

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
OCTOBER 21, 2014 AGENDA**

Subject:	Type:	Submitted By:
CONDITIONAL USE PERMIT – CROSSFIT PAPIO LOT 1, PAPIO VALLEY 2 BUSINESS PARK (NW OF 120 TH & PORTAL ROAD	◆ 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 1, Papio Valley 2 Business Park, generally located northwest of 120th Street and Portal Road.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approval.

BACKGROUND

A public hearing has been scheduled to consider an application submitted by Johnathan Pingel, representing CrossFit Papio, for a Conditional Use Permit to locate and operate an indoor recreation facility on Lot 1, Papio Valley 2 Business Park. The property is zoned I-2 Heavy Industrial and indoor recreation is listed in the I-2 District as a conditional use. The applicant proposes to operate an indoor cross-training facility in a bay within the building located at 120th Street and Portal Road.

A detailed staff report is attached.

The Planning Commission held a public hearing on September 18, 2014 and unanimously recommended approval of the Conditional Use Permit to City Council.

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RESOLUTION NO. 14-_____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE EXECUTION OF A CONDITIONAL USE PERMIT FOR CROSSFIT PAPIO TO ALLOW FOR AN INDOOR RECREATIONAL FACILITY IN A 3,000 SQUARE FOOT BAY OF A BUILDING ON LOT 1, PAPIO VALLEY 2 BUSINESS PARK.

WHEREAS, CrossFit Papio, on behalf of property owner 8 English Walnut Inc. Etal., has applied for a Conditional Use Permit for to allow for an indoor recreation facility within a 3,000 square foot bay of a building on Lot 1, Papio Valley 2 Business Park located at 12008 Portal Road #101; 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 CrossFit Papio to allow for a Conditional Use Permit for to allow for an indoor recreation facility within a 3,000 square foot bay of a building on Lot 1, Papio Valley 2 Business Park.

PASSED AND APPROVED THIS 21ST DAY OF OCTOBER, 2014.

CITY OF LA VISTA

ATTEST:

Douglas Kindig, Mayor

Pamela A. Bueth, CMC
City Clerk



**CITY OF LA VISTA
PLANNING DIVISION**

RECOMMENDATION REPORT

CASE NUMBER: 2014-CUP-03

FOR HEARING OF: October 21, 2014
Report Prepared on September 29, 2014

I. GENERAL INFORMATION

- A. APPLICANT:** CrossFit Papio, Jonathan Pingel
- B. PROPERTY OWNER:** English Walnut Inc. Etal.
- C. LOCATION:** 12008 Portal Road #101
- D. LEGAL DESCRIPTION:** Lot 1, Papio Valley 2 Business Park
- E. REQUESTED ACTION(S):** Use of a portion of the building for an indoor recreational facility as conditionally permitted I-2 Heavy Industrial district in the City of La Vista Zoning Ordinance.
- F. EXISTING ZONING AND LAND USE:**
I-2 Heavy Industrial; the property contains one existing building which houses three bays for miscellaneous industrial use.
- G. PROPOSED USES:** The Conditional Use Permit would allow for indoor recreation, specifically cross-training in an approximately 3,000 sq ft bay within a 30,000 sq ft building.
- H. SIZE OF SITE:** 3.59 acres

II. BACKGROUND INFORMATION

- A. EXISTING CONDITION OF SITE:** The property contains one building which has tenant bays for industrial flex space. Daltile and Patterson Dental operate in separate bays of the same building.
- B. GENERAL NEIGHBORHOOD/AREA LAND USES AND ZONING:**
 - 1. **North:** Papio Valley 1 Business Park; I-1 Light Industrial
 - 2. **East:** Brook Valley II Business Park; I-2 Heavy Industrial
 - 3. **South:** Papio Valley 2 Business Park; I-2 Heavy Industrial
 - 4. **West:** Papio Valley 2 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 an existing drive providing egress / ingress to S Portal Road. Two access points currently exist on the property.
- D. UTILITIES:** All utilities are available to the site.
- E. PARKING REQUIREMENTS:**
1. Parking requirements would follow the minimum needed for a recreational facility. Sixty exist on-site now, six of which must be dedicated to the co-tenants based on their uses, leaving fifty-four reserved for the proposed use.
- F. LANDSCAPING:** N/A

IV. REVIEW COMMENTS:

1. The applicant is currently operating the use on a temporary basis through a Temporary Certificate of Occupancy (Temp. C.O.).

V. STAFF RECOMMENDATION:

Approval of the Conditional Use Permit for CrossFit Papio.

VI. PLANNING COMMISSION RECOMMENDATION:

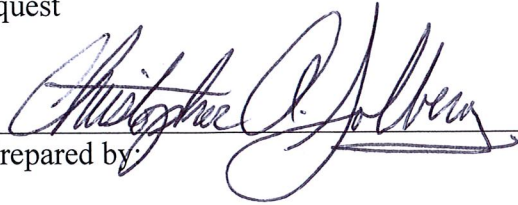
The Planning Commission held a public hearing on September 18, 2014 and unanimously recommended approval of the Conditional Use permit to City Council.

VII. ATTACHMENTS TO REPORT:

1. Vicinity Map
2. Draft CUP
3. Applicant's written proposal

VIII. COPIES OF REPORT TO:

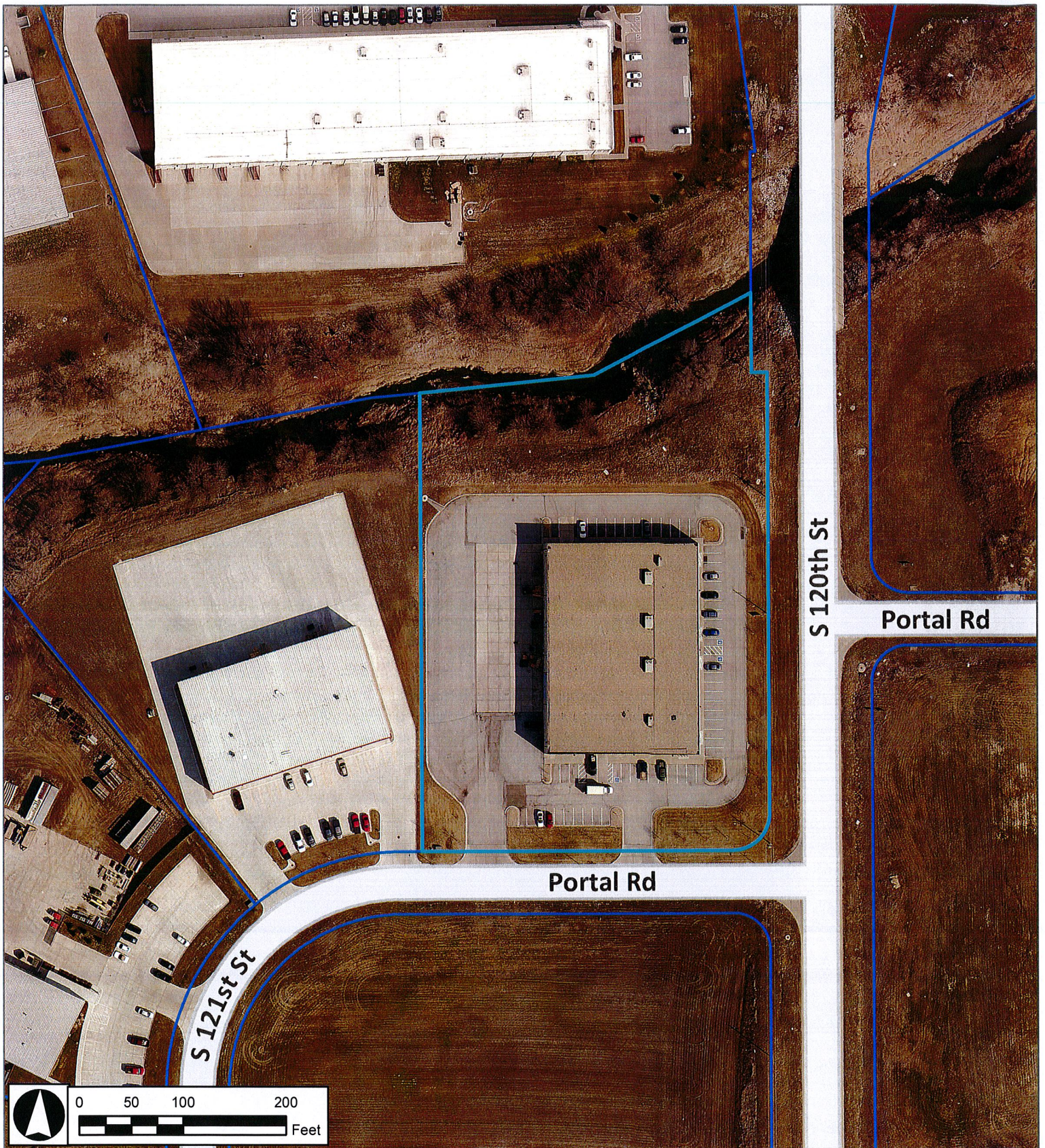
1. Jonathan Pingel, Applicant
2. English Walnut Inc. Etal., Owner
3. Public Upon Request

Prepared by: 

Community Development Director

Date

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Vicinity Map

CrossFit Papio CUP

September 10, 2014
CAS



City of La Vista Conditional Use Permit

Conditional Use Permit for Indoor Recreational Facility (Training Facility)

This Conditional Use Permit issued this ___ day of _____, 2014, by the City of La Vista, a municipal corporation in the County of Sarpy County, Nebraska ("City") to, LP Fitness Consulting LLC, DBA CrossFit Papio ("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 1, Papio Valley 2 Business Park located in the NE ¼ Section 19, Township 14 North, Range 12 East of the 6th P.M. Sarpy County, Nebraska, located at 12008 Portal Road #101 (3,000 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 "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 Permitted 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" and "Exhibit B".
 - b. Hours of operation for said indoor recreational facility will generally be Monday through Friday from 5:00 a.m. – 8 p.m.; and Saturday from 9 a.m. – 12 noon and Sunday from 2 p.m. – 4 p.m.
 - c. There will be approximately 2 staff members on site for the Permitted Use. During peak use, approximately 12 clients will utilize the facility at any one time.
 - d. 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.
 - e. There shall not be any games, tournaments, or other events that draw a larger spectator crowd than typical training activities.
 - f. 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.
- g. 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.
 - h. 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.
 - 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 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: Jonathan Pingel
CrossFit Papio
17307 O Street
Omaha, NE 68135
(402) 429-5209

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. Buethel
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:

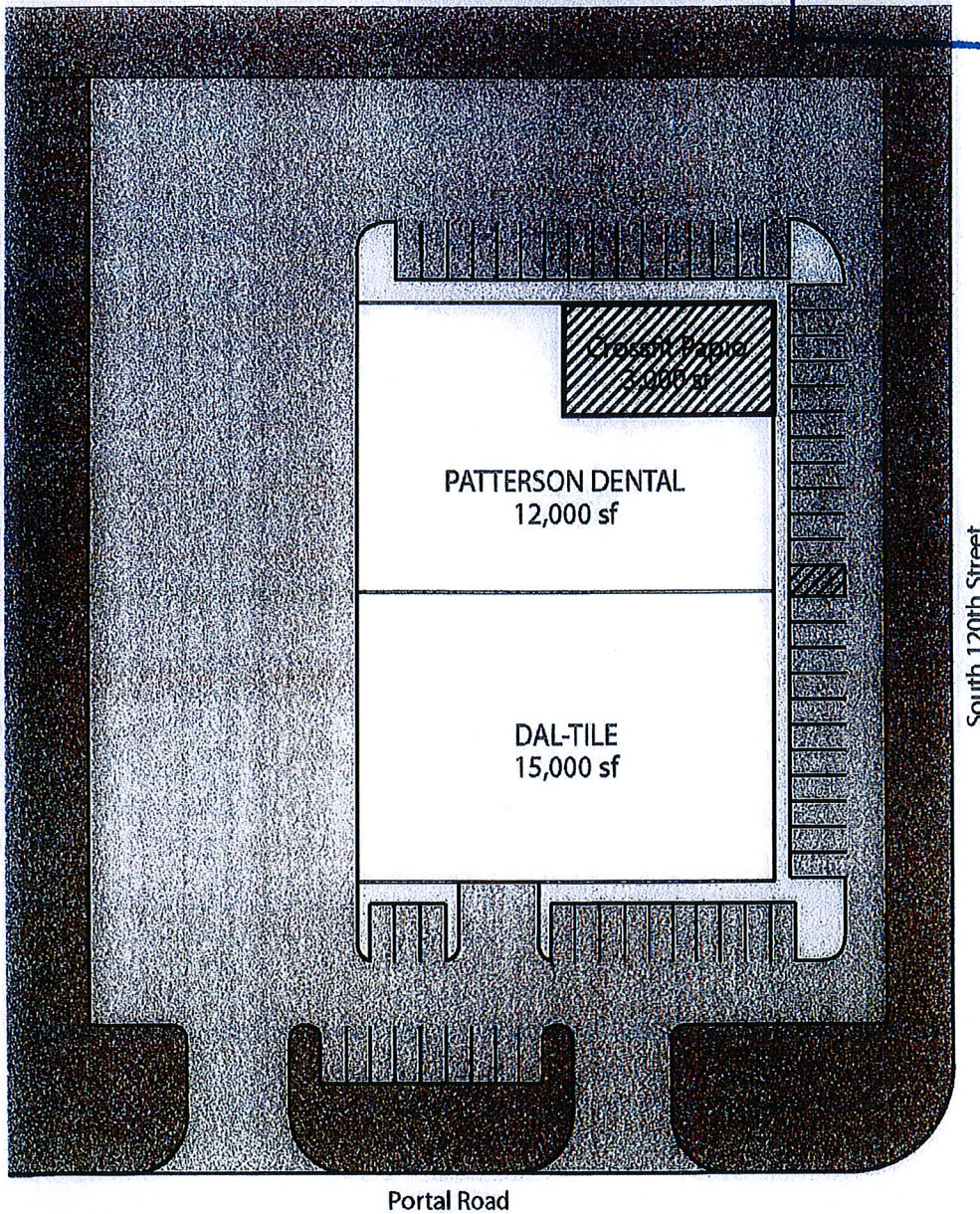
By: _____

Title: _____

Date: _____

EXHIBIT "A"
OUTLINE OF PREMISES

12008 Portal Road

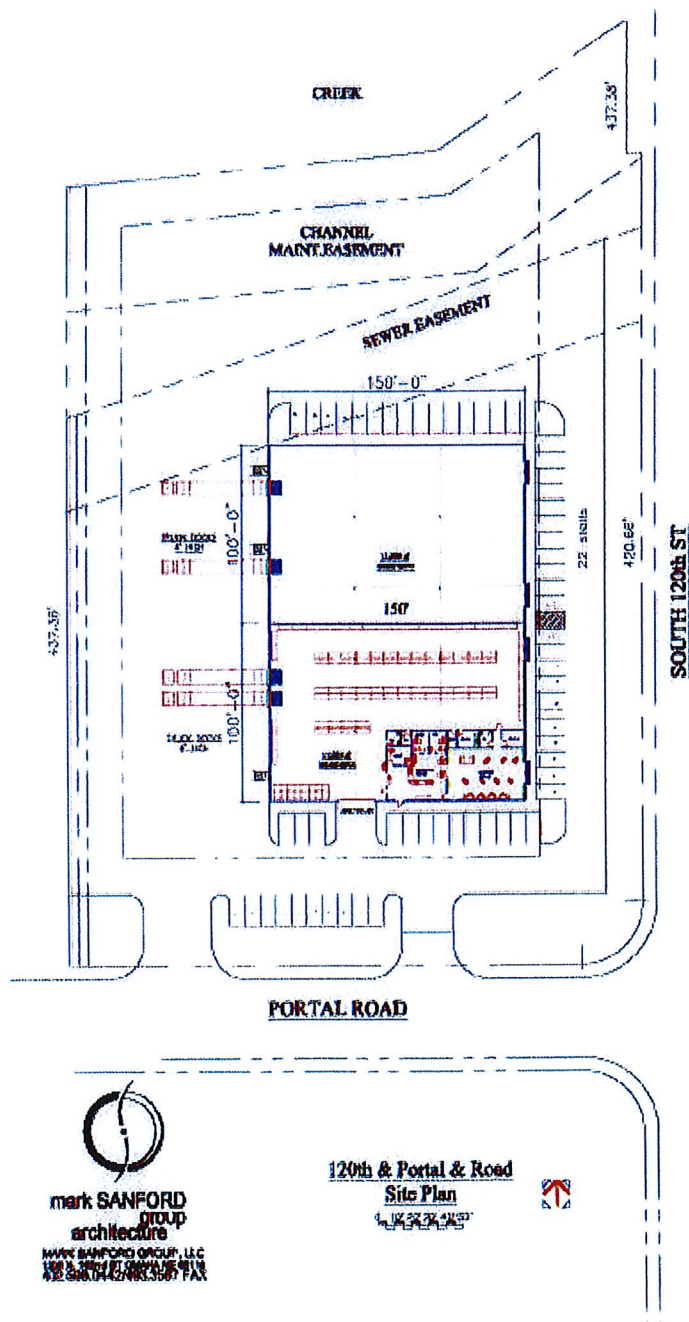


 Premises

Exhibit "B"



Site Plan




mark SANFORD
group
architecture
MARK SANFORD GROUP, LLC
100 S. 10TH ST. SUITE 200
MINNEAPOLIS, MN 55404-4200 FAX

120th & Portal & Road
Site Plan
10/24/2013



LP Fitness Consulting LLC, DBA CrossFit Papio, Conditional Use Permit Essay

It is with great excitement that I write to you with hopes of gaining our Conditional Use Permit through the City of LaVista. LP Fitness Consulting LLC, DBA CrossFit Papio has signed a 6 year lease with Cushman & Wakefeild and The Lund Company. The space is located at 12008 Portal Rd. Suite 101A. The 3000 square foot space will be used for CrossFit training in small groups of 8-12 people. CrossFit Papio is certified and insured.

CrossFit is a nationally recognized fitness organization. CrossFit Papio is a certified CrossFit Affiliate. CrossFit has approved our company and gives us full rights to run a CrossFit Affiliate in LaVista Nebraska.

Our mission at CrossFit Papio is to strengthen the mind, body and soul. We are in the business of building relationships and changing lives. CrossFit Papio strives to push our members, athletes and community to accomplish things they never thought they could. We promise to provide passionate trained coaches and offer individualized training in a small group environment. Everyone who steps foot into CrossFit Papio will feel loved and respected. Come as your are! Our gym is open to anyone and everyone. Our community will always be finding ways to have fun!

CrossFit Papio will only be open for business during scheduled class times during the day. During scheduled class times a CrossFit Level 1 Certified Instructor will be coaching and supervising at all times. Our hours of operation/class times will be Monday-Friday 5am, 6am, 9am, 12pm, 5pm, 6pm. Saturday we will have class at 9am and 10am. Sunday we will have class at 2pm. With this schedule about 75% of our classes will be held during adjacent building tenants off hours.

We are on good terms with the other tenants of the building Patterson Dental and Daltile. We have sound proofed the adjoining walls and floor. Parking is abundant for our needs and our neighbors during all hours of operation.

The location of CrossFit Papio is ideal. Members will have no problem with finding ample parking and access to CrossFit Papio is off of 120th and Giles where a light and new turning lanes are being built for easy traffic flow.

We have gained building permits from the City of LaVista and ADA male and female bathrooms with two sinks, two toilets and a shower have been built. We have added lighting, outlets, and HVAC system and a garage door to the 3000 square foot space. All improvements have been inspected by LaVista and meet requirements.

We are excited for the opportunity to bring the best of CrossFit training to the people of LaVista. Thank your for your consideration in granting us a Conditional Use Permit.