 - h. Owner shall comply (and shall ensure that all, invitees, suppliers, structures, appurtenances and improvements, and all activities occurring or conducted, on the premises at any time comply) with any applicable federal, state and/or local regulations, as amended or in effect from time to time, including, but not limited to, applicable environmental or safety laws, rules or regulations.

- i. Owner hereby indemnifies the City against, and holds the City harmless from, any liability, loss, claim or expense whatsoever (including, but not limited to, reasonable attorney fees and court cost) arising out of or resulting from the acts, omissions or negligence of the owner, his/her agents, employees, assigns, suppliers or invitees, including, but not limited to, any liability, loss, claim or expense arising out of or resulting from any violation on the premises of any environmental or safety law, rule or regulation.
3. The applicant's right to maintain the use as approved pursuant to these provisions shall be based on the following:
 - a. An annual renewal of a home occupation license and annual inspection to determine compliance with the conditions of approval. The conditional use permit may be revoked upon a finding by the City that there is a violation of the terms of approval.
 - b. The use authorized by the conditional use permit must be initiated within one (1) year of approval and shall become void two (2) years after the date of approval unless the applicant has fully complied with the terms of approval.
 - c. All obsolete or unused structures and accessory facilities or materials specifically pertaining to such permitted use shall be removed at owner's expense within twelve (12) months of cessation of the conditional use, if required by the City.
4. Notwithstanding any other provision herein to the contrary, this permit, and all rights granted hereby, shall expire and terminate as a permitted use hereunder upon the first of the following to occur:
 - a. Owner's abandonment of the permitted use. Non-use thereof for a period of twelve (12) months shall constitute a presumption of abandonment.
 - b. Cancellation, revocation, denial or failure to maintain any federal, state or local permit required for the Use.
 - c. Owner's breach of any other terms hereof and his/her failure to correct such breach within ten (10) days of City's giving notice thereof.
5. In the event of the owner's failure to promptly remove any safety or environmental hazard from the premises, or the expiration or termination of this permit and the owner's failure to promptly remove any permitted materials or any remaining environmental or safety hazard, the City may, at its option (but without any obligation to the owner or any third party to exercise said option) cause the same to be removed at owner's cost and the owner shall reimburse the City the costs incurred to remove the same. Owner hereby irrevocably grants the City, its agents and employees the right to enter the premises and to take whatever action as is necessary or appropriate to remove the structures or any environmental or safety hazards in accordance with the terms of this permit, and the right of the City to enter the premises as necessary or appropriate to carry out any other provision of this permit.
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/her successors and assigns.

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

Contact Name and Address: Min Yu
7226 Peters Street
La Vista, NE 68128

Effective Date:

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

THE CITY OF LA VISTA

By _____
Douglas 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: owner/operator

Date: _____