

**CITY OF LA VISTA
PLANNING DIVISION**

RECOMMENDATION REPORT

CASE NUMBER: 4A

FOR HEARING OF: August 21, 2008

Report Prepared on August 13, 2008

I. GENERAL INFORMATION

- A. APPLICANT:** Nebraska Indoor Karting, Derek Petit
- B. PROPERTY OWNER:** 8843 South 137th Circle LLC., Herbert Lavigne
- C. LOCATION:** 8843 137th Cir
- D. LEGAL DESCRIPTION:** I-80 Industrial Park, Lot 7
- E. REQUESTED ACTION(S):** Open a business for Nebraska Indoor Karting, which would provide for an indoor recreational facility as conditionally permitted in the I-2 Zone District in the City of La Vista Zoning Ordinance.
- F. EXISTING ZONING AND LAND USE:**
I-1 Light Industrial; the property contains one existing building which houses flex bays of miscellaneous industrial uses.
- G. PROPOSED USES:** The Conditional Use Permit would allow for indoor recreation, specifically indoor kart racing, outdoor laser tag, birthday parties, and a video game room. Also, retail sales are proposed as an accessory use.
- H. SIZE OF SITE:** 2.27 acres; 24,000 sq. feet of existing 32,000 sq. foot building to be used for indoor (and outdoor) karting and 8,000 sq. feet to be used for indoor retail sales.

II. BACKGROUND INFORMATION

- A. EXISTING CONDITION OF SITE:** The property contains a building which has tenant bays for industrial flex space with associated parking area and outdoor storage fenced in behind the building.
- B. GENERAL NEIGHBORHOOD/AREA LAND USES AND ZONING:**
 - 1. **North:** I-80 Industrial Park; I-1 Heavy Industrial
 - 2. **East:** Interstate 80
 - 3. **South:** Interstate 80
 - 4. **West:** I-80 Industrial Park; I-1 Heavy Industrial

C. RELEVANT CASE HISTORY: None

III. ANALYSIS

A. COMPREHENSIVE PLAN: The Future Land Use Map of the Comprehensive Plan designates this property for industrial uses.

B. OTHER PLANS:

C. TRAFFIC AND ACCESS:

1. Accesses would be from an existing drive providing egress / ingress to 137th Circle. However, the main access currently serves Lot 6 and Lot 7 (the subject property) shares this access to the main parking area in front. A secondary access does provide access to the back of the building on Lot 7.
2. No sidewalks exist for pedestrian traffic.
3. The City Engineer is requesting a new traffic impact study be completed to amend the existing study previously done for the intersection of 137th Circle and West Giles Road.

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

E. PARKING REQUIREMENTS:

1. Parking requirements would follow the minimum needed for a recreational facility. 24 spaces exist on-site now. According to the applicant, up to 40 more spaces may be striped if needed. *Note: the proposed minimum parking requirement for a recreation facility is one space per four occupants.*

F. LANDSCAPING: Existing landscaping is complete on site, so the plans should show the locations and species of trees, shrubs and other plantings.

G. NOISE: The kart track is proposed to run inside and outside; however, it will be on the interstate side of the building so noise should not be louder than the existing ambient decibel levels. The existing buildings will also provide a noise buffer between the use and the residential area to the west.

H. AIR QUALITY: The building will have an air exchange system to deliver five changes of air per hour.

IV. REVIEW COMMENTS:

1. Parking needs to be adequate for the proposed use on the premises. Any approved parking areas would need to be paved and striped. Shared parking with Lot 6 may be a possibility.

2. The plans do not delineate the 32,000 sq. feet of space Nebraska Indoor Karting will be leasing. The plans also do not show details on where outdoor activities, i.e. laser tag and outdoor kart track, will be occurring. Plans need to be revised to show these.
3. An easement is necessary for guaranteed access across Lot 6 and for shared parking, if applicable.
4. A landscape plan needs to be provided to show existing and proposed landscaping.

V. STAFF RECOMMENDATION:

Continuance of the Conditional Use Permit for Nebraska Indoor Karting until the following information can be reviewed by City Staff and Planning Commission:

1. The applicant shall demonstrate that the business can provide the necessary number of parking spaces without negatively impacting the parking required for future or existing tenants on the premises or Lot 6.
2. A landscape plan shall be submitted to the City of La Vista for review and approval. This plan shall show existing and proposed landscaping. Proposed landscaping shall be installed per the approved plan.
3. An easement shall be recorded to guarantee access across Lot 6 to Lot 7.
4. A new traffic impact study shall be completed to revise the existing study done for the intersection at 137th Circle and West Giles Road.
5. A new site development plan needs to be submitted delineating the areas inside and outside of the building for the proposed uses. The site development plan shall also show areas designated for parking with parking spaces shown on the plan.

VI. ATTACHMENTS TO REPORT:

1. Vicinity Map
2. Draft CUP
3. Applicant's written proposal
4. As-built Site Plan
5. City Engineer's Report

VII. COPIES OF REPORT TO:

1. Derek Petit, Applicant
2. Herbert Lavigne, Lavigne Enterprises
3. Public Upon Request

Tom Baker
Prepared by:

Tom Baker 8-14-08
Community Development Director Date

City of La Vista Conditional Use Permit

Conditional Use Permit for Indoor Recreational Facility (Nebraska Indoor Karting)

This Conditional Use Permit issued this _____ day of _____, 2008, by the City of La Vista, a municipal corporation in the County of Sarpy County, Nebraska ("City") to, Lavigne Enterprises ("Owner"), pursuant to the La Vista Zoning Ordinance.

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

Lot 7, I-80 Industrial Park located in the NE $\frac{1}{4}$ Section 24, Township 14 North, Range 11 East of the 6th P.M., Sarpy County, Nebraska, located at 8843 S. 137th Circle.

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 B".
 - b. Hours of operation for said indoor recreational facility will not exceed the hours of 11:00 a.m. to 10:00 p.m., Monday through Thursday; from 11:00 a.m. to Midnight, on Friday and Saturday; and from 1:00 p.m. to 6:00 p.m., on Sunday.
 - c. There will be approximately 30-50 employees for the Permitted Use.
 - d. There shall be no storage, placement or display of goods, supplies or any other material, substance, container or receptacle outside of the Permitted Use, except trash receptacles and those approved in writing by the City.
 - e. There shall not be any outside storage of materials. All trash receptacles, benches and planters shall be placed on property and securely fastened to building or concrete. Trash dumpsters shall be placed with a trash enclosure of six feet in height.
 - f. There shall not be any on-street parking permitted on 137th Circle.

- g. 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.
- h. Landscaping requirements from Section 7.17 of the City of La Vista Zoning Ordinance shall be satisfied and maintained by the property owner.
- 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. If the permitted use is not commenced within one (1) year from _____, 2008, 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: Derek Pettit
KFK, Inc.
13430 L Street
Omaha, NE 68137
(402) 612-1471

Herbert Lavigne
Lavigne Enterprises
14803 Frontier Road
Omaha, NE 68138
(402) 677-7489

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:

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: _____

Date: _____

Project overview for Nebraska Indoor Karting

Nebraska Indoor Karting will be a top-notch indoor karting facility that provides a clean, safe and fun entertainment venue. The facility will be alcohol free and will be covered by a national insurance agency that insures all **NASCAR™** tracks. The facility will have a 24,000 sq foot indoor track and a 8,000 sq foot indoor climate controlled retail area. We will have 2 large sized conference rooms (1 sitting 25-30 people and the other sitting approx. 50 people). It will also have various games and activities for all ages including, but not limited to, inflatable bouncers for kids, 32 **Xbox™** for LAN parties, 15 computers with assorted games and outdoor laser tag equipment that we currently manufacture and have 140 play sites throughout the globe. (see www.adventuresportshq.com)

The main purpose of this business is to add another quality venue to the surrounding area capitalizing on the properties strategic location next to the I-80 corridor.

Change of location from Douglas County to Sarpy County

KFK, Inc actually another Kart track project that had recently received approval from the Omaha planning board and the Omaha City Council. We made this decision after 3 hard months of planning and development. What caused us to change directions was speaking to Toby Churchill, Sarpy County Economic Development Manager. He was very persuasive on promoting Sarpy County and the direct benefits of the La Vista Corridor. He identified how this is becoming a preferred economic area due to the recent success and business planning involved with the La Vista Corridor including: La Vista Conference Center, Cabela's, Embassy Suites and other very successful mid to high level national companies.

Building site selection

This area was also selected because it provides less of an impact both on residential neighborhoods and environmental issues. The said structure is ideal as it requires almost no changes or build out. The landlord has a very good reputation for providing quality buildings and taking care of the current tenants by ensuring the facility is kept up to modern building codes for fire and safety.

Previous Kart track

Successfully designed, built and financed Velocity Indoor Karting. Velocity opened Thanksgiving day 2007 and generated close to 100,000.00 a month after being open for only 3 months in 2008. The principle owners of KFK, Inc. were responsible for site construction and limited operations for the kart track. The principle owners left the business and took all assets to form KFK, Inc. This was due to pressure from Rod Kush to enter as ownership of the business. The split resulted in Kush and KFK's previous partners forming a new company and opening the track after a 3-month cease of operations. The reason for leaving the corporation was mainly due to resistance between KFK principle partners and Rod Kush. KFK Inc., has a high standard of ethics and

professionalism. We take pride in the business relationships we build and look to maintain these relationships long term.

Douglas County Planning

We encourage you to call and ask the Douglas County planning board and ask them for a reference on Derek Petit and how he handled the Velocity Indoor Karting and approval for the new track we had just received approval for. We have always kept standards high and have had very good communication based on professionalism and a proactive mentality.

In Closing.

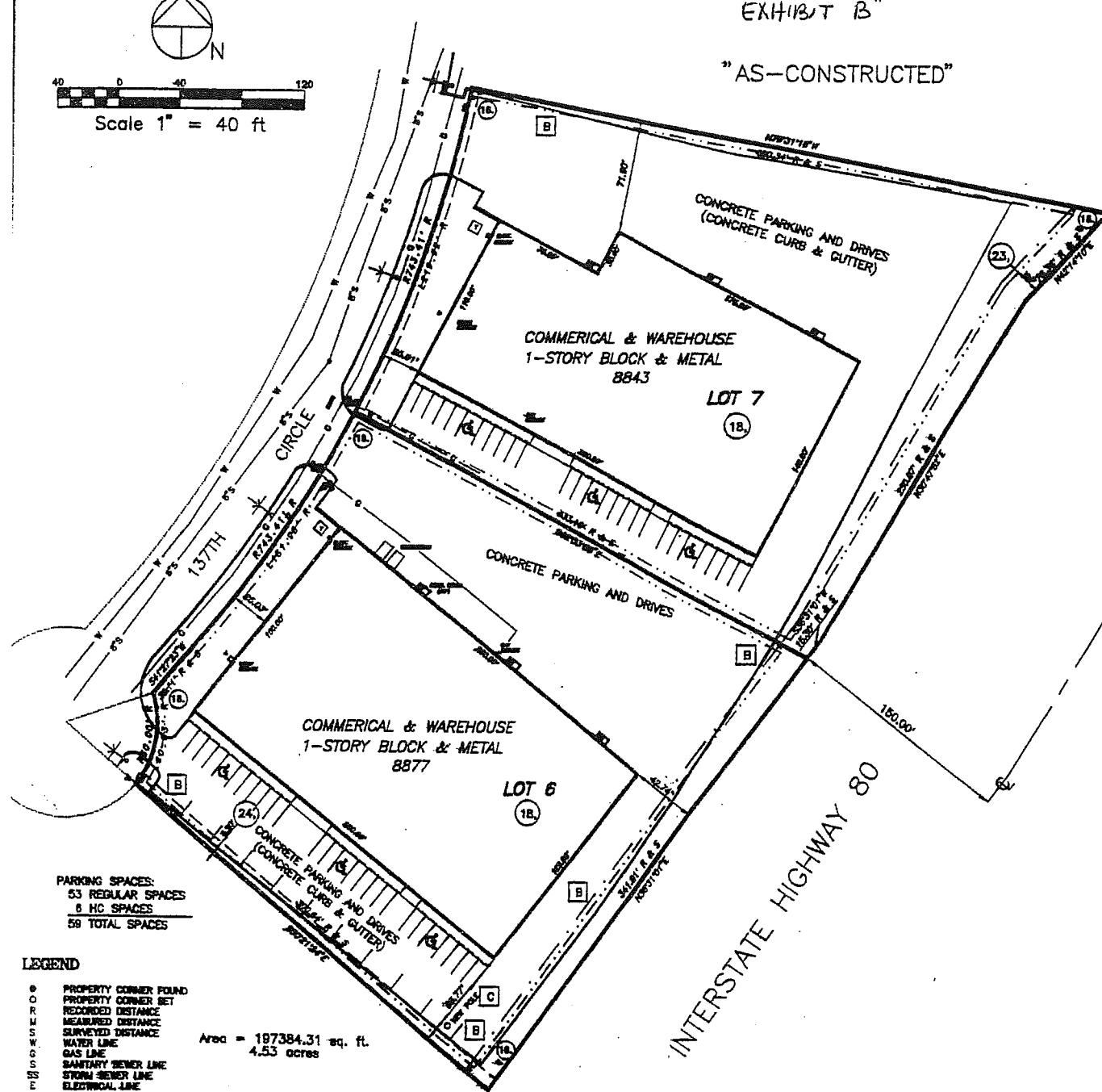
We the owners of KFK, Inc. take great pride in what we do. Between the 3 owners of KFK we own a total of 7 local, national and international businesses all current and generating over 20 million U.S. dollars in revenue. Combined our businesses currently employ over 100 people in the Omaha market alone and an additional 125 throughout the country. This project will add 30-50 more job opportunities in the Omaha/La Vista job market. If you or anyone on your team has any questions please feel free to call me (Derek Petit) personally at 402-891-1799 at my RSI office. We look forward to partnering with the La Vista community and bringing a world-class activity to the Omaha/ La Vista marketplace.



Scale 1" = 40 ft

EXHIBIT "B"

"AS-CONSTRUCTED"



NOTES CORRESPONDING TO SCHEDULE B

16. PLAT AND DEDICATION EASEMENTS
TO OPPD & USWEST
INSTRUMENT NO. 93-001258
AS-SHOWN

17. EASEMENT TO THE STATE OF NEBRASKA
CONTROL OF ADVERTISING
BOOK 32, PAGE 23.
NOT PLOTTABLE - EXTENDS 660' FROM
THE CENTERLINE OF I-80 AND INCLUDES
ALL OF SUBJECT PROPERTY

18. RESTRICTIVE COVENANTS
INST. #93-28848
BLANKET EASEMENT (NOT PLOTABLE)

19. AMENDMENT TO RESTRICTIVE COVENANTS
INST. #94-04733
BLANKET EASEMENT (NOT PLOTABLE)

20. AMENDMENT TO RESTRICTIVE COVENANTS
INST. #95-17897
BLANKET EASEMENT (NOT PLOTABLE)

21. EASEMENT TO AT & T
BOOK 80, PAGE 1887.
AS-SHOWN

22. EASEMENT TO AT & T
BOOK 57, PAGE 8.
AS-SHOWN

STATEMENT OF ENCROACHMENTS

- A - NONE BY SUBJECT PROPERTY OR ONTO BY ADJOINING PROPERTY.
- B - MINOR ENCROACHMENT OVER UTILITY EASEMENT BY PARKING LOT PAVEMENT.
- C - NEW POLE SIGN MAY VIOLATE ITEM #17 CONTROL OF OUTDOOR ADVERTISING SIGNS

FLOOD NOTE

ZONE "C" FLOOD INSURANCE RATE MAP (FIRM)
COUNTY OF SARPY, COMMUNITY-PANEL NUMBER:
310180 0050 B, DATED JANUARY 18, 1981.
ZONE "C" IS DETERMINED TO BE OUTSIDE
500-YEAR FLOOD PLAIN.

ACCESS NOTE

ACCESS TO SUBJECT PROPERTY VIA
137TH CIRCLE
DEDICATED RIGHT-OF-WAY
AND OPEN TO PUBLIC AND MAINTAINED
BY SARPY COUNTY.

Lot 8 and Lot 7, I-80 Industrial Park, a subdivision, as surveyed, platted and recorded in Burt County, Nebraska.

Both Lots 6 and 7 contain a total area of 187,384 square feet (4.531 acres), more or less.

LEGAL DESCRIPTION

Lot 8 and Lot 7, H-80 Industrial Park, a Subdivision, as surveyed, platted and recorded in Benton County, Nebraska.

Fields Lots 6 and 7 contain a total area of 157.384 square feet (4.531 acres). Reserve or Not.

ALTA/ACSM SURVEY

The undersigned, being a registered surveyor of the State of Nebraska, certifies to (I) HERBERT J. LARSON, d/b/a LARSON ENTERPRISES (II) KANSAS CITY LIFE INSURANCE COMPANY, ITS SUCCESSORS AND ASSIGNS, and (III) LAWYERS TITLE INSURANCE CORPORATION, its agent, DAKOTA TITLE AND ESCROW COMPANY, as follows:

1. This map or plot and the survey on which it is based were made in accordance with the "Minimum Standard Detail Requirements for ALTA/ACSM Land Survey," jointly established and adopted by the American Land Title Association and the American Congress on Surveying and Mapping in 1982.
2. The survey was made on the ground between July 22, 1986 and July 8, 1986 and currently shows the area of the subject property, the location and size of all buildings, structures and other improvements situated on the subject property, and any other matters situated on the subject property.
3. Except as shown on the survey, there are no visible improvements or structures of any kind which the undersigned has been advised.
4. Except as shown on the survey, there are no observable above ground improvements (a) by the improvements on the subject property upon adjoining property, streets or alleys, or (b) by the improvements on adjoining property, streets or alleys upon the subject property.
5. The location of each easement, right-of-way, servitude, and other interest affecting the subject property and listed in the Title Insurance commitment, dated June 12, 1986 at 8:00 AM, issued by Lawyers Title Insurance Corporation, with respect to the subject property, has been shown on the survey, together with appropriate recording references, to the extent that such interests can be located. The property shown on the survey is the property described in that title commitment. The location of all improvements on the subject property is in accord with minimum setback provisions and restrictions shown referenced in such title commitment.
6. The subject property has access to and from a duly dedicated and graded public street or highway.
7. Except as shown on the survey, the subject property does not cover adjoining property for drainage, utilities, or ingress or egress.
8. The record description of the subject property forms a mathematically and square.
9. Except as shown on the survey, no portion of the property shown on survey has within a Special Hazard Area, as described on the Flood Insurance Rate Map for the community in which the subject property is located. The survey currently indicates the same designation of any area shown as being in a Special Hazard Area.)

Leigh R. Whisenant

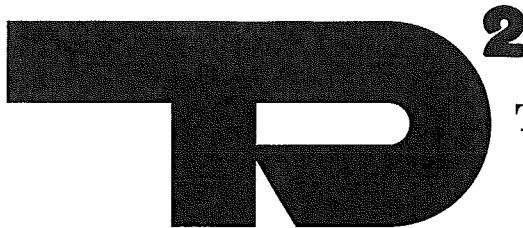
244 J. R. HARRIS

LAVIGNE ENTERPRISES
3843 AND 38877 B. 387TH CIRCLE
OMAHA, NE

Louis Surveying
12100 West Center Road, Suite 322A
Omaha, NE 68144 (402) 334-7882

LS
上木

LAVIGNE ENTERPRISES
8843 AND 8877 S. 137TH CIRCLE
OMAHA, NE



THOMPSON, DREESSEN & DORNER, INC.

Consulting Engineers & Land Surveyors

July 23, 2008

Mr. Marcus Baker
City Planner
City of La Vista
8116 Park View Boulevard
La Vista, NE 68128

ROBERT E. DREESSEN, P.E.
NELSON J. HYMANS, P.E.
JAMES D. WARNER, L.S.
CHARLES E. RIGGS, P.E.
KA "KIP" P. SQUIRE III, P.E., S.E.
JOHN M. KOTTMANN, P.E.
ARTHUR D. BECCARD, P.E.
DOUGLAS S. DREESSEN, P.E.
DEAN A. JAEGER, P.E.
RICHARD M. BROYLES, L.S.
DAVID H. NEEP, L.S.
RONALD M. KOENIG, L.S.
CHRIS E. DORNER, L.S.

TIMOTHY T. PAPSTEIN, P.E.
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.
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. STORM, P.E.

RE: Rezoning & Conditional Use Permit Reviews 2008
Lot 7, I-80 Industrial Park-8843 South 137th Circle
Proposed Conditional Use Permit for Nebraska Indoor Karting
TD² File No. 171-357.4

Marcus:

I have reviewed the application and supporting information that were received in this office on July 14, 2008 for a proposed conditional use permit for indoor recreation (indoor karting) at the above-referenced location. It appears that the intent is to use the entire building located at 8843 South 137th Circle. I visited the site this morning and observed that the building is occupied by an industrial use at this time. The applicant should make clear whether the proposal is to use the entire building or not. In addition, the applicant needs to provide a building layout plan that identifies the portions of the building that will be used for karting and for the various other activities described in their application. The application notes that they manufacture outdoor laser tag equipment. Manufacturing operations must not be mixed with the recreational activities. Clarifying information must be provided on this aspect. The building layout needs to identify whether additional ingress and egress doors will be needed to accommodate the assembly of persons in this facility. Based on the elements for consideration set forth in Article 6.05 of the Zoning Regulations, I recommend the following:

1. The traffic impact study that was done previously for the intersection of 137th Circle and Giles Road should be updated to include the additional traffic generation from this facility since the proposed use can be expected to generate higher volumes of traffic than a permitted industrial use. The previous traffic study done for The Courts volleyball facility can be provided to the applicant.
2. The hours of operation of the facility need to be identified. The expected noise level outside the facility needs to be identified since there are residential lots adjacent to this subdivision.
3. The site plan shows only 24 stalls delineated for the building at 8843 South 137th Circle. This is clearly less than the number of customers the applicant is expecting. A site plan needs to be provided that shows a parking stall layout that utilizes the truck apron area on the north side of the building. The plan should identify the number of stalls that can be provided and how this pertains to the maximum number of customers the applicant expects to use the facility at any given time. The site plan should also identify whether there is or will be an ingress/egress over part of Lot 6 to share the existing driveway access.
4. The Fire Department and Fire Marshall should review the plans.