

AGENDA

STATE BUILDING CODE TECHNICAL REVIEW BOARD

Friday, January 24, 2014 – 10:00 a.m.

Virginia Housing Center

4224 Cox Road

Glen Allen, Virginia

- I. Roll Call (**Tab 1**)

- II. Approval of September 20, 2013 Minutes (**Tab 2**)

- III. Public Comment

- IV. Approval of Final Order (**Tab 3**)

In Re: Appeal of Keith Kurtz
Appeal No. 13-2

- V. Appeal Hearing (**Tab 4**)

In Re: Appeal of Rave Soccer, LLC
Appeal No. 13-5

- VI. Appeal Hearing (**Tab 5**)

In Re: Appeal of Stark Jones, LLC
Appeal No. 13-6

- VII. Secretary's Report (**TAB 6**)

STATE BUILDING CODE TECHNICAL REVIEW BOARD

Updated December 2013

J. Robert Allen, CBO
Building Inspections Dept.
Henrico Co. Gov't Center
2nd Floor
Post Office Box 90775
4301 East Parham Road
Henrico, Virginia 23273-07753
H (804) 330-9637
all56@co.henrico.va.us
(VBCOA)

Matthew Arnold
1640 Trap Road
Vienna, VA 22182
W (703) 801-4337
mda1618@gmail.com
(Virginia Society of AIA)

W. Keith Brower, Jr.
39320 Rickard Road
Lovettsville, Virginia 20180
W: 703-777-0333
keith.brower@loudoun.gov
(Commonwealth at large)

Vince Butler
5750 White Flint Court
Manassas, Virginia 20112
Cell phone (703) 928-4550
vbutler@bbcbuilders.com
(Home Builders Association)

J. Daniel Crigler
935 Good Hope Church Road
Aroda, Virginia 22709
W (540) 948-6230
Cell phone: (540) 718-5602
(Va. Assoc. of PHCC)
jdc@ldassociatesinc.com

James R. Dawson
11122 Chester Garden Cir.
Chester, VA 23831
W (804) 717-6838
DawsonJ@chesterfield.gov
(Va. Fire Chiefs Assoc.)

John H. Epperson, PE
4701 Feldspar Quay
Chesapeake, Va. 23321
W (804) 254-6679
Cell (757) 615-4066
jhepe@yahoo.com
(Va. Soc. of Professional Engineers)

Joseph A. Kessler, III
1033 Locust Avenue
Charlottesville, Virginia 22901
W (434) 220-0862
Cell: (434) 962-0044
jay@kesslermail.com
(Assoc. General Contractors)

John A. Knepper, Jr.
Trumbo Electric
Post Office Box 1
Broadway, Virginia 22815
W (540) 896-7095 Ext. 115
jak@trumboelectric.com
(Electrical Contractor)

James N. Lowe
1351 Orphanage Road
Danville, Virginia 24540
W (434) 836-6777
H (434) 724-4465
Cell phone: (434) 251-9940
(Va. Assoc. of PHCC)

Eric Mays
12905 Chaparral Drive
Woodbridge, Virginia 22192
W (703) 792-6873
emays@pwccgov.org
(VBCOA)

Joanne D. Monday
Wilton Capitol Mgmt. Svcs.
P. O. Box 29628
Richmond, Virginia 23242
2520-A Gaskins Road
Richmond, Virginia 23238
H (804) 750-2272
W (804) 290-0808
Cell phone: (804) 212-4434
jmonday@wiltoncms.com
(Va. Bldg. Owners and Mgrs.)

Patricia S. O'Bannon
County Administrator's Office
Henrico Co. Gov't Center, 3rd Fl.
Post Office Box 27032
4301 East Parham Road
Richmond, Virginia 23273
W (804) 501-4208
pob@patobannon.com
(Commonwealth at large)

R. Schaefer Oglesby
Oglesby Management Group,
Inc.
2309 Heron Hill Place
Lynchburg, Virginia 24503
W (434) 385-5938
H (434) 384-6616
Cell: (434) 258-6616
ssoglesby@comcast.net
(National Apartment Assoc.)

James M. Flaherty
Assistant Attorney General
Financial Law and Government
Support Section
Office of the Attorney General
900 East Main Street
Richmond, Virginia 23219
W (804) 371-2381
Fax: (804) 786-1991
jflaherty@oag.state.va.us

DRAFT MINUTES

STATE BUILDING CODE TECHNICAL REVIEW BOARD

MEETING

September 20, 2013

GLEN ALLEN, VIRGINIA

Members Present

Mr. J. Robert Allen, Chairman
Mr. R. Schaefer Oglesby, Vice-Chairman
Mr. Vince Butler
Mr. J. Daniel Crigler
Mr. James R. Dawson
Mr. John H. Epperson
Mr. Joseph A. Kessler, III
Mr. John A. Knepper, Jr.
Mr. James N. Lowe
Ms. Patricia S. O'Bannon

Members Absent

Mr. Matthew Arnold
Mr. W. Keith Brower, Jr.
Mr. Eric Mays
Ms. Joanne D. Monday

Call to Order

The meeting of the State Building Code Technical Review Board (Review Board) was called to order by the Chairman at approximately 10:00 a.m.

Roll Call

The attendance was established by Mr. Vernon W. Hodge, Secretary, and constituted a quorum. Mr. Hodge introduced a newly appointed Review Board member representing the Home Builders Association of Virginia, Mr. Vince Butler, and Mr. Butler spoke briefly concerning his background and interest in Board matters. He was welcomed to the Board by the Chairman and other Board members. Mr. Steven Jack, Assistant Attorney General in the Office of the Attorney General, was present and serving as the Board's legal counsel.

Approval of Minutes

After consideration, Mr. Oglesby moved to approve the minutes of the May 17, 2013 meeting as presented in the Review Board members' agenda package. The motion was seconded by Mr. Lowe and passed unanimously with Messrs. Butler, Crigler, Dawson and Epperson abstaining from the vote.

Public Comment

The Chairman opened the floor for public comment. The Secretary reported that no one was preregistered. The Chairman closed the public comment period.

Final Orders

Appeal of Fairfax County; Appeal No. 12-7:

A post-hearing submittal from Mr. Guglielmi was distributed to the Review Board members prior to consideration of the final order. With no action being taken on the post-hearing submittal, after consideration of the final order, Mr. Lowe moved to approve the final order as presented in the Review Board members' agenda package. The motion was seconded by Kessler. A vote was taken and the motion passed with Mr. Oglesby voting in opposition and Messrs. Butler, Crigler, Dawson and Epperson abstaining from the vote.

New Business

Appeal of STNP, LLC; Appeal No. 12-1:

Mr. Hodge informed the Review Board members that after the agenda package had been distributed, the parties had come to an agreement. A consent order to dispense with the appeal from the parties was distributed to the Review Board members. After consideration, Mr. Kessler moved to accept the consent order. The motion was seconded by Mr. Oglesby and passed unanimously.

Appeal of Keith Kurtz; Appeal No. 13-2:

A hearing convened with the Chairman serving as the presiding officer. The appeal concerned the construction of a home for Keith and Carol Kurtz at 4087 35th Street North in Arlington County by R-1 Construction, LLC (Metropolitan).

The following persons were sworn in and given an opportunity to present testimony:

Keith Kurtz
Brian W. Smith, consultant for Mr. Kurtz
Emad Elmagraby, for the County building official's office
Charles D. Vernon, for the County building official's office
Paula Eubank, for the County building official's office
Byron Ramirez, for R-1 Construction

New Business

Appeal of Keith Kurtz; Appeal No. 13-2 (continued):

Also present were:

Robert K. Richardson, Esq., legal counsel for Mr. Kurtz
James R. Hart, Esq., legal counsel for R-1 Construction

The following exhibit was submitted by Mr. Kurtz to supplement the documents in the Review Board members' agenda package:

Exhibit A – Diagram of missing beam

After testimony concluded concerning whether the porch beams did not meet the requirements of the International Residential Code for protection against decay, the Chairman closed the hearing for deliberation of the issue. After consideration, Mr. Lowe moved to overturn the decision of the Arlington County building department and rule that the beams needed to be of pressure-treated wood. The motion was seconded by Mr. Dawson and passed unanimously.

After a brief recess requested by the parties, the Chairman reopened the hearing. The parties then confirmed that agreement had been reached concerning the remaining issues in the appeal and the resolution of each issue was delineated for the record. There being no need for further action, the hearing was closed.

Secretary's Report

Mr. Hodge provided information concerning the updating of the Department's building and fire regulations, including the date of an upcoming public hearing, a summary of a meeting of a sub-workgroup concerning the definition of nightclub and an overview of the approved proposed regulations, including actions taken on proposals for recommended changes submitted to the Board of Housing and Community Development by the Review Board. Ms. Cindy Davis, Associate Director in the Department's Division of Building and Fire Regulation, spoke briefly concerning the use of electronic formats for Review Board agenda packages. There was general consensus that without providing computers or electronic tablets for members at meetings, traditional agenda packages would still be necessary.

State Building Code Technical Review Board
September 20, 2013 Minutes - Page Four

Adjournment

There being no further business, the meeting was adjourned by motion of Mr. Lowe at approximately 2:00 p.m.

Approved: January 24, 2014

Chairman, State Building Code Technical Review Board

Secretary, State Building Code Technical Review Board

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD (REVIEW BOARD)

IN RE: Appeal of Keith Kurtz
Appeal No. 13-2

Hearing Date: September 20, 2013

DECISION OF THE REVIEW BOARD

I. PROCEDURAL BACKGROUND

The State Building Code Technical Review Board (Review Board) is a Governor-appointed board established to rule on disputes arising from application of regulations of the Department of Housing and Community Development. See §§ 36-108 and 36-114 of the Code of Virginia. The Review Board's proceedings are governed by the Virginia Administrative Process Act. See § 36-114 of the Code of Virginia.

II. CASE HISTORY

After construction of their home at 4087 35th Street North, in Arlington County, in 2010, Keith and Carol Kurtz contacted the Arlington County Inspection Services Division (ISD), the local government agency responsible for enforcement of the Virginia Uniform Statewide Building Code (USBC), identifying

alleged violations. During 2011, ISD personnel met with the Kurtzes and the builder of the home, R-1 Construction, LLC and issued a USBC notice of violation for a number of deficiencies and determined that the remaining alleged violations identified by the Kurtzes either were not violations of the USBC, or that more information was necessary to make a decision concerning them.

The Kurtzes filed an appeal, as provided for by the USBC, for the alleged violations not cited by ISD. The appeal was heard by the Arlington County Local Board of Building Code Appeals (Arlington County board) in April of 2012 and ISD's decisions were upheld. The Kurtzes further appealed to the Review Board.

In processing the appeal to the Review Board, Review Board staff conducted an informal fact-finding conference to attempt to clarify the issues before the Review Board. At the conference, the Kurtzes agreed to work with ISD to provide additional information so that ISD could make determinations (or new determinations) on the remaining issues in dispute and that any new decisions made by ISD could be appealed. The Kurtzes further agreed that the appeal to the Review Board would be moot when ISD made the new determinations.

In December of 2012, ISD issued an additional notice of violation. The Kurtzes again appealed to the Arlington County

board to have the board hear those issues that ISD did not cite as USBC violations. The Arlington County board heard the Kurtzes' second appeal in March of 2013 and ruled to uphold ISD's decisions. The Kurtzes further appealed to the Review Board.

Review Board staff conducted an informal fact-finding conference for the new appeal by the Kurtzes, prepared the record and scheduled a hearing before the Review Board.

The hearing before the Review Board was attended by the Kurtzes and their legal counsel, representatives of ISD and representatives of R-1 Contracting, LLC and its legal counsel.

After the Review Board heard and ruled on the first issue identified for resolution, the parties asked for a brief recess and subsequently informed the Review Board that the remainder of the appeal had been resolved. The resolution was summarized by the parties as follows:

- 1) Hangers would be installed to resolve the bearing issues on the porch beams.
- 2) A repair plan for the porch posts by Moore Architects, PC would be followed.
- 3) The rear porch outer corner column would be modified to match a recommendation by JGK Structural Engineers, P.C.
- 4) All the load path issues remaining would be reinspected by ISD and new decisions made if necessary.

The remainder of the issues in the appeal were withdrawn by the Kurtzes.

III. FINDINGS OF THE REVIEW BOARD

Regarding the Kurtzes' appeal of ISD's decision that the laminated veneer lumber (LVL) used as support for the porch floor complied with USBC requirements for protection from decay, the Review Board finds as follows:

The Kurtzes' home was constructed under the USBC in effect on May 1, 2008, known as the 2006 edition, as the 2006 editions of the International Codes are incorporated into the USBC for the technical requirements for construction. In this case, the 2006 International Residential Code (IRC) is applicable.

Section R319.1 of the 2006 IRC states in pertinent part:

R319.1 Location required. Protection from decay shall be provided in the following locations by the use of naturally durable wood or wood that is preservative treated in accordance with AWPA U1 for the species, product, preservative and end use. Preservatives shall be listed in Section 4 of AWPA U1.

...

(6) Wood structural members supporting moisture-permeable floors or roofs that are exposed to the weather, such as concrete or masonry slabs, unless separated from such floors or roofs by an impervious moisture barrier.

The porch in question is open-sided with a roof. The LVLs in question are located under a tongue and groove wooden floor. The testimony and evidence presented substantiated that wind-

driven rain falls on the wooden floor and penetrates the floor reaching the LVLs. There is no impervious barrier moisture between the porch flooring and the LVLs. The testimony and evidence presented confirmed that the LVLs are not made of naturally durable wood or preservative-treated wood. Therefore, the LVLs do not comply with Section R319.1(6) of the IRC and are accordingly in violation of the USBC.

IV. FINAL ORDER

The appeal having been given due regard, and for the reasons set out herein, the Review Board orders the decision of ISD that the LVLs are in compliance with the USBC and the decision of the Arlington County board upholding the decision of ISD to be, and hereby are, overturned.

Chairman, State Technical Review Board

Date Entered

As provided by Rule 2A:2 of the Supreme Court of Virginia, you have thirty (30) days from the date of service (the date you actually received this decision or the date it was mailed to you, whichever occurred first) within which to appeal this

decision by filing a Notice of Appeal with Vernon W. Hodge,
Secretary of the Review Board. In the event that this decision
is served on you by mail, three (3) days are added to that
period.

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Rave Soccer, LLC
Appeal No. 13-5

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Rave Soccer Complex, LLC
Appeal No. 13-5

REVIEW BOARD STAFF DOCUMENT

Suggested Statement of Case History and Pertinent Facts

1. In April of 2010, under the authority for the enforcement of the Virginia Uniform Statewide Building Code (USBC), the City of Virginia Beach Department of Permits and Inspections (City USBC department) issued a building permit for the construction of a metal building, approximately 33,000 square feet in area, to be used as an indoor soccer facility (the building in question will be simply referred to hereinafter as “the building”). The building is located at 2949 Shipps Corner Road and the owner is Rave Soccer Complex, LCC (Rave). The permit was issued under the 2006 edition of the USBC.

2. Construction of the building proceeded through 2010. Prior to the completion of the building, it was discovered that the site plan on file with the City of Virginia Beach planning and zoning department did not accurately reflect the location of the building and other improvements on the site, so another site plan review was necessary. The City USBC department permitted Rave to continue construction of the building while in the process of obtaining an approved site plan; however, in March of 2011, in conducting a final inspection of the building, the City USBC department notified those involved in the construction of the building that inspections would no longer be conducted until site plan approval was obtained.

3. In January of 2013, the City USBC department discovered that an addition was being constructed to the building without obtaining a USBC permit and in investigating and corresponding with Rave concerning the addition, it was also discovered that the building was being used and that the required sprinkler system had not been installed.

4. In discussions between Rave and the City USBC department and fire department, an agreement was reached to provide a fire watch during use of the building for a 90 day period to allow for time to find a resolution to the sprinkler system issue.

5. By correspondence dated May 14, 2013, Rave, through and by the architect for the building, submitted a modification request under the USBC to omit the sprinkler system from the court areas in the building based on an exception in 2006 edition of the International Building Code (IBC), the nationally recognized model building code which is incorporated by reference into the 2006 edition of the USBC, and to provide a limited sprinkler system around the perimeter of the inside of the building, to include the ingress and egress areas.

6. The City USBC department responded in a letter dated May 22, 2013, concluding that the modification could not be approved for a number of reasons, including that to achieve the 33,000 square foot area of the building under the IBC, a sprinkler system was necessary throughout the building, and the exception in the IBC being relied upon by Rave as the basis for the modification request could only be used if the area of the building did not depend on the increase in area permitted by providing a sprinkler system throughout the building.

7. Rave then submitted an appeal of the City USBC department's denial of the modification request to the City of Virginia Beach Board of Building Code Appeals, New Construction Division (City USBC appeals board), which heard the appeal in July of 2013 and ruled to uphold the City USBC department's decision.

8. Rave further appealed to the Review Board and Review Board staff conducted an informal fact-finding conference by teleconference in October of 2013 with representatives of the City USBC department, legal counsel for the City of Virginia Beach and legal counsel for Rave. This Review Board staff document resulted from review of the documents submitted and discussions at the informal fact-finding conference. The staff document will be distributed to the parties and opportunity given for the submittal of additional documents, corrections, objections or additions to the staff document and the submittal of written arguments. After such opportunity, a hearing will be scheduled before the Review Board.

Suggested Issue for Resolution by the Review Board

1. Whether to overturn the decisions of the City USBC department and City USBC appeals board and approve the modification request submitted to the City USBC department by Rave.

BASIC DOCUMENTS



PERMITS AND INSPECTIONS
(757) 385-4211
FAX (757) 385-5777

62
Permit Copy

City of Virginia Beach

Received a copy of the approved plans

Ms. J. Olt APR. 2. 2010.

VBgov.com

MUNICIPAL CENTER
BUILDING 2, ROOM 100
2405 COURTHOUSE DRIVE
VIRGINIA BEACH, VIRGINIA 23456-9039

March 31, 2010

Kelly J. Olt
1676 Church Point Lane
Virginia Beach, Virginia 23455

Subject: Shipps Corner Soccer Complex

Dear Ms. Olt

Revised building plans for the above were reviewed and approved this date. This approval does not allow nonconformance to the code ordinances applicable to these plans. Final approval is subject to field inspections. The contractor shall keep one set of approved plans at the building site available at all reasonable times during construction.

This building is classified under Use Group A-3, and shall be constructed of not less than Type IIB construction.

If there are any questions, please don't hesitate to contact me at (757) 385-4211.

Sincerely,

Curtis A. Muller
Plans Examiner II

c: Fire Marshals Office

The plans are in bin # 93

BUILDING PERMIT

CITY OF VIRGINIA BEACH
PERMITS AND INSPECTIONS
2405 COURTHOUSE DRIVE • ROOM 100
VIRGINIA BEACH, VIRGINIA 23456-9039
(757) 385-8060 • FAX (757) 385-5777
www.VBgov.com/buildingpermits
IRS (757) 385-4YOU (4968)

FINAL: _____

CONTRACTOR: 2701-029315A ORION ASSOCIATES INC

INSPECTOR
ISSUE DATE 04/02/10
PERMIT NO 201005135B0

ORION ASSOCIATES, INC
1317 CAVALIER BLVD
CHESAPEAKE VA 23323-1501
EMAIL: ORIONEMAIL@AOL.COM

ISSUED TO:
PHONE: (757) 558-6400
FAX: (757) 558-1009

OWNER:
RAVE SOCCER COMPLEX LLC
PHONE: (757) 544-4107

DESCRIPTION AND LOCATION OF LOT:

ADDR: 2949 SHIPPS CORNER RD GPIN: 14953733290000

GRID H10
LOT NO B
DISTRICT: BEACH SUBDIVISION: ACREAGE

USE AS: INDOOR SOCCER BUILDING

VALUE OF CONSTRUCTION 350,000

COMMERCIAL USBC 2006 UPON COMPLETION OCPY NUMBER OF UNITS 1

USEGRP DESCRIPTION SQ FT
A3 AMUSEMENT/REC BLDG 33000

PLANS APPROVED BY: CURTIS MULLER

CNSTR TYPES: 2B BIN: 93
FLOORS: 1 SPECIAL: Y
SEWER: 000000000 WATER: 000000000

ZONING: AG2 FR: 50 SIDE: 20 REAR: 20
SITE PLANS APPROVED BY: DSC 00000

FEMA: X500 ACUIZ: APZ2 SOIL: TOMOTLEY
WATERSHED: CHESAPEAKE ERU: 1.0
DSC#: H10-605 CO REQ: Y
REGISTERED LAND DISTURBER : Y

BUILDING FEES: 2,705.00
SUB TOTAL: 2,705.00 LEVY: 54.10 2.00%
TOTAL: 2,759.10 RECEIPT NUMBER: 2010005489

ISSUED BY: SCOTT STEEN

5/14/10 SWO posted by M. Sipe - Dist into RPA 150.00 Fee due BLS
8/9/10 SWO posted by 290, Non Compliance 150.00 Fee
SWO applies to entire project.

9/11/12 Hold PROTECT NOT COMPLETE
[Signature]

NOTICE: I understand this Permit is granted ONLY for the work shown on the plans and described in the application filed for this construction. Any falsification, misrepresentation or misleading information Voids this permit. I hereby certify that I am the owner or that I have authority on behalf of the owner to make the foregoing application, that the information contained in the application is correct, and that the construction will conform to the regulations in the Building Code, Zoning Ordinance and other City Ordinances including all City specifications and standards pertaining to work in any public right-of-way and erosion and sediment control requirements. I hereby acknowledge and agree that in the event the City must take conservation measures as a result of my failure to abate violations of the erosion and sediment control requirements, after proper notice, I shall pay for all costs and expenses of such measures. Furthermore, I hereby agree to indemnify and hold the City, its agents, employees and officer harmless from and against any and all claims, losses or expenses, of whatever nature, that may arise from any work conducted in any public right-of-way.

CERTIFICATE OF USE AND OCCUPANCY is required prior to use of this structure.

[Signature]
SIGNATURE OF OWNER OR AUTHORIZED AGENT

PHONE: RPA. 2.2010. 19

RAVE SOCCER COMPLEX INDOOR FACILITY

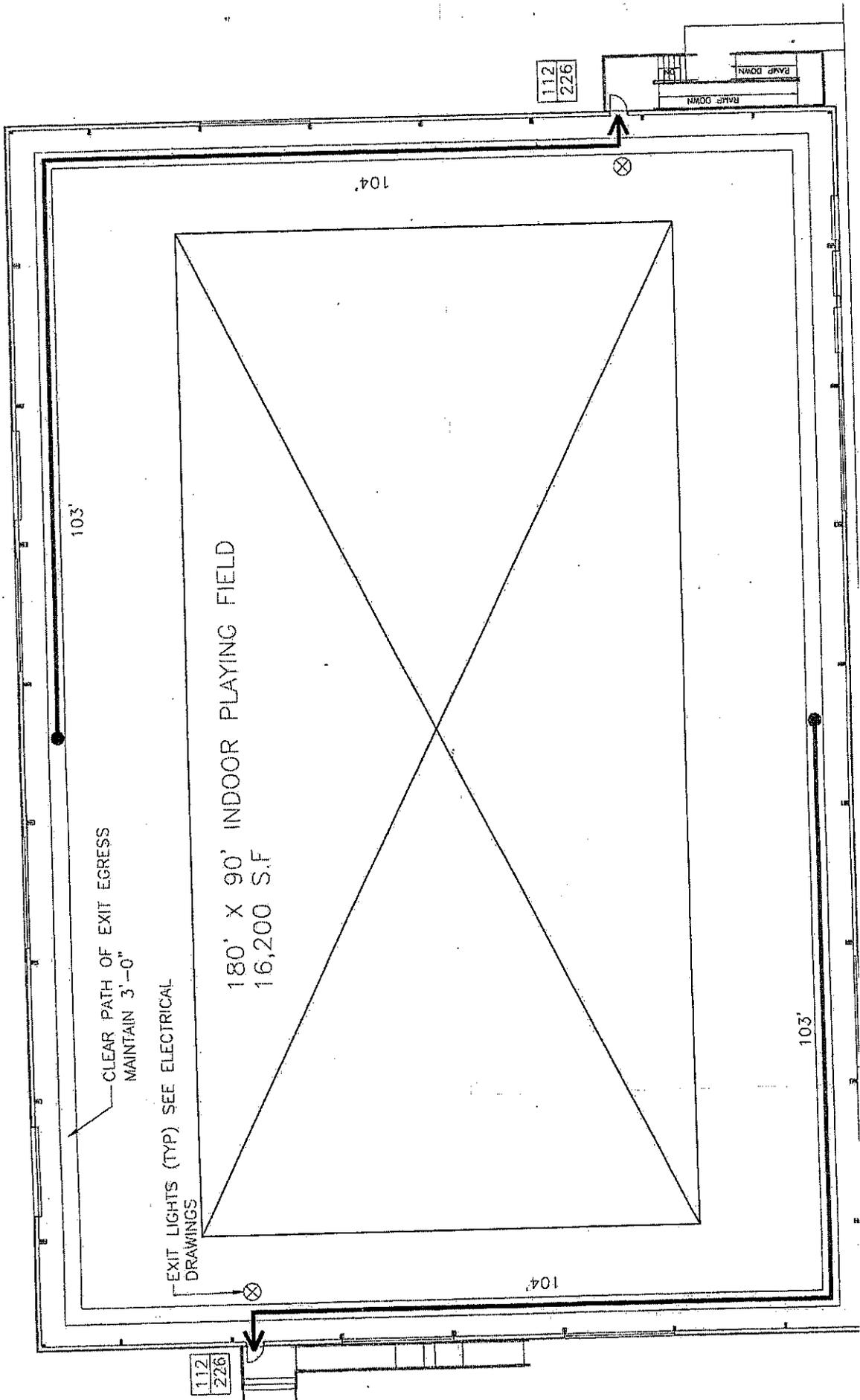


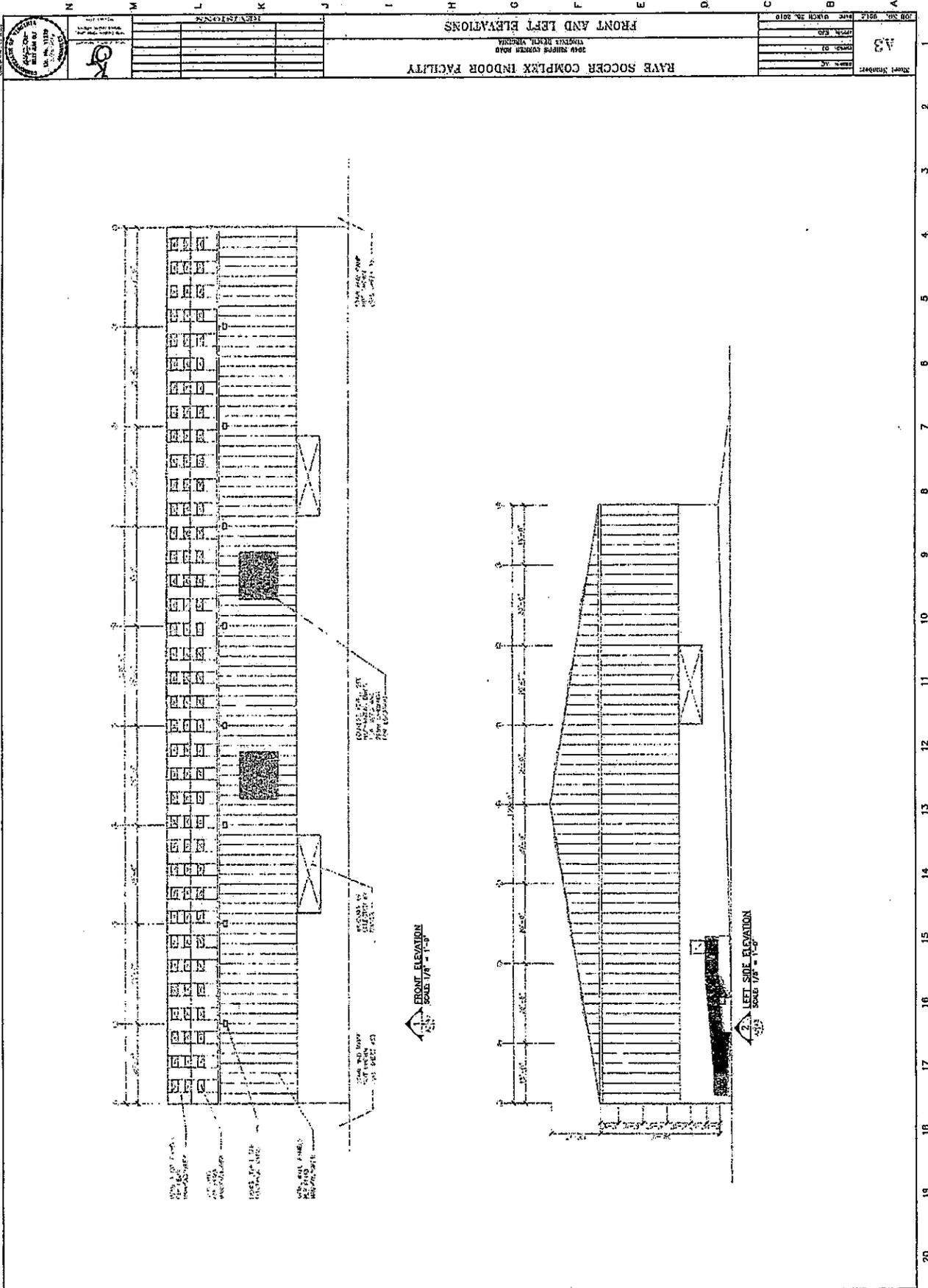
INDEX OF DRAWINGS

- GENS.
- 01. OVER SITE AND PLAN OF IMPROVEMENTS
- 02. AIRSIDE ELEVATION
- 03. AIRSIDE
- 04. AIRSIDE
- 05. AIRSIDE
- 06. AIRSIDE
- 07. AIRSIDE
- 08. AIRSIDE
- 09. AIRSIDE
- 10. AIRSIDE
- 11. AIRSIDE
- 12. AIRSIDE
- 13. AIRSIDE
- 14. AIRSIDE
- 15. AIRSIDE
- 16. AIRSIDE
- 17. AIRSIDE
- 18. AIRSIDE
- 19. AIRSIDE
- 20. AIRSIDE

3-2-78
 [Signature]
 [Signature]

	COVER SHEET AND INDEX OF DRAWINGS RAVE SOCCER COMPLEX INDOOR FACILITY # 98	SHEET NUMBER G1 TOTAL SHEETS 20
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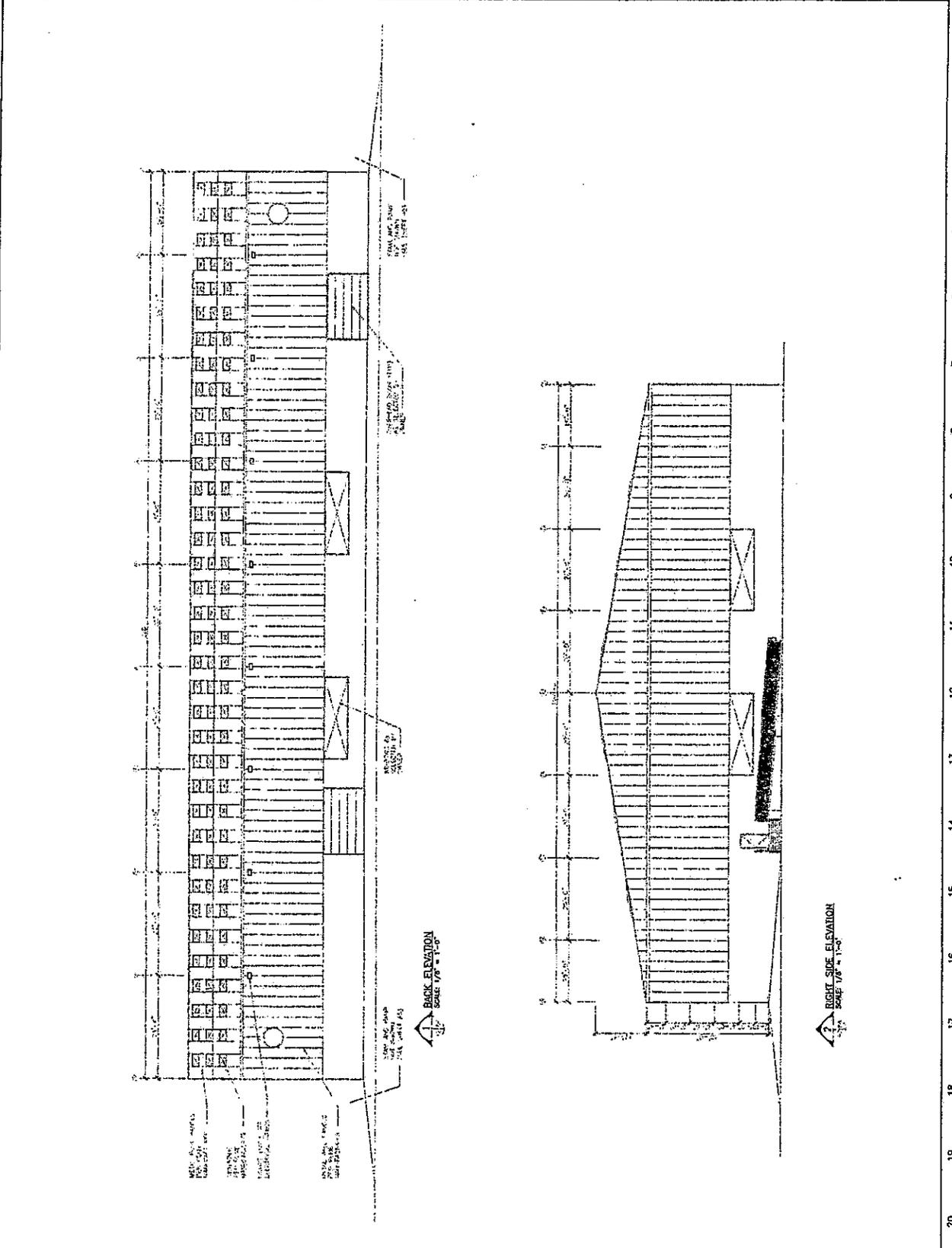
RAVE SOCCER COMPLEX INDOOR FACILITY
 2005 SOUTH GUYTON ROAD
 TWINNEE, MISSISSIPPI 38924

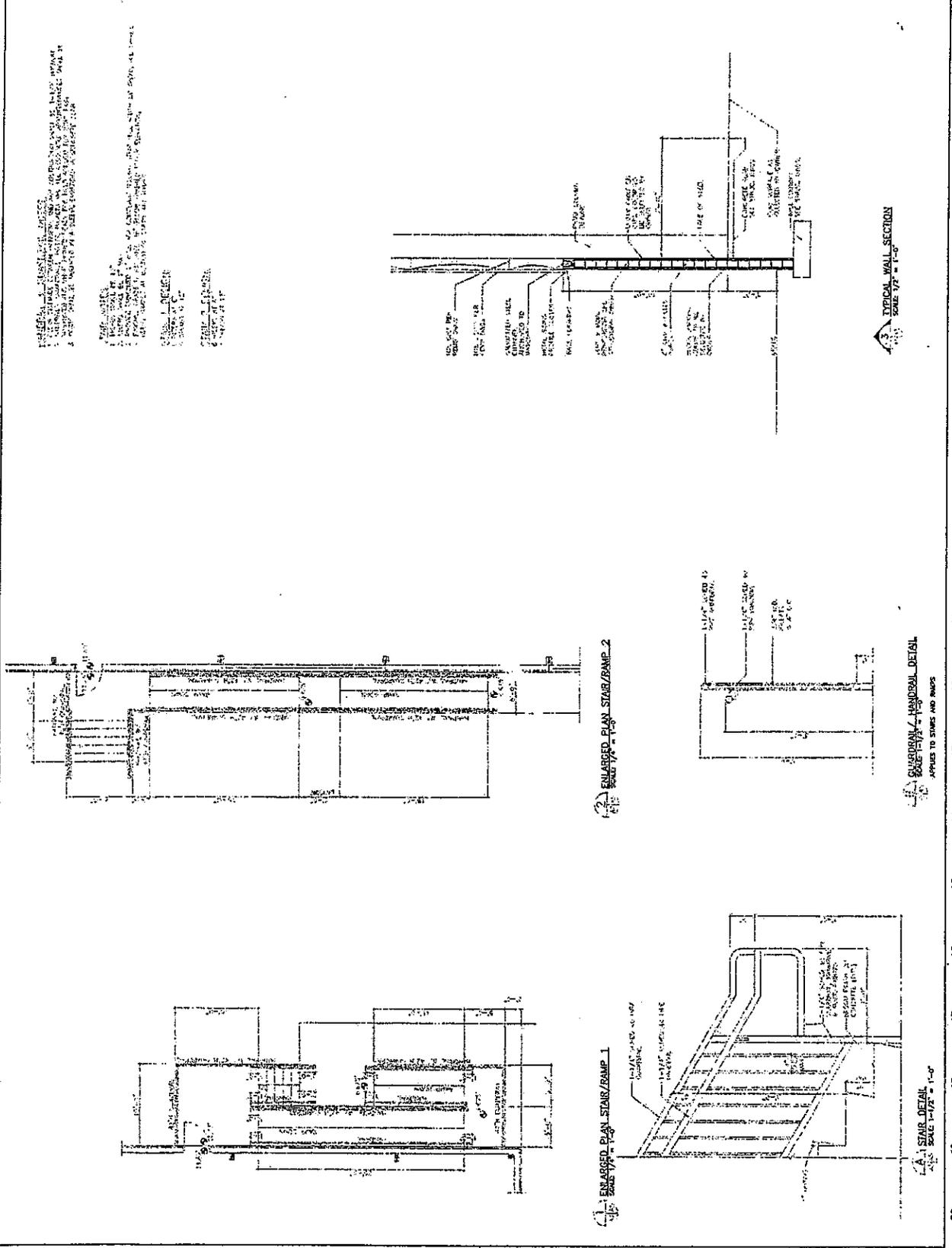
FRONT AND LEFT ELEVATIONS

DATE	MARCH 28, 2010
PROJECT	RAVE
OWNER	RAVE
DESIGNER	RAVE
SCALE	1/8" = 1'-0"

NO.	DESCRIPTION
1	FRONT ELEVATION
2	LEFT SIDE ELEVATION
3	RIGHT SIDE ELEVATION









KELLY J. OLT - ARCHITECT
 1679 CHURCH POINT LANE
 WOODVILLE, VERMONT 05795

GENERAL NOTES:

1. CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE 2006 UNIFORM STATEWIDE BUILDING CODE.
2. DESIGNER ASSUMES NO RESPONSIBILITY FOR ACTUAL CONSTRUCTION.
3. ALL INSTALLATION OF MATERIALS, WINDOWS, DOORS, AND INTERIOR FINISHES TO BE INSTALLED PER MANUFACTURER SPECIFICATIONS. DESIGNER ASSUMES NO RESPONSIBILITY FOR THEIR INSTALLATION.
4. ALL FINISHES TO BE SELECTED BY OWNER.
5. DO NOT SCALE DRAWINGS. VERIFY ALL DATA SHOWN AND NOTIFY DESIGNER OF ALL DISCREPANCIES.
7. ALL EXTERIOR SWINGING DOORS SHALL BE 36" R.O. WHICH IS EQUAL TO A MINIMUM 34" CLEAR OPENING.
8. SEE ELECTRICAL PLANS FOR EGRESS EXIT LIGHTS AND EMERGENCY LIGHTING.
9. SEE PREENGINEERED METAL BUILDING MANUFACTURER (PEMB) DRAWINGS FOR WALLS, ROOF, DOORS, WINDOWS, SKYLIGHTS AND OVERHEAD DOORS
10. FINISHED FLOOR LEVEL IS ASSUMED 11.80' (VERIFY PER CIVIL DRAWINGS). FINISHED FLOOR ELEVATION SHALL SERVE AS REFERENCE 0'-0".

DESIGN CRITERIA:

CODE: 2006 UNIFORM STATEWIDE BUILDING CODE

BUILDING DATA:

USE GROUP (303.1): A-3 ASSEMBLY
 CONSTRUCTION TYPE (602): 2B
 GROSS SQUARE FEET: 33,000 S.F.
 ALLOWABLE AREA (TABLE 503) ***EXCEPTION PER 507 UNLIMITED AREA BUILDING (507.6) GROUP A.
 OCCUPANT LOAD (1004.1):
 BASED ON SQUARE FOOTAGE MINUS THE PLAYING FIELD AND THE REQUIRED PATH OF EGRESS: 11,196 S.F.
 OCCUPANT LOAD: 11,196 / 50 = 224 PERSONS
 NUMBER OF EXITS (TABLE 1019.1) = REQUIRED 2 , PROVIDED 2.
 EGRESS WIDTH PER OCCUPANT W/ SPRINKLER (TABLE 1005.1): 224/3 EXITS=75 75 X.15 = 11.25"PROVIDED 34"
 MAXIMUM TRAVEL DISTANCE W/SPRINKLER (TABLE 1016.1): 250'
 RESTROOMS: INDOOR FACILITY IS PART OF THE RAVE SOCCER COMPLEX. RESTROOMS ARE LOCATED IN ADJACENT RESTROOM BUILDING WITHIN 500 FEET OF INDOOR FACILITY. (WC=1/125 M / 65 F) (LAV=1/200 M&F)
 REQUIRED: MALE= WC 1, LAV 1 FEMALE= WC 2, LAV 1
 PROVIDED: MALE= WC 3, LAV 2 FEMALE= WC 3, LAV 2
 BUILDING SHALL BE FULLY SPRINKLERED ACCORDING TO USBC/IBC 2006

DOOR SCHEDULE
 KARPEN STEEL DOORS



City of Virginia Beach

ET

PLANNING PERMITS & INSPECTIONS
(757) 385-4211
FAX (757) 385-5777
TDD (757) 385-1535

VI.gov.com
MUNICIPAL CENTER
3000 GOLF LINKS BLVD
VIRGINIA BEACH, VA 23462-3000

DATE: 3-9-11

2010 05135 80
Soccer complex

Please deliver the following page(s):

TO: ORION FAX NUMBER: 658-1009
FROM: PRE H. GASKIN TELEPHONE NUMBER: (757) 385-4211

If you do not receive all pages, please call as soon as possible. Our office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday.

Comments: Permits scheduled for FINAL TODAY...

I still HAVE NOT RCVD:
• FINAL SPEC INSP REPORT
• Revised site plan,

until I receive these items, and items NOTED on 1/26/11, I will NOT be out to inspect.

THANK YOU
H. GASKIN

Total number of pages including this FAX cover letter: ①

TX RESULT REPORT

NAME : ZONING
TEL : 7573855777
DATE : MAR. 09, 2011 07:30

SESSION	FUNCTION	NO.	DESTINATION STATION	DATE	TIME	PAGE	DURATION	MODE	RESULT
5392	TX	001	95581009	MAR. 09	07:29	001	00h00min26s	ECH	OK

01 FOOTING: _____

02 FOUNDATION: _____

03 SLAB: _____

(19) 1-4-11 Rej. JB 004 site work

LNBSep
HAAS @ SKPS
PANIC MIDWR
etc

04 FRAMING: _____

1/26/11 Rej. JB

SPEC INSP
HC Access
SHED
DUMPSTER
BLDG NOT LOCATED Per Site
PARKING Lot
NO SIDE ENTRY
004

05 INSULATION: _____

Referred to PLANNING
For Guidance

06 BMP ROUGH IN: _____

(19) 3/9/11 - SPOKE to OWNER - 0900 - waiting for
PLANNING to approve site plan

07 POOL FINAL: _____

18 TEMPORARY FINAL: _____

3/9/11 004 JB

19 FINAL: _____

1/4/11 1/26/11
3/9/11

COMMENTS: _____



90 DAYS UNTIL E11 SYSTEM IS COMPLETE

City of Virginia Beach M.S.C

OK for 90 days expires 4/22/11

VBgov.com

C. F. HARRIS

Virginia Beach Fire Department Fire Watch Requirements

Business Name: RAVE SOCCER COMPLEX Incident Number _____
 Business Address: 29419 SHIPPS CORNER ROAD VA. BEACH, VA. 23454
 Inspector Notified: J. RAMSEY Date: _____ Time: _____
 Reason for Fire Watch: IT WAS REQUESTED FROM BUILDING OFFICIALS.

The required fire protection equipment for this premises, was determined to be inoperable. Normally, this would prompt a requirement to evacuate the building; however, as an alternative you may establish a fire watch until the fire protection equipment/system is returned to full service.

If you agree to establish a fire watch, the following criterion shall be employed:

- A responsible adult must routinely make rounds of the structure, at thirty (30) minute intervals, to observe any conditions that may cause a fire. A log shall be kept with date, time and responsible person making the rounds.
- If a fire is discovered or suspected, immediately notify the Virginia Beach Fire Department by dialing 911; notify all residents and /or person(s) in the immediate vicinity, and recommend evacuation of the premises.
- The responsible person assigned the task of "fire watch" shall not perform any other duties while performing the duties of a "fire watch" (i.e. sweep floors, empty trash, etc).

The City of Virginia Beach Emergency Communications Center (757-385-5000) shall be notified when the fire protection equipment/system is fully operational and back in service. A fire watch is not officially discontinued until confirmed by a representative of the Fire Marshal's Office.

These requirements were explained to the responsible person by the fire official.

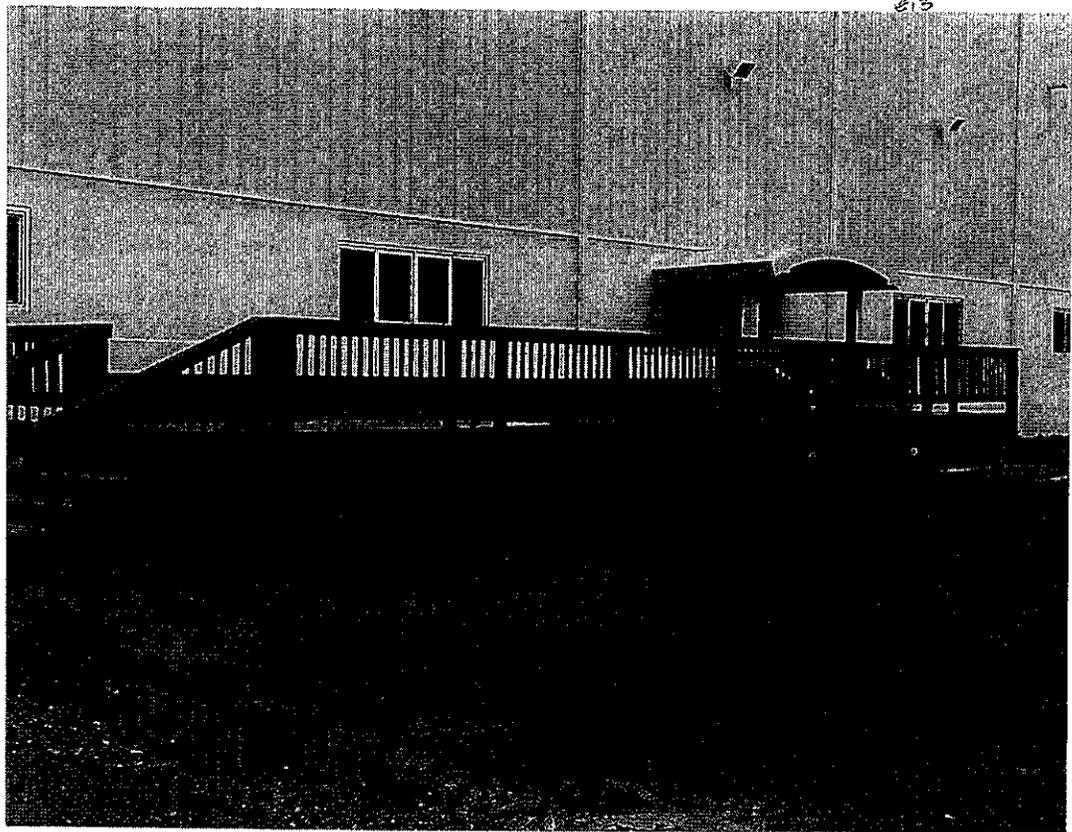
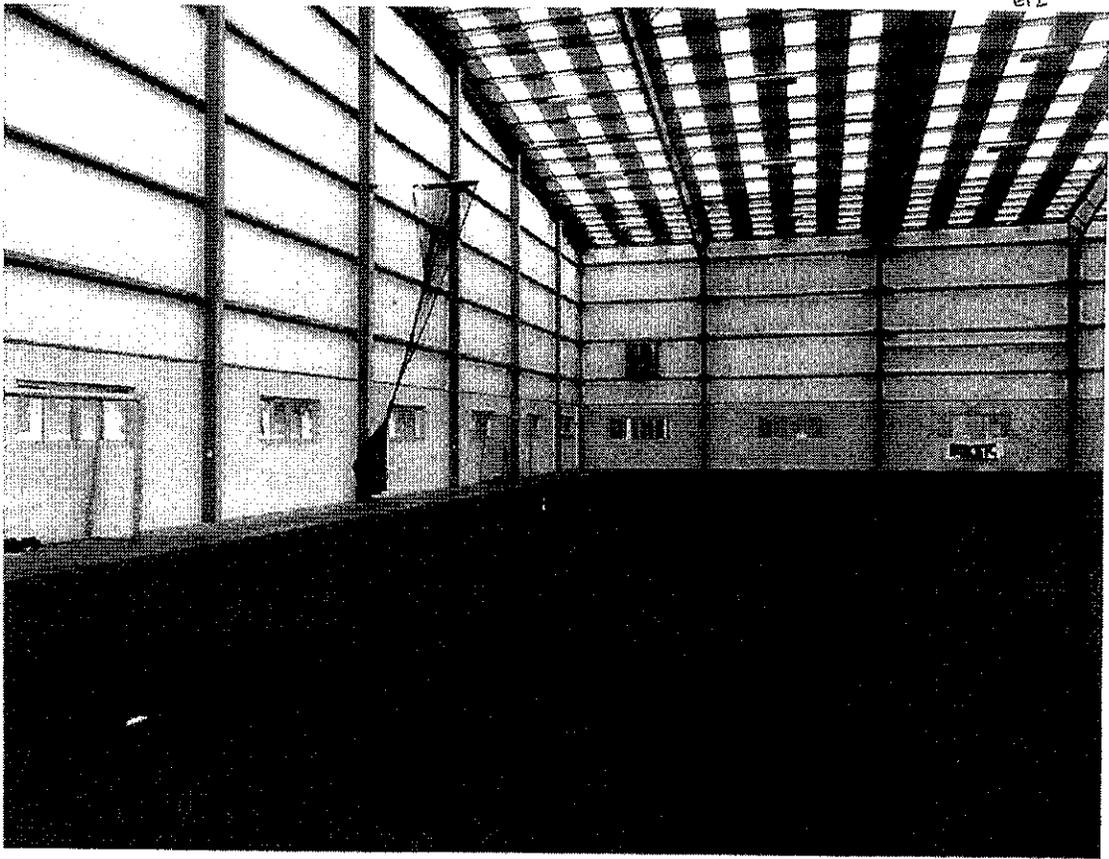
James M Ramsey 1/22/2013
Fire Official / Date / Time

I agree to establish a fire watch according to the criteria herein set forth. I affirm I am the responsible party for the premises identified and will hold the City of Virginia Beach, Virginia harmless for any damages incurred from the enactment of this agreement.

A fire watch permit fee of \$25.00 is required after forty-eight (48) hours or by the first business day after the failure of a fire protection system and is required every seven (7) days thereafter.

Responsible Party (Print Name) Selim Ozic Signature [Signature]

Date Jan. 22, 2013 Responsible Party Phone Number 757-544-4107
757-621-4828



Cheri B. Hainer

From: Cheri B. Hainer
Sent: Friday, February 22, 2013 4:28 PM
To: RAVE Holding LLC; Karen Lasley; Beverly K. Wilson
Cc: 'Anita McCorkle'; 'Eric Garner'; vianevar@yahoo.com; Ron Frink; Karen Prochilo; Curtis A. Muller; David W. Corey; Michael B. McIntyre
Subject: RE: RAVE SC addition

Mr. Ozic,

As stated in our meeting 1/22/13, the need for a sprinkler system for this facility was a requirement of construction per the 2006 Virginia Uniform Statewide Building Code (USBC) Sections 503.1, 506.3 and 903.2.1.3. Per Table 503, an A-3 use group classification constructed of Type 2B construction methods is limited to 9,500 square feet in total area. Per Section 506.3, a 300% increase in area is permitted when "the building is equipped throughout with an automatic sprinkler system". $9500 \times 300\% = 28,500 + 9500 = 38,000$ sq ft allowable building area – your building is 33,000. Although Section 903.2.1.3 has an exception not to install sprinklers over participant sports areas, that exception is not applicable in this circumstance per Section 506.3. The code commentary for this section reiterates "note that if the exception is claimed and sprinklers are omitted from the sport area, the building would not be considered completely sprinklered in accordance with Section 903.3.1.1 for purposes of allowing construction alternatives, such as height and area increases". Therefore, the permit would never have been issued if it was not understood that a sprinkler system was a requirement of construction and occupancy.

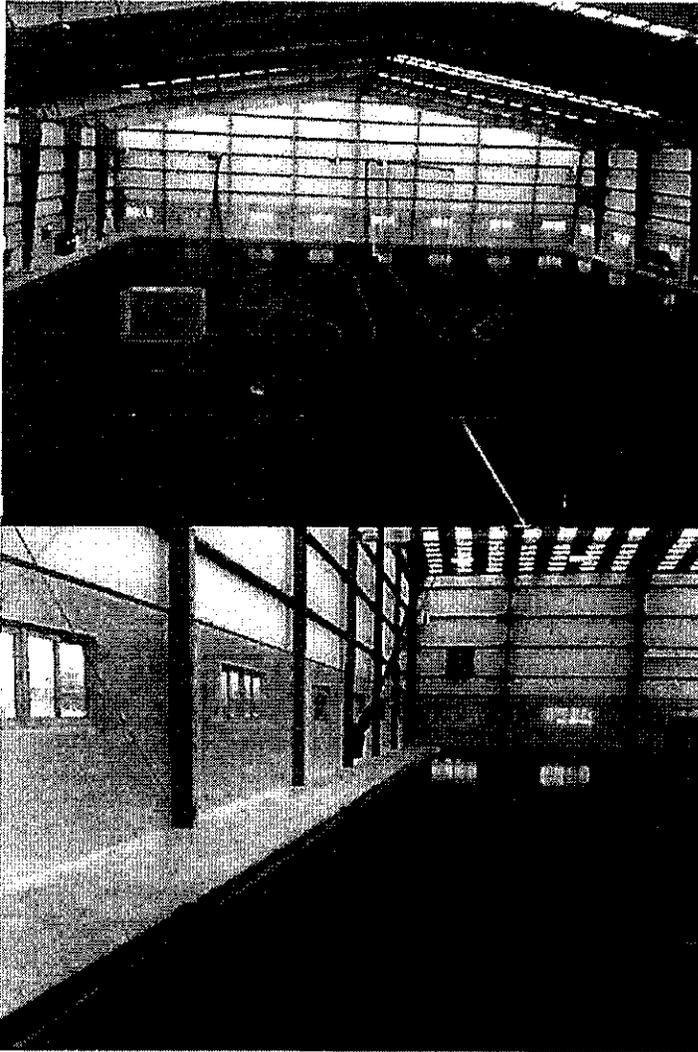
Moreover, based on information from the RAVE website, the building is not only being used for soccer but also other sports such as lacrosse and volleyball – which have very different field/court sizes and configurations, which would raise issues as to any exemption for playing fields. From your webpage, In 2010 indoor clay fields were constructed to accommodate athletes during winter months and inclement weather. In addition to soccer, RAVE began to host softball and baseball. In 2011, clay surface was replaced with multi-sport shock-absorbing flooring system. Futsal became one of the major sports played in this facility.

From pictures on the website you can see there are no longer dirt floors, and that partition netting has been added, increasing the fire load. I also notice from the pictures that some sort of HVAC units have been added and there are no permits for this work. Your website advertises 250 parking spaces but I count less than 100 hard surface, marked, appropriately sized spaces in compliance with the Zoning Ordinance. The approved site and installation of construction (such as parking lot) have been an outstanding issue since 3/09/11.

As we discussed in our 1/22/13 meeting, if you felt the sprinkler system was not a requirements and/or has been waived, you had two options – provide documentation of a modification indicating it was waived by this office or appeal the decision that the sprinklers are required. Per Section 119, the timeframe for an appeal has expired. Furthermore, fire sprinkler companies do not make the determination whether sprinklers are required.

I believe you were notified by the Fire Marshall's Office that the fire watch was not supposed to be for the construction started without permits but rather the entire building, as a temporary protection measure until sprinklers could be installed. The fire watch expires 4/22/13, and unless progress is made to address this issue, the fire watch will not be extended and thus occupancy of the facility will not be allowed.

E10



P & I staff are available to assist with the installation of an approved site plan, and the permitting of all outstanding construction violations.

Cheri Bright Hainer, CBO
Permits and Inspections Administrator
Planning/Permits & Inspections
2405 Courthouse Drive, Building 2, Room 100
Virginia Beach, Virginia 23456
757.385.4211 757.385.5777 (fax)

From: RAVE Holding LLC [mailto:ozic@verizon.net]
Sent: Thursday, February 21, 2013 3:29 PM
To: Karen Lasley
Cc: 'Anita McCorkle'; 'Eric Garner'; vianevar@yahoo.com; Ron Frink; Karen Prochilo; Cheri B. Hainer
Subject: RE: RAVE SC addition



City of Virginia Beach

VBgov.com

PLANNING DEPARTMENT/PERMITS & INSPECTIONS
PHONE (757) 385-4211
FAX (757) 385-5777

MUNICIPAL CENTER
BUILDING 2, ROOM 191
2405 COURTHOUSE DRIVE
VIRGINIA BEACH, VA 23456-9040

May 22, 2013

Kelly J. Olt
1676 Church Point Lane
Virginia Beach, Virginia 23456

Re: 2949 Shipps Corner Road / Shipps Corner Soccer Complex
Permit #201005135B0

Dear Ms. Olt:

In response to your May 14, 2013 letter, the Virginia Construction Code (VCC), Part 1 of the Virginia Uniform Statewide Building Code (USBC) Section 106.3 does afford the building official the authority to grant modifications to the USBC "provided the spirit and intent of the code are observed and public health, safety, and welfare are assured". In making such a determination all available information, including commentary and previous code editions, is to be considered so to better understand the intent of the code provision.

There is an order of precedence that is applied to the design of any structure, such as designating the use group classification and type of construction. USBC Table 503 is the core of all design requirements based on established risk/safety factors for the occupants. As noted, Use Group A-3 of Type 2B construction has limited the allowed construction to 9600 square feet, unless prescribed methods of alternative protection as found in Section 506 are employed. Per Section 506.3 of the 2006 USBC, "where a building is **equipped throughout** with an automatic sprinkler system in accordance with Section 903.3.1.1, the area limitation in Table 503 is permitted to be increased... 300% for buildings with no more than one story above grade plane". $9600 \times 300\% = 38,400$ square feet. It is extremely important to note the building permit would not have been issued without assurances of compliance with these provisions.

The exception for not providing complete sprinkler coverage in Section 903.2.1.3 specifically reads, "Areas used **exclusively** as participant sport area". Based on information available on the Rave Soccer Complex and Virginia Rush Athletic Club websites, not all 26,890 square feet is used as playing fields. Directly from these webpages, "33,000 square feet indoor multi-sport facility", "33,000 Sq. ft. indoor sport court field with the option to be **divided into 3 smaller fields**" and "In addition to soccer, RAVE began to host softball and baseball". Virginia Rush's webpage indicates the Atlantic Wave Volleyball, Saints Field Hockey, Legends Elite Softball and V3 Lacrosse all practice and play at this facility, in addition to several summer sport camps for children ages 4 to 18. Research has found field sizes for the various sports ranging from 30' x 60', 60' x 60' infield, to 60' to 110', with required sideline spaces between the

Ms. Olt
Page 2
May 22, 2013

fields. Depending on how many fields are employed based on what sports are being played, there could be numerous large non-playing-field areas throughout the facility unprotected, occupied by players, coaches and spectators.

The additional items referenced as alternative protection measures, such as fire extinguishers and fire hydrants are actually required in other provisions of the USBC and the Code of Virginia Beach in regards to this facility, respectively. Moreover, the installation of the dividers needs to be explored more closely as they could impede egress from certain areas of the building.

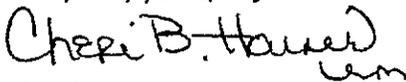
It is my determination that the facility is not so unique that the requirement for sprinkling the entire building is thus applicable and cannot be waived as; the building's size was allowed based on the requirements for the sprinkler system; there is the possibility of numerous occupied areas that are not sports fields; a limited sprinkler system installed along on the exterior sides of the structure only is not sufficient to assure the safe occupancy and egress of the public; and the fire hydrant that will be installed is actually a requirement of the City of Virginia Beach and is not a voluntary measure that would make the safety of the structure more complete with its installation.

Therefore, notwithstanding the requirements of USBC Chapter 5, the modification request to exempt participant sports areas from the requirement to be equipped with an automatic sprinkler system cannot be approved. It is my determination for the reasons stated above that your request for modification does not provide that the spirit and intent of the code is observed and that public safety, health, and welfare is assured.

Furthermore, a certificate of occupancy will not be issued until a site plan reflecting all improvements on the site is approved and all associated construction completed; outstanding permits for the out buildings, bathroom addition and deck are obtained and final inspection approved; the building is equipped, permitted, inspected and approved throughout with an automatic fire suppression system in accordance with USBC Section 903.

You may appeal this decision according to the Uniform Statewide Building Code (USBC), Section 119.5. It requires a written letter of request of appeal to the local Building Code Board of Appeals within 30 calendar days of receipt of this letter.

Very truly yours,



Cheri B. Hainer, CBO
Permits and Inspections Administrator

c: B. Kay Wilson, Associate City Attorney
James Ramsey, Fire Marshall
Ron Frink, Development Services Center
Selim Ozic, Owner

KELLY J. OLT
1676 Church Point Lane
Virginia Beach, Virginia 23455
757 639 8994

Date: 6/16/2013

Board of Building Code Appeals
Ms. Robin S. Morse
Planning/Permits and Inspections
2405 Courthouse Drive, Room 100
Virginia Beach, Virginia 23456

Re: RAVE Soccer Complex
Rave Indoor Facility
Appeal to Board

Property Owner: RAVE Soccer Complex LLC
2949 Shipps Corner Road,
Virginia Beach VA 23455

Robin S. Morse,

The attached letter was submitted to the City of Virginia Beach in an effort to allow that the Rave Indoor Facility Sprinkler System be limited to the area surrounding the sport court based on code section 903.2.1.3, which allows an exception that exempts the sport court area from the sprinkler requirement. The code does not specifically say that the area and height increases would be negatively affected by the use of this code section exception.

Ms. Hainer's response, also attached, is based on promotional information obtained from a website which does not fully explain the sport court, the activities that occur, the scheduling of activities nor any of the maintenance and operational agreements under which Rave Indoor Facility currently operates. Furthermore, Ms. Hainer went on to make assumptions based on the information obtained on the website with regard to field playing areas and spectator allowances that are not accurate for this type of facility.

According to code section 903.2.1.3 the area of the sport court is exempt from the sprinkler system. The sport court area shown in the drawings and currently installed encompasses 26,890 S.F. of the 33,000 GSF building. There are no breaks in the sport court area. The divider curtains do not allow room for spectators within the sport court area when fully extended nor are non-players allowed on the courts per operational and maintenance guidelines. There is no mention in the code about limits to the use of the sport court area, how many sports can be played or not dividing the sport court area with movable, semitransparent, curtains. The curtain meets code as described in the attached letter.

Rave Indoor Facility is unique in that the larger sport court with limited surrounding area does not promote spectators whereas other area indoor facilities encourage spectators to hang around.

Information in regard to other protection and code compliances supplied to Ms. Hainer was an effort to show that Health, Safety and Welfare were taken into consideration and that the owner was following the code with regard to Life Safety, not to insinuate, as she did, that he was going above and beyond what was required.

We feel that Ms. Hainer's faulty assumptions in regard to the uses within the facility and the owners intent justify an appeal to the Board for an interpretation of the applicability of the section 903.2.1.3 exception to allow the 33,000 S.F. Rave Indoor Facility with a sprinkler system installed around the perimeter of the sport court area.

Respectfully,



Kelly J. Olt, AIA

License Number 11279

Cc: M. Selim Ozic

**BOARD OF BUILDING CODE APPEALS,
NEW CONSTRUCTION DIVISION
RESOLUTION**

WHEREAS, the City of Virginia Beach Board of Building Code Appeals, New Construction Division is duly appointed to resolve disputes arising out of the enforcement and interpretation of the Virginia Building Code (Virginia Uniform Statewide Building Code, Part I, New Construction); and

WHEREAS, an appeal has been filed and brought to the attention of the Board by Kelly J. Olt for Rave Soccer, in regard to the denial of a modification for a sprinkler system for a structure located at 2949 Shipps Corner Road, Virginia Beach, Virginia; and

WHEREAS, a hearing has been held on July 1, 2013 to consider the aforementioned appeal; and

WHEREAS, the Board has fully deliberated this matter,

THEREFORE, be it RESOLVED, that in the matter of Rave Soccer Complex, LLC and the denial of a modification for a sprinkler system for the structure located at 2949 Shipps Corner Road:

The appeal is hereby

-denied and the decision of the Building Code Official is upheld, OR

-approved and the decision of the Building Code Official is overturned OR

-neither approved nor denied, but the decision of the Building Code Official is modified as follows:

For the reasons set out below:

as the Code is clear as to the Building size and the permitted uses within the A-3 occupancy. The structures courts could be reconfigured.

Date:

Signature:

7/1/13
William [Signature]
Chairman
[Signature]
[Signature]
[Signature]

Upon receipt of this resolution, any person who was a party to the appeal may appeal to the State Review Board by submitting an application to such Board within twenty-one (21) calendar days upon receipt by certified mail of this resolution. Application forms are available from the Office of the State Review Board, 600 East Main Street, Richmond, Virginia 23219, (804) 371-7150.

Building Code of Appeals Board Hearing
July 1, 2013 at 3:00 PM
Planning Conference Room

Board Members Present: William "Bill" Davenport, (Chairman), Richard Hudson, Rick Savino, Chris Ettel

Applicants Present: Kelly J. Olt, AIA and Selim Ozic, Owner

Staff Members Present: Kay Wilson (City Attorney), Cheri B. Hainer (Building Code Administrator), David Corey (Fire Protection Engineer), Chief James Ramsey (Fire Marshall), Robin Morse (Recorder)

Mr. Davenport: Okay, we will call this meeting to order, with a quorum present for the board, and maybe we will just go around the room real fast and do some introductions. I am Bill Davenport, Chairman of the Board of Building Code of Appeals and then we have.

Mr. Hudson: Richard Hudson.

Mr. Savino: I am Rick Savino.

Mr. Ettel: Chris Ettel, VB Homes.

Ms. Olt: I am Kelly Olt, Architect.

Mr. Ozic: I am Selim Ozic, owner of the building.

Mr. Davenport: Okay:

Chief Ramsey: James Ramsey, Fire Marshall.

Ms. Wilson: I am Kay Wilson, City Attorney I represent Mrs. Hainer.

Mrs. Hainer: Cheri Hainer, I am the Building Official.

Mr. Muller: Curtis Muller, Plans Examiner.

Mr. Corey: Dave Corey, Fire Protection Engineer.

Mr. Davenport: And Robin Morse, Secretary. I guess before we get started we make sure we will have all of our documents in place for everybody to look at and just to let you know that any photographs that we see, we will have to have prints of those.

Ms. Olt: Okay. It's a video.

Mr. Davenport: Rick, are you okay with seeing the video?

Mr. Savino: Yea, I would defer to Cheri and if they object to seeing the video, because you are right, if this goes beyond here, how are they going to present the case?

Mr. Davenport: Just for my sake of getting introduced to the project is all. Richard, how about you?

Mr. Hudson: I agree with Cheri, you can't put it in the file.

Mr. Savino: And I will say, just for I have played soccer and I have been in these facilities, to me it is pretty clear as to what is going on there. I don't know that we necessarily need any more than that unless if there is something important in the video that would show.

Ms. Olt: No, no.

Mr. Ozic: Only the area off, that you know, no spectators can't be, there is no space for it.

Mr. Savino: Oh okay.

Mr. Ozic: And I think that is very important to see that.

Mr. Davenport: No space for seating.

Ms. Olt: A close up. A close up of that.

Mr. Ozic: Nothing, it I just less than a 30 second video. It is not something too much to show.

Mr. Davenport: Can we watch it, let's just see it? They brought it, they went through the trouble of putting it together, you guys, let's just see it.

Ms. Wilson: Okay, we will still object, fine you have ruled.

Mr. Davenport: Robin, if you will.

Ms. Olt: I apologize, it skips, something with media playing.

Mr. Hudson: Cheri, could they turn over the flash drive to put in the file?

Ms. Hainer: Not sure.

Ms. Olt: It seems to be running.

Ms. Olt: I am the architect for the project, I designed the building. Architecturally, there was a structural engineer, mechanical and electrical engineers that also designed the, helped with the design of the building. So it was yea, mechanical, electrical, structural, and I am the architect.

Mr. Davenport: Okay.

Ms. Olt: Of the project. So from the very beginning I have been on the project.

Mr. Davenport: So the permit was issued?

Ms. Olt: Yes.

Mr. Davenport: The building was built?

Ms. Olt: Yes.

Mr. Davenport: And then you were notified that it needed to be sprinklered.

Mr. Olt: Yes.

Mr. Ozic: But, well, originally it was waived, I honestly don't want to go into that. It was waived, and we occupied the building for three years, we played on that and two or three years coming back, they say, listen, you need to sprinkler the building. But I called, and looking at the circumstances, I agree you know, we have to do something because you know so many kids going in and out of there and then you know we have to find a compromise. Whatever happened before is really invalid, right now we have to move forward, we have to resolve this issue.

Ms. Olt: A Certificate of

Mr. Davenport: When were you notified that you had to have it sprinklered?

Mr. Ozic: I was notified, if I am not mistaken, it has been almost maybe 8 months ago. I don't want to give you an accurate date, I...

Mr. Davenport: Before Christmas?

Mr. Ozic: Yes, yes.

Mr. Davenport: Yes, okay.

Ms. Olt: A Certificate of Occupancy, he went to do something else with the building and found that a Certificate of Occupancy was not issued.

Mr. Davenport: And this was the first one that was submitted.

Mrs. Hainer: This is the first plan that was submitted.

Mr. Davenport: This is the one where they got the site plan permit.

Mrs. Hainer: Right.

Mr. Davenport: Okay.

Mrs. Hainer: This has been approved, the building permit was approved, half of the parking lot was put in, the fields were put in the fence put up. They were granted occupancy of that.

Mr. Davenport: Okay.

Mrs. Hainer: Then they went and had their Use Permit amended, and with that submitted this site plan for the Use Permit because for this use, they had to go back to City Council to have their conditions re-heard.

Mr. Davenport: And where does this fit?

Mrs. Hainer: You can see right there is the small building. Right there is the small building, so this fits here in that corner.

Mr. Davenport: Okay.

Mrs. Hainer: Okay. They obtained their permit.

Mr. Davenport: So this angular property up here is the same one.

Mrs. Hainer: Right.

Mr. Davenport: Same one?

Mrs. Hainer: Exactly, exactly.

Mr. Davenport: It appeared, the windshield on a car.

Mrs. Hainer: Right, exactly.

Mr. Davenport: Okay.

Mr. Davenport: Oh, okay.

Mrs. Hainer: Which would give them an allowed, which would give them, allow them to go to 23,750. So, but that is still not large enough for what they need, so we looked at the other which is automatic.

Mr. Davenport: What did they need?

Mrs. Hainer: 33,000.

Mr. Davenport: I am not trying to exclude you from, but.

Ms. Olt: Oh, no, no no.

Mr. Davenport: We will give you a chance to talk again.

Ms. Olt: I am writing down anything I might

Mrs. Hainer: So that, so in order to increase it more to get to the 33,000, there is another provision 506.3 which allows for Automatic Sprinkler System Increase, you get a 300 percent increase if you are 1-floor area for not exceeding walls over 20 feet and I don't know how tall they are or you get 200 percent if you are more than 1 story, you get a 200 percent increase. So we figured out both ways there. If we give them the 300 percent increase then they are at 38,000 which allows them to build it because the building is 33,000 square feet. If not, with just the 200 percent increase that takes them to 28,500, but if you allow the frontage increase you are at 42, so you needed one or both of those to be able to build the building as required.

Mr. Davenport: Okay, so the two options they have to build the building as required is to add the fire suppression system.

Mrs. Hainer: Yes.

Mr. Davenport: Or?

Mrs. Hainer: Or the frontage increase, which they got. But they, the issue is, and I didn't really look at the plans to make sure, I was just looking at the 200 percent increase, one story gives you 300 percent increase, but you can't exceed 20 feet, they count a one story as 20 feet and I don't know how tall the walls are. Are they 20 feet or are they exceeding that? But in any case, if we use the 200 plus we do the 150, they comply, okay?

Mr. Davenport: Okay, and how do you increase frontage?

Mrs. Hainer: They, the code assumes that you have 25% on a public way, a street frontage. And if the other perimeter is at least a 20 foot clearance to another building or

Mr. Davenport: So, this is good that they can use the 2006?

Mrs. Hainer: Right. Well, so they have.

Mr. Davenport: Good for them, I mean.

Mrs. Hainer: They have asked to apply the exception to their building and only sprinkler the perimeter and they have asked for this as a modification and I rejected that for several reasons, one being we would never have issued the permit if we didn't, if the plans didn't show that they were going to be sprinklered because in order to get all of the increases, you need the sprinkler system in there. The second is, if you read the last paragraph in that commentary part, it talks about the A-3 building and I gave you a copy of all of the uses that are included in A-3. Because there is no set seating, there are a lot of other activities that can take place in there. We have had a similar request for this modification for a tennis center that was built on Great Neck Road. They didn't want to have to sprinkler the tennis courts. I said is this all that is ever going to take place there, he said well no, we are going back to have our Use Permit amended so we can have some tournaments and we will have seating in there. I said well that is going to change it, and oh yea and we have a new year's eve party every year. Even though that may not be your intent, you do lease it out to other people and it could be there. Because there is no spectator seating there, the possibility is other things can take place and that is why it is very hard to enforce because this is clearly for only the participant sport area. We have only granted this modification with this exception one time and that was to Cape Henry Collegiate Schools because they have an auditorium that we made them sprinkler everything but the basketball court and even though they had 3 basketball courts that were for practice, they only got the exemption on the center court because they could pull the bleacher seats out and you have got to protect the seats, you have got to protect the people in there and can exit. Even though they wanted the whole thing, we only allowed the one final court that was in the middle. There is also some attachment on what is NFPA and about their requirements, and when using an NFPA 13 system, everything has to be sprinklered unless there is an exception allowed under NFPA. And I have Dave Corey, our Fire Protection Engineer here that can help answer any questions and of course, Chief Ramsey knows that as well. In the 13 system, there aren't any areas, they want every nook and cranny done. If you use a 13 R which is a residential system, you don't have to sprinkler the attics, you don't have to sprinkler closets under a certain size, but it doesn't get you this complete coverage. Also in the packet, I have given you the code section about the modification and there is a note that says that we can use future amendments or future codes. It used to read, and I don't know why it was changed that you could use any professional journals, any publications, anything that was available to you that would help substantiate the information needed for modification. And for me, the commentary is very critical because it tells me the intent of the code and what I am enforcing. The last issue that I have is with the pictures, if you look closely at the pictures you can see where there are some courts on the top one and there are some x's white space there. You can see those, and it also similar in the site plan that you have that shows the

says that you can't take the area increases, I am sorry, the sprinkler increases if you use the exemption. So that is where we went, is the commentary is a document that yes, the building official can use, the architects, the engineers, they all use this, and sometimes, I didn't even see that in there until it was pointed out, but it is commentary and it is for the interruption by the building official and I agree with that.

Mr. Davenport: Let me interrupt for a second, this is the commentary she is referring to.

Mrs. Hainer: Yes.

Mr. Davenport: This highlighted.

Mrs. Hainer: Yes, yes. You have on the other pages, the actual code section as it reads in the code book.

Mr. Davenport: Okay.

Mrs. Hainer: And the other side is the commentary and also is the provisions and the area increase, the 506.3 that says it has to be sprinklered throughout.

Mr. Davenport: Okay, I am sorry, go ahead.

Ms. Olt: The other thing about this striping, she is correct that this is constant, the white lines are moved that you see in these pictures, they are not permanent, they are moved, they are moved around differently for whatever the use is, if they need a larger soccer, I am sorry football field, they are moved around constantly.

Mr. Davenport: What did you call it, football?

Ms. Olt: Football.

Mr. Ozic: This facility is for football, we spent a lot of money to include, to educate ourselves, what is good for our kids, what can we bring in the area to increase, I believe..... soccer..as a nation we can't compete against European grass area, you know all of this, so we brought this idea in, that football. With the football in, we cannot have spectator inside, the ball is approximately, it is not a regular soccer ball, it is a very heavy ball, you cannot bring it higher, it is a heavy ball, therefore this sport that you see here, you can only play football here, any other sports although the Rush, who are our current tenant, the lease the premises, they released some marketing. We stopped them, it is on their website what they can do in this facility and what they cannot do. The spectator cannot set on the side line here. I don't know if you have played soccer or football, you will see it, you will get hit by the ball. So the parents that brought their kids, they have to leave, they cannot go inside and sit and watch the game. This is just training facility. It is designed for that and that is what, there is only one on the East coast, and there is one in New York, so when you have a situation like that, and then you are going to sprinkler that, it is a 45 foot high eave, why do you want to sprinkler

Ms. Olt: Currently, he is currently in negotiations and discussions with Rush because of what they put on their website.

Mr. Ozic: And we give notice to them that they have to vacate the property if they bring anybody in like that, the last problem we have with...we kicked them out of the premises, he wanted to fight me over that....we always compete our games over there because this facility is our intention and we don't make any money off of it, just keep in mind, so you all know that. The only intention is to make sure we are competing in your work....with all of the nations...that is all we are trying to bring the profession here, try to bring soccer, you know teach our kids this.

Mr. Davenport: Strickly footsall here?

Mr. Ozic: Footsall primary.

Ms. Olt: No, only footsall;

Mr. Davenport: Soccer is for outside?

Mr. Ozic: Soccer is outside.

Ms. Olt: Soccer is outside and have to wear ...shoes

Mr. Ozic: You know what they do; if you right now, if you go to the Rush website, the kids two times a week they play outside and one time they have to come inside to play footsall. The reason being is you never most of our kids don't have dribbling skill, don't have you know holding the ball, passing, they don't have any of those so we put it out and bring it so we can teach our kids on this court so they can, you know increase their ability to keep up with other nations... We lost.....we need to have each other to increase that. Now we come here and bring some idea like that and three years later ya'll said hey you have got to put a sprinkler system in there. You know what, yea I will do it, fine, let's put a minimum in there. We really don't need it, look at here, this is 45 foot high buildings.

Mr. Davenport: Okay. Did you have?

Ms. Olt: I do with the striping, it is, the court takes up over 26,000 square feet of the 33,000 square feet inside of the building. The area around, he is correct about the eave height, I am sorry I don't know off of the top of my head; I had it written down at one point. The eave height is 30 feet, on the outside, the eave height is 30 feet and I think that puts it almost about 40, 36 to the eave, to the ridge line. The only thing in the building is the sports court, there is nothing else currently attached to it, but he referred to the construction that was stopped. He was trying to add restrooms. Although there are restrooms that are in the building next to it and it was agreed that that was sufficient to accommodate being in there, the restrooms that are in the building next to it were

Ms. Olt: I was just getting concerned. My issue is that, the sports court is there, it takes up that amount of room. The code does not say what, that you are limited to the use of the sports court. I might, I do have concerns.

Mr. Davenport: Can you rephrase that, what did you just say? Rephrase that in a another way.

Ms. Olt: The code doesn't address what sports you can play on a sports court. The court area. When it talks about the exception in only sprinklering the sides, there is no discussion about what sport is played on there, it simply talks about the court area. It could be basketball, it could be anything. So I take issue with that about nothing else being played in there. He has agreed that it should only be footsall, they have to wear indoor shoes but the code doesn't address that you can't play more than one sport on the sports court. It only addresses the fact that the sport area, the court area is exempt and the code, the official code doesn't actually say that you can't have the sprinkler increase if you use that exemption. It is only appears in the commentary. So what we are asking for is there is nothing else around us, there is no restaurant, there is no spectator seating by A-3 occupancy. There is no spectator seating. The area on the sides is actually smaller than, because when it was finally installed, I was going by my plans, when the court actually was installed, it was a little wider, although he kept the requirements around for egress. It was a little bit bigger, so it is not, it is even more than 26,000 square feet. So what he is asking for is that given the eave height, he has meant all of the other requirements of the egress, means of egress and everything is that he only would have to sprinkler the area around the court. That is what we are asking.

Mr. Davenport: And that area is sprinkled.

Mrs. Hainer: No, not at all in the building.

Ms. Olt: He has agreed that.

Mr. Davenport: Oh.

Ms. Olt: We agreed that it has to be sprinklered, but what we are asking for is that only the area around the perimeter per the exception under 903.2 something like that, sorry I don't know these things off of the top of my head. That only the perimeter be sprinklered for this building. Um by his agreements and whether or not Rush put things on their site that he is currently dealing with them about, he had no control over what they put on their site, on their website. He is trying to get that corrected because he is trying to make sure that he meets all of the health, safety and welfare to meet the code so he can get his CO so that he can be operational, he can be 100% operational. He just wanted, just would like to, a review of the code to allow the exception of the, only around the outside.

Ms. Olt: Yes, the only area that I added on the, he, well I researched it to, but we have got the area of the field that was needed, and then we looked at the area, the paths of egress, then we get around and to make sure that egress was accommodated, then we designed the structure to be outward of that to make sure that the structure wasn't encroaching in the means of egress. So the whole building was built specifically only to be the bare minimum to fit that one regulation size football field. There was no extra area, there was no, there is nothing else currently attached to it. There are doors in and out, that is it.

Mr. Ozic: If you go and search the website or if you go in...the website or if you go... what is there is what they practice, that is what you see....you see the playing.

Ms. Olt: That is soccer playing.

Mr. Ozic: I mean really I put my heart in this.

Mr. Davenport: Okay, you have convinced me. You have got me. Before we turn it over to you guys, you probably have some questions I guess, but the Fire Marshall, maybe you would like to just offer some comment on what we have been told so far.

Chief Ramsey: Well, we came in, I guess back in January as well, I let them have a fire watch until he came in compliance. Because there is over 12,000 square foot.

Mr. Davenport: You said a fire watch?

Chief Ramsey: A fire watch means while there is somebody in the building, you have to have someone solely there to get people out in case of an event, a fire or something. So it is a term, a fire watch. So he had a person, it was in lieu of his sprinkler system until, because at the time he believed he had a waiver from the City, he, for his CO okay. So we allowed him to kind of month by month to do the fire watch. Now, this forum out here, it is true, it is flame retardant, we had it checked out, it doesn't mean it is non-combustible though, okay. If you look at all of the curtains here, they are all combustible, if you look around here where the bleachers are, that is all combustible, so you do have combustibles in this place and you do have above the 12,000 square foot and that is why we would put sprinklers. We come in, the Fire Marshalls side comes in on the maintenance side of the code. So once.

Mrs. Hainer: After we issue the CO.

Chief Ramsey: After the CO, after the sprinkler system is installed, we come in to be sure that it is being maintained. When we found out about Mr. Ozic, what we do is, with buildings this size, you know if you sell it down the road, whatever reason, and churches come in, they lease it out for money, flea markets, it is a multi-use purpose space to generate income. Also, that is why we are.

purge our files every couple of years, we had to call to get the finals off of the first building they had never been called for. We still don't have an approved site plan. The code says the reason and actually the 09 code says the reason an exception is no longer available for A-3 is, which is what this building is, without approved, without spectator seating is because so many people change the use. You know, it could be an indoor gym one day and then it could be a church the next day and then it could be an art museum the next day. It needs to be completely sprinklered in order to meet the requirements of the height's area limits that the permits are issued for. And we would never have issued the permit had we known they were asking for this exception. That was the time to ask for it, not now, after it has been built and occupied for two years without a CO.

Mr. Davenport: Where you through James?

Chief Ramsey: Yes.

Mrs. Hainer: I didn't mean to embark.

Chief Ramsey: That is pretty much our take on it as well. We do know that this is for Mr. Ozic, but he will sell it down the road and a church is going to move in, flea market, so on and so forth and there won't be an exemption for that. More combustibles will be put in there without a sprinkler system for a building above 12,000 square feet and.

Mr. Davenport: And it is too hard to try to put deed restrictions on that.

Mrs. Hainer: You can't do it.

Mr. Davenport: You guys.

Ms. Olt: May I ask you a question?

Mr. Davenport: Oh

Ms. Olt: When you said that the curtain was not non combustible, it does meet the flame spread.

Ms. Hainer: It is still not non combustible.

Chief Ramsey: Not non combustible.

Ms. Olt: What I am saying is that it does meet the flame spread requirements for curtains.

Chief Ramsey: It still.

Ms. Olt: Curtains, do have different?

Mr. Hudson: Water polo or something like that.

Mr. Davenport: But how do you do that, do you fill a pool, do you make them?

Mr. Savino: Is there an irrigation system that will throw, if it is on the perimeter that will throw out 30 feet? Do they manufacture that type of?

Ms. Olt: Depending on placement, if it is 6 to 8 feet, I mean that sprinkler depending on how high it is set above will have a throw, so typically.

Mr. Savino: A manufacturer sets it.

Ms. Olt: 15 feet, 14 foot I don't know apart.

Mr. Ozic:it could go higher, it goes 35 feet into the court.

Ms. Olt: It still has a throw distance so if he puts it mid way of the concrete he still going to get some throw onto the court itself. I don't know which system the sprinkler does.

Mr. Hudson: But there is not a system manufactured where you could hold it around the perimeter that is throwing 50 feet.

Ms. Olt: Oh, yes they are.

Ms. Hainer: Not that far. The average sprinkler head covers about 400 square feet is all. And you know there is concern with those screens up now that you are going to block people in and we are worried about getting them out. And if you have got all of that travel distance with little kids in the middle, we want to make sure that they have got, at least that sprinkler coverage to get them out of the building.

Ms. Olt: We have two remote exits that are in there per code to remote ADA accessible exits.

Mrs. Hainer: That means.

Ms. Olt: The screens that are there only come up to, on the left part of the screen, if you look at you can tell, I think I said 8 feet and I was wrong, it only comes up to about 3 feet. The final part is only I think about 3 feet high, the rest of it is on that screen, you can see through it in the picture. So no exits, to me, no exit signs are being blocked, the exits are not, they are able to be seen, even when the screens are in position as it is pictured.

Mrs. Hainer: With the permit, in the plans it shows that shows with the sprinkler system, it increases the maximum travel distance and they have them marked here. That is going to be reduced and all of the other exits are required if you reduce the sprinkler

Mr. Davenport: But the cause of the fire, there is not anything really with this particular use that would seem to be a threat, other than, I mean there is really nothing we can lay our hands on, it is out of the ordinary, to be a threat.

Chief Ramsey: Well.

Mrs. Hainer: A cigarette on the floor, the screen could catch on fire, it is not non-combustible, it is fire resistant, it could take longer to burn, but it could burn. And then if you have kids in there with their jackets and stuff.

Chief Ramsey: It has to be a threat, any parent, it would have to be an arson threat, we have 152 arsons per year or 13,000 structures....

Ms. Olt: I appreciate the concern for future use but he is applying for this use now. That is.

Mr. Ozic: I can amend this. I would give this building to the City, right now. I built that for footsall, so the kids would can play on that. I don't want to make this, bring this, you know, bring in a flea market, what is that? Am I putting myself down that much? I will close it down and give it to the City, here you can have it.

Ms. Olt: And if he sells the property, and it becomes for something else, wouldn't they not have to apply for a change of use.

Mrs. Hainer: No, not necessarily.

Mr. Davenport: That is what I asked.

Mrs. Hainer: And that is where, why I presented in the paperwork, all of the uses that are allowed under an A-3, if any one of these uses went in, they would not need a change.

Mr. Davenport: Where is that?

Mrs. Hainer: That is right on the front page, the second page in that.

Ms. Olt: Not even the conditions of the occupancy permit?

Mrs. Hainer: It may not need a CO. The Conditional Use Permit is applied to the soccer field. Someone else could go in there without needing.

Mr. Ozic; Then let's put a condition on it.

Mrs. Hainer: You can't do that.

Mr. Ozic: It is all the City, it is.....

Mr. Davenport: Okay, well why don't we take just a few minutes of discussion, and just make sure we have got an understanding of everything and, if you guys could wait in the hall.

Ms. Wilson: No, this is a public meeting, you have to deliberate front.

Mr. Davenport: We don't have.

Ms. Wilson: You can no longer speak to us. We are in deliberations, you have to stay, we get to all stay in the room.

Mr. Davenport: And you get to listen to all of the.

Ms. Wilson: We get to listen, but not speak.

Mr. Davenport: The disparaging things we say?

Ms. Wilson: Yes.

Mr. Ozic: I am used to it.

Ms. Olt: Yes, you can't rebuttal.

Mr. Davenport: Chris, any thoughts?

Mr. Ettel: Well, I mean I, just think you kind of summed it up and in terms of this being the code and all we can do is be here to help just get some clarification, but I think when it comes to public safety like this, it is very difficult. If there is not a condition that this can't be used for something else, then how do you police it, how do you track that. As much as the good faith would be there to do that. I don't think we can take a chance on there being a fire that is not being properly sprinkled with kids in there. I just think it needs to be sprinkled.

Mr. Davenport: Yes, it seems a shame that the applicant, the original applicant may not even be the owner of the building when that catastrophic fire occurs. That is what, I don't understand why that, those covenants can't be put on the property. Why that can't be if this owner changes, even if they plan to maintain the same use, but the owner changes, that would be an opportunity to step in and review this.

Ms. Wilson: Cheri has issued a modification, her modification goes with the CO, that modification would continue.

Mrs. Hainer: We are not notified of change of ownership, change of tenant, change of use.

Mr. Savino: I will second it.

Mr. Davenport: Is there any discussion before we. I guess the discussion took place before we. Okay, all in favor then.

Mr. Hudson: Aye.

Mr. Davenport: Aye. So the motion is carried, and the building will have to be sprinklered. Fully sprinklered.

Ms. Wilson: Okay, and we have to do a resolution.

Mr. Davenport: She was quick about that.

Ms. Wilson: And I will fill it out for you, how about that? Whereas the City of Virginia Beach Board of Building Code Appeals, New Construction Division is duly appointed to resolve disputes arising out of the enforcement and interpretation of the Virginia Building Code and Whereas an appeal has been filed and brought to the attention of the Board by Kelly J. Olt for Rave Soccer, in regard to the denial of a modification for a sprinkler system for a structure located at 2949 Shipp's Corner Road, Virginia Beach, Virginia; and Whereas a hearing has been held on July 1, 2013 to consider the aforementioned appeal; and whereas, the Board has fully deliberated this matter. Therefore, be it resolved that the matter of Rave Soccer Complex, LLC and the denial of a modification for a sprinkler system for the structure located at 2949 Shipp's Corner Road, the appeal is hereby denied and the decision of the Building Code Official is upheld. That was the motion you all had. For the reasons set out below, so I need reasons.

Mr. Davenport: Well, because the code is clear with regards to the building size. Because of the permitted uses within the zoning.

Ms. Wilson: It is A-3 occupancy.

Mr. Davenport: Yes.

Ms. Wilson: Okay, thank you.

Mr. Davenport: And I guess the recon, what is another word for the reconfigurable? I am still a little concerned about the fact that it could go to a full size court and I know the spectators aren't allowed during football, but it is still possible that there could be that because of the reconfiguration I guess, that struck me as something that might be a problem. Did you guys catch that or

Ms. Hudson: I was more concerned about what it could be changed to.

Mr. Davenport: A-3 zoning what it permits.

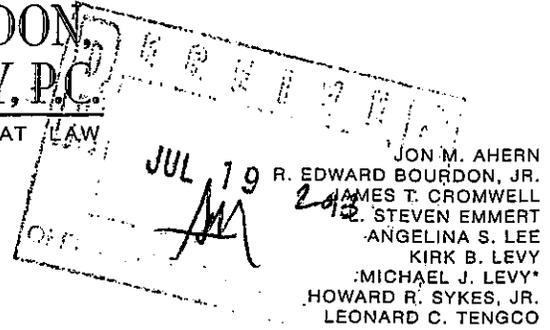
S.B. SYKES, BOURDON
A.L. AHERN & LEVY, P.C.

ATTORNEYS AND COUNSELORS AT LAW

PEMBROKE OFFICE PARK - BUILDING ONE
281 INDEPENDENCE BOULEVARD
FIFTH FLOOR
VIRGINIA BEACH, VIRGINIA 23462-2989

TELEPHONE: 757-499-8971
FACSIMILE: 757-456-5445

July 18, 2013



*Admitted in Virginia and Washington DC

Via Federal Express – Next Day Delivery

Commonwealth of Virginia
Department of Housing and Community Development
Office of the State Technical Review Board
Main Street Centre
600 E. Main Street
Suite 300
Richmond, Virginia 23219

Re: Application for Administrative Appeal

Dear Sir or Madam:

Please find enclosed herewith an Application for Appeal of the Decision rendered by the Virginia Beach Board of Building Code Appeals. Please advise as to your process for scheduling a hearing of this appeal. If there are any filings submitted by the Building Official of the City of Virginia please advise as to the appropriate means by which I would obtain a copy of same.

Thank you for your attention to this Appeal.

Sincerely,

R. Edward Bourdon, Jr.

REBjr/arhm

cc: Selim Ozic, Rave Soccer Complex
Danny Speight

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COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
Technical Assistance Services Office (TASO) and Office of the State Technical Review Board
Main Street Centre, 600 E. Main Street, Suite 300, Richmond, Virginia 23219
Tel: (804) 371-7150, Fax: (804) 371-7092, Email: TASO@dhcd.virginia.gov

APPLICATION FOR ADMINISTRATIVE APPEAL

Regulation Serving as Basis of Appeal (check one):

- Uniform Statewide Building Code
 Statewide Fire Prevention Code
 Industrialized Building Safety Regulations
 Amusement Device Regulations

Appealing Party Information (name, address, telephone number and email address):

R. Edward Bourdon, Jr., Counsel for Appellant Rave Soccer Complex, LLC
281 Independence Blvd., Pembroke One, 5th Floor 2949 Shipp's Corner Road
Virginia Beach, Virginia 23462 Virginia Beach, VA 23453
757/499-8971 757/464-1115

Opposing Party Information (name, address, telephone number and email address of all other parties):

Ms. Cheri B. Hainer, Building Code Administrator
Planning/Permits & Inspections
Building 2, Room 100, Municipal Center
Virginia Beach, Virginia 23456

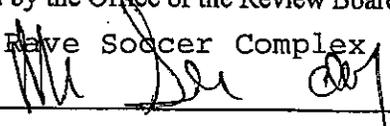
Additional Information (to be submitted with this application)

- Copy of enforcement decision being appealed
- Copy of record and decision of local government appeals board (if applicable and available)
- Statement of specific relief sought

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of July, 2013 a completed copy of this application, including the additional information required above, was either mailed, hand delivered, emailed or sent by facsimile to the Office of the State Technical Review Board and to all opposing parties listed.

Note: This application must be received by the Office of the State Technical Review Board within five (5) working days of the date on the above certificate of service for that date to be considered as the filing date of the appeal. If not received within five (5) working days, the date this application is actually received by the Office of the Review Board will be considered to be the filing date.

Signature of Applicant: 

Rave Soccer Complex LLC

Name of Applicant: Mehmet Selim Ozic, Manager
(please print or type)

The Building Code Official, Ms. Hainer, has refused to recognize and grant the exception provided under USB Code Section 903.2.1.3 to the otherwise applicable requirement that the appellant's entire building area be covered by a sprinkler system. This is the issue presented by our appeal.

The Building Code Official in her Determination Letter to the appellant's architect (dated May 22, 2013 and attached) cites the following language in Section 903.2.1.3 as her basis for denying applicability of the exception: "Areas used *exclusively* as participant sport area."

The Building Official contends and asserted to the Board of Code Appeals that the appellant's steel building constructed on a portion of a 21.33 acre parcel of Agriculturally Zoned Property does not warrant or should not be entitled to the benefit of Section 903.2.1.3 because the appellant's metal building erected solely for a recreational use, (a) could somehow be used for another purpose; or (b) the participant sport areas in the building could be reconfigured.

The existing building that is the subject of this appeal was built pursuant to a Conditional Use Permit granted by Virginia Beach City Council for recreational use. The Conditional Use Permit contains a number of specific restrictions including: #2. "... There shall, however, be no events that would draw spectators. No bleachers or spectator seating is permitted on the property."; and #7. "The indoor soccer facility shall be developed in substantial conformance with the submitted plan entitled 'Conditional Use Exhibit for Shipps Corner Complex #2949 Shipps Corner Road Virginia Beach Virginia', prepared by WPL ...".

Based upon the property's agricultural zoning, the extremely limited "permitted uses" under the provisions of the City's Zoning Ordinance applicable to the property and the "conditions" imposed by the Conditional Use Permit upon the property, use of the appellant's building for any purpose, other than indoor recreation with no events that would draw spectators and no seating is precluded. One exception might be use of the building as a "barn" which is permitted as an accessory structure to an agricultural use (i.e. principal use) for which the USB Code would not apply. In short, there is no allowed use of the appellant's building that does not merit the exemption contained in Section 903.2.1.3.

The purpose for the USB Code requirement to have buildings sprinkled (i.e. fire/public safety) and the reason for the exemption contained in Section 903.2.1.3 is

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SIB SYKES, BOURDON,
AL AHERN & LEVY, P.C.

obvious. The minimal public safety risk from a fire in the appellant's metal building, with its restricted use, is unassailable. In fact, the Virginia Beach Fire Marshall's Office has confirmed this to be true.

In addition, the appellant agreed to install a sprinkler system within the structure that will cover the entire interior perimeter around the recreational/sports court area including the points of ingress and egress to the building prior to the Code Official issuing her Determination Letter of May 22, 2013.

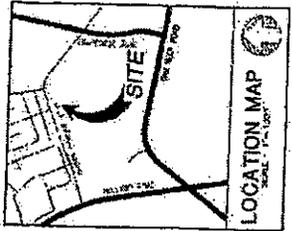
Pursuant to Section 36-98 of the Code of Virginia, as amended, provisions of the USBC "shall not supersede ... conditions imposed upon the grant of conditional use permits". To deny the clear applicability of the exception contained in Section 903.2.1.3 of the Code to the appellant's building, and thus require the entire building to be sprinkled, when, based upon the "conditions imposed" by the "grant of a conditional use permit" the building can only be for non-spectator, indoor recreation, has the effect of superseding the condition placed on the building's use by the conditional use permit by refusing to acknowledge and give effect to the legally binding restriction imposed.

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 SYKES, BOURDON,
AHERN & LEVY, P.C.

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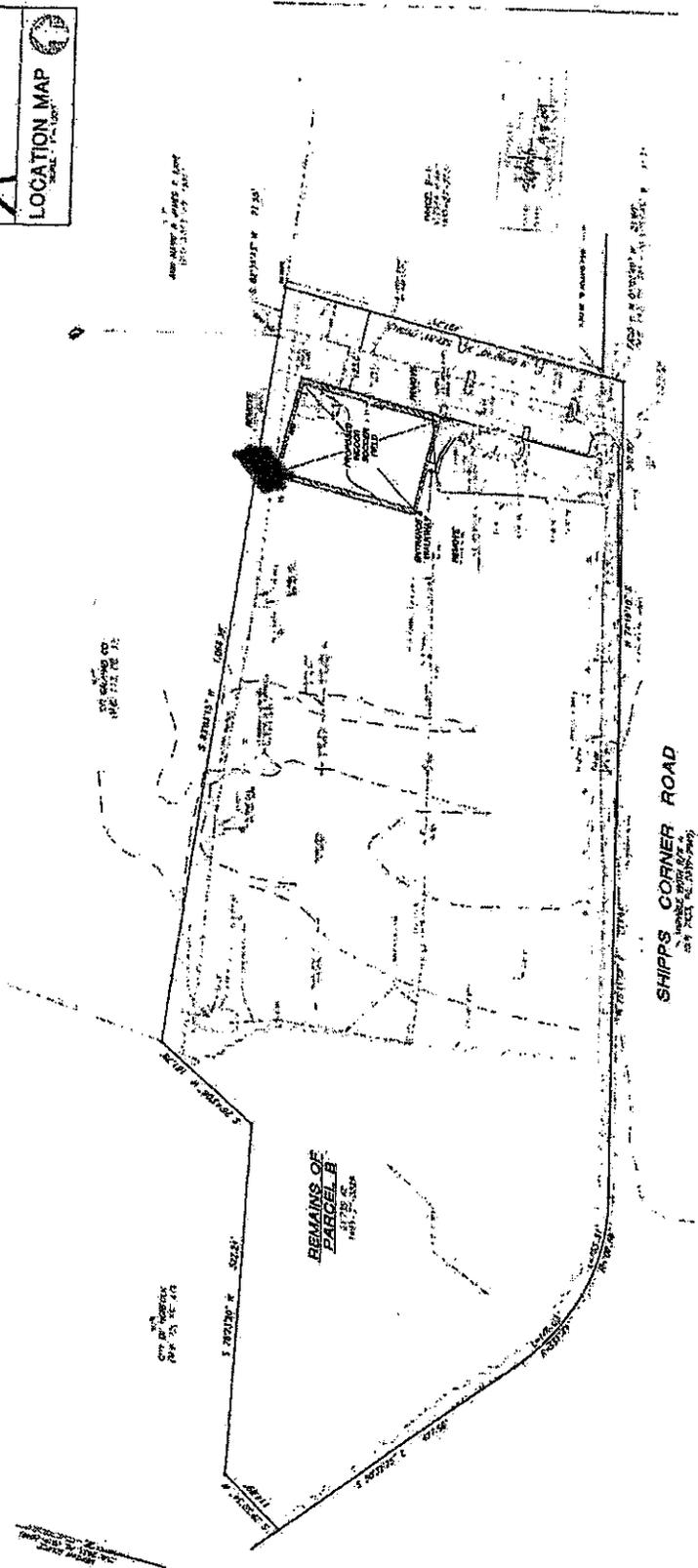


SITE DATA

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AP-78	100'-0" x 100'-0"
AP-79	100'-0" x 100'-0"
AP-80	100'-0" x 100'-0"
AP-81	100'-0" x 100'-0"
AP-82	100'-0" x 100'-0"
AP-83	100'-0" x 100'-0"
AP-84	100'-0" x 100'-0"
AP-85	100'-0" x 100'-0"
AP-86	100'-0" x 100'-0"
AP-87	100'-0" x 100'-0"
AP-88	100'-0" x 100'-0"
AP-89	100'-0" x 100'-0"
AP-90	100'-0" x 100'-0"
AP-91	100'-0" x 100'-0"
AP-92	100'-0" x 100'-0"
AP-93	100'-0" x 100'-0"
AP-94	100'-0" x 100'-0"
AP-95	100'-0" x 100'-0"
AP-96	100'-0" x 100'-0"
AP-97	100'-0" x 100'-0"
AP-98	100'-0" x 100'-0"
AP-99	100'-0" x 100'-0"
AP-100	100'-0" x 100'-0"

CONCLUSIONS:

1. The proposed site is located within the Shipps Corner Road Right-of-Way.
2. The proposed site is located within the Shipps Corner Road Right-of-Way.
3. The proposed site is located within the Shipps Corner Road Right-of-Way.
4. The proposed site is located within the Shipps Corner Road Right-of-Way.



**CONDITIONAL USE EXHIBIT FOR
SHIPPS CORNER SOCCER COMPLEX
#2949 SHIPPS CORNER ROAD**

VIRGINIA BEACH, VIRGINIA
MPL, LANDSCAPE ARCHITECTS / LAND SURVEYORS / ENGINEERS
242 MUSTANG TRAIL, SUITE 3, VIRGINIA BEACH, VA 23461



GRAPHIC SCALE
1" = 100'

DATE: 10/1/11
DRAWN BY: [Name]

Planning Department

Selected Submittal Activity List

H10-605
 SHIPPS CORNER SOCCER COMPLEX
 SHIPPS CORNER RD.

E9
 E8
 E5

Plan	Submitted	Log Out	Submittal Type
			Status
SP - SITE PLAN	5/21/13	6/14/13	RESUB - REVISION Disapproved
SP - SITE PLAN	3/14/13	4/3/13	RESUB - REVISION Disapproved
SP - SITE PLAN	2/6/12	3/5/12	RESUB - REVISION Disapproved
SP - SITE PLAN	8/27/10	9/16/10	NEW - REVISION Disapproved
OT - MISCELLANEOUS PLAN (OTHER)	1/12/06	1/23/06	NEW Approved
LDPE - DECLARATION OF PRIVATE EASEMENT	8/2/05	8/17/05	RESUB Approved
SP - SITE PLAN	7/29/05	8/16/05	RESUB - REVISION Approved
SP - SITE PLAN	7/14/05	7/22/05	NEW - REVISION Disapproved
LDPE - DECLARATION OF PRIVATE EASEMENT	7/8/05	7/22/05	RESUB Disapproved
LDPE - DECLARATION OF PRIVATE EASEMENT	7/6/05	7/7/05	NEW Disapproved
ECE - ENGINEER'S COST ESTIMATE	5/2/05	5/3/05	NEW Approved
SP - SITE PLAN	4/13/05	4/29/05	RESUB Approved
LDSMA - STORMWATER MANAGEMENT AGREEMENT	2/10/05	2/17/05	RESUB Approved

LDSMA - STORMWATER MANAGEMENT AGREEMENT		NEW
1/24/05	2/1/05	Disapproved
SP - SITE PLAN		RESUB
12/2/04	12/15/04	Disapproved
SP - SITE PLAN		RESUB
10/1/04	10/25/04	Disapproved
ES - LAND DISTURBING ACTIVITY PLAN		NEW
7/6/04	7/13/04	Approved
SP - SITE PLAN		NEW
5/20/04	6/16/04	Disapproved

[Back To The Top](#)

ADDITIONAL DOCUMENTS

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Rave Soccer Complex, LLC (Appeal No. 13-5)

CITY OF VIRGINIA BEACH STATEMENT

Case History and Pertinent Facts

1. The City of Virginia Beach ("City") is satisfied with the Suggested Statement of Case History and Pertinent Facts provided by the Review Board Staff.

2. The City would suggest that the Issue for Resolution be amended to read: Whether to overturn decisions of the City USBC department and City USBC appeals board and approve the modification submitted to the City USBC department by Rave that requested that the 33,000 square foot building constructed at 2949 Shipps Corner Road in the City of Virginia Beach be allowed to omit the sprinkler system from the court area and only provide a limited sprinkler system around the interior perimeter of the structure.

Argument

1. The City's USBC department and Building Official, Cheri Hainer, ("Hainer") have determined that the structure at 2949 Shipps Corner Road must be sprinkled throughout the facility. All of the participants in the Informal Fact-Finding Conference agreed that a building of that size (33,000 square feet) must be sprinkled.

2. Rave Soccer, LLC ("Rave") requested a modification to this requirement for the majority of the structure which is sports fields, acquiescing in placing sprinklers only around the perimeter of the interior of the structure. They based this request on the exception found in Section 903.2.1.3 of the USBC (2006 Edition) for sports fields.

3. Hainer denied the modification request as she determined that the request did not meet the requirements of Section 106.3 of the USBC that the modification may be granted "provided the spirit and functional intent of the code are observed and public health, welfare and safety are assured." Hainer based her decision on the totality of the situation, including, but not limited to, the following:

a. The provisions of the USBC no longer allow the exception available for omitting the sprinkler requirements. The 2009 and 2012 IBC no longer allows for sports areas to be exempted from sprinklers, because of the ease at which

such uses can change or the owner can inadvertently change uses. The 2006 Code does still allow the use of the exemption, but with the size of the structure, it cannot be used automatically, a modification is required.

(1) There is a recent history of there being inadvertent uses that were requested—such as different sports fields and parties. Even though Rave is correct that the Conditional Use Permit and the AICUZ restrictions would not allow such uses, they were still requested.

(2) Legally there are few uses allowed on this site, however, reality is that legality often does not have a major part in the change of uses.

(3) Having to constantly police this facility to be sure that they are not in violation, is not a viable solution. Placing restrictions on the Certificate of Occupancy will place a constant burden for enforcement on the City.

(4) There have already been changes made to the interior of the structure, including a floor and net partitions that were not part of the plans and will require further investigation and perhaps changes in ingress and egress routes and distances.

b. The plans submitted for this structure included the sprinkler system. It is understood that the addition of sprinklers at this time, after the structure has been completed, is not ideal, and will require additional expense. However, Rave knew about the process to request a modification prior to the construction, as they asked for and was granted a modification to the requirement for sound attenuation.

c. The history of this site is not one of compliance. The structure in question is being used without a Certificate of Occupancy, although Hainer has allowed this to continue with the Fire Watch until this process is complete. There are still outstanding violations on the site for an unpermitted deck, storage sheds, bathroom additions and the stormwater facility. Such violations are not completely relevant to the requirement to sprinkle the structure, but they do play into whether Hainer can grant the modification, if she believes that the spirit and intent of the Code will be compromised by such a modification.

d. This is a massive structure to leave without adequate sprinkler protection. Rave believes that the perimeter sprinklers would provide protection, but Hainer has to give this modification and it is her opinion that the entire structure needs to be sprinkled to comply with the spirit and intent of the Code and provide public health, safety and welfare assurances.

4. The USBC Appeals Board upheld the decision of Hainer to deny the modification request, as they understood the possibility existed for the change of use of this structure and they were also aware that the size of this structure required it be fully sprinkled.

Therefore, the City and Ms. Hainer request that the Technical Review Board uphold the decision of the Building Official and require the structure be fully sprinkled.

RAVE SOCCER FIELD

Building Codes – in accordance with the 2006 IBC/USBC [attachment A – code sections provided to local BCBA]

- Use Group A-3 and Construction Type 2B – designated on plans by RDP
 - Use Group – A-3 rather than A-4 because no permanent spectator *seating* per Conditional Use Permit (CUP)
 - Section 303.1 allows user flexibility within the A-3 use group
 - Section 602.2 Construction Type 2B – Non-combustible Unprotected
- Table 503 – gives height and area limits based on use group and type of construction
 - A-3 / 2B limits to 9,500 square feet per floor, two stories
- Other code provisions affording additional life safety protection are available to allow for buildings that exceed prescribed area limits
- Section 506.2 - Frontage Increase
 - After the first 25%, if there is 20' clear from building edge to property line or public way, there is a 2% increase for every 1% of open perimeter
 - Maximum increase 150%
 - $9500 \times 150\% = 14,250 + 9500 = 23,750$ allowed building area
 - Questioned if now applicable as entire site is fenced and gated with padlock
- Section 506.3 - Automatic Fire Suppression System
 - 300% increase if 1 story (20')
 - $9500 \times 300\% = 28,500 + 9500 = 38,000$ allowed building area
 - Not applicable as wall height is 30'
 - 200% increase if 2 or more stories
 - $9500 \times 200\% = 19,000 + 9500 = 28,500$ allowed building area
 - Commentary – “The scope of the phrase ‘*protected throughout with an automatic sprinkler system*’ means that the entire structure is to be provided with sprinkler protection designed and installed in accordance with NFPA 13, as stipulated in 903.3.1.1. It is intended to that only buildings protected throughout the entire structure with a system designed in accordance with NFPA 13 be eligible for the sprinkler increase permitted by this section, except as specifically modified by the exceptions in 903.3.1.1.”
- Section 507.6 - Unlimited Area Building for Group A-3/Type II Construction
 - Plans indicate application of this code section for area increase
 - Site plan indicates only 28' from south-east property line – building actually 48' from property line -cannot provide 60' clearance around the entire building as required in item #2 of that section
 - Item #3 requires “equipped throughout” with automatic sprinkler system

- Section 903.2.1.3 Group A-3 - Automatic fire sprinkler system required when fire area exceeds 12,000 square feet
 - Approved building plans and permit issued indicate 33,000 square foot open building with no fire area separations
 - Exception – “Areas used exclusively as participant sports areas where the main floor is located at the same level as the level of exit discharge of the main entrance and exit”.
 - Commentary – “The exception exempts the participant sport area of Group A-3 occupancies from automatic sprinkler system requirements because these areas are typically large open spaces with relatively low fuel loads. The exception includes only the participant sport area, such as an indoor pool or the court area of an indoor tennis court. Note that if the exception is claimed and sprinklers are omitted from the sport area, the building would not be considered completely sprinklered in accordance with Section 903.3.1.1 for purposes of allowing construction alternatives, such as height and area increases” not applicable – building needed to be “equipped throughout” in order to utilize construction alternatives for area increases
- Section 903.3.1.1 Exempt Locations
 - Any room where water, or flame and water constitute a serious life or fire hazard
 - Any room where sprinklers are undesirable due to room’s contents
 - Generator or transformer rooms with 2 hour fire resistance rating separation
 - Rooms with noncombustible construction and noncombustible contents
- Section 1016.1 – travel distance to exit due to sprinkler = 250’ with 200’w/out
 - Diagonal is 266’ – if closest exit is blocked travel distance to other exit exceeds 200’
- All construction alternatives applied
 - Frontage and Automatic Fire Suppression System Increases
 - $9500 + 14,250 + 19,000 = 42,750$ allowed building area

Modification Request and Information for Consideration

- Applicable Codes – USBC 2006
 - *102.1 Purpose. In accordance with Section 36-99 of the Code of Virginia, the purpose of the USBC is to protect the health, safety and welfare of the residents of the Commonwealth of Virginia, provided that buildings and structures should be permitted to be constructed at the least possible cost consistent with recognized standards of health, safety, energy conservation and water conservation...*

- 106.3 Issuance of modifications. Upon written application by an owner or an owner's agent, the building official may approve a modification of any provision of the USBC provided the spirit and functional intent of the code are observed and public health, welfare and safety are assured. The decision of the building official concerning a modification shall be made in writing and the application for a modification and the decision of the building official concerning such modification shall be retained in the permanent records of the local building department. Note: The USBC references nationally recognized model codes and standards. Future amendments to such codes and standards are not automatically included in the USBC; however the building official should give them due consideration in deciding whether to approve a modification
 - Future codes –Section 507.3 - Exception allowing omission of sprinklers over participant sport area for A-3 Use Groups is no longer offered in the 2009 and 2012 editions of the IBC – only allowed for A-4 due to reasons listed in commentary – if permit issued today exception not applicable
- 903.2.1 Intent is to exempt participant sports area only due to anticipated smaller or limited occupant loads – per modification proposal, only 18% of building area would be protected by sprinklers [attachment B - plans]
 - Indoor fields not marked as shown on plans page A2 – smaller or half fields now available to allow more groups to practice/play – there are interment spaces used for team sidelines with equipment – these areas should also be protected [attachment C]
 - RAVE leased to Va Rush Soccer League – also offers other sports with greatly varying field dimensions – protection of non-participant areas would be ever changing. [attachment D]
- Facility leased to other sports groups – owner doesn't always control activities
 - Irrate parents who want to stand on sidelines to watch child play?
 - Impromptu birthday or end of season celebrations?
- Past History of Property
 - See Development, Permits and Construction History [attachment E]
 - Incident already taken place [attachment F]
 - Complaints from adjoining neighbors and parents [attachment G]
 - Appeal Response – CUP Information [attachment H]

Development, Permits and Construction History [E attachments]

- Permit #200512708B0 issued 8/19/05 to an office/first aid/restrooms building. Final inspection approved 6/29/06 but CO not issued until 4/07/09 due to right of way work
- Permit #201005135B0 issued 04/02/2010 to Orion Associated, Inc for the construction of a 33,000 square foot indoor recreational building and associated [E1]
 - Per plan review letters dated 6/23/09, 3/03/10, and 3/31/10, an automatic sprinkler system is required as a condition of the plan approval [E2]
 - Final inspection failed 1/04/11, 1/26/11, and 3/09/11 [E3]
 - Site plan required for building permit was approved based on CUP and not Development Services Center (DSC) approved plan [E4]
 - Site plan addressing all State and City development requirements was submitted to the DSC on 8/27/10 and disapproved 9/16/10 [E5]
 - Email from Development Services Center (DSC) Engineer, Ron Frink, regarding contact information to request Temporary Certificate of Occupancy (TCO) [E6]
 - Never requested or granted TCO from Permits and Inspections [E7]
 - Site plan resubmitted 2/06/12 when cited for the construction of a large deck
 - There was no permit for the deck construction or two small sheds also constructed – concerns all construction was in CBPA [E8]
 - Revised site plan disapproved 3/05/12
 - Site plan resubmitted 3/14/13 – disapproved 4/3/13 and 6/14/13 [E9]
- Meeting 1/22/13 to discuss the stop work order placed on the 15' x 100' addition to indoor soccer building that was started without a permit but other issues discussed [E10]
 - Bathroom addition – couldn't obtain building permit until applicable fees paid to Public Utilities
 - Fees calculated as part of site plan review
 - Thought could add on to open permit
 - The addition requires amendment to the CUP
 - Sprinkler/TCO issue raised
 - Owner stated sprinkler requirement had been waived – no documentation in file – given time to produce appropriate paperwork
 - Thought building inspector final gave him ok to occupy [E7]
 - Required fire watch to allow occupancy to continue while outstanding issues are addressed [E11]
 - In the interim, owner cover dirt floor with special floor system [E12]
 - Screen partition added to separate groups [attachment C]
 - Never addressed outstanding issues identified with 2/06/12 site plan submittal
 - Relocated deck and sheds but still no permits. [E13]

Appeals Response [H-attachments]

- **102.2 Scope.** *This section establishes the scope of the USBC in accordance with Section 36-98 of the Code of Virginia. The USBC shall supersede the building codes and regulations of the counties, municipalities and other political subdivisions and state agencies. This code also shall supersede the provisions of local ordinances applicable to single-family residential construction that (i) regulate dwelling foundations or crawl spaces, (ii) require the use of specific building materials or finishes in construction, or (iii) require minimum surface area or numbers of windows; however, this code shall not supersede proffered conditions accepted as a part of a rezoning application, conditions imposed upon the grant of special exceptions, special or conditional use permits or variances, ...*
 - H09-211 CUP 2003 Conditional Use Permit for outdoor recreational use (soccer practice fields) - conditions approved 1/14/04 [H1]
 - Modification of CUP 7/13/05 - to change field lighting requirements and build office/first aid/restrooms – conditions approved 8/9/05 [H2]
 - Modification of CUP 8/12/09 – to allow games in addition to practice, and the construction of the indoor facility – conditions approved 9/08/09 [H3]
 - Modifications of CUP 8/11/10 – to expand lighting requirements - deferred revised application being reviewed at this time due to complaints [H4]
 - All CUP conditions have this disclosure – “All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections, and the issuance of a Certificate of Occupancy are required before this CUP is valid”. [H3-pg2]
 - None of the conditions listed in this CUP or subsequent modifications conflict with the provisions of the USBC
 - City Zoning Ordinance Section 401 Principal and conditional uses in AG1 and AG2 districts, “Public elementary, intermediate and high schools, colleges and universities; day nurseries (childcare education centers) in connection with a public or private elementary schools or religious uses” and Public parks, recreational area, botanical and zoological gardens, golf courses, marinas and other public buildings and uses are approved principal uses. Building could be converted to another use within Use Group A-3 without having to comply with all the provisions in applicable USBC/IBC/Virginia Rehabilitation Code



City of Virginia Beach
Department Of Planning
(757) 427-4621
FAX (757) 426-5667

Planning Evaluation Section
Municipal Center
Building 2, Room 115
2405 Courthouse Drive
Virginia Beach, VA 23469040

March 23, 2004

This is to notify you that the Virginia Beach City Council, at its Formal Session on March 23, 2004:

APPROVED/CONDITIONED, BY CONSENT, Application of **VIRGINIA BEACH TRAVEL SOCCER, INC.**, a Virginia Corporation T/A **BEACH FC** for a Conditional Use Permit re a recreational facility of an outdoor nature (soccer fields) at Shipps Corner and Holland Roads. (DISTRICT 6 – BEACH)

1. The applicant shall request a variance from the Chesapeake Bay Preservation Area Board if the Planning Director or his designee determines that this is required.
2. The fields shall be used only for practices and not for any other event that would draw spectators. No bleachers or spectator seating is permitted on the property.
3. A right-of-way reservation shall be provided along Shipps Corner Road as required for the Shipps Corner Road Bridge Replacement plan CIP 2-174 and as called for in the Master Transportation Plan.
4. Right and/or left turn lanes shall be constructed on Shipps Corner Road if Public Works Traffic Engineering determines that they are required during the detailed plan review process.
5. Any outdoor lighting fixtures shall be no higher than 14 feet and shall be directed downward and shielded to direct light and glare onto the premises and away from adjoining properties.

Further conditions may be required during the administration of applicable City Ordinances. The site plan submitted with this conditional use permit may require revision during detailed site plan review to meet all applicable City Codes. Conditional use permits must be activated within 12 months of City Council approval. See Section 220(g) of the City Zoning Ordinance for further information. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before this Conditional Use Permit is valid.



H2
Planning Evaluation Section
Municipal Center
Building 2, Room 115
2405 Courthouse Drive
Virginia Beach, VA 234569040

City of Virginia Beach
Department Of Planning
(757) 427-1621
FAX (757) 426-5667

August 9, 2005

This is to notify you that the Virginia Beach City Council, at its Formal Session on August 9, 2005:

MODIFIED/CONDITIONED, BY CONSENT, Application of **SHIPPS CORNER SOCCER COMPLEX** for **MODIFICATION** of Condition No. 5 re lighting fixtures on a Conditional Use Permit, (approved by City Council March 23, 2004) at Shipps Corner and Holland Roads. (DISTRICT 6 - BEACH); subject to:

1. All conditions with the exception of Number 5 attached to the Conditional Use Permit granted by the City Council on March 23, 2004 remain in affect.
2. Condition Number 5 of the March 23, 2004 Conditional Use Permit is deleted and replaced with the following:

Any outdoor recreational lighting fixtures shall be no higher than forty (40) feet and shall be directed downward and shielded to direct light and glare onto premises and away from adjoining properties. Outdoor parking lot lighting fixtures shall be no higher than twenty-five (25) feet and shall be directed downward and shielded to direct light and glare onto premises and away from adjoining properties.

3. Restrooms/first aid building shall be developed in substantial conformance with the submitted plan entitled "New Building Shipps Corner Road Virginia Beach, Virginia" prepared by Kelly Jean Olt dated March 10, 2005.

Further conditions may be required during the administration of applicable City Ordinances. The site plan submitted with this conditional use permit may require revision during detailed site plan review to meet all applicable City Codes. Conditional use permits must be activated within 12 months of City Council approval. See Section 220(g) of the City Zoning Ordinance for further information. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before this Conditional Use Permit is valid.

H3



City of Virginia Beach

PLANNING DEPARTMENT
CURRENT PLANNING
PHONE (757) 385-4621
FAX (757) 385-6667
VA Relay Number TTY: 711

VBnv.com
MUNICIPAL CENTER
BUILDING 2, ROOM 115
2405 COUTHOUSE DRIVE
VA BEACH, VA 23456-9040

September 8, 2009

This is to notify you that the Virginia Beach City Council, at its Formal Session on September 8, 2009:

APPROVED/CONDITIONED, Application of **RAVE SOCCER COMPLEX**, Modification of Condition No. 2 (approved on March 23, 2004), to allow adult games and **ADD** a new condition re an **indoor soccer facility** at 2949 Shipp's Corner Road - BEACH DISTRICT; subject to:

1. The applicant shall request a variance from the Chesapeake Bay Preservation Area Board if the Planning Director or his designee determines that this is required.
2. The fields shall be used for practices and for adult league games. There shall, however, be no events that would draw spectators. No bleachers or spectator seating is permitted on the property.
3. A right-of-way reservation shall be provided along Shipp's Corner Road as required for the Shipp's Corner Road Bridge Replacement Plan CIP 2-174 and as called for in the Master Transportation Plan. (This condition has been met.)
4. Right and/or left turn lanes shall be constructed on Shipp's Corner Road if Public Works Traffic Engineering determines that they are required during the detailed plan review process. (This condition has been met.)
5. Outdoor field recreational lighting fixtures shall have a maximum height of forty 40-feet and shall all be directed downward. In addition, glare guards, Daybrite Model VSLL, shall be added to all lights facing Shipp's Corner Road. The Field lights may not be used until the glare guards have been installed. The field lights shall be controlled by timers and can only be used Monday through Friday until 9:00 p.m. The lights are approved to be used in this manner until July 8, 2010. After July 8, 2010, the lights shall not be used unless approved by City Council following a Public Hearing and recommendations from the Planning Commission. Outdoor parking lot lighting shall be no higher than twenty-five (25) feet and shall be directed downward

and shielded to direct light and glare onto premises and away from adjoining properties.

- 6. Restrooms/first aid building shall be developed in substantial conformance with the submitted plan entitled "New Building Shipps Corner Road Virginia Beach Virginia" prepared by Kelly Jean Olt dated March 10, 2005.
- 7. The indoor soccer facility shall be developed in substantial conformance with the submitted plan entitled "Conditional Use Exhibit for Shipps Corner Soccer Complex #2949 Shipps Corner Road Virginia Beach Virginia" prepared by WPL Landscape Architects, Land Surveyors, Engineers dated June 29, 2005.
- 8. The indoor soccer facility shall be developed in substantial conformance with the submitted rendering entitled "RAVE SOCCER COMPLEX LLC."

Further conditions may be required during the administration of applicable City Ordinances and Standards. Any site plan submitted with this conditional use permit may require revision during detailed site plan review to meet all applicable City Codes and Standards. Conditional use permits must be activated within 12 months of City Council approval. See Section 220(g) of the City Zoning Ordinance for further information. All applicable permits required by the City Code, including those administered by the Department of Planning / Development Services Center and Department of Planning / Permits and Inspections Division, and the issuance of a Certificate of Occupancy, are required before this Conditional Use Permit is valid.

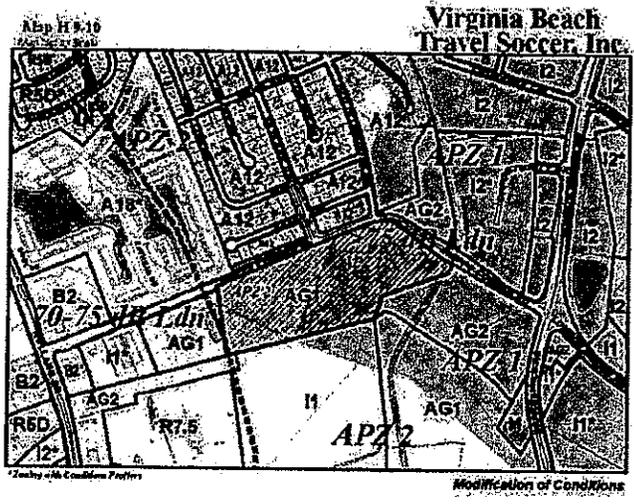
In accordance with the City Zoning Ordinance, the orange public notice sign(s) posted on this property must now be removed. Please make sure this is done.

If you have any questions concerning this notification, please contact the Current Planning Division of the Planning Department at 385-4621.

Sincerely,



Stephen J. White, PhD, AICP
Chief Planner



11

August 11, 2010 Public Hearing

APPLICANT:
**VIRGINIA BEACH
 TRAVEL SOCCER,
 INC.**

PROPERTY OWNER:
**RAVE SOCCER
 COMPLEX, LLC**

STAFF PLANNER: Karen Prochilo

REQUEST:

Modification of a Conditional Use Permit approved by the City Council on March 23, 2004 and modified by City Council on August 9, 2005 and September 8, 2009.

ADDRESS / DESCRIPTION: 2949 Shippo Corner Road

GPIN:
14953733290000

ELECTION DISTRICT:
BEACH 6

SITE SIZE:
21.33 Acres

AICUZ:
 Western end of this parcel is 70 to 75 dB Ldn but majority of the property is in the Greater than 75 dB Ldn. Most of the property is within Accident Potential Zones 1 and 2.

SUMMARY OF REQUEST

The Conditional Use Permit for a recreational facility of an outdoor nature was approved by the City Council on March 23, 2004 and modified August 9, 2005 and September 8, 2009. The Conditional Use Permit has 8 conditions, which are listed below. The applicant has renewed the lease with the soccer complex owner and requests two changes to Condition 5. Condition 5 regulates the use of the outdoor lighting. The applicant requests modification of this condition, as certain requirements of the condition, such as the installation of the glare guards and timers, have been installed at the soccer complex. The first of the two changes is to remove the July 8, 2010 restriction on the use of the outdoor field lights. The second change is to permit the use of the outdoor field lights to include Saturdays, No change in time is requested; the lights would still be extinguished at 9:00 p.m.

Conditions of Use Permit:

1. The applicant shall request a variance from the Chesapeake Bay Preservation Area Board if the Planning Director or his designee determines that this is required.
2. The fields shall be used for practices and for adult league games. There shall, however, be no events that would draw spectators. No bleachers or spectator seating is permitted on the property.
3. A right-of-way reservation shall be provided along Shippo Corner Road as required for the Shippo Corner Road Bridge Replacement Plan CIP 2-174 and as called for in the Master Transportation Plan.
4. Right and/or left turn lanes shall be constructed on Shippo Corner Road if Public Works Traffic Engineering determines that they are required during the detailed plan review process.
5. Any outdoor recreational lighting fixtures shall be no higher than forty (40) feet and shall be directed downward. In addition, glare guards, Daybrite Model VSLL, shall be added to all lights facing Shippo Corner Road. The field lights may not be used until glare guards have been installed. The field lights shall be controlled by timers and can only be used Monday through Friday until 9:00 p.m. The lights are approved to be used in this manner until July 8, 2010. After July 8, 2010 the lights shall not be used unless approved by City Council following a Public Hearing and recommendations from the Planning Commission. Outdoor parking lot lighting shall be no higher than twenty five (25) feet and shall be directed downward and shielded to direct light and glare onto premises and away from adjoining properties.
6. Restrooms/first aid building shall be developed in substantial conformance with the submitted plan entitled "New Building Shippo Corner Road Virginia Beach Virginia" prepared by Kelly Jean Olt dated March 10, 2005.
7. The indoor soccer facility shall be developed in substantial conformance with the submitted plan entitled "Conditional Use Exhibit for Shippo Corner Soccer Complex #2949 Shippo Corner Road Virginia Beach Virginia" prepared by WPL Landscape Architects, Land Surveyors, Engineers dated June 29, 2005.
8. The indoor facility shall be developed in substantial conformance with the submitted rendering entitled "RAVE SOCCER COMPLEX LLC".

LAND USE AND PLAN INFORMATION

EXISTING LAND USE: Outdoor soccer facility with structures, parking and soccer fields.

SURROUNDING LAND USE AND ZONING:

- | | |
|--------|---|
| North: | • Across Shippo Corner Road, Cardinal Estates mobile-home subdivision / A-12 Apartment District |
| South: | • Undeveloped property / I-1 Light Industrial District |
| East: | • Wetlands and a natural drainage area / AG-2 Agricultural District |
| West: | • Moose Lodge
• Undeveloped property / I-1 Light Industrial District |

NATURAL RESOURCE AND

The eastern end of the property is wooded and contains wetlands



City of Virginia Beach

E2

PERMITS AND INSPECTIONS
(757) 385-4211
FAX (757) 385-5777

VBgov.com

MUNICIPAL CENTER
BUILDING 2, ROOM 100
2405 COURTHOUSE DRIVE
VIRGINIA BEACH, VIRGINIA 23456-9039

June 23, 2009

Rave Holding Company
2949 Shipp's Corner Road
Virginia Beach, Virginia 23453

Subject: Shipp's Corner Soccer Complex

To Whom It May Concern

Building plans for the above were reviewed this date with the following comments.

We are unable to perform a thorough Building Plan Review due to the lack of building code design criteria noted on the plans. Information shall include the construction type, use group classification, occupant load calculations, a floor plan outlining egress requirements, exit and emergency lighting, calculations showing restroom requirements, information on any mechanical systems, fire suppression systems, and all information necessary for a plan review. Additional items may need to be addressed upon receipt of the above.

The structural drawings that were submitted show the design under the International Building Code 2000. As of May 1, 2009 all plans submitted for review must be designed under the IBC 2006. Please have the plans revised accordingly.

Special inspections shall be required for this project per Section 1704, Virginia Uniform Statewide Building Code, 2006. The use of a special inspector does not mean that City Building Inspector is not to be involved in the inspection process but rather in conjunction with the City inspection process.

A sound transmission class (STC) and impact insulation class (IIC) rating of not less than 49 is required for the exterior wall and roof/ceiling assemblies. Windows and doors shall have a minimum STC rating of 38. This project falls within noise zone 75 or greater. Please provide the assembly numbers with corresponding ratings on the plans per Section 1207.1 and Table 1207.4 of the USBC, 2006.

All commercial building plans shall be approved, stamped, and signed by the Zoning Department prior to issuance of a building permit.

Two full sets of revised plans are required for review with a letter of response to the listed items above.



City of Virginia Beach

PERMITS AND INSPECTIONS
(757) 385-4211
FAX (757) 385-5777

VBgov.com

MUNICIPAL CENTER
BUILDING 2, ROOM 100
2405 COURTHOUSE DRIVE
VIRGINIA BEACH, VIRGINIA 23456-9039

*Conf.
Plans
Approved Plans*

March 3, 2010

Kelly J. Olt
1676 Church Point Lane
Virginia Beach, Virginia 23455

Subject: Shipps Corner Soccer Complex

Dear Ms. Olt

Revised building plans for the above were reviewed this date with the following comments.

As outlined in the Conditional Use Permit, this project falls within an area that requires sound attenuation. A sound transmission class (STC) and impact insulation class (IIC) rating of not less than 49 is required for the exterior wall and roof/ceiling assemblies. Windows and doors shall have a minimum STC rating of 38. This project falls within noise zone 75 or greater. Please provide the assembly numbers with corresponding ratings on the plans per Section 1207.1 and Table 1207.4 of the USBC, 2006.

For Use Groups A or E with 50 total occupants or more and any Group H occupancy, all egress doors shall not be provided with a lock or latch unless it is panic hardware or fire exit hardware. Section 1008.1.9, International Building Code, 2006. The documentation provided does not show this.

The building plans will be approved once the above items are addressed.

If there are any questions, please don't hesitate to contact me at (757) 385-4211.

Sincerely,

Curtis A. Muller
Plans Examiner II

c: Fire Marshals Office

The plans are in bin # 93

Karen,

E10

I appreciate your response. I received your email, but unfortunately somehow have not seen it until today. We'll submit the site plan without addition and will apply to amend the conditional use permit in the future.

Also, I have met with several fire sprinkler companies and they all agreed that this building does not need sprinklers. I would appreciate it if we can schedule a meeting with Ms. Hainer, Ms. Lasley, Ms. Prochilo, Mr. Bourdon and Ms. Olt, the architect who designed the building. We would like to discuss the issue of the sprinkler system and why it was waved when the building permit was issued. I will ask a representative from a fire sprinkler design/installation company to attend as well.

I would appreciate it if we could set up a meeting at your earliest convenience to discuss and resolve this issue.

Eric,

Please submit the site plan asap without the addition. Please, do not delay. We promised during the meeting that we will expedite this submittal. I do not want any delays, as I promised to Ron Frink.

Selim Ozic

RAVE Holding LLC

2949 Shipp's Corner Road

Virginia Beach VA 23453

V. (757)544-4107

F. (757)464-0150

ravellc@verizon.net

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From: Karen Lasley [<mailto:KLasley@vb.gov>]

Sent: Friday, February 15, 2013 1:56 PM

To: RAVE Holding LLC; Karen Prochilo

Cc: 'Anita McCorkle'; 'Eric Garner'; Karen Prochilo

Subject: RE: RAVE SC addition

I am sorry – just behind on everything here. I cannot approve such a large addition administratively. I am sorry but you would have to amend the conditional use permit.

Thank you for permanently fixing the light situation. I visited the site one evening when the lights were on and found everything in compliance with the lights.

From: RAVE Holding LLC [<mailto:ozic@verizon.net>]

Sent: Friday, February 15, 2013 8:39 AM

To: Karen Lasley; Karen Prochilo

Cc: 'Anita McCorkle'; 'Eric Garner'

Subject: RE: RAVE SC addition

Karen,

Please let me know if you received my email on Wednesday. I would appreciate it if you could give me an appointment to meet you at your earliest convenience.

Eric is on standby to submit the site plan and we need to know if we can include the addition.

E10

Selim Ozic

RAVE Holding LLC

2949 Shipp's Corner Road

Virginia Beach VA 23453

V. (757)544-4107

F. (757)464-0150

ravelc@verizon.net

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From: RAVE Holding LLC [<mailto:ozic@verizon.net>]

Sent: Wednesday, February 13, 2013 10:12 AM

To: 'Karen Lasley'

Cc: 'Anita McCorkle'; 'Karen Prochilo'; 'Eric Garner'

Subject: RAVE SC addition

Karen,

Good morning. I apologize for bothering you. As you know, we took care of the light bulbs, and I'm hoping that there will be no more complaints from Linda Russell. The other reason I am sending you this email is that we built an addition 15' x 100' to the indoor building, assuming that our existing building permit was covering it and it was an ongoing construction. Half of the addition are bathrooms and the other half is a storage area for the goals. Cheri informed us that this building permit was not valid for the addition and we had to get another permit. Unfortunately we cannot get a permit since the site plan has not been approved. Eric Garner from WPL is submitting the revised site plan this week to the staff at planning commission. During the meeting with Cheri and City staff we were told to wait until you return and ask you if you can approve this addition without going to the city council review. I personally don't think this small addition requires a review by City council. If you can help us to get this addition approved, we can add it to the site plan, which Eric will submit for review now, saving everybody a lot of time. We would appreciate your help in this matter.

Thank you,

Selim Ozic

RAVE Holding LLC

2949 Shipp's Corner Road

Virginia Beach VA 23453

V. (757)544-4107

F. (757)464-0150

ravelc@verizon.net

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EG

Maren Caulder

From: Ron Frink
Sent: Tuesday, July 12, 2011 11:20 AM
To: amccorkle@sykesbourdon.com
Subject: H10-605, Rave Soccer Complex
Attachments: H10-605 FC eg.docx; H10-605 FC Amended Letter eg.docx

Good morning, Eddie.

Here are copies of the review letters dated September 15, 2010 and June 28, 2011 sent to Eric Garner via fax & e-mail and Selim Ozic via fax and USPS.

Let me know what dates and times you, Mr. Ozic, and Mr. Garner desire to meet with the appropriate city staff to discuss the revisions to the field change plan prepared by WPL.

Once we have our discussion, it may be possible to obtain a "temporary certificate of occupancy" from Cheri Hainer, Permits and Inspections Administrator.

Ronald M. Frink

DSC Project Manager
City of Virginia Beach
Department of Planning
Development Services Center (DSC)
2405 Courthouse Drive, Room 191
Virginia Beach, VA 23456-9040

757.385.5661 (Desk) 757.385.8277 (DSC Front Desk)
rfrink@vb.gov

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City of Virginia Beach

VT.gov.com

PLANNING DEPARTMENT/DEVELOPMENT SERVICES CENTER (DSC)
PHONE (757) 385-8277
FAX (757) 385-5789
TTY 711

MUNICIPAL CENTER
BUILDING 2, ROOM 191
2405 COURTHOUSE DRIVE
VIRGINIA BEACH, VA 23456-9040

March 5, 2012

Mr. Eric Garner, L.S.
WPL
242 Mustang Trail, Suite 8
Virginia Beach, VA 23452-7510

Subject: Field Change Plan Review of Shipps Corner Soccer Complex, 2949 Shipps Corner Road, WPL Project #208-0151, DSC File #H10-605

Dear Mr. Garner:

The Development Services Center (DSC) and the various city review staffs have completed its review of the subject plan submitted on February 2, 2012, and the plan is **DISAPPROVED**. The following numbered comments, provided by the various review agencies, must be addressed before the revised plan is resubmitted for review and approval:

PLANNING/ ENVIRONMENTAL & SUSTAINABILITY - Rick Scarper (385-8612)
PLANNING/ ENVIRONMENTAL & SUSTAINABILITY - P. J. Scully (385-8598)

During the Chesapeake Bay Preservation Area public hearing on February 27, the city staff asked the CBPA Board to defer the application for an additional 60 days to allow the ESO staff and the developer's attorney to discuss what steps must be taken for the fill material placed on the property without the appropriate authorization from the City of Virginia Beach and the U. S. Army Corps of Engineers (ACOE). A meeting will be scheduled within the next week or so. For more details, you can contact Rick Scarper at 385-8612.

PLANNING/DSC ENGINEERING - Ric Bagtas (385-8509)

2. The Design Narrative must clarify:

Mr. Eric Garner, L.S.
 Field Change Plan Review of Shipps Corner Soccer Complex
 March 5, 2012
 Page 2 of 5

- a. That the Army Corps of Engineers has determined that 1.37 acres of unauthorized clearing and filling has occurred. This is in addition to the 15.9 acres that was legally cleared and vacant prior to construction in 2005.
 - b. Per 2006-2007 VGIN Aerial imagery, it appears that a bioretention planting bed was installed in the northeast corner of the property in accordance with the E&S plan approved on 7/13/04, the site plan approved on 4/29/05 and the BMP As-Built plan approved on 1/23/06. Subsequently, 2009 VGIN Aerial Imagery indicates that the bioretention planting bed was filled and a "wet" pond was constructed in this area. Please clarify when and why this occurred.
 - c. When and why the aforementioned "wet" pond was filled and an unauthorized "wet" pond was constructed in the southeast corner of the property.
3. The existing unauthorized "wet" pond is located in Floodplains Subject to Special Restrictions per §5B.5(c) of Appendix C – Site Plan Ordinance. Per §9(u) of Appendix D – Stormwater Management Ordinance, "no structural stormwater management facilities shall be constructed within the 100-year floodplain of the floodplain subject to special restrictions ...". Please revise the plan and all calculations as necessary. Also be advised:
- a. RCP must be installed for outfall pipes located within public right-of-way and/or easements.
 - b. Outfalls to any natural or manmade ditch must comply with MS-19. Provide documentation verifying full compliance.
4. The drainage narrative states that 13,049 cf of storage volume is provided to attenuate the 10-year storm. The "Dry Retention Pond" is included in this total. As previously noted, this SWMF appears to be a "wet" pond located in Floodplains Subject to Special Restrictions, therefore, may not be included as providing storage volume.
5. Please quantify (area and volume) and delineate on the plan all unauthorized clearing and filling within Floodplains Subject to Special Restrictions. Be advised, per §5B.5(c) of Appendix C – Site Plan Ordinance, an administrative variance may be granted for the proposed fill within the floodplain provided that the following criteria are met:
- a. One hundred (100) percent of the proposed fill within the floodplain must be mitigated to result in no decrease in flood storage.
 - b. The mitigation must also provide a one (1) for one (1) replacement for the flood storage volume of floodplain filled.
 - c. The areas of mitigation or replacement must be contiguous to the existing floodplain.
 - d. The proposed fill within the floodplain must be limited to the smallest amount of area and fill possible to correct irregularities within the boundary of the project, and shall not exceed five (5) percent of the total area within the flood fringe located on the property to be filled.

Mr. Eric Garner, L.S.
Field Change Plan Review of Shipps Corner Soccer Complex
March 5, 2012
Page 3 of 5

- e. One hundred (100) percent mitigation must be provided on-site.
- 6. Provide cross-sections of all proposed floodplain mitigation.
- 7. The entire site must be analyzed for water quality and water quantity stormwater requirements. Because overall drainage patterns have been modified, please provide complete pre-development and post-development drainage area maps, which support submitted calculations and clearly indicate the point(s) of analysis.
- 8. MSA CBPA calculations indicate an applicable area (A) of 11.98 acres. The submitted Performance Based Water Quality Calculations indicate 13.469 ac. Please clarify the 1.489 ac increase. Be advised, the area of unauthorized clearing and fill may not be counted towards applicable area because this area is required to be mitigated. Also be advised, at 11.98 ac, this development falls under Situation 2 using $I_{watershed} = 16\%$.
- 9. Soil borings must be taken in the area of the proposed SWMFs and the certified soils report must include infiltration rates and the seasonal high adjusted groundwater table. Be advised, the CBRs provided by the GET Solutions, Inc. report were in the area of the proposed turn lanes. In addition, the minimum required two (2) foot separation from the bottom of the bioretention beds to the noted seasonal high adjusted groundwater table is not provided.
- 10. Provide documentation verifying 2.04 lbs/year of phosphorous removal as noted on the coversheet and in the Drainage Narrative.
- 11. Please clarify the increase in proposed impervious area from the plan dated 5/26/10 (84,457 sf to 88,340.7 sf).
- 12. The two (2) frame sheds may not encroach into the existing 35' Drainage Easement and must be relocated. Be advised, building permits are required for sheds exceeding 150 sf.
- 13. Provide the recordation reference for the Wetland Preservation Area on the plan.
- 14. Provide supporting documentation clarifying how weighted "C" factors were derived.
- 15. Provide hydraulic grade line calculations for this site.
- 16. Provide pond routing calculations.
- 17. Indicate the 10-year and 100-year rise with SWMF cross-sections.
- 18. Site plans that include stormwater pipe networks must be sealed by a qualified LS "B", PE or LA licensed in Virginia. This would include any corresponding details.

PLANNING/CIVIL INSPECTIONS - Michael McIntyre (385-8145)

- 19. Provide dimensions and elevation of the earthen berm that is located within the RPA.
- 20. WQIA: please provide the number of trees removed or canopy square footage removed for the construction of the berms and stormwater facility.
- 21. Show the swale under the wall at the northeast corner of the site.
- 22. The construction entrance is not required for an existing gravel parking area.
- 23. ~~Provide dimensions and elevation of the structures located at the southern property line. Building permits must be obtained for these structures.~~
- 24. Use Public Works Standard B-45 for bio-retention BMPs.
- 25. Indicate how the runoff from the west side of the roof will be treated.

Mr. Eric Garner, L.S.
 Field Change Plan Review of Shipps Corner Soccer Complex
 March 5, 2012
 Page 4 of 5

26. Evidence that all applicable wetlands permits required by law have been obtained prior to authorization of grading or other on-site activities must be provided.
27. The location, size, and description of existing and proposed plant material. All existing trees on the site of six (6) inches or greater diameter at breast height shall be shown. Where there are groups of trees, stands may be outlined instead. The specific number of such trees to be preserved outside or within the construction footprint must be indicated on the plan.
28. The following note must be placed on the plan:
 - a. Excavation material from construction, including dredge material, shall be disposed of in a lawful manner.
 - b. Prior to clearing grading or any phase of construction, **suitable protective barrier shall be installed around those trees to be preserved. These protective barriers shall remain so erected throughout all phases of construction.**

PUBLIC WORKS/OPERATIONS MANAGEMENT - Adam Walborn (385-5098)

- Approved

PLANNING/DSC PROJECT MANAGEMENT - Ronald Frink (385-5661)

29. Any revisions to the submitted development plans beyond those necessary to address the review comments listed above must be identified in the resubmittal cover letter. If the changes are not documented in that letter, they will neither be reviewed nor approved.
30. **Ten (10) copies** of the field change plan must be included in the resubmittal package. If the field change plan is approved during the next plan submittal, *eight (8) additional copies* of the plan must be provided for distribution to the various review/inspections staffs.
31. A response letter, which addresses each comment requiring plan revisions, must be provided with the plan submittal. This office requests **four (4) additional copies** of the response letter. These copies will be forwarded to the review agencies when the plan is resubmitted.

The following advisory comments are provided for your benefit:

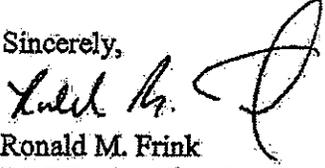
- a. Our **total review time** for the resubmitted plan will be *approximately three (3) weeks* from the date of the plan submittal.
- b. The owner, developer and/or consultant are responsible for contacting the Department of Conservation and Recreation (DCR) and/or the U.S. Army Corps of Engineers regarding State construction site stormwater permits and the potential presence of jurisdictional non-tidal wetlands, respectively. The City of Virginia Beach does not issue Virginia Stormwater Management Program (VSMP) permits or make non-tidal wetland determinations or regulate these environmentally sensitive areas.

Ed

Mr. Eric Garner, L.S.
Field Change Plan Review of Shipps Corner Soccer Complex
March 5, 2012
Page 5 of 5

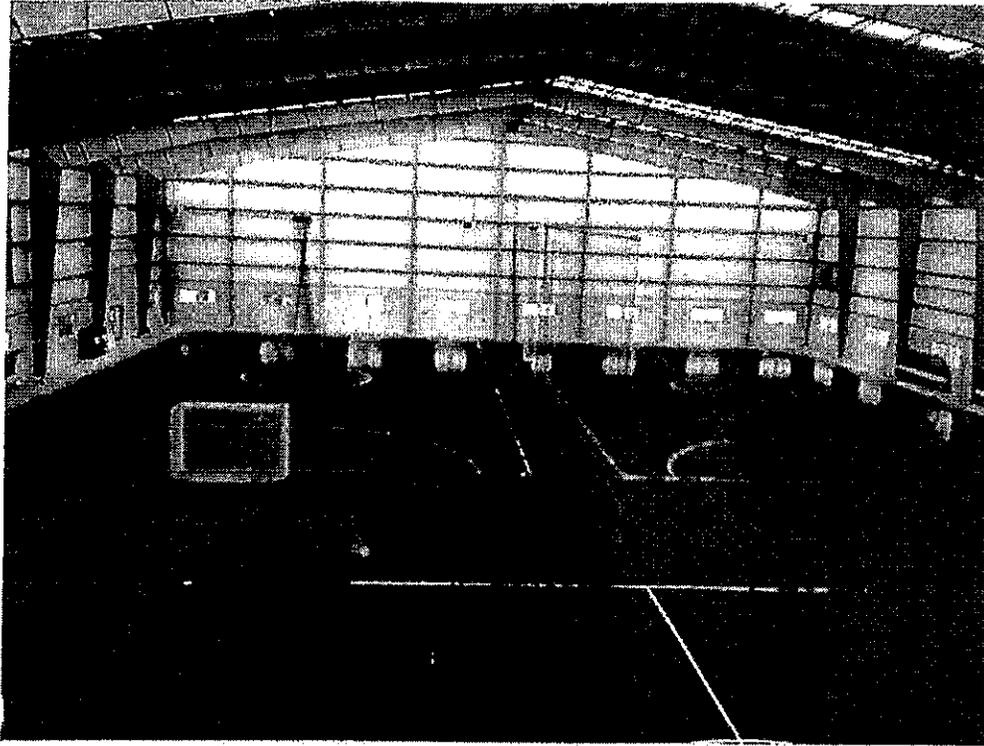
- c. Under the Virginia Stormwater Management Program (VSMP), construction activities greater than 2,500 square feet in the Chesapeake Bay Preservation localities are required to apply for registration coverage under the General Permit for Discharges of Stormwater from Construction Activities. The City of Virginia Beach is not currently involved in this permitting. Therefore, the owner/developer is responsible for obtaining the necessary approval and permit from the Commonwealth of Virginia. This is currently accomplished through the Virginia Department of Conservation and Recreation (DCR). More information can be found online at http://www.dcr.virginia.gov/soil_&_water/vsmp.shtml#geninfo.
- d. Please refer to the "Development Services Center File Number" on all site plan related correspondence.

Should you have any questions or need further assistance, please call me at 385-5661 or e-mail at rfrink@vbgov.com.

Sincerely,

 Ronald M. Frink
 DSC Project Coordinator

RMF

- c: Selim Ozic, Rave Soccer Complex L.L.C.
 R. Edward Bourdon, Jr., Esq., Sykes, Bourdon, Ahern & Levy, P.C.
 Ric Bagtas, Planning/DSC Engineering
 Carrie Bookholt, Planning/Landscape Architect
 Cheri Hainer, Permits and Inspections Administrator
 Theresa Holleran, Planning/DSC Utilities
 Karen Lasley, Current Planning Coordinator/Zoning Administrator
 Frank Janes, Public Works/Operations Management-Stormwater
 Michael McIntyre, Planning/Civil Inspections (File #201014116CO)
 Karen Prochilo, Planning/Current Planning (File #09-148)
 Rick Scarper, Planning/Environment and Sustainability Office
 P.J. Scully, Planning/Environment and Sustainability Office
 Adam Walborn, Public Works/Operations Management-Stormwater
 U. S. Army Corps of Engineers-Norfolk District
 DSC File #H10-605



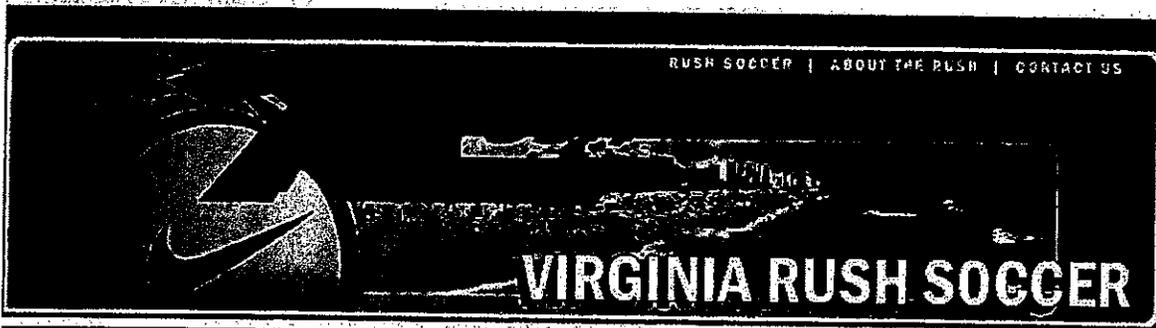
ATTACHMENT C

ATTACHMENT F



Virginia Rush Soccer, Inc.

January 2013



**Sunday
Incident at the Rave
Message from
the VA Rush Board**

Quick Links

VA Rush Website

Rush Soccer Website

**VA Rush
Developmental
Weather Hotline**

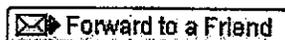
757-886-5091

**Hampton Roads
Soccer Complex
Weather Hotline**

757-518-5176



Join Our Mailing List



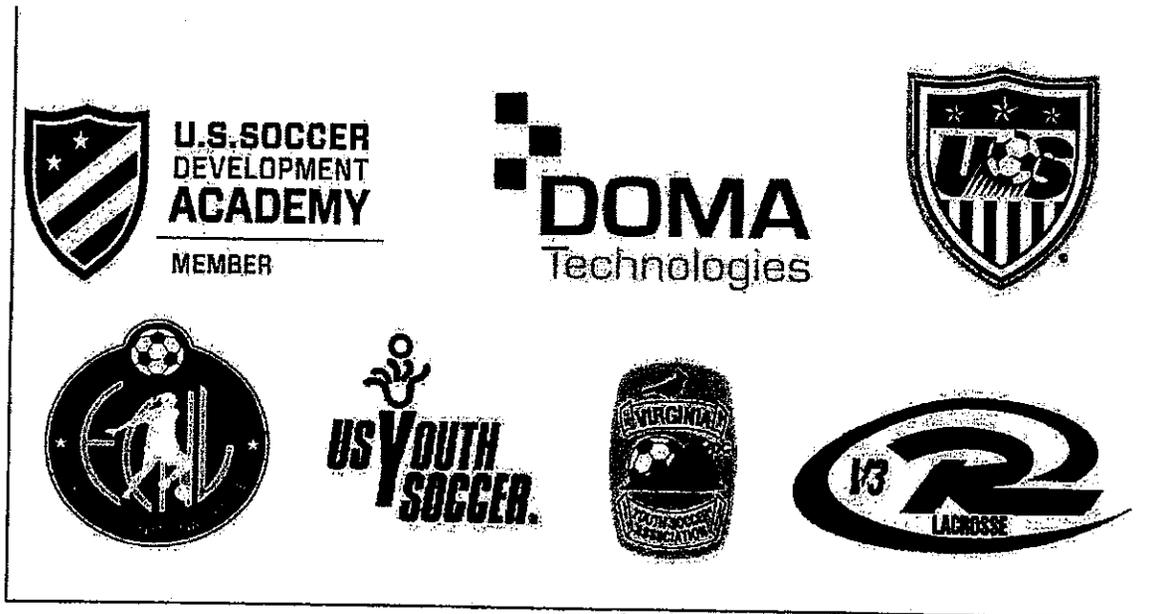
Dear Rush Family,

As you may be aware from news reports, there was an incident during one of the adult games at the Rave yesterday. There were no youth players at the Rave yesterday as the Rush policy is to avoid co-scheduling youth games with adult games at the Rave.

The adults are not part of the Rush and are a separate entity leasing field space from the Rush. The Rush Board will investigate and have further discussions with the Board and leaders of the Adult league in the near future regarding this incident and further use of all Rush facilities.

The incident involved two players on the same team and a spectator present with one of the players involved. The spectator brandished a pipe yelling at a player on the field and was immediately subdued by adult players, inclusive of an off-duty police officer, and a Rush board member. The Rush board member called the police. One of the two players left the field and returned with a machete hidden beneath his jersey and shorts. He walked past the Rush board member who could not see the hidden weapon. He brandished the weapon on the field and was subdued by several adult players,

F



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SafeUnsubscribe

Trusted Email from
Constant Contact
Try it FREE today

This email was sent to william.borkman@vbschools.com by gm@varush.com |
[Update Profile/Email Address](#) | Instant removal with [SafeUnsubscribe™](#) | [Privacy Policy](#).

Virginia Rush Soccer, Inc. | 2181 Landstown Rd | Virginia Beach | VA | 23456



HOME TECH. DIRECTORS D.O.C./STAFF COACHES PARENTS PLAYERS CONTACT US

Like us on FACEBOOK - Virginia Rush Soccer Club +++ Purchase your tickets now for the 2013 Virginia Beach Piranhas PDL and V-League season. Contact the VA Rush office o

- REGISTRATION
- RUSH FIELD RENTALS
- STAFF
- VA RUSH BOOSTER CLUB
- RAVE
- V3 RUSH LACROSSE
- INDOOR:
- PROGRAMS
- DEVELOPMENTAL
- SCHOOL OF EXCELLENCE
- ADVANCED
- COMPETITIVE
- ECNL
- USSDA
- EVENTS
- TOURNAMENTS
- CAMPS
- CLUB PROFILE
- COLLEGE PROGRAM
- TRAVEL
- UNIFORMS
- NEWS ARCHIVE
- R.E.A.C.H.
- LINKS
- REFEREES
- SPONSORSHIP SURVEY

RAVE Programs

Created on Thursday, 13 September 2012 12:28

Men's Futsal - www.otsivb.com

Women's Futsal - <http://sewvssoccerclubs.com/Default.css.aspx>

Atlantic Wave Volleyball - <http://atlanticwavevolleyball.com/>

Saints Field Hockey - <http://fieldhockeyrocks.com/>

Legend Elite Softball - <http://www.legendelite.org/>

V3 Lacrosse - <http://www.v3lax.com/Default.asp?snid=dNMEZ2M1%5F&org=v3lax.com>

NATIONAL SPONSORS



LOCAL SPONSORS



U.S. SOCCER DEVELOPMENT ACADEMY

MEMBER



FAN STORE



FIELD STATUS

Last Update: 2013-05-16 08:52 am

- HRSC
- (Advanced/VSLI) 757-518-5176
- Southside Recreation Fields
- Weather Hotline 757-886-5081
- Va Beach Sportsplex
- (Stadium Turf) Weather Hotline 757-518-5176
- Peninsula Recreation Fields
- Youth-Hampton Only

ATTACHMENT 62

CAP ID: 2013-CMPL-20312

 Menu  Help

 Go To **Summary**

Description of Work: The Rave Soccer Complex

Application Status: Active

Application Detail: Detail

Application Type: Permits/Complaint/NA/NA

Address: 2949 SHIPPS CORNER RD, VIRGINIA BEACH, VA 23453

Owner Name:

Owner Address:

Application Name:

Application Comments:	View ID	Comment	Date
-----------------------	---------	---------	------

Application Spec Info.:

GENERAL

City Manager Complaint: _____

Citizen's Inquiry Number: _____

Permit #: _____

Business Name: _____

Comments/Results: _____

Complaint Forwarded: _____

Action Taken: _____

BOX NUMBER

Box Number: _____

Storage Space: _____

Converted: No

Ready To Close: _____

Application Spec Info. Table: **COMPLAINT**

Complaint	Comments
<u>Building Permit Needed</u>	Loose cinder blocks on top of wall building currently being constructed. Is concerned about large holes beside stair and children's safty. Children are slipping on granite entry stairway in wet conditions. The office building next to the indoor soccer building is being used for assembly training purposes with one stairway to the second floor. There is only one exit available and the fence enclosure gates are padlocked.

62

Total Fee Assessed: \$0.00

Total Fee Invoiced: \$0.00

Balance: \$0.00

Job Value: \$0.00

Parcel No.: 14953733290000

Contact Info:

Licensed Professionals Info.:

File Date: 08/07/2013

Structure:

Workflow Status:

Task	Status	Status Date	Action By
<u>Intake</u>	Accepted	08/07/2013	maren caulder
<u>Inspection</u>			
Closed			

Adhoc Task Status:

Task	Status	Status Date	Action By
------	--------	-------------	-----------

Condition Status:

Condition Name	Status	Apply Date	Severity	Action By
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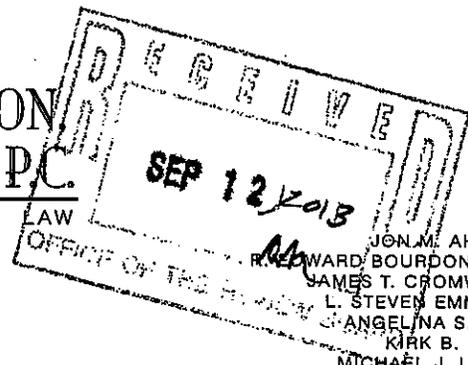
S B SYKES, BOURDON
A L AHERN & LEVY, P.C.

ATTORNEYS AND COUNSELORS AT LAW

PEMBROKE OFFICE PARK - BUILDING ONE
281 INDEPENDENCE BOULEVARD
FIFTH FLOOR
VIRGINIA BEACH, VIRGINIA 23462-2989

TELEPHONE: 757-499-8971
FACSIMILE: 757-456-5445

September 9, 2013



JON M. AHERN
R. EDWARD BOURDON, JR.
JAMES T. CROMWELL
L. STEVEN EMMERT
ANGELINA S. LEE
KIRK B. LEVY
MICHAEL J. LEVY*
HOWARD R. SYKES, JR.
LEONARD C. TENGO

*Admitted in Virginia and Washington DC

Alan McMahan, CBO, CLGM
Senior Construction Inspector II and Staff
State Building Code Technical Review Board
State Building Code Office
Division of Building & Fire Regulation
Department of Housing & Community Development
600 E. Main Street
Suite 300
Richmond, Virginia 23219

Re: Appeal No.: 13-5
Rave Soccer Complex, LLC

Dear Mr. McMahan:

Attached is a summary of my client's position regarding the subject matter of their appeal. I have advised the City Attorney, Ms. Wilson who is Ms. Hainer's legal counsel that I am available on September 19th, October 1st, 15th or 16th for the proposed informal fact finding conference.

Please confirm the time and date selected.

Sincerely,

R. Edward Bourdon, Jr.

REBjr/arhm
Attachments

cc: Selim Ozic, Rave Soccer Complex
Danny Speight

H:\AM\Building Code Agreement\Rave Soccer Complex\McMahan_Ltr 9-09-13.doc

Re: Appeal No.: 13-5
Rave Soccer Complex, LLC
Shipp's Corner Road, Virginia Beach, Virginia

The subject property is 21.356 acres in size. It is zoned Agriculture (AG-1) and has 5.8 acres of preserved, forested, non-tidal wetlands; 14± acres of outdoor soccer fields; a 1,284 square foot clubhouse; a 169 space (paved and gravel) parking lot; and the subject one-story 33,000 square foot metal building which covers/encloses an indoor training/recreation sports court.

The building (Group A-3) is on the west side of the Property adjacent to the parking area and immediately accessible to emergency vehicles of any size. There are no locker rooms or rooms of any type within the building. Nothing in the building is combustible. There are no bleachers or seating in the building and NONE are permitted!

The property is in the AICUZ noise zone >75 db DNL around N.A.S. Oceana (i.e. the highest noise zone). The eastern one-half of the property is in Accident Potential Zone 1 and the western half, where the subject building is located is in Accident Potential Zone 2 (APZ-2). The use of the Property and the building is compatible with naval air operations and the City's AICUZ Ordinance (§1804 of the City's Zoning Ordinance). Along the southern boundary of the subject Property is a large adjacent tract of undeveloped land zoned I-1 Industrial.

The Conditional Use Permit approved by City Council for this entire facility and the building includes the following CONDITIONS:

1. The applicant shall request a variance from the Chesapeake Bay Area Board if the Planning Director or his designee determines that this is required.
2. The fields shall be used for practices and for adult league games. There shall, however, be no events that would draw spectators. No bleachers or spectator seating is permitted on the property.

3. A right of way reservation shall be provided along Shipp's Corner Road as required for the Shipp's Corner Road Bridge Replacement Plan CIP 2-174 and as called for in the Master Transportation Plan.
4. Right and/or left turn lanes shall be constructed on Shipp's Corner Road if Public Works Traffic Engineering determines that they are required during the detailed plan review process.
5. All outdoor recreational lighting fixtures shall be no higher than forty (40) feet and shall be directed downward. In addition, glare guards, Daybrite Model VSSL, have been added to all lights facing Shipp's Corner Road and must remain in place. The four poles of designated field lights facing Shipp's Corner Road must remain turned off. The designated field lights are as follows: one pole of field lights facing Shipp's Corner Road in the last row closest to the south and east property lines and three consecutive poles of field lights facing Shipp's Corner Road in the second row from the south property line on the eastern end of the property as labeled on the site layout. The field lights shall be controlled by timers and can only be used Monday through Friday until 9:00 PM. Outdoor parking lot lighting shall be no higher than twenty-five (25) feet and shall be directed downward and shielded to direct light and glare onto premises and away from adjoining properties.
6. Restrooms/first aid building shall be developed in substantial conformance with the submitted plan entitled "New Building Shipp's Corner Road Virginia Beach Virginia", prepared by Kelly Jean Olt dated March 10, 2005.
7. The indoor soccer facility shall be developed in substantial conformance with the submitted plan entitled "Conditional Use Exhibit for Shipp's Corner Soccer Complex #2949 Shipp's Corner Road Virginia Beach Virginia", prepared by WPL Landscape Architects, Land Surveyors, Engineers dated June 29, 2005.
8. The indoor facility shall be developed in substantial conformance with the submitted rendering entitled "RAVE SOCCER COMPLEX LLC".

My client has offered to install sprinklers around the entire perimeter of the interior of the structure, however, Ms. Hainer insists that the entire floor area of the structure must have sprinklers.

As Ms. Hainer acknowledged in her testimony before the Building Code of Appeals Board, the subject is an A-3 use (indoor recreation without any seating being allowed) built out of non-combustible materials containing 33,000 square feet. Even

though the structure is only one-story, Ms. Hainer believes the wall height somehow necessitates that the building be sprinkled (see pages 9 and 10 of Hearing Transcript).

Of critical importance are the provisions of §903.2.1.3 – Group A-3 which sets forth the requirement for an automatic sprinkler system where one of three conditions exist. Conditions numbered 2 and 3 do not exist. Condition number 1 states “The Fire Area exceeds 12,000 square feet.” Then there is an “EXCEPTION” provided for “AREAS USED EXCLUSIVELY AS PARTICIPANT SPORTS AREAS WHERE THE MAIN FLOOR AREA IS LOCATED AT THE SAME LEVEL AS THE LEVEL OF EXIT DISCHARGE OF THE MAIN ENTRANCE AND EXIT”. On page 10 of the hearing transcript, Ms. Hainer attempts to explain how this exception does not apply. Quite frankly, Ms. Hainer’s explanation and the logic of her position is that there is NO exception to the requirement that the building be entirely sprinkled if the building exceeds 12,000 square feet in floor area. This is counter to the basic tenet of legislative interpretation which precludes interpreting the language used to have absolutely no meaning at all. Yet it is precisely what Ms. Hainer’s “interpretation” of the “EXCEPTION” results in. There is no exception for areas used exclusively as participant sports areas and none can ever exist in a building exceeding 12,000 square feet.

A very troubling aspect of the testimony provided at the July 1, 2013 hearing of the Building Code Appeals Board in Virginia Beach, are the repeated efforts by Ms. Hainer and Fire Marshall Ramsey to justify requiring this entire non-combustible metal building over an area that must be exclusively used as a sports court to be sprinkled based upon a potential change in use of the building by a future “Tenant” or “Future Owner”. Examples they repeatedly cited were: (1) a Church; (2) an Art Museum; and (3) a Flea Market, which these public officials assert could just happen without any requirement for the City to grant approval or issue a permit of any kind (see page 27 of the transcript).

When Chairman Davenport pressed the Fire Marshall as to what could go wrong, from a fire safety perspective, with this use and what the applicant had

offered to do (add sprinklers to the interior perimeter), Mr. Ramsey acknowledged that “Depending on what they use it as, you know, probably as a sports, strictly use it as a sports, a soccer, you know you wouldn’t have a whole lot of threat. But when the use is changed, which it will be changed, you know, flea market, electric wires are all over the place, then that is when ...”

Later in the hearing the applicant’s architect, Ms. Olt asks Ms. Hainer if in fact the owner was to sell the property and the use was to change wouldn’t they have to apply for a change of use? Unfortunately Ms. Hainer’s replies “No, not necessarily” ... “And that is where, why I presented in the paperwork, all of the uses that are allowed under an A-3, if any one of these uses went in, they would not need a change”. I am sorry to have to say this, because I have worked with Ms. Hainer for years, but this is an absolutely false assertion.

Later Ms. Hainer doubles down on this inaccurate statement when she tells the Board “They (the owners or tenants of the Property) can change business use without even requiring a permit from us.”

The FACT is the property is zoned Agriculture and NONE of these A-3 uses Ms. Hainer refers to are a PERMITTED use of the Property and NONE could go into this building without an application for a Change of Zoning District or a Conditional Use Permit which is reviewed by the Planning Department (which Ms. Hainer is a member of). The Planning Department seeks comment from all City Departments before making a formal written report and recommendation to the Planning Commission which along with the City Council hold separate public hearings before deciding if approval is warranted and what conditions are required. I have enclosed the “Use Regulations” applicable to the AG-1 Agricultural District (§401 of the City Zoning Ordinance), which you will see does not permit any Retail Use of this building (i.e. a flea market or other retail use is not permissible in the Agricultural Zoning District). In addition, a “Church” (Religious Use) requires the granting of a Conditional Use Permit as does any “Assembly Use” or “Museum/Art Gallery”. If a change of zoning or a conditional use permit were ever approved, the City, in

accordance with the Site Plan Ordinance require the owner to file and obtain approval of a Site Plan.

Most critically, I also enclose herewith, highlighted copies of Sections 1803 and 1804 of the City's Zoning Ordinance. These provisions were adopted to preserve and protect the continued Naval Air Operations at N.A.S. Oceana. These Restrictions, adopted by the City are applicable to any "discretionary development applications (i.e. Applications for Rezonings and Conditional Use Permits) (see §1803).

Pursuant to Section 1804, it is the official, adopted POLICY of the City of Virginia Beach that NO discretionary zoning application for a use which is non-compatible with N.A.S. Oceana as designated by an "N" in Tables 1 and 2 will be approved.

The subject building is in the >75 dB DNL zone and APZ-2. As can clearly be seen in Table 1 in §1804 of the City's Zoning Ordinance (page 2607), Churches (Religious Use), Assembly Halls, cultural activities (museums), etc. are non-compatible ("N") and will NOT be approved.

In addition, the City's Comprehensive Land Use Plan does not recommend this property for Retail Use. Were a future owner to seek a rezoning to allow a retail use and obtain approval (highly unlikely), the City would have absolute authority to require (and would require) the submittal and approval of a new site plan.

To be direct and truthful, the Building Code Appeals Board chairman asked some of the right questions, however, he was not provided correct or accurate answers. The Board was given false information, which the transcript reveals was relied upon by Board members.

It is simply a fact that the "uses" and "businesses" referred to by Ms. Hainer and Mr. Ramsey as potential legal users of this A-3 building, that could simply move in without a permit, or City review and approval of their occupancy, would either (a)

never receive approval of the required rezoning or conditional use permit; and (b) never be permitted to occupy this building without the building being upgraded to meet all then applicable Code requirements for such a new and changed use of the building and premises.

In conclusion, the Board was undoubtedly misled by the inaccurate information they received and relied upon. The "Exception" provided in §903.2.1.3 clearly applies to the facts of this case. To conclude otherwise is to determine that any building of more than 12,000 square feet with an "area used exclusively as participant sports areas" must be entirely sprinkled. That is a ludicrous conclusion which makes the inclusion of the "EXCEPTION" in the Code utterly meaningless and superfluous.

permitted as accessory to agricultural uses in this district; provided further, that in connection with golf courses, accessory uses shall be designed and scaled to meet only the requirements of the members, guests or users of the golf course. (Ord. No. 2427, 10-29-96; Ord. No. 2513, 10-27-98; Ord. No. 2611, 8-22-2000; Ord. No. 3046, 8-26-08; Ord. No. 3102, 9-8-09; Ord. No. 3154, 11-9-10)

Sec. 302. Dimensional requirements.

The following chart lists the requirements within the P-1 Preservation District for minimum lot area, width, yard spacing, maximum lot coverage and height regulations:

<i>Requirement</i>	<i>P-1</i>
(a) Minimum lot area:	5 acres
(b) Minimum lot width:	200 feet
Minimum lot area and lot width requirements do not apply to conditional uses or to public utility installations.	
(c) Minimum front yard setback:	50 feet
(d) Minimum side yard setback:	50 feet
(e) Minimum rear yard setback:	50 feet
(f) Maximum lot coverage:	10 percent
(g) Any yard that adjoins a major street or right-of-way designated on the official transportation plan shall be increased by fifty (50) feet.	
(h) There shall be no maximum height requirements in the P-1 Preservation District except that no building or other structure shall exceed the height limit established by section 202(b) regarding air navigation.	

Sec. 303. Sign regulations.

Within the P-1 Preservation District only one (1) sign, not exceeding twelve (12) square feet in area, shall be permitted on any zoning lot in connection with any use. No sign shall be directly illuminated or mounted closer than ten (10) feet to the property line fronting the street or be higher than eight (8) feet above the ground elevation.

Sec. 304. Parking regulations.

Parking shall be required for all uses and structures permitted in the P-1 Preservation District in accordance with section 203.

ARTICLE 4. AGRICULTURAL DISTRICTS*

Sec. 400. Legislative intent.

The purpose of the AG-1 and AG-2 Agricultural Districts is to protect and preserve agricultural lands for agricultural functions and to protect and preserve agricultural lands and activities in the rural areas of the city in harmony with reasonable levels of rural residential development and in keeping with the special rural character, environmental protection needs and limited rural infrastructure available. (Ord. No. 2041, 3-5-91)

Sec. 401. Use regulations.

(a) *Principal and conditional uses.* The following chart lists those uses permitted within the AG-1 and AG-2 Agricultural Districts. Those uses and structures in the respective agricultural districts shall be permitted as either principal uses indicated by a "P" or as conditional uses indicated by a "C." Uses and structures indicated by an "X" shall be prohibited in the respective districts. No uses or structures other than as specified shall be permitted.

<i>Use</i>	<i>AG-1</i>	<i>AG-2</i>
Agricultural, aquacultural and horticultural uses, including orchards, vineyards, nurseries and the raising and grazing of livestock, poultry and swine and the keeping of bees	P	P
Airports, heliports and helistops	C	C
Animal hospitals, pounds, shelters, commercial and residential kennels	C	C
Antennas, building-mounted	P	P

*Editor's note—Ord. No. 2041, adopted March 5, 1991, amended Art. 4, §§ 400—404, relative to agricultural districts, in its entirety to read as herein set out. The provisions of former Art. 4 derived from Ord. No. 1773, adopted April 18, 1988, as amended by Ord. No. 1877, § 3, adopted May 22, 1989; Ord. No. 1936, adopted Nov. 13, 1989; Ord. No. 2001, enacted Aug. 21, 1990; and Ord. No. 2002, adopted Sept. 18, 1990.

APPENDIX A—ZONING

Use	AG-1	AG-2	Use	AG-1	AG-2
Assembly uses	C	C	Mulch processing facilities, subject to the provisions of section 239.02	C	C
Borrow pit	C	C	Mulch storage on lots at least five (5) acres in area on which an active farming operation is conducted, provided that no more than five hundred (500) cubic yards shall be stored at one time; no retail sales to the general public shall be conducted; no processing shall occur on the site; and no sign associated with such activity shall be allowed	P	P
Building-mounted antennas, subject to the requirements of Section 207	P	P	Museums and art galleries when not operated by a public agency	C	C
Cemetery, columbarium, crematory and mausoleum	C	C	Personal watercraft rentals	C	C
Child care education centers in connection with public or private elementary schools or religious uses	P	P	Private schools having curriculums similar to public schools	C	C
Child care education centers, day nurseries, other than those permitted as principal uses and structures, when not operated by a public agency	C	C	Private sewage treatment facilities	C	C
Communication towers meeting the requirements of Section 232(j)	P	P	Public elementary, intermediate and high schools, colleges and universities; day nurseries in connection with public or private elementary schools or religious uses	P	P
Communication towers, except as specified above	C	C	Public parks, recreational areas, botanical and zoological gardens, golf courses, marinas and other public buildings and uses	P	P
Country inns	C	C	Public utility installations and substations; provided offices, storage or maintenance facilities shall not be permitted; and provided, further, that utilities substations other than individual transformers, shall be surrounded by Category V screening, solid except for entrances and exits; and provided also, transformer vaults for underground utilities and the like shall require Category I screening, solid except for access openings	P	P
Drive-in theaters	C	C	Public utility transformer stations and major transmission lines and towers (50,000 volts or more)	C	C
Dwelling, single-family addition	P	P	Recreation and amusement facilities of an outdoor nature other than those specified as principal uses, which may be partially or temporarily enclosed on a seasonal basis, with the approval of city council	C	C
Dwellings, duplex	X	X	Recreation facilities other than those of an outdoor nature	C	C
Dwellings, single-family, except as specified in section 405(a)	P	P	Recreational and amusement activities, as specified in and subject to the provisions of subsection (c)	P	P
Dwellings, single-family, in accordance with section 405(a)	C	C	Recreational campgrounds	C	C
Dwelling units, not to exceed one (1), located within livestock barns, to be occupied only by farm employees or persons related to the owner of the property by blood, marriage, adoption or approved foster care	P	P	Religious uses	C	C
Family care homes, foster homes or group homes	C	C	Repair of agricultural equipment	C	C
Farm wineries, subject to the provisions of section 209.1	P	P			
Fiber-optics transmission facilities	C	C			
Firewood preparation facility	C	C			
Fish hatcheries and fish ponds	P	P			
Flex suites, subject to the provisions of section 507	P	P			
Forests and forestry	P	P			
Fraternity and sorority houses, student dormitories and student centers; provided that they be located within a one-mile radius of a college or university	C	C			
Game preserves	P	P			
Golf courses, including par 3 with a minimum area of 10 acres, and miniature golf courses	C	C			
Home-based wildlife rehabilitation facilities	P	P			
Home occupations, including those conducted outside the principal structures	C	C			
Hospitals and sanitariums	C	C			
Marinas, noncommercial and community boat docks	C	C			
Maternity homes	C	C			

permitted as accessory to agricultural uses in this district; provided further, that in connection with golf courses, accessory uses shall be designed and scaled to meet only the requirements of the members, guests or users of the golf course.

(Ord. No. 2427, 10-29-96; Ord. No. 2513, 10-27-98; Ord. No. 2611, 8-22-2000; Ord. No. 3046, 8-26-08; Ord. No. 3102, 9-8-09; Ord. No. 3154, 11-9-10)

Sec. 302. Dimensional requirements.

The following chart lists the requirements within the P-1 Preservation District for minimum lot area, width, yard spacing, maximum lot coverage and height regulations:

<i>Requirement</i>	<i>P-1</i>
(a) Minimum lot area:	5 acres
(b) Minimum lot width:	200 feet
Minimum lot area and lot width requirements do not apply to conditional uses or to public utility installations.	
(c) Minimum front yard setback:	50 feet
(d) Minimum side yard setback:	50 feet
(e) Minimum rear yard setback:	50 feet
(f) Maximum lot coverage:	10 percent
(g) Any yard that adjoins a major street or right-of-way designated on the official transportation plan shall be increased by fifty (50) feet.	
(h) There shall be no maximum height requirements in the P-1 Preservation District except that no building or other structure shall exceed the height limit established by section 202(b) regarding air navigation.	

Sec. 303. Sign regulations.

Within the P-1 Preservation District only one (1) sign, not exceeding twelve (12) square feet in area, shall be permitted on any zoning lot in connection with any use. No sign shall be directly illuminated or mounted closer than ten (10) feet to the property line fronting the street or be higher than eight (8) feet above the ground elevation.

Sec. 304. Parking regulations.

Parking shall be required for all uses and structures permitted in the P-1 Preservation District in accordance with section 203.

ARTICLE 4. AGRICULTURAL DISTRICTS*

Sec. 400. Legislative intent.

The purpose of the AG-1 and AG-2 Agricultural Districts is to protect and preserve agricultural lands for agricultural functions and to protect and preserve agricultural lands and activities in the rural areas of the city in harmony with reasonable levels of rural residential development and in keeping with the special rural character, environmental protection needs and limited rural infrastructure available.

(Ord. No. 2041, 3-5-91)

Sec. 401. Use regulations.

(a) *Principal and conditional uses.* The following chart lists those uses permitted within the AG-1 and AG-2 Agricultural Districts. Those uses and structures in the respective agricultural districts shall be permitted as either principal uses indicated by a "P" or as conditional uses indicated by a "C." Uses and structures indicated by an "X" shall be prohibited in the respective districts. No uses or structures other than as specified shall be permitted.

<i>Use</i>	<i>AG-1</i>	<i>AG-2</i>
Agricultural, aquacultural and horticultural uses, including orchards, vineyards, nurseries and the raising and grazing of livestock, poultry and swine and the keeping of bees	P	P
Airports, heliports and helistops	C	C
Animal hospitals, pounds, shelters, commercial and residential kennels	C	C
Antennas, building-mounted	P	P

***Editor's note**—Ord. No. 2041, adopted March 5, 1991, amended Art. 4, §§ 400—404, relative to agricultural districts, in its entirety to read as herein set out. The provisions of former Art. 4 derived from Ord. No. 1773, adopted April 18, 1988, as amended by Ord. No. 1877, § 3, adopted May 22, 1989; Ord. No. 1936, adopted Nov. 13, 1989; Ord. No. 2001, enacted Aug. 21, 1990; and Ord. No. 2002, adopted Sept. 18, 1990.

Use	P-1	Use	P-1
Colleges and universities, but not including dormitories or other housing facilities	C	Storage and maintenance installations for public utilities	C
Communication towers	C	Television or other broadcasting stations	C
Environmental education centers other than those operated by a governmental entity	C	Watersheds, wells, water reservoirs and water control structures	P
Fish hatcheries and fish ponds	P	Wind energy conversion systems, free-standing	C
Forests and forestry; provided that the harvesting of timber shall be in accordance with the requirements of subsection (a1)	P	Wind energy conversion systems, roof-mounted	C
Game preserves	P	(a1) Harvesting of timber shall be permitted as a principal use only if the following requirements are met, and otherwise shall be allowed only as a conditional use:	
Golf courses, private, nonilluminated, including par 3, but not including miniature, with a minimum area of 10 acres	C	(1) Such activity is conducted in accordance with the silvicultural best management practices developed and enforced by the state forester pursuant to section 10.1-1105 of the Virginia Code;	
Harvesting of timber where all requirements of subsection (a1) are not met	C	(2) Such activity is conducted upon land which has been classified by the city assessor as real estate devoted to forest use; and	
Marinas, noncommercial	C	(3) The area on which harvesting occurs is reforested artificially or naturally or is converted to bona fide agricultural or improved pasture use.	
Open agricultural and horticultural uses, provided that intensive cultivation shall not be allowed	P	(a2) Prior to commencing any timber harvesting activity, the owner of the property upon which such activity is to occur shall notify the zoning administrator, in writing, of his intent to harvest the timber on such property. Within ten (10) working days after the receipt of such notice, the zoning administrator shall notify the property owner whether the proposed activity will be allowed as a principal use or will require a conditional use permit. No harvesting of timber shall take place until the zoning administrator notifies the owner that the proposed activity is allowed as a principal use or until a conditional use permit has been granted by the city council, whichever the case may be.	
Personal watercraft rentals	C	(b) <i>Accessory uses and structures.</i> Uses and structures which are customarily accessory and clearly incidental and subordinate to principal uses and structures; provided that roadside stands for sale of agricultural products shall not be	
Public parks, recreational areas, botanical and zoological gardens, golf courses, marinas and other public buildings and uses	P		
Public utility installations and substations; provided offices, storage or maintenance facilities shall not be permitted; and provided, further, that utilities substations other than individual transformers, shall be surrounded by Category V screening, solid except for entrances and exits; and provided also, transformer vaults for underground utilities and the like shall require Category I screening, solid except for access openings	P		
Recreation and amusement facilities of an outdoor nature other than those specified as principal uses, which may be partially or temporarily enclosed on a seasonal basis, with the approval of city council	C		
Recreational campgrounds	C		
Riding academies, horses for hire or boarding	C		

APPENDIX A—ZONING

Use	AG-1	AG-2	Use	AG-1	AG-2
Assembly uses	C	C	Mulch processing facilities, subject to the provisions of section 239.02	C	C
Borrow pit	C	C	Mulch storage on lots at least five (5) acres in area on which an active farming operation is conducted, provided that no more than five hundred (500) cubic yards shall be stored at one time; no retail sales to the general public shall be conducted; no processing shall occur on the site; and no sign associated with such activity shall be allowed	P	P
Building-mounted antennas, subject to the requirements of Section 207	P	P	Museums and art galleries when not operated by a public agency	C	C
Cemetery, columbarium, crematory and mausoleum	C	C	Personal watercraft rentals	C	C
Child care education centers in connection with public or private elementary schools or religious uses	P	P	Private schools having curriculums similar to public schools	C	C
Child care education centers, day nurseries, other than those permitted as principal uses and structures, when not operated by a public agency	C	C	Private sewage treatment facilities	C	C
Communication towers meeting the requirements of Section 232(j)	P	P	Public elementary, intermediate and high schools, colleges and universities; day nurseries in connection with public or private elementary schools or religious uses	P	P
Communication towers, except as specified above	C	C	Public parks, recreational areas, botanical and zoological gardens, golf courses, marinas and other public buildings and uses	P	P
Country inns	C	C	Public utility installations and substations; provided offices, storage or maintenance facilities shall not be permitted; and provided, further, that utilities substations other than individual transformers, shall be surrounded by Category V screening, solid except for entrances and exits; and provided also, transformer vaults for underground utilities and the like shall require Category I screening, solid except for access openings	P	P
Drive-in theaters	C	C	Public utility transformer stations and major transmission lines and towers (50,000 volts or more)	C	C
Dwelling, single-family addition	P	P	Recreation and amusement facilities of an outdoor nature other than those specified as principal uses, which may be partially or temporarily enclosed on a seasonal basis, with the approval of city council	C	C
Dwellings, duplex	X	X	Recreation facilities other than those of an outdoor nature	C	C
Dwellings, single-family, except as specified in section 405(a)	P	P	Recreational and amusement activities, as specified in and subject to the provisions of subsection (c)	P	P
Dwellings, single-family, in accordance with section 405(a)	C	C	Recreational campgrounds	C	C
Dwelling units, not to exceed one (1), located within livestock barns, to be occupied only by farm employees or persons related to the owner of the property by blood, marriage, adoption or approved foster care	P	P	Religious uses	C	C
Family care homes, foster homes or group homes	C	C	Repair of agricultural equipment	C	C
Farm wineries, subject to the provisions of section 209.1	P	P			
Fiber-optics transmission facilities	C	C			
Firewood preparation facility	C	C			
Fish hatcheries and fish ponds	P	P			
Flex suites, subject to the provisions of section 507	P	P			
Forests and forestry	P	P			
Fraternity and sorority houses, student dormitories and student centers; provided that they be located within a one-mile radius of a college or university	C	C			
Game preserves	P	P			
Golf courses, including par 3 with a minimum area of 10 acres, and miniature golf courses	C	C			
Home-based wildlife rehabilitation facilities	P	P			
Home occupations, including those conducted outside the principal structures	C	C			
Hospitals and sanitariums	C	C			
Marinas, noncommercial and community boat docks	C	C			
Maternity homes	C	C			

VIRGINIA BEACH CODE

Use	AG-1	AG-2
Residential care for seniors, provided that no more than one (1) employee other than a bona fide resident of the dwelling shall be permitted	P	P
Retail sales of garden supplies, equipment, and material, as a subsidiary use to a plant nursery, provided that the sales are enclosed and limited to a maximum floor area of five hundred (500) square feet	C	C
Riding academies, horses for hire or boarding	C	C
Shelter for farm employees	C	C
Storage and maintenance installations for public utilities	C	C
Television or other broadcasting stations	C	C
Wells, water reservoirs, and water control structures	P	P
Wildlife rehabilitation centers	C	C
Wind energy conversion systems, free-standing, except as provided below	P	P
Wind energy conversion systems, free-standing, in excess of one (1)	C	C
Wind energy conversion systems, roof-mounted, except as provided below	P	P
Wind energy conversion systems, roof-mounted, in excess of one (1)	C	C

(b) *Accessory uses and structures.* Uses and structures which are customarily accessory and clearly incidental and subordinate to principal uses and structures, including but not limited to:

- (1) In connection with agricultural uses, no more than one (1) roadside stand for sale of agricultural products and related items as set forth below, provided that:
 - (i) No such stand shall exceed one thousand (1,000) square feet in floor area used for retail sales and display, have a total floor area in excess of two thousand, five hundred (2,500) square feet or be greater than ten (10) feet in height as measured from ground level to eaves;
 - (ii) No stand shall be erected within fifty (50) feet of the property line fronting on any street;
 - (iii) The operator of the stand must be the owner or operator of the agricultural property on which the stand is located;

- (iv) A substantial portion of the items sold from the stand shall have been grown, made or produced locally;
 - (v) Items sold shall be limited to farm produce, locally-harvested seafood, ornamental plants, flowers, hanging baskets, hand-crafted items, vegetable plants, herbs, honey, maple syrup, jams, jellies, locally-produced juices and cider, relishes, pottery, baked goods, and similar items. Items which shall not be sold include, without limitation, tobacco products, alcoholic beverages, clothing, bottled or canned beverages except as expressly allowed, pet and animal feed and repackaged goods.
- (2) An accessory activity operated for profit in a residential dwelling unit where (i) there is no change in the outside appearance of the building or premises or any visible or audible evidence detectable from outside the building lot, either permanently or intermittently, of the conduct of such business except for one (1) nonilluminated identification sign not more than one (1) square foot in area mounted flat against the residence; (ii) no traffic is generated, including traffic by commercial delivery vehicles, by such activity in greater volumes than would normally be expected in the neighborhood, and any need for parking generated by the conduct of such activity is met off the street and other than in a required front yard; (iii) the activity is conducted on the premises which is the bona fide residence of the principal practitioner, and no person other than members of the immediate family occupying such dwelling units is employed in the activity; (iv) such activity is conducted only in the principal structure on the lot; (v) there are no sales to the general public of products or merchandise from the home; and (vi) the activity is specifically designed or conducted to permit no more than one (1) patron, customer, or pupil to be present on the premises at any one time. Notwithstanding the

twelve thousand (12,000) personnel, comprised of nearly nine thousand eight hundred (9,800) military and over two thousand five hundred (2,500) civilian employees, were employed there. Most of those employees live within the community, infusing additional benefits into the local economy, primarily through spending and spousal employment salaries. When considering the personal impact of the military in the community, the economic benefit exceeds one billion dollars (\$1,000,000,000.00) annually;

- (c) There are more than thirty thousand (30,000) acres of land in areas within the 70-75 dB DNL or >75 dB DNL Noise Zones and approximately 16,500 acres of land within the 65-70 dB DNL Noise Zone. Approximately four thousand, three hundred (4,300) acres of this land is encumbered by easements or restrictive covenants that limit the uses of the land to those that are not incompatible with flight operations arising out of NAS Oceana;
- (d) Since the installation's inception, development of a type deemed incompatible under the Navy's AICUZ Program has occurred, such that the Navy has voluntarily modified flight arrival and departure procedures, thereby resulting in flight procedures and training that do not replicate actual aircraft carrier operating procedures.
- (e) In August 2005, the Base Realignment and Closure (BRAC) Commission added to the list of installations to be closed or realigned the recommendation to realign NAS Oceana by relocating the Atlantic Fleet's East Coast Master Jet Base to Cecil Field in Jacksonville, Florida if, among other things, the cities of Virginia Beach and Chesapeake fail to enact and enforce legislation to prevent further encroachment of NAS Oceana by the end of March 2006 by adopting zoning ordinances that require the governing bodies to follow Air Installations Compatibility Use Zone (AICUZ) guidelines in deciding

discretionary development applications for property in noise level 70 dB day night average noise level (DNL) or greater;

- (f) The closure or realignment of NAS Oceana would have serious adverse economic consequences to the city and the region; and
- (g) In 2004 and 2005, the City of Virginia Beach, along with the cities of Norfolk and Chesapeake, joined with the Navy and the Hampton Roads Planning District Commission to craft a regional joint land use study (JLUS). Among the recommendations of the JLUS was that the city adopt an ordinance applicable in all noise zones greater than 65 dB DNL to help prevent encroachment at NAS Oceana. The JLUS was accepted by resolution of the city council in May of 2005 and the city council directed that appropriate ordinances implementing the recommendations of the JLUS be brought forward for its consideration.

(Ord. No. 2905, 12-20-05; Ord. No. 3006, 1-8-08)

Sec. 1803. Applicability.

(a) *Area of applicability.* The provisions of this Article shall apply to discretionary development applications for any property located within an Accident Potential Zone (APZ) or 65-70 dB DNL, 70—75 dB DNL or >75 dB DNL Noise Zone, as shown on the official zoning map, that have not been approved or denied by the city council as of the date of adoption of this Article. For purposes of this Article, discretionary development applications shall include applications for:

- (1) Rezoning, including conditional zonings;
- (2) Conditional use permits for new uses or structures, or for alterations or enlargements of existing conditional uses where the occupant load would increase;
- (3) Conversions or enlargements of nonconforming uses or structures, except where the application contemplates the construction of a new building or structure or expansion of an existing use or structure where the total occupant load would not increase; and

- (4) Street closures where the application contemplates the construction of a new building or structure or the expansion of a use or structure where the total occupant load is increased.

(Ord. No. 2905, 12-20-05; Ord. No. 2934, 3-28-06; Ord. No. 3006, 1-8-08)

Sec. 1804. Discretionary development applications; city council policy.

(a) *City council policy.* Except as otherwise provided in this Article, it shall be the policy of the city council that no application included within the provisions of section 1803 shall be approved unless the uses and structures it contemplates

are designated as compatible under Table 1 below and, if applicable, Table 2, unless the city council finds that no reasonable use designated as compatible under the applicable table or tables can be made of the property. In such cases, the city council shall approve the proposed use of property at the lowest density or intensity of development that is reasonable.

(b) *Tables.* The following tables show the uses designated as compatible (Y) and those designated as not compatible (N) in each listed Noise Zone (Table 1) or Accident Potential Zone (Table 2). The designation of any use as compatible shall not be construed to allow such use in any zoning district in which it is not permitted as either a principal or conditional use.

TABLE 1 - AIR INSTALLATIONS COMPATIBLE USE ZONES		
LAND USE COMPATIBILITY IN NOISE ZONES		
<i>Land Use</i>	<i>Land Use Compatibility</i>	
<i>Land Use Name</i>	<i>70-75 dB DNL</i>	<i>>75 dB DNL</i>
<i>Residential and Related</i>		
Single-family dwellings	N	N
Semidetached dwellings	N	N
Attached dwellings/townhouses	N	N
Duplexes	N	N
Multiple-family dwellings	N	N
Dormitories and other group quarters	N	N
Mobile home parks	N	N
Hotels and motels	N	N
Other residential uses	N	N
<i>Manufacturing</i>		
Food & kindred products; manufacturing	Y	Y
Textile mill products; manufacturing	Y	Y
Apparel and other finished products; products made from fabrics, leather and similar materials; manufacturing	Y	Y
Lumber and wood products (except furniture); manufacturing	Y	Y
Furniture and fixtures; manufacturing	Y	Y
Paper and allied products; manufacturing	Y	Y
Printing, publishing, and allied industries	Y	Y
Chemicals and allied products; manufacturing	Y	Y
Petroleum refining and related industries	Y	Y
Rubber and misc. plastic products; manufacturing	Y	Y
Stone, clay and glass products; manufacturing	Y	Y
Primary metal products; manufacturing	Y	Y
Fabricated metal products; manufacturing	Y	Y

**TABLE 1 - AIR INSTALLATIONS COMPATIBLE USE ZONES
LAND USE COMPATIBILITY IN NOISE ZONES**

<i>Land Use</i>	<i>Land Use Compatibility</i>	
	<i>70-75 dB DNL</i>	<i>>75 dB DNL</i>
<i>Land Use Name</i>		
Professional scientific, and controlling instruments; photographic and optical goods; watches and clocks	Y	Y
Miscellaneous manufacturing	Y	Y
<i>Transportation, communication and utilities</i>		
Railroad, rapid rail transit, and street railway transportation	Y	Y
Motor vehicle transportation	Y	Y
Aircraft transportation	Y	Y
Marine craft transportation	Y	Y
Highway and street right-of-way	Y	Y
Automobile parking	Y	Y
Communication	Y	Y
Utilities	Y	Y
Other transportation, communication and utilities	Y	Y
<i>Trade</i>		
Wholesale trade	Y	Y
Retail trade - building materials, hardware and farm equipment	Y	Y
Retail trade - general merchandise	Y	Y
Retail trade - food	Y	Y
Retail trade - automotive, marine craft, aircraft and accessories	Y	Y
Retail trade - apparel and accessories	Y	Y
<i>Services</i>		
Retail trade - furniture, home, furnishings and equipment	Y	Y
Retail trade - eating and drinking establishments	Y	Y
Other retail trade	Y	Y
Finance, insurance and real estate services	Y	Y
Personal services	Y	Y
Cemeteries	Y	Y
Business services	Y	Y
Warehousing and storage	Y	Y
Repair services	Y	Y
Professional services	Y	Y
Hospitals, other medical facilities	Y	N
Nursing homes	N	N
Contract construction services	Y	Y
Government services	Y	Y
Educational services	Y	N
Miscellaneous	Y	Y
<i>Cultural, entertainment and recreational</i>		

<i>TABLE 1 - AIR INSTALLATIONS COMPATIBLE USE ZONES LAND USE COMPATIBILITY IN NOISE ZONES</i>		
<i>Land Use</i>	<i>Land Use Compatibility</i>	
<i>Land Use Name</i>	<i>70-75 dB DNL</i>	<i>>75 dB DNL</i>
Cultural activities (& churches)	Y	N
Nature exhibits	N	N
Public assembly halls	N	N
Auditoriums, concert halls	Y	N

<i>TABLE 1 - AIR INSTALLATIONS COMPATIBLE USE ZONES LAND USE COMPATIBILITY IN NOISE ZONES</i>		
<i>Land Use</i>	<i>Land Use Compatibility</i>	
<i>Land Use Name</i>	<i>70-75 dB DNL</i>	<i>>75 dB DNL</i>
Outdoor music shells, amphitheaters	N	N
Outdoor sports arenas, spectator sports	Y	N
Other outdoor recreational facilities	Y	Y
Indoor recreational facilities	Y	Y
Campgrounds	Y	N
Parks	Y	N
Other cultural, entertainment and recreation	Y	N
<i>Resource Production and Extraction</i>		
Agriculture (except live stock)	Y	Y
Livestock farming	Y	N
Animal breeding	Y	N
Agriculture related activities	Y	Y
Forestry activities	Y	Y
Fishing activities	Y	Y
Mining activities	Y	Y
Other resource production or extraction	Y	Y

<i>TABLE 2 - AIR INSTALLATIONS COMPATIBLE USE ZONES LAND USE COMPATIBILITY IN ACCIDENT POTENTIAL ZONES</i>			
<i>Land Use Name</i>	<i>Clear Zone</i>	<i>APZ-I</i>	<i>APZ-II</i>
<i>Residential</i>			
Single-family dwellings	N	N	Y
Semidetached dwellings	N	N	N
Attached dwellings/townhouses	N	N	N
Multiple-family dwellings	N	N	N
Dormitories and other group quarters	N	N	N
Hotels and motels	N	N	N
Mobile home parks	N	N	N
Other residential	N	N	N
<i>Manufacturing</i>			
Food & kindred products; manufacturing	N	N	Y
Textile mill products; manufacturing	N	N	Y

**TABLE 2 - AIR INSTALLATIONS COMPATIBLE USE ZONES
LAND USE COMPATIBILITY IN ACCIDENT POTENTIAL ZONES**

<i>Land Use Name</i>	<i>Clear Zone</i>	<i>APZ-I</i>	<i>APZ-II</i>
Apparel and other finished products; products made from fabrics, leather and similar materials; manufacturing	N	N	N
Lumber and wood products (except furniture); manufacturing	N	Y	Y
Furniture and fixtures; manufacturing	N	Y	Y
Paper and allied products; manufacturing	N	Y	Y
Printing, publishing, and allied industries	N	Y	Y
Chemicals and allied products; manufacturing	N	N	N
Petroleum refining and related industries	N	N	N
Rubber and misc. plastic products; manufacturing	N	N	N
Stone, clay and glass products; manufacturing	N	N	Y
Primary metal products; manufacturing	N	N	Y
Fabricated metal products; manufacturing	N	N	Y
Professional scientific, & controlling instrument; photographic and optical goods; watches & clocks	N	N	N
Miscellaneous manufacturing	N	Y	Y
<i>Transportation, communication and utilities</i>			
Railroad, rapid rail transit, and street railway transportation	N	Y	Y
Motor vehicle transportation	N	Y	Y
Aircraft transportation	N	Y	Y
Marine craft transportation	N	Y	Y
Auto parking	N	Y	Y
Communication	N	Y	Y
Utilities	N	Y	Y
Solid waste disposal (landfills, incineration, etc.)	N	N	N
Other transport, comm. and utilities	N	Y	Y
<i>Trade</i>			
Wholesale trade	N	Y	Y
Retail trade - building materials, hardware and farm equipment	N	Y	Y
Retail trade - general merchandise	N	N	Y

<i>TABLE 2 - AIR INSTALLATIONS COMPATIBLE USE ZONES LAND USE COMPATIBILITY IN ACCIDENT POTENTIAL ZONES</i>			
<i>Land Use Name</i>	<i>Clear Zone</i>	<i>APZ-I</i>	<i>APZ-II</i>
Retail trade - food	N	N	Y
Retail trade - automotive, marine craft, aircraft and accessories	N	Y	Y
Retail trade - apparel and accessories	N	N	Y
Retail trade - furniture, home, furnishings and equipment	N	N	Y
Retail trade - eating and drinking establishments	N	N	N
Other retail trade	N	N	Y
<i>Services</i>			
Finance, insurance and real estate services	N	N	Y
Personal services	N	N	Y
Cemeteries	N	Y	Y
Business services (credit reporting; mail, stenographic, reproduction; advertising)	N	N	Y
Warehousing and storage services	N	Y	Y
Repair services	N	Y	Y
Professional services	N	N	Y
Hospitals, nursing homes	N	N	N
Other medical facilities	N	N	N
Contract construction services	N	Y	Y
Government services	N	N	Y
Educational services	N	N	N
Miscellaneous	N	N	Y
<i>Cultural, entertainment and recreational</i>			
Cultural activities	N	N	N
Nature exhibits	N	Y	Y
Public assembly	N	N	N
Auditoriums, concert halls	N	N	N
Outdoor music shells, amphitheaters	N	N	N
Outdoor sports arenas, spectator sports	N	N	N
Indoor recreational facilities	N	Y	Y
Campgrounds	N	N	N
Parks	N	Y	Y
Other cultural, entertainment and recreation	N	Y	Y
Agriculture (except livestock)	Y	Y	Y
<i>Resource production and extraction</i>			
Livestock farming and breeding	N	Y	Y
Agriculture related activities	N	Y	Y

**TABLE 2 - AIR INSTALLATIONS COMPATIBLE USE ZONES
LAND USE COMPATIBILITY IN ACCIDENT POTENTIAL ZONES**

<i>Land Use Name</i>	<i>Clear Zone</i>	<i>APZ-I</i>	<i>APZ-II</i>
Forestry activities	N	Y	Y
Fishing activities	N	Y	Y
Mining activities	N	Y	Y
Other resource production or extraction	N	Y	
<i>Other</i>			
Undeveloped land	Y	Y	Y
Water areas	N	N	N

(c) *Special regulations in the 65-70 dB DNL Noise Zone.* The following regulations shall apply to discretionary development applications for residential uses on property within the 65-70 dB DNL Noise Zone. Residential uses shall include all of the uses listed under the heading of "Residential and Related" in Table 1 of this section.

(1) For property within Sub-area 1 of the 65—70 dB DNL Noise Zone, discretionary development applications for residential uses may be granted only if the city council finds that the proposed development:

- (i) Conforms to the applicable provisions of the city zoning ordinance, including all requirements of the zoning district; and
- (ii) Conforms to the applicable provisions of the Comprehensive Plan, including, without limitation, the Oceanfront Resort Area Plan, Laskin Road Gateway Design Guidelines, Old Beach Design Guidelines or Oceanfront Resort Area Design Guidelines.

(2) For property within Sub-area 2 of the 65—70 dB DNL Noise Zone, discretionary development applications for residential uses may be approved only if the city council finds that the proposed development:

- (i) Is at a density similar to or lower than that of surrounding properties

having a similar use and no greater than recommended by the Comprehensive Plan; and

- (ii) Conforms to the applicable provisions of the Comprehensive Plan, including, without limitation, the Princess Anne Corridor Study, Princess Anne Commons Design Guidelines, or Mixed Use Development Guidelines.

(3) For property within Sub-area 3 of the 65-70 dB DNL Noise Zone, it shall be the policy of the city council that no application for a residential use shall be approved unless the city council finds that no reasonable non-residential use can be made of the property, in which event the city council may allow the proposed residential use of such property at the lowest density that is reasonable.

(d) *Redevelopment.* The provisions of this section shall not apply to discretionary development applications for the redevelopment of property where the proposed dwelling unit density is the same as or lower than the actual dwelling unit density existing at the time the application is submitted.

(Ord. No. 2905, 12-20-05; Ord. No. 3006, 1-8-08)

Sec. 1805. Sound attenuation.

Sound attenuation measures shall be incorporated in any use or structure located in the 65-70

Cheri B. Hainer

From: James Spore
Sent: Tuesday, January 29, 2013 4:35 PM
To: John D. Moss
Cc: William D. Sessoms; City Council; Jack Whitney; Karen Lasley; Cheri B. Hainer; Jeannette M. Smith
Subject: RE: Fwd: FW: Rave Soccer Complex
Attachments: SMFP52434613012914560.pdf

Dear Council Member Moss:

This is in response to your email regarding issues with the Rave Soccer Complex.

As you requested, attached are minutes from the November 12, 2008, Planning Commission hearing which include the comments made by Captain Lowe.

When the Zoning Division first received complaints from residents regarding the lights in early 2008, an inspector visited the site and agreed with the residents. The owner was cooperative at that time and redirected the lights. When a second complaint was received in late 2008, an inspector again visited the site and reported it appeared storms had moved the lights, and the owner was again notified to redirect the lights.

Over the past couple of years, because of the concerns of residents, Ms. Lasley has personally driven by the site at night intermittently to determine if the lights were on. She was never able to observe them on. However, the owner has now been informed that if the lights facing Cardinal Estates are found on, a summons will be issued immediately. He responded back that the lights have never been on and said he would remove the bulbs to make certain. A Zoning inspector is working a late shift noon to eight and checking the field every night. So far, the lights have not been found to be on.

There have also been additional issues with this site. In 2005/2006, the owner, Selim Ozic, obtained a permit to construct a first aid/bathroom building at this location. The permit included the construction of six outdoor soccer fields. Mr. Ozic never called for final inspection. When this was found, staff notified the owner, and a final inspection was approved April 7, 2009.

In April 2010, Mr. Ozic obtained a permit for the construction of a 33,000 square foot metal building to be used for indoor soccer fields. Per the Uniform Statewide Building Code (USBC), the building is classified as an assembly use and, in order to build an open structure of this size, a fire suppression (sprinkler) system was required. However, soon after the permit was issued, it was discovered the site plan approved for the 2005 construction did not include this construction, and a new site plan for the building, as well as the enlargement of the parking lot, was required prior to occupancy. Final inspections for the building were approved March 9, 2011, but occupancy was not permitted pending the outcome of the site plan submittal and review. When the owner requested temporary occupancy, it was denied based on the status of the site plan. The builder was sent a fax the same date apprising him of the circumstances.

In February 2012, Mr. Ozic was taken to the CBPA Board for a show cause hearing as he constructed a deck in a resource protected area without a permit. In addition, he also constructed two sheds in the same area. Based on assurances from Mr. Ozic's attorney, Mr. Bourdon, the deck was dismantled and removed. At that time, it was discovered that the site plan required for the April 2010 building permit had never addressed the outstanding issues noted in a June 28, 2011, letter to the design engineer. The CBPA Board required a revised site plan addressing all outstanding issues to be completed as soon as possible.

The week of January 21, 2013, when responding to the complaints about the lights, other inspectors sent to the site discovered and cited Mr. Ozic for the partial construction of a 15' x 100' block wall addition to the field house with no permit. Mr. Ozic stated that he thought he could do it based on the 2010 permit (which didn't indicate the addition on the conditional use permit, the site or building plans), and he was using an engineer so he didn't need inspections (violation of the USBC). Further investigation also revealed: 1) although occupied since summer 2011, there is no paperwork anywhere granting a temporary occupancy (staff is working with Dominion Virginia Power as power to the field house was also not released by the City - the service had been sub-fed from the bathroom building), 2) the deck that was to be dismantled was moved to the opposite side of the field house - still no permit - same with the two sheds, 3) the site plan submitted April 2012 was withdrawn as it didn't comply with CBPA conditions and to date has not been resubmitted, and 4) the sprinkler system required as part of the original construction of the field house was never permitted or installed (Mr. Ozic insists it was waived, but again there is no documentation anywhere in the file and, as this is a major construction element, it would have to be noted on the certificate of occupancy when issued).

During a meeting January 22, 2013, Mr. Ozic and Mr. Bourdon agreed to remove the unauthorized block addition. In order to obtain the permit, it would require reconsideration of his use permit, and Mr. Ozic knew he would have opposition. The site engineer was there and stated he hoped to have the site plan ready for submittal within two weeks as he needed to update it to reflect the CBPA conditions, as well as water line connections for a sprinkler system. Mr. Bourdon also argued about the sprinkler system and was told their permit would never have been issued without the provision that sprinklers would be installed. Staff offered they could add firewalls (compartmenting the building into approved building areas), sprinkler it or appeal to the Building Code Board of Appeals, but the City would oppose the system's deletion. As Mr. Ozic had events planned through April 2013, a very provisional temporary occupancy was approved once he obtained a fire watch permit from the Fire Marshal's

Office, which he has done. Any failure to comply with that permit will result in the field house being shut down. Additionally, failure to address the other outstanding issues will lead to revocation of the temporary use of the field house. If any additional issues arise with the lights, this will also be reason to revoke the provisional temporary occupancy.

As you can see, this site has been a challenge, and staff has spent a great deal of time addressing ongoing issues. They will continue to monitor this site and take quick action if any additional problems arise. I hope this information is helpful.

Sincerely,

James K. Spore
City Manager
City of Virginia Beach
2401 Courthouse Drive
Virginia Beach, VA 23456
757-385-4242
jspore@vbgov.com

The City of Virginia Beach proudly complies with the Virginia Freedom of Information Act. Under the act, this correspondence is a public document and the City may provide it to citizens or the media, if they request it.

-----Original Message-----

From: mossjohn@cox.net [mailto:mossjohn@cox.net]
Sent: Sunday, January 27, 2013 10:26 PM
To: James Spore
Subject: Fwd: Fwd: FW: Rave Soccer Complex

Mr. Spore,

I know like me you are extremely busy and your travels only compounds the difficulties of time management. I have seen traffic on the issue below, but the issues I raised have not yet been covered in those communications. It is not extremely time sensitive, but by the end of February I would like to have an accounting of the ground truth and root cause on this issue.

Sincerely,
John Moss

Council Member At-Large

> Date: Fri, 11 Jan 2013 20:56:35 -0500
> From: <mossjohn@cox.net>
> To: jspore@vbgov.com
> Subject: Fwd: FW: Rave Soccer Complex
> Cc: bdesteph@vbgov.com

> Mr. Spore,

> The email suggest there is a great deal of room for improvement for leadership engagement in inter-departmental communication to ensure the proper coordinated action is taken.

> If your personal research into this matter validates the content of the email below, I would appreciate your sharing with me the lessons learned to preclude a like reoccurrence and sharing with me what, if any, process changes have been put in place to make a like disconnect in the future visible to your office.

> I am certain all members of Council share my desire to know what follow-up action is being taken and a final closure notification when the matter is resolved.

> Please request on my behalf that the City Clerk provide me a verbatim of the Captain's testimony at the reference Planning Commission meeting..

> Sincerely,

> John Moss
> Council Member At-Large

>> From: "Ruth H. Fraser" <RHFraser@vbgov.com>
>> To: Louis Jones <LJones@hollomon-brown.com>, James Spore
>> <JSpore@vbgov.com>,
> "Amelia R. Hammond" <AHammond@vbgov.com>, Barbara Henley <BHenley@vbgov.com>,
> Bill DeSteph <BDeSteph@vbgov.com>, "Bob M. Dyer" <BDyer@vbgov.com>,
> "Glenn R. Davis" <glenn@glennrdavis.com>, Jim Wood <JLWood@vbgov.com>, "John D.
> Moss" <mossjohn@cox.net>, John Uhrin <vabeach6@gmail.com>, "Louis R. Jones"
> <LRJones@vbgov.com>, "P. Jones" <pjones@hollomon-brown.com>, "Rosemary C.
> Wilson" <RCWilson@vbgov.com>, "William D. Sessoms"
> <WSessoms@vbgov.com>
>> CC: Kathleen Hassen <KHassen@vbgov.com>
>> Subject: FW: Rave Soccer Complex
>> Date: Fri, 11 Jan 2013 21:20:57 +0000
>>
>>

>>
 >> Ruth Hodges Fraser, MMC
 >> City Clerk - City of Virginia Beach
 >> Mayor's Liaison - Sister Cities
 >> President, Sister Cities Association of Virginia Beach Passport
 >> Agent
 >> Office: (757) 385-4303
 >> Facsimile: (757) 385-5669
 >> Direct Dial: (757) 385-8343
 >> Email: rhfraser@vbgov.com<:%20%20%20%20%20%20%20%20%20%20%20%20rhfraser@vbgov.com>
 >>
 >> From: lindaproffitt [mailto:lindaproffitt@peoplepc.com]
 >> Sent: Friday, January 11, 2013 4:17 PM
 >> To: Karen Lasley
 >> Subject: Rave Soccer Complex
 >>
 >>
 >> Karen,
 >>
 >> Could you please contact Rave,(AGAIN), to let them know that the "forbidden lights are on again".
 >> When the season started they would turn on 1 here, 2 there and so forth. On Tuesday and Wednesday nights they have "ALL" been on.
 >>
 >> When Rave,(Virginia Beach Travel Soccer), came before the Planning Department for a Conditional Use Permit on January 14, 2004 we were just as happy as everyone else.
 >>
 >> My neighbors expressed concern that Rave would turn out to be the place that it has become today. I convinced them that considering the other potential uses that have been proposed for this site, this is one of the lower intensities that we had seen.
 >>
 >> Although the proposed soccer practice fields weren't listed as a desired use for Strategic Area #10 in the Comprehensive Plan, the severe AICUZ and environmental constraints on the property constricted many potential uses.
 >> Further, the few capital improvements that had been included in the applicant's proposal would not preclude an easy future "redevelopment" of the property when circumstances may allow for it.
 >>
 >> Although the Navy had not officially expressed support for the proposal, parks and similar outdoor uses were listed as compatible and conditionally compatible in the Accident Potential Zones that were present on the site. The applicant had also agreed to use the fields for practices only and not to provide any spectator seating on the property.
 >>
 >> So began our nightmare with Rave.
 >> We have been to more Planning and CC Meetings than I can remember where they have asked for more and more changes to their Conditional Use Permit.
 >>
 >> We complained to the city about the lights and glare that was supposed to be directed onto their premises and away from adjoining properties. We also complained about the traffic at Rave.
 >> Nothing was done.
 >>
 >> At the November 12,2008 Planning Public Hearing Meeting, then Police Captain Kenneth Lowe came with us.
 >> His statement was: "I am Captain Kenneth Lowe. I am the Commanding Officer Of the First Precinct here in Virginia Beach. I got involved in this, and I'm not here to support or oppose. I need to bring some facts to your attention, because Ms. Russell is a member of the Citizen's Advisory Committee for the First Precinct. She is also a speaker for her neighborhood. Approximately eight months ago, they brought the concerns of this to the Citizens Advisory Committee. I

sent a Lieutenant to go out trying to exit out of Cardinal Estates on Skylark and Old Clubhouse Rd. He came back and reported that the lights were shining in your eyes at nighttime. It was blinding you. You couldn't get out on to Shipp's Corner. We contacted, and since it is not a criminal matter, we contacted Zoning and Housing and asked to do something about it. Nothing was done. The lights are still a problem. We also got involved when they were asking if we could do something about the games being held because it was in violation of their permit. Again, because it has nothing to do with the police, we referred that to Housing and Zoning, and apparently again, nothing was done on that. The one thing that I do have a problem with right now is because of the traffic that already exist at Holland and Shipp's Corner, a lot of vehicles are cutting through Old Clubhouse Rd. and exiting through Skylark Dr. so they can get out to London Bridge Rd. quicker and avoid the intersection".

>>
>> At that meeting "all" 10 of the Planning Commission members voted to defer the request and the lights were to remain off until there were approved by CC.

>>
>> In just a few days the lights were back on. After we contacted you you sent Mr. Ozic a letter on December 13, 2008 to turn off the lights.

>> On January 16, 2009 you send him another letter stating:
>> " I meet with George Albiston and others from the soccer association last night at your soccer complex. They are understandably concerned about my determination that the soccer field lights must remain off until the condition pertaining to the lights is met".

>> You amended your position and the lights remained on until Virginia Beach Travel Soccer, INC.,(Rave), went before CC on September 14,2010. They wanted approval to build the field house for Men's Soccer Games and to remove the restrictions on the lights.

>>
>> At that meeting we went before CC with neighbors, a petition with over 170 signatures and a letter of support from then Police Captain Michael Glendon with our concerns about Rave on our community.

>> At that meeting the building was approved and Rave decided to turn off the 4 sets of lights shining down Skylark Dr. rather than go to the expense of putting on the proper shields for the lights but leaving the remaining lights shining in other parts of our neighborhood.

>>
>> As usual, in a short period time the lights were on and again you had to come out.

>> They turned the lights off but erected a huge pole with 4 large box type lights on it in the wetlands portion of the property.

>> These not only shined onto our neighborhood and Shipp's Corner Rd. but toward Holland Rd. as well.

>>
>> Again, Mr. Ozic gave his usual excuse of being out of the country or something and knew nothing about it.

>> You had the lights removed.
>> If the lights that are on now are not supposed to be on and they keep turning them on why can't you have them removed as you did the box lights ?

>>
>> In May of 2010 we contacted you that there was a excessive amount of people and vehicles that was frequenting the soccer complex.

>> We sent pictures of people even standing outside the wall. The overflow of traffic was parking in the Moose parking lot.

>> Again nothing was done so I contacted Raymond Firenze, Community Planning Liaison Officer Naval Air Station Oceana, surely they don't approve of all that is going on at Rave.

>> He replied with: "I can appreciate Ms. Russell venting her concerns to the Navy as she is keenly aware that the Rave Soccer complex is located in APZ-1/2. I urged her to contact the zoning administrator if she believes that Rave is operating beyond the conditions it was granted. The Navy is not the policing authority over such issues, the city of Virginia Beach is".

>> He also stated that 180 parking spaces was a very generous amount for a practice complex.

>>

>> On March 7, 2011 a object fell from a Jet just feet away from Rave. Then Police Captain Ronan sent the Bomb Squad to our Neighborhood. Later, then, Captain Webb from Oceana sent his Safety Officer out to pick up the object.

>>

>> My thinking is along the lines that since the soccer field is in a direct flight path of the major runway it is in a dangerous location. Now some may say that there are buildings between the field and the runway and while that is true they are mostly storage or warehouse type buildings with not many people present. Most people, civilians and non aviation personal, don't understand that airfields, both civilian and military, put restriction on the area around them for safety purposes.....not just noise control. The most dangerous time for an aircraft is immediately after take off. In case of an engine failure there is not enough altitude to maneuver and the aircraft will most likely crash straight ahead. This does not mean that pilots expect engine failures but they must always be prepared for such an eventuality. Just in case! When a aircraft is taking off it is loaded with fuel and in the event of a crash will likely explode and burn everything in its path....considering the fact that it could hit the ground in excess of 100 miles per hour....that could be quite a path. The problem with the soccer field is not really the number of people, although the more people the greater the likelihood of injury, but the concentration of people. A hundred people spread out over 5 acres are safer than 50 people in a half acre. In this case the Navy has put restrictions on the area around its flight paths. They should not be ignored.

>> Add the fact that there are 180 parking places at the field that are occupied most of the time with vehicles full of gas. The soccer field is surrounded by a brick wall. Kinda like a fortress or compound, One way in and one way out. There are 3 gas stations on the corner of Holland and Shipps Corner RDs and a BP at Dam Neck and Holland Rds.

>>

>> On March 30,2011. My neighborhood along with Scarborough Square, Tapo and Holland Farms were invited to the Rave soccer complex to recruit new members for the Neighborhood Watch program.

>> Officer Bradley Detrich picked Rave because he needed a place that could " SEAT " all 4 neighborhoods and members of the city departments.

>> There was more than enough very comfortable " seating" with additional chairs stacked along the wall.

>>

>> In January of 2010 Rave was in the process of extending their wall into the wetlands portion of their property. We contacted you and you stopped the work but did not have them remove the unfinished wall. The dangerous spikes are still sticking up where a kid or animal could get hurt.

>> After we watched truck loads after truck loads, (more than 500) , of fill dirt being dumped in this area. Again we contacted you and "again" nothing was done.

>>

>> I contacted Scott Harper with the newspaper because he covers environmental issues. He told me to contact the folks at the Virginia Department of Environmental Quality and the U.S. Army Corps of Engineers.

>> They found that not only had Rave filled forested wetlands they had cleared it as well. After the findings I thought this might be a story for Scott and he agreed but after running it by his editor he didn't think that it would be a good story because Rave wasn't fined. Scott thought that that would be the story, "that Rave didn't get fined."

>> I would have to agree with him because it is illegal to impact US waterways. He obviously knew what he was doing when he filled it in and cleared the property, because it is a law to show the limits of wetlands on drawings, to provide coordinates for such limits, and to identify the limits prior to construction.

>> I really wasn't surprised that Rave wasn't fined. They pretty much do what they want and when they get caught they are just told not to do it again.

>>

>> After contacting Robert Gey , our City Traffic Engineer, to question him why he didn't have a higher traffic capacity on Shipps Corner Rd. after the games were approved. He explained that he thought Rave (as does Oceana) was only for practice. He changed the capacity from 9,900 to 12,000 vehicles per day for a level service of "D" capacity. He also changed the speed limit from 45 to 40.

>>

>> My area is growing and that is a good thing. When a area has positive growth and projects a positive image it attracts more growth and that means more traffic.

>> Buckner Blvd. recently opened at Shipps Corner and Holland Rds. Soon the Wal-Mart will open there. In 2014 Holland Rd. will be widened. This will bring more traffic to my area and more traffic will be cutting through our neighborhood.

>> Now is the time to start making Rave accountable for their actions. The people who cut through my neighborhood aren't familiar with the area. The light situation has got to be addressed.

>> Just a week ago today a child was hit by a vehicle at 1220 Old Clubhouse Rd.. The vehicle was going less than 25 miles a hour and the child only had minor injuries.

>> A few weeks ago while walking on Shipps Corner Rd. I saw children darting across the busy road from the soccer field. They were entering vehicles that had parked in the Water Front Apartments parking lot because there was no room at Rave. If a vehicle traveling 40-45 miles a hour hits one of these children it will cause a lot of injuries even death.

>>

>> Police are investigating a fight reported to have involved players wielding a machete and a pipe at the Rave Soccer Complex.

>> Are these the headlines that we want to see in our newspaper, see on our TV Stations and joked about on our radio stations ? A place that was approved as a practice soccer field for kids.

>>

>> Linda Russell

>> Cardinal Estates

>>

>>

>>

>>

>>

CHAPTER 3

USE AND OCCUPANCY CLASSIFICATION

SECTION 301
GENERAL

301.1 Scope. The provisions of this chapter shall control the classification of all buildings and structures as to use and occupancy.

SECTION 302
CLASSIFICATION

302.1 General. Structures or portions of structures shall be classified with respect to occupancy in one or more of the groups listed below. A room or space that is intended to be occupied at different times for different purposes shall comply with all of the requirements that are applicable to each of the purposes for which the room or space will be occupied. Structures with multiple occupancies or uses shall comply with Section 508. Where a structure is proposed for a purpose that is not specifically provided for in this code, such structure shall be classified in the group that the occupancy most nearly resembles, according to the fire safety and relative hazard involved.

1. Assembly (see Section 303): Groups A-1, A-2, A-3, A-4 and A-5
2. Business (see Section 304): Group B
3. Educational (see Section 305): Group E
4. Factory and Industrial (see Section 306): Groups F-1 and F-2
5. High Hazard (see Section 307): Groups H-1, H-2, H-3, H-4 and H-5
6. Institutional (see Section 308): Groups I-1, I-2, I-3 and I-4
7. Mercantile (see Section 309): Group M
8. Residential (see Section 310): Groups R-1, R-2, R-3 and R-4
9. Storage (see Section 311): Groups S-1 and S-2
10. Utility and Miscellaneous (see Section 312): Group U

SECTION 303
ASSEMBLY GROUP A

303.1 Assembly Group A. Assembly Group A occupancy includes, among others, the use of a building or structure, or a portion thereof, for the gathering of persons for purposes such as civic, social or religious functions; recreation, food or drink consumption; or awaiting transportation.

Exceptions:

1. A building used for assembly purposes with an occupant load of less than 50 persons shall be classified as a Group B occupancy.

2. A room or space used for assembly purposes with an occupant load of less than 50 persons and accessory to another occupancy shall be classified as a Group B occupancy or as part of that occupancy.
3. A room or space used for assembly purposes that is less than 750 square feet (70 m²) in area and is accessory to another occupancy shall be classified as a Group B occupancy or as part of that occupancy.

Assembly occupancies shall include the following:

A-1 Assembly uses, usually with fixed seating, intended for the production and viewing of the performing arts or motion pictures including, but not limited to:

- Motion picture theaters
- Symphony and concert halls
- Television and radio studios admitting an audience
- Theaters

A-2 Assembly uses intended for food and/or drink consumption including, but not limited to:

- Banquet halls
- Night clubs
- Restaurants
- Taverns and bars

~~A-3~~ Assembly uses intended for worship, recreation or amusement and other assembly uses not classified elsewhere in Group A including, but not limited to:

- Amusement arcades
- Art galleries
- Bowling alleys
- Places of religious worship
- Community halls
- Courtrooms
- Dance halls (not including food or drink consumption)
- Exhibition halls
- Funeral parlors
- Gymnasiums (without spectator seating)
- Indoor swimming pools (without spectator seating)
- Indoor tennis courts (without spectator seating)
- Lecture halls
- Libraries
- Museums
- Waiting areas in transportation terminals
- Pool and billiard parlors

A-4 Assembly uses intended for viewing of indoor sporting events and activities with spectator seating including, but not limited to:

- Arenas
- Skating rinks
- Swimming pools
- Tennis courts

A

with Table 601. Additionally, the exterior walls of the structure must satisfy the requirements in Table 602, which bases the fire-resistance rating on the fire separation distance.

The use of multiple construction classifications in a single building is very limited and can only be done when specifically called out in the code. An example of combining types of construction is an office building of Type IIA construction located above an open parking structure of Type IIB construction, as described in Sections 509.7 and 509.7.1.

A more common example is where a single structure is divided into two compartments by using a fire wall, resulting in two separate buildings or structures—each of which may be of a different type of construction. While a structure may contain more than one building (for example, separation by a party wall), each building is to be individually assigned a type of construction.

Also, a building may have elements that comply with the requirements of more than one type of construction, in which case the building as a whole must be assigned the less restrictive type of construction. The designer may have intended, however, to comply with a higher type of construction, in which case those elements not in compliance with the intended type of construction are to be brought into compliance. Contact with the designer may be appropriate to eliminate a plan reviewer guessing as to the designer's intention, since the selection of the type of construction remains the prerogative of the permit applicant.

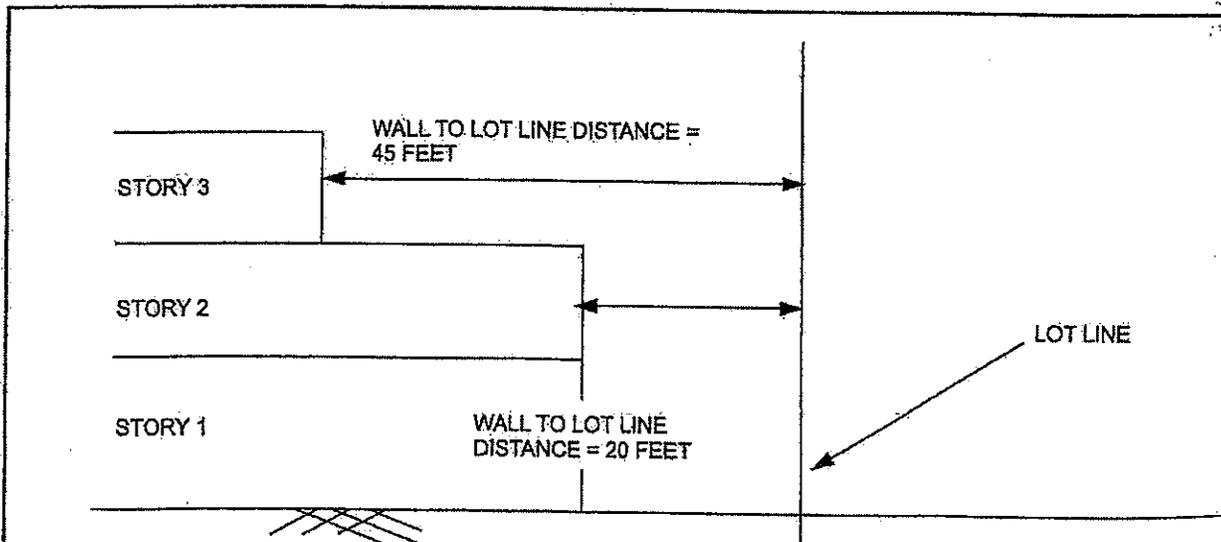
Section 602.1 applies to both new construction and additions. The provisions in Chapter 34 on existing structures, Section 503 on general height and area limitations, Chapter 7 on fire-resistant materials and construction and the applicable portions of the code depend on the requirements of this section.

602.1.1 Minimum requirements. A building or portion thereof shall not be required to conform to the details of a type of construction higher than that type, which meets the minimum requirements based on occupancy even though certain features of such a building actually conform to a higher type of construction.

❖ These requirements permit design flexibility by allowing various building materials and components to be used. A building must, as a minimum, meet all the requirements of a given type of construction to be classified as such, even though portions of that building meet the criteria of a higher construction type (or greater fire-resistance ratings). This is consistent with the concept that the code is a minimum requirement. For example, a building classified as Type III construction is not prohibited from having construction that is superior, but it could not be reclassified into a higher type of construction unless it met all of the requirements for that construction type. In a normal situation, the design professional has identified the construction classification on the drawings. When this assignment has not been made, the building official is placed in the position of verifying the designer's intent and selecting the least-restrictive type that will meet all of the requirements.

602.1.2 Type I and II construction. Type I and II construction are those types of construction in which the building elements listed in Table 601 are of noncombustible materials, except as permitted in Section 603 and elsewhere in this code.

❖ Buildings of Type I and II construction are required to be constructed of noncombustible materials (see Section 703.4), and, therefore, are frequently referred to as "noncombustible construction." All Type I and II structural members have a fire-resistance rating as required by Tables 601 and 602. A typical example



For SI: 1 foot = 304.8 mm.

Figure 602B
DETERMINING FIRE SEPARATION DISTANCE FOR MULTI-STORY BUILDINGS

A

building of Type IA, IB or IIA construction would be a high-rise structure or a very large low-rise structure. These buildings are permitted to be relatively large in height and area due to the fire resistance afforded the structures components. The structural members of a building of Type IIB construction do not have the same fire resistance as structural members in a building of Type IA, IB or IIA construction. As such, the height and area requirements are not as large (see Figure 602.2 for an example of Type I or II construction).

Type I and II construction are divided into four subclassifications: Types IA, IB, IIA and IIB. The difference among the four subclassifications is the degree of fire-resistance rating required for similar elements and assemblies. For example, the required rating for structural frame members in Type IA construction is 3 hours; for Type IB is 2 hours, for Type IIA is 1 hour and for Type IIB is 0 hours. The required fire-resistance ratings of structural elements range from zero for Type IIB construction to 3 hours for most of the elements of Type IA construction. Often, the fire-resistance ratings required by Tables 601 and 602 for structural elements are achieved by "fireproofing" structural members. Fireproofing is typically the process of creating a fire-resistance-rated assembly that incorporates the structural member by encapsulating it, either by boxing it in or by spraying on a coating to achieve the required fire-resistance ratings. It should be noted that a protective covering is used to provide the fire-resistance rating, it must be a noncombustible material, except as indicated in Section 603.1, Item 18. FRTW, although combustible, is permitted in limited uses in buildings of Type I and II construction (see

Section 603 and Table 601, Note c). While FRTW is permitted in certain applications in buildings of Type I and II construction, it is not assumed to be fire-resistance rated, and generally does not afford any higher fire-resistance rating than untreated wood material. Other combustible items (as specified in Section 603.1) are also permitted in buildings of Type I or II construction.

602.3 Type III. Type III construction is that type of construction in which the exterior walls are of noncombustible materials and the interior building elements are of any material permitted by this code. Fire-retardant-treated wood framing complying with Section 2303.2 shall be permitted within exterior wall assemblies of a 2-hour rating or less.

❖ Buildings of Type III construction are made with both combustible and noncombustible materials. The exterior walls are required to be noncombustible with load-bearing exterior walls required to have a minimum 2-hour fire-resistance rating. Exterior nonload-bearing walls are not required by Table 601 to have a fire-resistance rating, but must comply with the provisions of Table 602. The interior elements (i.e., floors, roofs and walls) are permitted to be of combustible materials. An example of a typical building of Type III construction is a structure having its exterior walls constructed of concrete, masonry or other approved noncombustible materials, but with a wood-frame floor and roof construction (see roofs [those members that are less than 20 feet (6096 mm) to the lowest member] and all structural members are protected to provide a minimum 1-hour fire-resistance rating. The structural members of a building of Type IIB construction are not

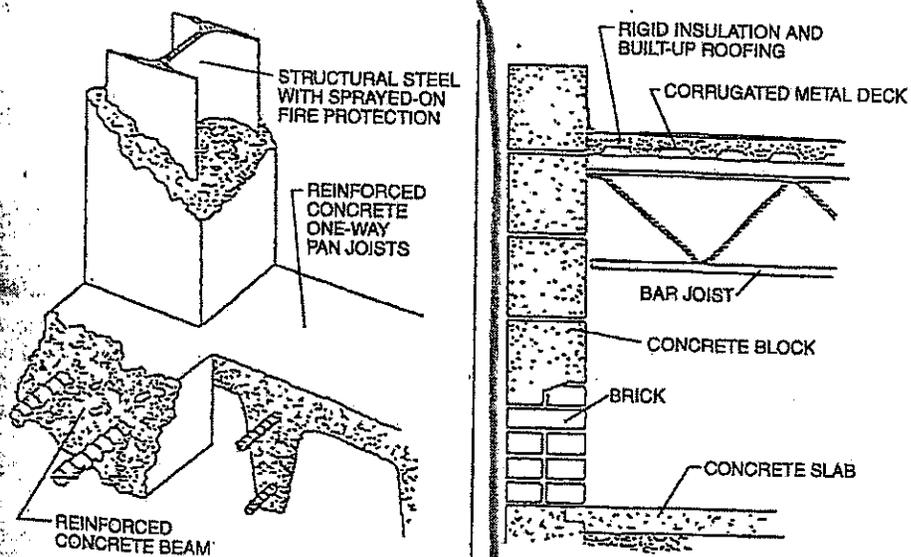


Figure 602.2
EXAMPLES OF TYPE I AND II CONSTRUCTION

TABLE 503
ALLOWABLE HEIGHT AND BUILDING AREAS*
 Height limitations shown as stories and feet above grade plane.
 Area limitations as determined by the definition of "Area, building," per story

A

GROUP	HGT(feet)	TYPE OF CONSTRUCTION									
		TYPE I		TYPE II			TYPE III		TYPE IV	TYPE V	
		A	B	A	B	C	A	B	HT	A	B
		UL	180	65	55	65	55	65	50	40	
A-1	S	UL	5	3	2	3	2	3	2	1	
	A	UL	UL	15,500	8,500	14,000	8,500	15,000	11,500	5,500	
A-2	S	UL	11	3	2	3	2	3	2	1	
	A	UL	UL	15,500	9,500	14,000	9,500	15,000	11,500	6,000	
	S	UL	11	3	2	3	2	3	2	1	
	A	UL	UL	15,500	9,500	14,000	9,500	15,000	11,500	6,000	
A-4	S	UL	11	3	2	3	2	3	2	1	
	A	UL	UL	15,500	9,500	14,000	9,500	15,000	11,500	6,000	
A-5	S	UL	UL	UL	UL	UL	UL	UL	UL	UL	
	A	UL	UL	UL	UL	UL	UL	UL	UL	UL	
B	S	UL	11	5	4	5	4	5	3	2	
	A	UL	UL	37,500	23,000	28,500	19,000	36,000	18,000	9,000	
E	S	UL	5	3	2	3	2	3	1	1	
	A	UL	UL	26,500	14,500	23,500	14,500	25,500	18,500	9,500	
F-1	S	UL	11	4	2	3	2	4	2	1	
	A	UL	UL	25,000	15,500	19,000	12,000	33,500	14,000	8,500	
F-2	S	UL	11	5	3	4	3	5	3	2	
	A	UL	UL	37,500	23,000	28,500	18,000	50,500	21,000	13,000	
H-1	S	1	1	1	1	1	1	1	1	NP	
	A	21,000	16,500	11,000	7,000	9,500	7,000	10,500	7,500	NP	
H-2 ^d	S	UL	3	2	1	2	1	2	1	1	
	A	21,000	16,500	11,000	7,000	9,500	7,000	10,500	7,500	3,000	
H-3 ^d	S	UL	6	4	2	4	2	4	2	1	
	A	UL	60,000	26,500	14,000	17,500	13,000	25,500	10,000	5,000	
H-4	S	UL	7	5	3	5	3	5	3	2	
	A	UL	UL	37,500	17,500	28,500	17,500	36,000	18,000	6,500	
H-5	S	4	4	3	3	3	3	3	3	2	
	A	UL	UL	37,500	23,000	28,500	19,000	36,000	18,000	9,000	
I-1	S	UL	9	4	3	4	3	4	3	2	
	A	UL	55,000	19,000	10,000	16,500	10,000	18,000	10,500	4,500	
I-2	S	UL	4	2	1	1	NP	1	1	NP	
	A	UL	UL	15,000	11,000	12,000	NP	12,000	9,500	NP	
I-3	S	UL	4	2	1	2	1	2	2	1	
	A	UL	UL	15,000	10,000	10,500	7,500	12,000	7,500	5,000	
I-4	S	UL	5	3	2	3	2	3	1	1	
	A	UL	60,500	26,500	13,000	23,500	13,000	25,500	18,500	9,000	
M	S	UL	11	4	4	4	4	4	3	1	
	A	UL	UL	21,500	12,500	18,500	12,500	20,500	14,000	9,000	
R-1	S	UL	11	4	4	4	4	4	3	2	
	A	UL	UL	24,000	16,000	24,000	16,000	20,500	12,000	7,000	
R-2	S	UL	11	4	4	4	4	4	3	2	
	A	UL	UL	24,000	16,000	24,000	16,000	20,500	12,000	7,000	
R-3	S	UL	11	4	4	4	4	4	3	3	
	A	UL	UL	UL	UL	UL	UL	UL	UL	UL	
R-4	S	UL	11	4	4	4	4	4	3	2	
	A	UL	UL	24,000	16,000	24,000	16,000	20,500	12,000	7,000	
S-1	S	UL	11	4	3	3	3	4	3	1	
	A	UL	48,000	26,000	17,500	26,000	17,500	25,500	14,000	9,000	
S-2 ^{b,c}	S	UL	11	5	4	4	4	5	4	2	
	A	UL	79,000	39,000	26,000	39,000	26,000	38,500	21,000	13,500	
U ^f	S	UL	5	4	2	3	2	4	2	1	
	A	UL	35,500	19,000	8,500	14,000	8,500	18,000	9,000	5,500	

For SI: 1 foot = 304.8 mm, 1 square foot = 0.0929 m².

UL = Unlimited, NP = Not permitted.

- a. ~~Some of the following limitations for general occupancies:~~
1. Section 504.2, Allowable height increase due to automatic sprinkler system installation.
 2. Section 506.2, Allowable area increase due to street frontage.
 3. Section 506.3, Allowable area increase due to automatic sprinkler system installation.
 4. Section 507, Unlimited area buildings.
- b. For open parking structures, see Section 406.3.
- c. For private garages, see Section 406.1.
- d. See Section 415.5 for limitations.

equipment platform is located in the same room as a mezzanine, the area of the mezzanine shall be determined by Section 505.2 and the combined aggregate area of the equipment platforms and mezzanines shall not exceed two-thirds of the room in which they are located.

[F] 505.5.2 Fire suppression. Where located in a building that is required to be protected by an automatic sprinkler system, equipment platforms shall be fully protected by sprinklers above and below the platform, where required by the standards referenced in Section 903.3.

505.5.3 Guards. Equipment platforms shall have guards where required by Section 1013.1.

SECTION 506. AREA MODIFICATIONS

506.1 General. The areas limited by Table 503 shall be permitted to be increased due to frontage (I_f) and automatic sprinkler system protection (I_s) in accordance with the following:

$$A_a = \{A_t + [A_t \times I_f] + [A_t \times I_s]\} \quad (\text{Equation 5-1})$$

where:

- A_a = Allowable area per story (square feet).
- A_t = Tabular area per story in accordance with Table 503 (square feet).
- I_f = Area increase factor due to frontage as calculated in accordance with Section 506.2.
- I_s = Area increase factor due to sprinkler protection as calculated in accordance with Section 506.3.

506.1.1 Basements. A single basement that is not a story above grade plane need not be included in the total allowable area, provided such basement does not exceed the area permitted for a building with no more than one story above grade plane.

506.2 Frontage increase. Every building shall adjoin or have access to a public way to receive an area increase for frontage. Where a building has more than 25 percent of its perimeter on a public way or open space having a minimum width of 20 feet (6096 mm), the frontage increase shall be determined in accordance with the following:

$$I_f = [F/P - 0.25] W/30 \quad (\text{Equation 5-2})$$

where:

- I_f = Area increase due to frontage.
- F = Building perimeter that fronts on a public way or open space having 20 feet (6096 mm) open minimum width (feet).
- P = Perimeter of entire building (feet).
- W = Width of public way or open space (feet) in accordance with Section 506.2.1.

506.2.1 Width limits. "W" must be at least 20 feet (6096 mm). Where the value of W varies along the perimeter of the building, the calculation performed in accordance with Equation 5-2 shall be based on the weighted average of each

portion of exterior wall and open space where the value of W is greater than or equal to 20 feet (6096 mm). Where W exceeds 30 feet (9144 mm), a value of 30 feet (9144 mm) shall be used in calculating the weighted average, regardless of the actual width of the open space.

Exception: The quantity of W divided by 30 shall be permitted to be a maximum of 2 when the building meets all requirements of Section 507 except for compliance with the 60-foot (18288 mm) public way or yard requirements as applicable.

506.2.2 Open space limits. Such open space shall be either on the same lot or dedicated for public use and shall be accessed from a street or approved fire lane.

506.3 Automatic sprinkler system increase. Where a building is equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1, the area limitation in Table 503 is permitted to be increased by an additional 200 percent ($I_s = 2$) for buildings with more than one story above grade plane and an additional 300 percent ($I_s = 3$) for buildings with no more than one story above grade plane. These increases are permitted in addition to the height and story increases in accordance with Section 504.2.

Exception: The area limitation increases shall not be permitted for the following conditions:

1. The automatic sprinkler system increase shall not apply to buildings with an occupancy in Use Group H-1.
2. The automatic sprinkler system increase shall not apply to the floor area of an occupancy in Use Group H-2 or H-3. For mixed-use buildings containing such occupancies, the allowable area shall be calculated in accordance with Section 508.3.3.2, with the sprinkler increase applicable only to the portions of the building not classified as Use Group H-2 or H-3.
3. Fire-resistance rating substitution in accordance with Table 601, Note e.

506.4 Area determination. The maximum area of a building with more than one story above grade plane shall be determined by multiplying the allowable area of the first story (A_a), as determined in Section 506.1, by the number of stories above grade plane as listed below:

1. For buildings with two stories above grade plane, multiply by 2;
2. For buildings with three or more stories above grade plane, multiply by 3; and
3. No story shall exceed the allowable area per story (A_a), as determined in Section 506.1, for the occupancies on that story.

Exceptions:

1. Unlimited area buildings in accordance with Section 507.
2. The maximum area of a building equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.2 shall be determined by multiplying the allowable area

A

per story (A_n), as determined in Section 506.1, by the number of stories above grade plane.

506.4.1 Mixed occupancies. In buildings with mixed occupancies, the allowable area per story (A_n) shall be based on the most restrictive provisions for each occupancy when the mixed occupancies are treated according to Section 508.3.2. When the occupancies are treated according to Section 508.3.3 as separated occupancies, the maximum total building area shall be such that the sum of the ratios for each such area on all floors as calculated according to Section 508.3.3.2 shall not exceed 2 for two-story buildings and 3 for buildings three stories or higher.

SECTION 507 UNLIMITED AREA BUILDINGS

507.1 General. The area of buildings of the occupancies and configurations specified herein shall not be limited.

507.2 Nonsprinklered, one story. The area of a one-story, Group F-2 or S-2 building shall not be limited when the building is surrounded and adjoined by public ways or yards not less than 60 feet (18 288 mm) in width.

507.3 Sprinklered, one story. The area of a one-story, Group B, F, M or S building or a one-story Group A-4 building, of other than Type V construction, shall not be limited when the building is provided with an automatic sprinkler system throughout in accordance with Section 903.3.1.1 and is surrounded and adjoined by public ways or yards not less than 60 feet (18 288 mm) in width.

Exceptions:

1. Buildings and structures of Type I and II construction for rack storage facilities that do not have access by the public shall not be limited in height, provided that such buildings conform to the requirements of Sections 507.2 and 903.3.1.1 and NFPA 230.
2. The automatic sprinkler system shall not be required in areas occupied for indoor participant sports, such as tennis, skating, swimming and equestrian activities in occupancies in Group A-4, provided that:
 - 2.1. Exit doors directly to the outside are provided for occupants of the participant sports areas; and
 - 2.2. The building is equipped with a fire alarm system with manual fire alarm boxes installed in accordance with Section 907.
3. Group A-1 and A-2 occupancies of other than Type V construction shall be permitted, provided:
 - 3.1. All assembly occupancies are separated from other spaces as required for separated uses in Section 508.3.3.4 with no reduction allowed in the fire-resistance rating of the separation based upon the installation of an automatic sprinkler system;
 - 3.2. Each Group A occupancy shall not exceed the maximum allowable area permitted in Section 503.1; and

3.3. All required exits shall discharge directly to the exterior.

507.4 Two story. The area of a two-story, Group B, F, M or S building shall not be limited when the building is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1, and is surrounded and adjoined by public ways or yards not less than 60 feet (18 288 mm) in width.

507.5 Reduced open space. The permanent open space of 60 feet (18 288 mm) required in Sections 507.2, 507.3, 507.4, 507.6 and 507.10 shall be permitted to be reduced to not less than 40 feet (12 192 mm), provided the following requirements are met:

1. The reduced open space shall not be allowed for more than 75 percent of the perimeter of the building.
2. The exterior wall facing the reduced open space shall have a minimum fire-resistance rating of 3 hours.
3. Openings in the exterior wall facing the reduced open space shall have opening protectives with a minimum fire protection rating of 3 hours.

507.6 Community buildings. The area of a one-story, Group A-3 building used as a place of religious worship, community hall, dance hall, exhibition hall, gymnasium, lecture hall, indoor swimming pool or tennis court of Type II construction shall not be limited when all of the following criteria are met:

1. The building shall not have a stage other than a platform.
2. [REDACTED]
3. The assembly floor shall be located at or within 21 inches (533 mm) of street or grade level and all exits are provided with ramps complying with Section 1010.1 to the street or grade level.
4. The building shall be surrounded and adjoined by public ways or yards not less than 60 feet (18 288 mm) in width.

507.7 Group H occupancies. Group H-2, H-3 and H-4 occupancies shall be permitted in unlimited area buildings containing Group F and S occupancies, in accordance with Sections 507.3 and 507.4 and the limitations of this section. The aggregate floor area of the Group H occupancies located at the perimeter of the unlimited area building shall not exceed 10 percent of the area of the building nor the area limitations for the Group H occupancies as specified in Table 503 as modified by Section 506.2, based upon the percentage of the perimeter of each Group H fire area that fronts on a street or other unoccupied space. The aggregate floor area of Group H occupancies not located at the perimeter of the building shall not exceed 25 percent of the area limitations for the Group H occupancies as specified in Table 503. Group H fire areas shall be separated from the rest of the unlimited area building and from each other in accordance with Table 508.3.3 For two-story unlimited area buildings, the Group H fire areas shall not be located above the first story unless permitted by the allowable height in stories and feet as set forth in Table 503 based on the type of construction of the unlimited area building.

507.8 Aircraft paint hangar. The area of a one-story, Group H-2 aircraft paint hangar shall not be limited where such air-

[F] **WIRELESS PROTECTION SYSTEM.** A system or a part of a system that can transmit and receive signals without the aid of wire.

[F] **ZONE.** A defined area within the protected premises. A zone can define an area from which a signal can be received, an area to which a signal can be sent or an area in which a form of control can be executed.

SECTION 903 AUTOMATIC SPRINKLER SYSTEMS

[F] **903.1 General.** Automatic sprinkler systems shall comply with this section.

[F] **903.1.1 Alternative protection.** Alternative automatic fire-extinguishing systems complying with Section 904 shall be permitted in lieu of automatic sprinkler protection where recognized by the applicable standard and approved by the fire code official.

[F] **903.2 Where required.** Approved automatic sprinkler systems in new buildings and structures shall be provided in the locations described in this section.

Exception: Spaces or areas in telecommunications buildings used exclusively for telecommunications equipment, associated electrical power distribution equipment, batteries and standby engines, provided those spaces or areas are equipped throughout with an automatic fire alarm system and are separated from the remainder of the building by fire barriers consisting of not less than 1-hour fire-resistance-rated walls and 2-hour fire-resistance-rated floor/ceiling assemblies.

[F] **903.2.1 Group A.** An automatic sprinkler system shall be provided throughout buildings and portions thereof used as Group A occupancies as provided in this section. For Group A-1, A-2, A-3 and A-4 occupancies, the automatic sprinkler system shall be provided throughout the floor area where the Group A-1, A-2, A-3 or A-4 occupancy is located, and in all floors between the Group A occupancy and the level of exit discharge. For Group A-5 occupancies, the automatic sprinkler system shall be provided in the spaces indicated in Section 903.2.1.5.

[F] **903.2.1.1 Group A-1.** An automatic sprinkler system shall be provided for Group A-1 occupancies where one of the following conditions exists:

1. The fire area exceeds 12,000 square feet (1115 m²).
2. The fire area has an occupant load of 300 or more.
3. The fire area is located on a floor other than the level of exit discharge.
4. The fire area contains a multitheater complex.

[F] **903.2.1.2 Group A-2.** An automatic sprinkler system shall be provided for Group A-2 occupancies where one of the following conditions exists:

1. The fire area exceeds 5,000 square feet (465 m²);
2. The fire area has an occupant load of 100 or more; or

3. The fire area is located on a floor other than the level of exit discharge.

[F] **903.2.1.3 Group A-3.** An automatic sprinkler system shall be provided for Group A-3 occupancies where one of the following conditions exists:

1. The fire area exceeds 12,000 square feet (1115 m²).
2. The fire area has an occupant load of 300 or more.
3. The fire area is located on a floor other than the level of exit discharge.

Exception: Areas used exclusively as particular sports areas where the main floor area is located on the same level as the level of exit discharge of the main entrance and exit.

[F] **903.2.1.4 Group A-4.** An automatic sprinkler system shall be provided for Group A-4 occupancies where one of the following conditions exists:

1. The fire area exceeds 12,000 square feet (1115 m²).
2. The fire area has an occupant load of 300 or more.
3. The fire area is located on a floor other than the level of exit discharge.

Exception: Areas used exclusively as particular sports areas where the main floor area is located on the same level as the level of exit discharge of the main entrance and exit.

[F] **903.2.1.5 Group A-5.** An automatic sprinkler system shall be provided for Group A-5 occupancies in the following areas: concession stands, retail areas, mezzanines, boxes and other accessory use areas in excess of 1,400 square feet (93 m²).

[F] **903.2.2 Group E.** An automatic sprinkler system shall be provided for Group E occupancies as follows:

1. Throughout all Group E fire areas greater than 20,000 square feet (1858 m²) in area.
2. Throughout every portion of educational buildings below the level of exit discharge.

Exception: An automatic sprinkler system is not required in any fire area or area below the level of exit discharge where every classroom throughout the building has at least one exterior exit door at ground level.

[F] **903.2.3 Group F-1.** An automatic sprinkler system shall be provided throughout all buildings containing a Group F-1 occupancy where one of the following conditions exists:

1. Where a Group F-1 fire area exceeds 12,000 square feet (1115 m²);
2. Where a Group F-1 fire area is located more than three stories above grade plane; or
3. Where the combined area of all Group F-1 fire areas on all floors, including any mezzanines, exceeds 24,000 square feet (2230 m²).

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reference to "story" but uses the term "floor," which could include mezzanines and basements.

Condition 4 states that a sprinkler system is required for multiplex theater complexes to account for the delay associated with the notification of adjacent compartmentalized spaces where the occupants may not be immediately aware of an emergency.

[F] 903.2.1.2 Group A-2. An automatic sprinkler system shall be provided for Group A-2 occupancies where one of the following conditions exists:

1. The fire area exceeds 5,000 square feet (465 m²);
2. The fire area has an occupant load of 100 or more; or
3. The fire area is located on a floor other than the level of exit discharge.

Group A-2 assembly occupancies are intended for food or drink consumption, such as banquet halls, nightclubs and restaurants. Occupancies in Group A-2 involve life safety factors such as a high occupant density, flexible fuel loading, movable furnishings and limited lighting; therefore, they must be protected with an automatic sprinkler system under any of the listed conditions.

In the case of an assembly use, the purpose of the automatic sprinkler system is to provide life safety as well as preserving property. By requiring suppression in areas through which the occupants must egress, including the level of exit discharge, the possibility of unobserved fire development affecting occupant egress is minimized.

The 5,000-square-foot threshold for the automatic sprinkler system reflects the higher degree of life hazard associated with Group A-2 occupancies alluded to earlier; Group A-2 occupancies have low lighting levels, loud music, late hours of operation, dense seating with ill-defined aisles and alcohol beverage service. These factors in combination delay fire recognition, confuse occupant reaction and increase egress time.

Though the calculated occupant load for a 5,000 square foot (465 m²) space at 15 square feet (1.4 m²) per occupant would be over 100, the occupant load in Condition 2 is meant to reflect the concern about these higher density occupancies. A major reason for establishing the occupant load at 100 was due to several recent nightclub fires. The requirement is not limited to nightclubs and banquet facilities but to all Group A-2 occupancies, including restaurants with an occupant load greater than 100. Restaurants require sprinkler protection as well. This includes fast food facilities with no low lighting or alcohol

A similar intent of Condition 3 is addressed in the commentary to Section 903.2.1.1.

Conditions require sprinklers throughout the

fire area containing the Group A-2 occupancy, regardless of the number of fire areas present.

[F] 903.2.1.3 Group A-3. An automatic sprinkler system shall be provided for Group A-3 occupancies where one of the following conditions exists:

1. The fire area exceeds 12,000 square feet (1115 m²).
2. The fire area has an occupant load of 300 or more.
3. The fire area is located on a floor other than the level of exit discharge.

Exception: Areas used exclusively as participant sports areas where the main floor area is located at the same level as the level of exit discharge of the main entrance and exit.

❖ Group A-3 occupancies are assembly occupancies intended for worship, recreation or amusement and other assembly uses not classified elsewhere in Group A, such as churches, museums and libraries. While Group A-3 occupancies could potentially have a high occupant load, they normally do not have the same potential combination of life safety hazards associated with Group A-2 occupancies. As with most assembly occupancies, however, most of the occupants are typically not completely familiar with their surroundings. When any of the three listed conditions are applicable, an automatic sprinkler system is required throughout the fire area containing the Group A-3 occupancy and in all floors between the Group A occupancy and exit discharge (see commentary, Sections 903.2.1 and 903.2.1.1).

The exception exempts the participant sport area of Group A-3 occupancies from automatic sprinkler system requirements because these areas are typically large open spaces with relatively low fuel loads. The exception includes occupancies such as an indoor swimming pool or the

Note that if the exception is claimed and sprinklers are not provided, the occupant load shall not be based on the actual occupant load but shall be based on the occupant load in accordance with the applicable code requirements, such as height and area increases, corridor rating reduction and other code alternatives. Care must also be exercised in allowing the exception to be taken in buildings that have the potential for the sports participant area to be used for other than participant sports purposes, including but not limited to banquets, exhibits, rummage sales, etc., which would have a much higher fuel load than was ever contemplated by the exception.

[F] 903.2.1.4 Group A-4. An automatic sprinkler system shall be provided for Group A-4 occupancies where one of the following conditions exists:

1. The fire area exceeds 12,000 square feet (1115 m²).
2. The fire area has an occupant load of 300 or more.

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approve the type of sprinkler system to be installed. See Figure 903.3.1 for typical design parameters for each type of sprinkler system.

903.3.1.1 NFPA 13 sprinkler systems. Where the provisions of this code require that a building or portion thereof be equipped throughout with an automatic sprinkler system in accordance with this section, sprinklers shall be installed throughout in accordance with NFPA 13 except as provided in Section 903.1.1.1.

NFPA 13 contains the minimum requirements for the design and installation of automatic water sprinkler systems and exposure protection sprinkler systems. The requirements contained in the standard include the character and adequacy of the water supply and the selection of sprinklers, piping, valves and all of the materials and accessories. The standard does not include requirements for installation of private fire service mains and their appurtenances; installation of fire pumps or construction and installation of gravity and pressure tanks and towers.

NFPA 13 defines seven classifications or types of water sprinkler systems: wet pipe (see Figure 903.3.1(1)); dry pipe; preaction or deluge; combined dry pipe and preaction; antifreeze systems; sprinkler systems that are designed for a special purpose and inside sprinklers for exposure protection. While numerous variables must be considered in selecting the proper type of sprinkler system, the wet-pipe sprinkler system is recognized as the most effective and efficient. The wet-pipe system is also the most reliable type of sprinkler system, because water under pressure is available at the sprinkler. Therefore, wet-pipe sprinkler systems are recommended wherever possible.

The extent of coverage and distribution of sprinklers is based on the NFPA 13 standard. Numerous conditions exist in the standard where sprinklers are specifically required and also where they may or may not be required. Once it is determined that the sprinkler system is in accordance with NFPA 13, that standard shall be reviewed for installation details. For example, spaces such as combustible canopies are required to be equipped with sprinklers according to Section 8.4.7 of NFPA 13 where the canopy extends a distance of 4 feet (1219 mm) or more. A 3-foot (914 mm) combustible canopy would not require sprinklers, but a 6-foot (1829 mm) canopy containing noncombustible materials, provided there is no combustible storage under the canopy.

Exceptions for the use of NFPA 13R and 13D systems are addressed throughout the code when exceptions are provided upon the use of sprinklers are provided. Specifically, if the use of these other standards is intended, it will be noted within the exception. For a space to be considered "equipped throughout" with an NFPA 13 sprinkler system, complete protection shall be provided in accordance with the referenced standard, subject to the exempt locations indicated in Section 903.3.1.1.1 [see Figure 903.3.1.1(2)].

[F] 903.3.1.1.1 Exempt locations. Automatic sprinklers shall not be required in the following rooms or areas where such rooms or areas are protected with an approved automatic fire detection system, in accordance with Section 907.2, that will respond to visible or invisible particles of combustion. Sprinklers shall not be omitted from any room merely because it is damp, of fire-resistance-rated construction or contains electrical equipment.

1. Any room where the application of water, or flame and water, constitutes a serious life or fire hazard.
 2. Any room or space where sprinklers are considered undesirable because of the nature of the contents, when approved by the fire code official.
 3. Generator and transformer rooms separated from the remainder of the building by walls and floor/ceiling or roof/ceiling assemblies having a fire-resistance rating of not less than 2 hours.
 4. In rooms or areas that are of noncombustible construction with wholly noncombustible contents.
- ✦ This section allows the omission of sprinkler protection in certain locations if an approved automatic fire detection system is installed. Buildings in compliance with one of the four listed conditions would still be considered fully sprinklered throughout in compliance with the code and NFPA 13 and thus are eligible for all applicable code alternatives, exceptions or reductions. Elimination of the sprinkler system in a sensitive area is subject to the approval of the fire code official.
- Condition 1 addresses restrictions where the application of water could create a hazardous condition. For example, sprinkler protection is to be avoided where it is not compatible with certain stored materials (i.e., some water-reactive hazardous materials). Combustible metals, such as magnesium and aluminum, may burn so intensely that the use of water to attempt fire control will only intensify the reaction.
- It is not the intent of Condition 2 to omit sprinklers solely because of a potential for water damage. A desire to not sprinkler a certain area (such as a computer room or operating room) does not fall within the limitations of the exception unless there is something unique about the space that would result in water being incompatible. A computer room can be adequately protected using a preaction sprinkler system in combination with an alternative gaseous suppression agent. The intent of Condition 2 is to consider whether or not the contents would react adversely to the application of water. It is important to note that the fire code official must approve the use of this item.
- Condition 3 recognizes the low fuel load and low occupancy hazards associated with generator and transformer rooms and, therefore, allows the omission of sprinkler protection if the rooms are separated from adjacent areas by 2-hour fire-resistance-rated construction. This condition assumes the room is not used for any combustible storage. This condition is similar

to Section 8.14.10.3 of NFPA 13, which exempts electrical equipment rooms from sprinkler protection, provided the room is dedicated to the use of dry-type electrical equipment, is constructed as a 2-hour fire-resistance-rated enclosure and is not used for combustible storage.

Condition 4 requires the construction of the room or area, as well as the contents, to be noncombustible. An example would be an area in an unprotected steel frame building (Type IIB construction) used for steel or concrete block storage. Neither involves any significant combustible packaging or sources of ignition, and few combustibles are present (see Figure 903.3.1).

Because installation is required to be in accordance with NFPA 13, if the standard allows for the omission of sprinklers in any location, then the building is still considered as sprinklered throughout. For example, Section 8.14.8.1.1 of NFPA 13 allows sprinklers to be omitted from bathrooms in certain circumstances. If sprinklers are not provided in the bathrooms due to the conditions stipulated in NFPA 13, the building would still be considered as sprinklered throughout in accordance with NFPA 13 and the *International Building Code*® (IBC®).

[F] 903.3.1.2 NFPA 13R sprinkler systems. Where allowed in buildings of Group R, up to and including four stories in height, automatic sprinkler systems shall be installed throughout in accordance with NFPA 13R.

- ❖ NFPA 13R contains design and installation requirements for a sprinkler system to aid in the detection and control of fires in low-rise (four stories or less) residential occupancies.

Sprinkler systems designed in accordance with NFPA 13R are intended to prevent flashover (total involvement) in the room of fire origin and to improve the chance for occupants to escape or be evacuated. The design criteria in NFPA 13R are similar to those in NFPA 13 except that sprinklers may be omitted from areas in which fatal fires in residential occupancies do not typically originate (bathrooms, closets, attics, porches, garages and concealed spaces).

It must be noted that although the building would be considered sprinklered throughout in accordance with NFPA 13R, not all of the code sprinkler alternatives could be applied. Any alternative that requires the installation of an NFPA 13 system would not be applicable if a portion of the building utilizes an NFPA 13R system.

The code provisions that allow for an increase in building height according to Section 504.2 of the IBC do not compound this section. NFPA 13R is applicable to buildings that are up to four stories in height. If the design of a residential building intends to take advantage of the sprinkler height increase so that the building is five stories or more, the sprinkler system must be

an NFPA 13 system. Because this section limits building height to four stories, four stories is the maximum height for a building that can utilize an NFPA 13R system. This is consistent with the scope of the NFPA 13R standard.

The limitation of four stories in height is measured with respect to the established height of the building which is consistent with IFC Interpretation 1001.1. As such, a basement would not be considered above grade for purposes of determining the applicability of this section.

[F] 903.3.1.2.1 Balconies and decks. Sprinklers shall be provided for exterior balconies, decks and patios of dwelling units where the building is of Type IIB construction. Sidewall sprinklers that are used to protect balconies shall be permitted to be located such that their heads are within 1 inch (25 mm) to 6 inches (152 mm) below structural members and a maximum distance of 14 inches below the deck of the exterior balconies and decks constructed of open wood joist construction.

- ❖ Balconies, decks and patios in buildings of Type IIB construction and used for Group R occupancies are required to have sprinkler protection. This section addresses the life safety of occupants and not fire protection. The intent is to address hazards such as grilling and similar activities. Since NFPA 13R does not require such coverage, there is potential that a balcony could grow much too large for the building to handle. The concern is that a potential exterior balcony fire could spread to protected floor/ceiling assemblies and attic spaces, result in major property damage. Section 308.3.3 specifically addresses restrictions on open flame devices used on combustible balconies.

Regardless of whether the exterior walking surface is attached to the building and called a balcony or a freestanding structure such as a deck or patio, the concern for fire ignition in the area adjacent to the exterior wall is the same. Sidewall sprinklers should be selected based on the area of coverage and climate. Where the potential for freezing exists, a dry sidewall sprinkler should be used. Where the overhanging deck or balcony is extensive, an extended coverage sprinkler should be selected.

The requirement is applicable whether or not the overhang, balcony or deck is located above the area in question. The requirement is for protection of the balcony or deck. If there is no ceiling or overhead projection above the area, a sidewall sprinkler must still be installed to comply with the requirement. A properly located horizontal dry sidewall sprinkler, even without typical heat collection considerations, still provides protection for these exterior areas even if the sprinkler is assumed to only be activated by radiant heat effects.

105.2.3 Continuing education requirements. Technical assistants shall attend 16 hours every two years of continuing education and periodic training courses approved or required by DHCD. Additional continuing education hours shall not be required if more than one certificate is held.

105.3 Conflict of interest. The standards of conduct for building officials and technical assistants shall be in accordance with the provisions of the State and Local Government Conflict of Interests Act, Chapter 31 (Section 2.2-3100 et seq.) of Title 2.2 of the Code of Virginia. A

105.4 Records. The local building department shall retain a record of applications received, permits, certificates, notices and orders issued, fees collected and reports of inspection in accordance with The Library of Virginia's General Schedule Number Six.

SECTION 106 POWERS AND DUTIES OF THE BUILDING OFFICIAL

106.1 Powers and duties, generally. The building official shall enforce this code as set out herein and as interpreted by the State Review Board.

106.2 Delegation of authority. The building official may delegate powers and duties except where such authority is limited by the local government. When such delegations are made, the building official shall be responsible for assuring that they are carried out in accordance with the provisions of this code.

106.3 Issuance of modifications. Upon written application by an owner or an owner's agent, the building official may approve a modification of any provision of the USBC provided the spirit and functional intent of the code are observed and public health, welfare and safety are assured. The decision of the building official concerning a modification shall be made in writing and the application for a modification and the decision of the building official concerning such modification shall be retained in the permanent records of the local building department.

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Note: The USBC references nationally recognized model codes and standards. Future amendments to such codes and standards are not automatically included in the USBC; however the building official should give them due consideration in deciding whether to approve a modification.

106.3.1 Substantiation of modification. The building official may require or may consider a statement from an RDP or other person competent in the subject area of the application as to the equivalency of the proposed modification. In addition, the building official may require the application to include construction documents sealed by an RDP.

106.3.2 Use of performance code. Compliance with the provisions of a nationally recognized performance code when approved as a modification shall be considered to constitute compliance with this code. All documents submitted as part of such consideration shall be retained in the permanent records of the local building department.

SECTION 107 FEES

107.1 Authority for charging fees. In accordance with Section 36-105 of the Code of Virginia, fees may be levied by the local governing body in order to defray the cost of enforcement of the USBC.

107.1.1 Fee schedule. The local governing body shall establish a fee schedule incorporating unit rates, which may be based on square footage, cubic footage, estimated cost of construction or other appropriate criteria. A permit or any amendments to an existing permit shall not be issued until the designated fees have been paid, except that the building official may authorize the delayed payment of fees.

107.1.2 Refunds. When requested in writing by a permit holder, the locality shall provide a fee refund in the case of the revocation of a permit or the abandonment or discontinuance of a building project. The refund shall not be required to exceed an amount which correlates to work not completed.

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method, using an "as the crow flies" linear measurement; must be used with caution, as it seldom represents typical floor design and layout and, in most cases, would not be deemed to be the natural, unobstructed path.

The travel distance is measured from each and every occupiable point on a floor to the closest exit. While each occupant may be required to have access to a second or third exit, the travel distance limitation is only applicable to the distance to the nearest exit. In effect, this means that the distance an occupant must travel to the second or third exit is not regulated.

Travel distance is measured along the exit access path. Exit access travel distance may include travel on an exit stairway if it is not constructed to meet the definition of an exit (i.e., enclosure, discharge, etc.). An example of this would be an unenclosed exit access stairway from a mezzanine level or steps along the path of travel in a split floor-level situation. When Section 1020.1 permits an exit stairway to be unenclosed, the travel distance would also include travel down the exit stairway and to: a vertical exit enclosure; a horizontal exit; or an exit door to the outside. An example of this would be an open exit stairway within an individual dwelling unit (Section 1020.1, Exception 3), or an open exit stairway from a small space not open to the public (Section 1020.1, Exception 1).

Exceptions 1 and 2 provide for a travel distance terminating at the top of an open exit stair in an open structure, or an open exit stair or ramp in outdoor facilities (e.g., stadiums, exterior stairways from balconies, observation decks and amusement structures) (Section 1020.1, Exceptions 2 and 5). This is appropriate in view of the low hazard in these facilities.

Exception 3 addresses the special concerns for an exit stairway as permitted in Section 1020.1, Exceptions 8 and 9. The measurement for the travel distance

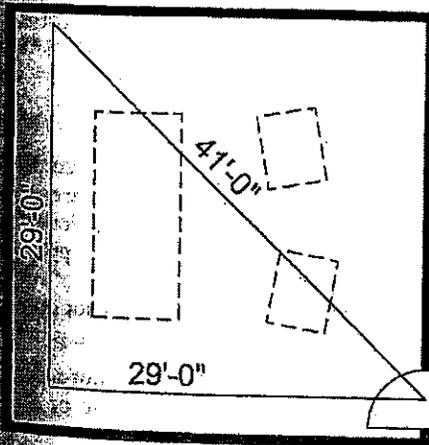
must be from the most remote point, down the exit stairway and out of the building to the beginning of the exit discharge. Therefore, when applying Exception 8 for open exit stairways between upper levels this exception literally would require the total travel distance measurement to include any travel distance that was inside an exit enclosure as well as any exterior exit stairways or ramps until the occupants reached grade level. It may be a reasonable interpretation to measure the travel distance to an enclosed exit, horizontal exit or exterior exit stairway.

The distance of travel within an exit enclosure (e.g. vertical exit enclosure, exit passageway) and in the exit discharge portion of the means of egress is also not regulated.

Section 1019.2 permits certain buildings to be provided with a single exit. In instances where there is a single exit, travel distances less than those permitted in Table 1016.1 apply (see Table 1019.2).

TABLE 1016.1. See page 10-100.

- ❖ This table reflects the maximum distance a person is allowed to travel from any point in a building floor area to the nearest exit along a natural and unobstructed path. While quantitative determinations or formulas are not available to substantiate the tabular distances, empirical factors are utilized to make relative judgments as to reasonable limitations. Such considerations include the nature and fitness of the occupants; the typical configurations and physical conditions of each group; the level of fire hazard with respect to the specific uses of the facilities, including fire spread and the potential intensity of a fire. The inclusion of an automatic sprinkler system throughout the building can serve to control, confine or possibly eliminate the fire threat to the occupants so an increased travel distance is permitted. Increased travel distances are permitted when an automatic sprinkler system is installed in ac-



TRAVEL DISTANCE = 29' + 29' = 58'0"

- INDICATES POTENTIAL FURNITURE LOCATION

1" = 25.4 mm, 1 foot = 304.8 mm.

Figure 1016.1(2)
MEASURING TRAVEL DISTANCE USING RECTILINEAR APPROACH

cordance with NFPA 13 or 13R (see Section 903.3.1.1 or 903.3.1.2).

When measuring travel distance, it is important to consider the natural path of travel [see Figure 1016.1(1)]. In many cases, the actual layout of furnishings and equipment is not known or is not identified on the plans submitted with the permit application. In such instances, it may be necessary to measure travel distance using the legs of a triangle instead of the hypotenuse [see Figure 1016.1(2)]. Since most people tend to migrate to more open spaces while egressing, measurement of the natural path of travel typically excludes areas of the building within approximately 1 foot (305 mm) of walls, corners, columns and other permanent construction. Where the travel path includes passage through a doorway, the natural route is generally measured through the centerline of the door openings.

TABLE 1016.1
EXIT ACCESS TRAVEL DISTANCE^a

OCCUPANCY	WITHOUT SPRINKLER SYSTEM (feet)	WITH SPRINKLER SYSTEM (feet)
E, F-1, I-1, M, R, S-1	200	250 ^c
B	200	300 ^c
F-2, S-2, U	300	400 ^c
H-1	Not Permitted	75 ^c
H-2	Not Permitted	100 ^c
H-3	Not Permitted	150 ^c
H-4	Not Permitted	175 ^c
H-5	Not Permitted	200 ^c
I-2, I-3, I-4	150	200 ^c

For SI: 1 foot = 304.8 mm.

- a. See the following sections for modifications to exit access travel distance requirements:
 - Section 402: For the distance limitation in malls.
 - Section 404: For the distance limitation through an atrium space.
 - Section 1016.2: For increased limitations in Groups F-1 and S-1.
 - Section 1025.7: For increased limitation in assembly seating.
 - Section 1025.7: For increased limitation for assembly open-air seating.
 - Section 1019.2: For buildings with one exit.
 - Chapter 31: For the limitation in temporary structures.
- b. Buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2. See Section 903 for occupancies where automatic sprinkler systems in accordance with Section 903.3.1.2 are permitted.
- c. Buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1.

1016.2 Roof vent increase. In buildings that are one story in height, equipped with automatic heat and smoke roof vents complying with Section 910 and equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1, the maximum exit access travel distance shall be 400 feet (122 m) for occupancies in Group F-1 or S-1.

❖ This section permits an increase in travel distances when roof vents are installed because of the increased visibility provided in a fire event if the roof-venting system is properly designed and installed in accordance

with Section 910. While smoke/heat automatic sprinklers serve different life safety purposes, they are both active systems of fire protection that work well together. However, proper care must be taken in the design and installation of both systems so that when they are used in conjunction with automatic sprinklers, they will not cause conditions to occur at the sprinklers so as to delay or prevent the sprinkler system or even render it inoperative. The travel distance increase is limited to single-story buildings of factory (Group F-1) and storage occupancies because of the characteristics of these areas, fire department accessibility and fire load densities. Note that the building must be protected throughout by an automatic sprinkler system and installed in accordance with NFPA 13 or 13R (see Section 903.3.1.1).

1016.3 Exterior egress balcony increase. The travel distance specified in Section 1016.1 shall be increased up to a maximum of 100 feet (30 480 mm) provided the last portion of the travel distance leading to the exit occurs on an exterior egress balcony constructed in accordance with Section 1014.5. The length of the balcony shall not be less than the amount of the increase.

❖ This section allows an additional travel distance for exterior egress balconies since the amount of smoke is much less on a balcony. Note that the amount of the increase is not to be more than the length of the exterior balcony. For example, if the length of the balcony is 75 feet (22 860 mm), the additional travel distance is limited to 75 feet (22 860). In order for the increase to apply, the exterior balcony must be located at the end of the path of egress travel and not on any other portion of the egress path.

SECTION 1017 CORRIDORS

1017.1 Construction. Corridors shall be fire-resistance rated in accordance with Table 1017.1. The corridor walls required to be fire-resistance rated shall comply with Section 703 for fire partitions.

Exceptions:

1. A fire-resistance rating is not required for corridors in an occupancy in Group E where each room that is used for instruction has at least one door directly to the exterior and rooms for assembly purposes have at least one-half of the required means of egress doors opening directly to the exterior. Exterior doors specified in this exception are required to be at ground level.
2. A fire-resistance rating is not required for corridors contained within a dwelling or sleeping unit in an occupancy in Group R.
3. A fire-resistance rating is not required for corridors in open parking garages.
4. A fire-resistance rating is not required for corridors in an occupancy in Group B which is a space requiring

VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Stark Jones
Appeal No. 13-6

CONTENTS

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VIRGINIA:

BEFORE THE
STATE BUILDING CODE TECHNICAL REVIEW BOARD

IN RE: Appeal of Stark Jones
Appeal No. 13-6

REVIEW BOARD STAFF DOCUMENT

Suggested Statement of Case History and Pertinent Facts

1. In May of 2013, Stark Jones (Jones) submitted a permit application and plan to the City of Roanoke's building department (local building department) for a new certificate of occupancy for his business, Lowell's Restaurant, Inc, d/b/a JB's Restaurant and Lounge, located at 2328 Melrose Avenue in Roanoke. The submitted plans called for the creation of separate smoking and non-smoking areas in the existing commercial establishment.
2. In July of 2013, the local building department reviewed Jones' application, and in doing so, determined that the building was being used as a night club, which is a change of occupancy under the Virginia Uniform Statewide Building Code (USBC).
3. In the same month, the local building department met with Jones and explained the steps required to issue a new certificate of occupancy for the building as a night club, including, at a minimum, the installation of a fire sprinkler system throughout the building. Jones was made aware that the operation of a night club on his property was not allowed under the current occupancy classification. Subsequently, Jones submitted an application for appeal to the City of Roanoke's Building and Fire Code Board of Appeals (local appeals board).

4. In August of 2013, the local appeals board heard Jones' appeal and ruled in favor of the local building department.

5. Jones then filed an appeal to the Review Board.

6. Review Board staff corresponded with the parties permitting an opportunity to submit additional documents and then drafted this staff document based upon a review of the appeal documents. The staff document will be submitted to the parties along with all documents submitted and opportunity given to the parties for the submittal of additions, corrections or objections to the staff document and for the submittal of additional documents and arguments. The hearing before the Review Board will then be scheduled with the parties and the Review Board members receiving the full record prior to the hearing.

Suggested Issue for Resolution by the Review Board

1. Whether to overturn the decisions of the local building department and the local appeals board that a change of occupancy is present in the use of the building and that the building must comply with the applicable requirements for change of occupancy to be used as a night club.

COMBINED DOCUMENTS

City of Roanoke, Virginia.

CERTIFICATE OF OCCUPANCY PERMIT

Certificate No. 9910

Use Group B

In accordance with the provisions of the Zoning Ordinance and/or subsequent amendments thereto, and including all provisions contained in the Building Code and/or any amendments, the owner of this certificate is hereby granted permission to use the building and land as provided below.

Address <u>2328 Melrose Avenue, N.W.</u>		Zone <u>C-2</u>
Lot No. <u>2 & 3</u>	Block <u>102</u>	Type of Construction <u>w/f & block</u>
Official No. <u>232-22-07</u>		No. of Stories <u>one</u>
Allowable Floor Load _____		No. of Exits Required <u>one</u>
No. Parking Spaces _____		Max. No. Occupants-Each Floor <u>49 people</u>
Permitted Use <u>Restaurant</u>		
Special Provisions _____		

No change in use-group classification of this building will be permitted without first obtaining a new certificate. Except in one and two family dwellings, this certificate shall be posted and permanently maintained in a conspicuous location near the main entrance of the building.

Date Issued August 14, 1984

Owner of Building Lowell Reeves



Building Commissioner Ronald H Miller

Owner of Certificate LOWELL'S RESTAURANT
Lowell D. Reeves

Zoning Administrator W. G. Light

Application for a Certificate of Occupancy

Read carefully and write plainly or print all necessary information. Certificate may be issued only when sufficient information is given to show that the proposed work and/or use will comply with all Building and Zoning Laws. Consult this office for additional information.

The undersigned owner or lessee hereby applies for a Certificate of Occupancy in accordance with the provisions of the Zoning Ordinance and/or subsequent amendments thereto, and including all provisions contained in the Building Code and/or any amendments thereto, for the following use of the hereinafter described building and land, and hereby agrees to fully conform to all the terms of any permit which may be issued on account of this application.

Signature of Owner or Lessee: Jowell D. Reeves

Mail Certificate To:

It is unlawful to use or occupy any land or building, until a Certificate of Occupancy has been issued.

Building Address: 2328 Monroe Ave N.W.

Official No. 232 2207 Lot 1 Block 1 Land Map _____

Zoning District C-2 Type of Building Block Basement NO

Number of Employees 7 Number of Occupants 150

Proposed Use RESTAURANT

Present Use RESTAURANT

Previous Use RESTAURANT

Existing Off-street Parking Spaces 60 Additional Spaces to be Provided 40

Number of Stories 1 Number of Rooms 4 Number of Apartments NO

Number of Exits 5 Area of Building NW Lot Coverage _____

TO BE FILLED IN BY ZONING ADMINISTRATOR

Date Approved _____ Date Disapproved _____ Zoning District _____

Reason for Disapproval _____

Remarks _____

By: _____
ZONING ADMINISTRATOR

CERTIFICATE WILL BE ISSUED TO APPLICANT AFTER CONSTRUCTION HAS BEEN COMPLETED AND BUILDING IS READY FOR OCCUPANCY.

DEPARTMENT OF BUILDINGS

SIGN OFF CARD FOR CERTIFICATE OF OCCUPANCY

NAME Lowell Reeves

DATE 12/21/90

ADDRESS 2328 Melrose Ave. N.W.

PERMIT NO. _____

TAX MAP NO. 2322207

USE GROUP _____

NO. OF EXITS _____

OCCUPANCY LOAD _____

TEMPORARY

FINAL

BUILDING _____ DATE _____

BUILDING DMH DATE 12-26-90

ELECTRICAL _____ DATE _____

ELECTRICAL DMH DATE 12-26-90

PLUMBING _____ DATE _____

PLUMBING DMH DATE 12-26-90

HEATING _____ DATE _____

HEATING DMH DATE 12-26-90

FIRE PROT. _____ DATE _____

FIRE PROT. _____ DATE _____

ZONING _____ DATE _____

ZONING _____ DATE _____

FIRE MARSHALL _____ DATE _____

FIRE MARSHALL _____ DATE _____

SUBDIVISION AGENT _____ DATE _____

SUBDIVISION AGENT _____ DATE _____

PLANNING _____ DATE _____

PLANNING _____ DATE _____

ENGINEER _____ DATE _____

ENGINEER _____ DATE _____

COMMENTS:

A-3

C/O # 12413

B - Elite

200 ac.

101-205-27-70

City of Roanoke Virginia

CERTIFICATE OF OCCUPANCY PERMIT

Certificate No. 12413 Use Group A-3

In accordance with the provisions of the Zoning Ordinance and/or subsequent amendments thereto, and including all provisions contained in the Building Code and/or any amendments, the owner of this certificate is hereby granted permission to use the building and land as provided below.

Address <u>2328 Melrose Ave. N.W.</u>		Zone <u>C-2</u>
Lot No. _____	Block _____	Type of Construction _____
Official No. <u>2322207</u>		No. of Stories _____
Allowable Floor Load _____		No. of Exits Required <u>4</u>
No. Parking Spaces _____		Max. No. Occupants-Each Floor <u>200</u>
Permitted Use <u>Restaurant</u>		

Special Provisions: _____

No change in use-group classification of this building will be permitted without first obtaining a new certificate. Except in one and two family dwellings, this certificate shall be posted and permanently maintained in a conspicuous location near the main entrance of the building.

Owner of Building Lowell D. Reeves

Owner of Certificate Lowell D. Reeves



Date Issued 12/26/90

Building Commissioner R. H. Miller

Zoning Administrator R. H. Miller

CITY OF ROANOKE
BUSINESS LICENSE APPLICATION

Business Name: Lowell's Restaurant, Inc Telephone #: 344-4884
Physical Business Address: 2328 Melrose Ave NW
Roanoke VA 24017 Zip Code: 24017
Owner's Name: Lowell's Restaurant, Inc Telephone #: 982-8696
Home Address: PO Box 1881
Roanoke VA Zip Code: 24008
Social Security or Federal ID #: 14-1841453
List all partners or Corporate Officers (if applicable) Stark Jones, President
Virginia Registered Agent: Neal Keese
Agent's Address: 10 S Jefferson Suite 1400
Roanoke VA 24011 Zip Code: _____
Nature of Business (Provide complete description of services rendered for which gross receipts may be received):
restaurant / nightclub

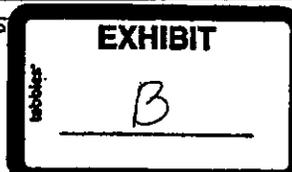
ZONING VERIFICATION	
Tax Map #: <u>2322207</u>	Address as shown on Real Estate Records: <u>2328 Melrose Ave.</u>
Action: <input type="checkbox"/> Approved as a home occupation with the following conditions: - Business is restricted to no more than 25% of gross floor area of dwelling (No accessory structure can be used in conjunction with business); - NO customers or employees on the premises; - NO storage or display of any goods on the premises related to the business; - NO equipment or processes not normally associated with a single family residence shall be used in the business; - NO traffic generated to home in connection with business and no commercial vehicles stored on premises. <input checked="" type="checkbox"/> Approved - use complies with <u>C2</u> Zoning District <u>205 (28)</u> <input type="checkbox"/> Approved - use specified by special exception permit issued by the Roanoke City Board of Zoning Appeals on _____ <input type="checkbox"/> Disapproved. State reason: _____	
Will a sign be erected or changed on the property? Yes _____ No _____ (if yes, give applicant copy of sign requirements form)	
Name of person completing form: <u>Katherine Slater</u>	Date: <u>8/30/02</u>
Title: <u>Dev + Bldg. Coordinator</u>	

AFFIDAVIT OF APPLICATION

I agree to abide by the conditions of the Roanoke City Zoning Ordinance. Failure to do so may be grounds to revoke this permit or denial of any future permits that may be issued for this business activity.
Furthermore, if this is a new business or this business activity is a change of use from the previous tenant or occupant of location listed above, an application will be made to the City Building Inspections Department for a Certificate of (Use) Occupancy prior to opening such business.

Signature of Applicant: [Signature] Date: 8-30-01

Health Inspection: Yes _____ No _____



Fire Inspection: Yes _____ No 141

Sherman A. Holland
 Commissioner of the Revenue
 215 Church Ave SW Room 251
 Roanoke, Virginia 24011

2008 CITY OF ROANOKE, VIRGINIA 2008 BUSINESS LICENSE

Telephone: (540) 853-2524
 Fax: (540) 853-1115
 commrev@roanokeva.gov

BILL

Account Number	Business Start Date	Soc Security # Or Federal ID #	Business Personal Property Acct #	Status	Type	Print Date	Expiration Date	Bill Number
108674	09102002	141841453	141841453	BILL	C	10302008	12312008	2008004690

APPLICANT NAME(S) **LOWELL'S RESTAURANT INC**
 MAILING **PO BOX 1881**
 ADDRESS **ROANOKE, VA 24008-1881**

TRADE NAME(S) **JB'S RESTAURANT & LOUNGE**
 BUSINESS ADDRESS **2328 MELROSE AV NW**

Telephone # 540-314-3279

Telephone # 540-344-4884

If you are out of business: DATE CLOSED: _____

2007 gross receipts: _____

INSTRUCTIONS

**** IF THE ONLY CLASS CODE PRINTED ON THIS FORM IS A FLAT FEE, PLEASE PAY THAT AMOUNT ONLY! ****

Choose Step 1 OR 2:

- If in business the entire year of 2007, list 2007 actual gross receipts for each class code. Add the gross receipts column and list the total in the gray box. Go to STEP 3 OR 4 and 5, if applicable.
- If your business started after January 31, 2007, estimate your 2008 gross receipts and list this amount in the gross receipts column. ADD this column and list the total in the gray box. List actual 2007 gross in #2 of Worksheet A. Go to STEP 3 OR 4 and 5, if applicable.

Choose STEP 3 OR 4:

- If the gross receipts in the gray box are \$100,000 or less, list zero in the tax amount column. Please submit only the \$50.00 issuance fee amount column.
- If the gross receipts in the gray box are greater than \$100,000, multiply each tax rate by the corresponding gross receipts. List this total in tax amount column.
- If this box is checked , and your 2007 total gross receipts are greater than \$100,000, complete Worksheet A below and transfer credit of balance due to ADJ LINE.

BILL # / DUE DATE	LICENSE CLASSIFICATION	CLASS CODE	TAX RATE	X	GROSS RECEIPTS	TAX AMOUNT	
MAR 01 08	BEER/WINE ON AND/OR	0255			FLAT	\$120.00	
MAR 01 08	MIXED BEV. 151-PLUS	0295			FLAT	\$400.00	
MAR 01 08	MERCHANT-RETAIL	1072.0020		X	133,000.00	\$266.00	
MAR 01 08	BUSINESS PERSONAL SE	4050.0035		X	5,000.00	\$18.00	
TOTAL GROSS RECEIPTS							
						TOTAL TAX	\$804.00
						ISSUANCE FEE	
						PEN / INT / OTHER	\$80.40
						PAID-TO-DATE	\$884.40
						PRIOR DELINQUENCY	
						TOTAL DUE	\$0.00

Contractor Class: (A, B, C) State Contractor #:

This form must be filed with payment on or before MARCH 1 for renewals or within 30 days of starting a new business to avoid a penalty.
 Please return this copy and make check payable to: **TREASURER, CITY OF ROANOKE**
 PO BOX 1451
 ROANOKE, VA 24007

WORKSHEET A (SEE INSTRUCTIONS - STEP 5)

1. License class code			
2. Actual 2007 gross			
3. Estimated 2007 gross			
4. Subtract line 3 from 2			
5. Tax rate for license class			
6. Multiply line 4 by line 5 for CREDIT OR BALANCE DUE & enter amount on ADJ LINE			

I, the undersigned applicant, do swear (or affirm) that the foregoing figures & statements are true, full and correct to the best of my knowledge and belief.

[Signature] _____
 Signature Title

VA Registered Agent (Corp only) _____
 Date 10/30/08 **142**

Sherman A. Holland
 Commissioner of the Revenue
 215 Church Ave SW Room 251
 Roanoke, Virginia 24011

2009 CITY OF ROANOKE, VIRGINIA 2009 BUSINESS LICENSE

Telephone: (540) 853-2524
 Fax: (540) 853-1115
 commrev@roanokeva.gov

BILL

Account Number	Business Start Date	Soc Security # Or Federal ID #	Business Personal Property Acct #	Status	Type	Print Date	Expiration Date	Bill Number
108674	09102002	141841453	141841453	BILL	C	10062009	12312009	MULTIPLE

APPLICANT NAME(S) **LOWELL'S RESTAURANT INC**
 MAILING **PO BOX 1881**
 ADDRESS **ROANOKE VA 24008-1881**

TRADE NAME(S) **JB'S RESTAURANT & LOUNGE**
 BUSINESS **2328 MELROSE AV NW**
 ADDRESS

Telephone # 540-314-3279

Telephone # 540-344-4884

If you are out of business: DATE CLOSED: _____

2008 gross receipts: _____

INSTRUCTIONS

**** IF THE ONLY CLASS CODE PRINTED ON THIS FORM IS A FLAT FEE, PLEASE PAY THAT AMOUNT ONLY ****

Choose Step 1 OR 2:

1. If in business the entire year of 2008, list 2008 actual gross receipts for each class code. Add the gross receipts column and list the total in the gray box. Go to STEP 3 OR 4 and 5, if applicable.
2. If your business started after January 31, 2008, estimate your 2009 gross receipts and list this amount in the gross receipts column. ADD this column and list the total in the gray box. List actual 2008 gross in #2 of Worksheet A. Go to STEP 3 OR 4 and 5, if applicable.

Choose STEP 3 OR 4:

3. If the gross receipts in the gray box are \$100,000 or less, list zero in the tax amount column. Please submit only the \$50.00 issuance fee.
4. If the gross receipts in the gray box are greater than \$100,000, multiply each tax rate by the corresponding gross receipts. List this total in tax amount column.
5. If this box is checked , and your 2008 total gross receipts are greater than \$100,000, complete Worksheet A below and transfer credit of balance due to ADJ LINE.

BILL # / DUE DATE	LICENSE CLASSIFICATION	CLASS CODE	TAX RATE	X	GROSS RECEIPTS	TAX AMOUNT
2009004472/MAR 01 09	BEER/WINE ON AND/OR	0255			FLAT	\$120.00
2009004472/MAR 01 09	MIXED BEV. 151-PLUS	0295			FLAT	\$400.00
2009004472/MAR 01 09	MERCHANT-RETAIL	1072	0020	X	111,881.57	\$223.76
2009009106/NOV 05 09	NIGHTCLUB (TEENAGE)	1166			FLAT	\$600.00
2009004472/MAR 01 09	BUSINESS PERSONAL SE	4050	0036	X	10,008.80	\$36.03

TOTAL GROSS RECEIPTS

ASSESSED FOR TEEN NIGHTCLUB ACTIVITY.

Contractor Class: (A, B, C) State Contractor #:

This form must be filed with payment on or before **MARCH 1** for renewals or within 30 days of starting a new business to avoid a penalty.

Please return this copy and make check payable to:

TREASURER, CITY OF ROANOKE
 PO BOX 1451
 ROANOKE, VA. 24007

TOTAL TAX	\$1,379.79
ISSUANCE FEE	
PEN / INT / OTHER	\$85.10
PAID-TO-DATE PRIOR DELINQUENCY	\$864.89
TOTAL DUE	\$600.00

WORKSHEET A (SEE INSTRUCTIONS - STEP 5)

1. License class code				
2. Actual 2008 gross				
3. Estimated 2008 gross				
4. Subtract line 3 from 2				
5. Tax rate for license class				
6. Multiply line 4 by line 5 for CREDIT OR BALANCE DUE & enter amount on ADJ LINE				

I, the undersigned applicant, do swear (or affirm) that the foregoing figures & statements are true, full and correct to the best of my knowledge and belief.

Signature: *Sherman A. Holland* Title: President

VA Registered Agent (Corp only)

Date: 10-5-09

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Sherman A. Holland
 Commissioner of the Revenue
 215 Church Ave SW Room 251
 Roanoke, Virginia 24011

2010 CITY OF ROANOKE, VIRGINIA 2010
BUSINESS LICENSE

Telephone: (540) 853-2524
 Fax: (540) 853-1115
 commrev@roanokeva.gov

BILL

Account Number	Business Start Date	Soc Security # Or Federal ID #	Business Personal Property Acct #	Status	Type	Print Date	Expiration Date	Bill Number
108674	09102002	141841453	141841453	BILL	C	03192010	12312010	2010004224

APPLICANT
 NAME(S) LOWELL'S RESTAURANT INC
 MAILING PO BOX 1881
 ADDRESS ROANOKE VA 24008-1881

TRADE
 NAME(S) JB'S RESTAURANT & LOUNGE
 BUSINESS 2328 MELROSE AV NW
 ADDRESS

Telephone # 540-314-3279

Telephone # 540-344-4884

If you are out of business: DATE CLOSED: _____

2009 gross receipts: _____

INSTRUCTIONS

**** IF THE ONLY CLASS CODE PRINTED ON THIS FORM IS A FLAT FEE, PLEASE PAY THAT AMOUNT ONLY! ****

Choose Step 1 OR 2:

- If in business the entire year of 2009, list 2009 actual gross receipts for each class code. Add the gross receipts column and list the total in the gray box. Go to STEP 3 OR 4 and 5, if applicable.
- If your business started after January 31, 2009, estimate your 2010 gross receipts and list this amount in the gross receipts column. ADD this column and list the total in the gray box. List actual 2009 gross in #2 of Worksheet A. Go to STEP 3 OR 4 and 5, if applicable.

Choose STEP 3 OR 4:

- If the gross receipts in the gray box are \$100,000 or less, list zero in the tax amount column. Please submit only the \$50.00 issuance fee.
- If the gross receipts in the gray box are greater than \$100,000, multiply each tax rate by the corresponding gross receipts. List this total in tax amount column.
- If this box is checked , and your 2009 total gross receipts are greater than \$100,000, complete Worksheet A below and transfer credit of balance due to ADJ LINE.

BILL # / DUE DATE	LICENSE CLASSIFICATION	CLASS CODE	TAX RATE	X	GROSS RECEIPTS	TAX AMOUNT	
MAR 01 10	BEER/WINE ON AND/OR	0255			FLAT	\$120.00	
MAR 01 10	MIXED BEV. 151-PLUS	0295			FLAT	\$400.00	
MAR 01 10	MERCHANT-RETAIL	1072	0020	X	102,765.14	\$205.53	
MAR 01 10	NIGHTCLUB (TEENAGE)	1166			FLAT	\$600.00	
MAR 01 10	BUSINESS PERSONAL SE	4050	0036	X	10,042.40	\$36.15	
TOTAL GROSS RECEIPTS							
ASSESSED PER STATE SALES TAX AUDIT						TOTAL TAX	\$1,361.68
Contractor Class: (A, B, C) State Contractor #:						ISSUANCE FEE	
This form must be filed with payment on or before MARCH 1 for renewals or within 30 days of starting a new business to avoid a penalty.						PEN / INT / OTHER	\$136.17
Please return this copy and make check payable to: TREASURER, CITY OF ROANOKE						PRIOR DELINQUENCY	
PO BOX 1451						TOTAL DUE	\$1,497.85
ROANOKE, VA. 24007							

WORKSHEET A (SEE INSTRUCTIONS - STEP 5)

1. License class code				
2. Actual 2009 gross				
3. Estimated 2009 gross				
4. Subtract line 3 from 2				
5. Tax rate for license class				
6. Multiply line 4 by line 5 for CREDIT OR BALANCE DUE & enter amount on ADJ LINE				

I, the undersigned applicant, do swear (or affirm) that the foregoing figures & statements are true, full and correct to the best of my knowledge and belief.

Signature: [Signature] Title: [Signature] Date: 5-12-10

VA Registered Agent (Corp only)

Sherman A. Holland
 Commissioner of the Revenue
 215 Church Ave SW Room 251
 Roanoke, Virginia 24011

2011 CITY OF ROANOKE, VIRGINIA 2011
BUSINESS LICENSE

Telephone: (540) 853-2524
 Fax: (540) 853-1115
 commrev@roanokeva.gov

Account Number	Business Start Date	Soc Security # Or Federal ID #	Business Personal Property Acct #	Status	Type	Print Date	Expiration Date	Bill Number
108674	09102002	141841453	141841453	RENEW	C	01012011	12312011	2011003898

APPLICANT NAME(S) **LOWELL'S RESTAURANT INC**
 MAILING **PO BOX 1881**
 ADDRESS **ROANOKE VA 24008-1881**

TRADE NAME(S) **JB'S RESTAURANT & LOUNGE**
 BUSINESS ADDRESS **2328 MELROSE AV NW**

Telephone # 540-314-3279

Telephone # 540-344-4884

If you are out of business: DATE CLOSED: _____

2010 gross receipts: _____

INSTRUCTIONS

**** IF THE ONLY CLASS CODE PRINTED ON THIS FORM IS A FLAT FEE, PLEASE PAY THAT AMOUNT ONLY! ****

Choose Step 1 OR 2:

- If in business the entire year of 2010, list 2010 actual gross receipts for each class code. Add the gross receipts column and list the total in the gray box. Go to STEP 3 OR 4 and 5, if applicable.
- If your business started after January 31, 2010, estimate your 2011 gross receipts and list this amount in the gross receipts column. ADD this column and list the total in the gray box. List actual 2010 gross in #2 of Worksheet A. Go to STEP 3 OR 4 and 5, if applicable.

Choose STEP 3 OR 4:

- If the gross receipts in the gray box are \$100,000 or less, list zero in the tax amount column. Please submit only the \$50.00 issuance fee.
- If the gross receipts in the gray box are greater than \$100,000, multiply each tax rate by the corresponding gross receipts. List this total in tax amount column.
- If this box is checked , and your 2010 total gross receipts are greater than \$100,000, complete Worksheet A below and transfer credit of balance due to ADJ LINE.

BILL # / DUE DATE	LICENSE CLASSIFICATION	CLASS CODE	TAX RATE	X	GROSS RECEIPTS	TAX AMOUNT
MAR 01 11	BEER/WINE ON AND/OR	0255	N/A		FLAT	120.00
MAR 01 11	MIXED BEV. 151-PLUS	0295	N/A		FLAT	400.00
MAR 01 11	MERCHANT-RETAIL	1072	.0020	X		
MAR 01 11	NIGHTCLUB (TEENAGE)	1166	N/A		FLAT	670.00
MAR 01 11	BUSINESS PERSONAL SE	4050	.0036	X		

TOTAL GROSS RECEIPTS

TOTAL TAX

520.00

ISSUANCE FEE

PEN / INT / OTHER

PRIOR DELINQUENCY

TOTAL DUE

520.00

Contractor Class: (A, B, C) State Contractor #:

This form must be filed with payment on or before MARCH 1 for renewals or within 30 days of starting a new business to avoid a penalty.

Please return this copy and make check payable to:

TREASURER, CITY OF ROANOKE
 PO BOX 1451
 ROANOKE, VA. 24007

WORKSHEET A (SEE INSTRUCTIONS - STEP 5)

1. License class code				
2. Actual 2010 gross				
3. Estimated 2010 gross				
4. Subtract line 3 from 2				
5. Tax rate for license class				
6. Multiply line 4 by line 5 for CREDIT OR BALANCE DUE & enter amount on ADJ LINE				

I, the undersigned applicant, do swear (or affirm) that the foregoing figures & statements are true, full and correct to the best of my knowledge and belief.

Signature

Title

VA Registered Agent (Corp only)

Date

145
 2-28-11

Sherman A. Holland
 Commissioner of the Revenue
 215 Church Ave SW Room 251
 Roanoke, Virginia 24011

2012 CITY OF ROANOKE, VIRGINIA 2012
BUSINESS LICENSE

Telephone: (540) 853-2524
 Fax: (540) 853-1115
 commrev@roanokeva.gov

BILL

Account Number	Business Start Date	Soc Security # Or Federal ID #	Business Personal Property Acct #	Status	Type	Print Date	Expiration Date	Bill Number
108674	09102002	141841453	141841453	BILL	C	06262012	12312012	2012003704

APPLICANT NAME(S) **LOWELL'S RESTAURANT INC**
 MAILING ADDRESS **PO BOX 1881**
ROANOKE VA 24008-1881

TRADE NAME(S) **JB'S RESTAURANT & LOUNGE**
 BUSINESS ADDRESS **2328 MELROSE AV NW**

Telephone # 540-314-3279

Telephone # 540-344-4884

If you are out of business: DATE CLOSED: _____

2011 gross receipts: _____

INSTRUCTIONS

**** IF THE ONLY CLASS CODE PRINTED ON THIS FORM IS A FLAT FEE, PLEASE PAY THAT AMOUNT ONLY! ****

Choose Step 1 OR 2:

- If in business the entire year of 2011, list 2011 actual gross receipts for each class code. Add the gross receipts column and list the total in the gray box. Go to STEP 3 OR 4 and 5, if applicable.
- If your business started after January 31, 2011, estimate your 2012 gross receipts and list this amount in the gross receipts column. ADD this column and list the total in the gray box. List actual 2011 gross in #2 of Worksheet A. Go to STEP 3 OR 4 and 5, if applicable.

Choose STEP 3 OR 4:

- If the gross receipts in the gray box are \$100,000 or less, list zero in the tax amount column. Please submit only the \$50.00 issuance fee.
- If the gross receipts in the gray box are greater than \$100,000, multiply each tax rate by the corresponding gross receipts. List this total in tax amount column.
- If this box is checked and your 2011 total gross receipts are greater than \$100,000, complete Worksheet A below and transfer credit of balance due to ADJ LINE.

BILL # / DUE DATE	LICENSE CLASSIFICATION	CLASS CODE	TAX RATE	X	GROSS RECEIPTS	TAX AMOUNT
MAR 01 12	BEER/WINE ON AND/OR	0255			FLAT	\$120.00
MAR 01 12	MIXED BEV. 151-PLUS	0295			FLAT	\$400.00
MAR 01 12	MERCHANT-RETAIL	1072	0.0020	X	109,143.00	\$218.29
MAR 01 12	BUSINESS PERSONAL SE	4050	0.0036	X	30,000.00	\$108.00

TOTAL GROSS RECEIPTS

~~STATUTORY, NEED GROSS RECEIPTS INFO.~~

Contractor Class: (A, B, C) State Contractor #:

This form must be filed with payment on or before MARCH 1 for renewals or within 30 days of starting a new business to avoid a penalty.

Please return this copy and make check payable to: **TREASURER, CITY OF ROANOKE**
PO BOX 1451
ROANOKE, VA, 24007

TOTAL TAX

ISSUANCE FEE

PEN/INT/OTHER

PAID-TO-DATE
 PRIOR DELINQUENCY

TOTAL DUE

\$846.29

\$41.57

\$520.00

\$367.86

WORKSHEET A (SEE INSTRUCTIONS - STEP 5)

1. License class code				
2. Actual 2011 gross				
3. Estimated 2011 gross				
4. Subtract line 3 from 2				
5. Tax rate for license class				
6. Multiply line 4 by line 5 for CREDIT OR BALANCE DUE & enter amount on ADJ LINE				

I, the undersigned applicant, do swear (or affirm) that the foregoing figures & statements are true, full and correct to the best of my knowledge and belief.

Signature

Title

VA Registered Agent (Corp only)

Date

146

6/24/12

Sherman A. Holland
 Commissioner of the Revenue
 215 Church Ave SW Room 251
 Roanoke, Virginia 24011

2013 CITY OF ROANOKE, VIRGINIA 2013
BUSINESS LICENSE

Telephone: (540) 853-2524
 Fax: (540) 853-1115
 commrev@roanokeva.gov

BILL

Account Number	Business Start Date	Soc Security # Or Federal ID #	Business Personal Property Acct #	Status	Type	Print Date	Expiration Date	Bill Number
108674	09102002	141841453	141841453	BILL	C	03262013	12312013	MULTIPLE

APPLICANT
 NAME(S) LOWELL'S RESTAURANT INC
 MAILING PO BOX 1881
 ADDRESS ROANOKE VA 24008-1881

TRADE
 NAME(S) JB'S RESTAURANT & LOUNGE
 BUSINESS 2328 MELROSE AV NW
 ADDRESS

Telephone # 540-314-3279

Telephone # 540-344-4884

If you are out of business: DATE CLOSED: _____

2012 gross receipts: _____

INSTRUCTIONS

**** IF THE ONLY CLASS CODE PRINTED ON THIS FORM IS A FLAT FEE, PLEASE PAY THAT AMOUNT ONLY! ****

Choose Step 1 OR 2:

1. If in business the entire year of 2012, list 2012 actual gross receipts for each class code. Add the gross receipts column and list the total in the gray box. Go to STEP 3 OR 4 and 5, if applicable.
2. If your business started after January 31, 2012, estimate your 2013 gross receipts and list this amount in the gross receipts column. ADD this column and list the total in the gray box. List actual 2012 gross in #2 of Worksheet A. Go to STEP 3 OR 4 and 5, if applicable.

Choose STEP 3 OR 4:

3. If the gross receipts in the gray box are \$100,000 or less, list zero in the tax amount column. Please submit only the \$50.00 issuance fee.
4. If the gross receipts in the gray box are greater than \$100,000, multiply each tax rate by the corresponding gross receipts. List this total in tax amount column.
5. If this box is checked , and your 2012 total gross receipts are greater than \$100,000, complete Worksheet A below and transfer credit of balance due to ADJ LINE.

BILL # / DUE DATE	LICENSE CLASSIFICATION	CLASS CODE	TAX RATE	X	GROSS RECEIPTS	TAX AMOUNT
2013003497/MAR 01 13	BEER/WINE ON AND/OR	0255			FLAT	\$120.00
2013003497/MAR 01 13	MIXED BEV. 151-PLUS	0295			FLAT	\$400.00
2013003497/MAR 01 13	MERCHANT-RETAIL	1072.0020		X	103,333.49	\$206.67
2013003497/MAR 01 13	BUSINESS PERSONAL SE	4050.0036		X	10,433.00	\$37.56
2013007695/MAR 01 13	BUSINESS PERSONAL SE	4050.0036		X	26,233.51	\$94.44

TOTAL GROSS RECEIPTS

ASSESSED PER 2012 STATE SALES TAX AUDIT

Contractor Class: (A, B, C) State Contractor #:

This form must be filed with payment on or before MARCH 1 for renewals or within 30 days of starting a new business to avoid a penalty.

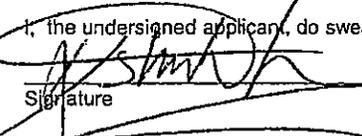
Please return this copy and make check payable to: TREASURER, CITY OF ROANOKE
 PO BOX 1451
 ROANOKE, VA. 24007

TOTAL TAX	\$858.67
ISSUANCE FEE	
PEN / INT/ OTHER	\$85.86
PRIOR DELINQUENCY	
TOTAL DUE	\$944.53

WORKSHEET A (SEE INSTRUCTIONS - STEP 5)

1. License class code				
2. Actual 2012 gross				
3. Estimated 2012 gross				
4. Subtract line 3 from 2				
5. Tax rate for license class				
6. Multiply line 4 by line 5 for CREDIT OR BALANCE DUE & enter amount on ADJ LINE				

I, the undersigned applicant, do swear (or affirm) that the foregoing figures & statements are true, full and correct to the best of my knowledge and belief.

Signature:  Title: President

VA Registered Agent (Corp only)

Date: 3/26/13

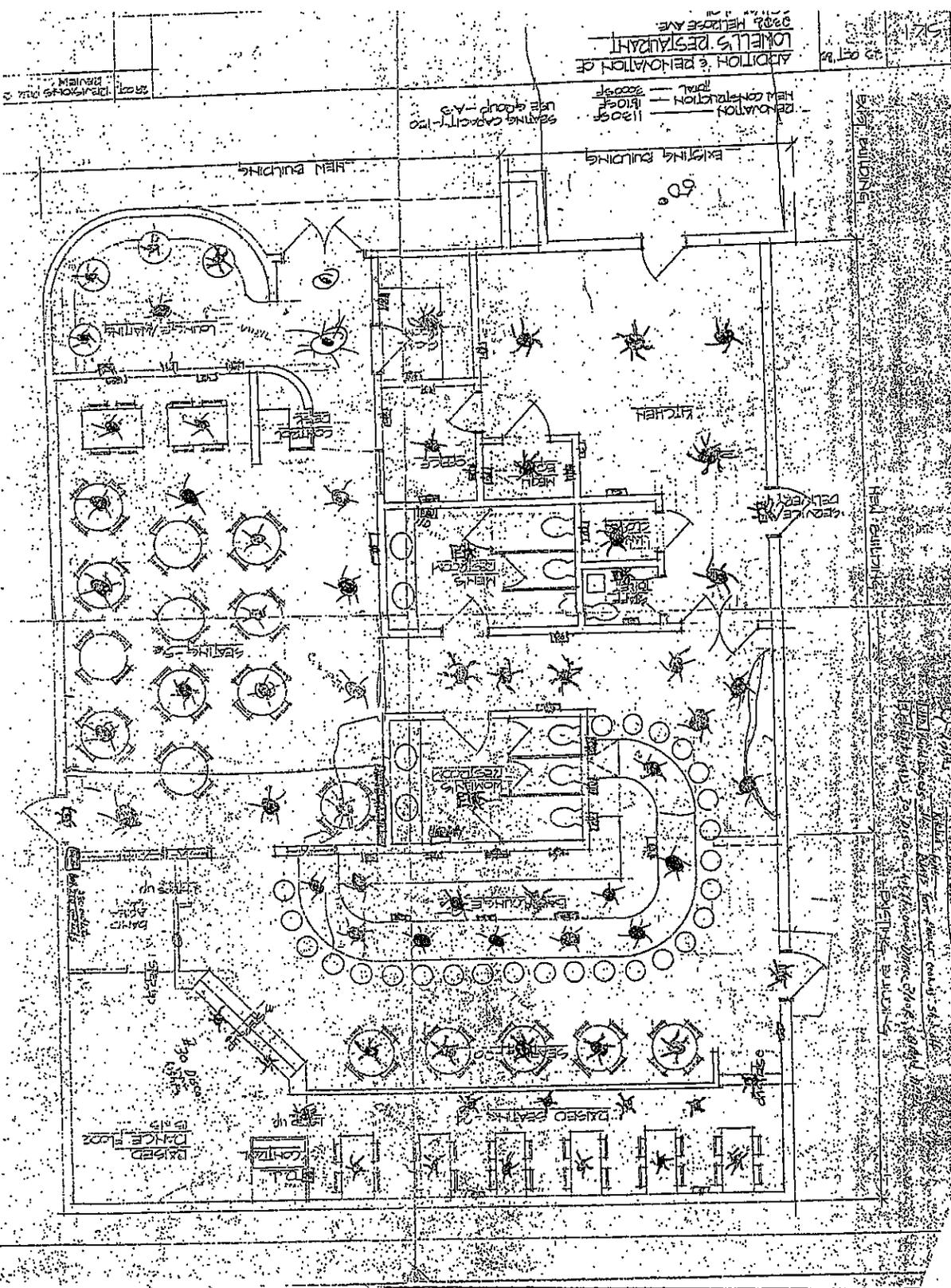


EXHIBIT
C



RECEIVED
Date MAY 20 2013

Permit # B130496

Permit Application For Zoning & Building

Planning Building & Development
215 Church Ave., SW, Room 170
Roanoke, VA 24011
Phone: (540) 853-1090 Fax: 853-1594
www.roanokeva.gov
permitcenter@roanokeva.gov

Complete Form & Click Here to Submit Electronically

Property Address 2328 Melrose Ave Tax Map # 2322207

Permit Requested By Stark Jones S, Lowells Rest INC

Relationship to Property Owner Owner Contractor Agent Design Professional

Applicant Address PO Box 1881 City Rice State VA Zip Code 24008

Phone Number 540-314-3279 Fax Number _____ email stark.jones@cox.net

Category Commercial Residential Governmental
Type Project New Construction Addition Repair/Remodel Other CO-smoking permit
Total Cost of Construction (include cost of all labor & materials for the entire project) N/A

I am applying for this permit as an owner/builder and exemption from state licensing as a contractor. I have been provided with these requirements and have, by my signature on the Owner/BUILDER Affidavit, agreed to comply with these requirements.



This permit is to be used for projects where a building permit is required, or for projects where the building trade and one or more additional trades is involved. The general contractor, owner or lessee of the property, design professional or agent is required to obtain the permit and provide a listing of all contractors and subcontractors working on this project for verification of proper licensing.

Questions regarding disturbing or removal of asbestos should be forwarded to the Department of Labor and Industry. For information call 540-562-3580 ext. 131.

Description of Project CO-smoking

Existing Use Rest/Lounge

Proposed Use Rest/Lounge

Construction Type _____ Stories _____

SqFt - Heated _____ SqFt - Unheated _____

The Current Code in effect is the
2009 Virginia Uniform Statewide Building Code.

- Checklist For Submission**
- Application Completed.
 - Owner/BUILDER Affidavit if applying for an exemption from state contractor licensing.
 - Basic Development Plan or Approved Comprehensive Development Plan, as applicable.
 - 1 set of plans drawn to scale with sufficient detail & clarity to indicate the nature & extent of the work proposed. 1 set of fire suppression plans are required. Drawings must have the seal of a design professional when required.
 - When applicable, availability letter for water & sewer service. Receipt for payment required prior to issuance.
 - Asbestos Survey if the building was initially built prior to January 1, 1985
 - Floodplain Elevation Certificate, if in Special Flood Hazard Area.
 - If in a Historic District, attach the Certificate of Appropriateness.
 - Contractor/Subcontractor Listing form.

I understand that all applications for construction permits, along with all additional required information, must be provided to the Permit Center prior to processing of this application. All information submitted will be reviewed prior to the issuance of a permit. Should a technical plan review be required, the City of Roanoke strives to complete these reviews in ten (10) working days. Should information be missing or additional information be required, the review process may be delayed.

I also understand that all contractors and subcontractors are required to have the proper trade certifications when required, a current business license for the City of Roanoke and current state licensing when required by the Virginia Department of Professional and Occupational Regulations (DPOR).

I also understand that I am required to conform to all applicable requirements of the Virginia Uniform Statewide Building Code, the Zoning Ordinance for the City of Roanoke and all other applicable laws and ordinances.

Print Name: Stark Jones Signature: [Handwritten Signature]

Mechanic's Lien Agent: _____
Address: _____
City: _____ State: _____ Zip Code: _____

Please Do Not Enter Information Below This Line - FOR OFFICE USE ONLY
ZONING APPROVAL

Site Zoning
Base Zoning: CV Overlay: _____

Zoning Use Classification: Entertainment Establishments Not in a Residential District
Conforming Use: _____

Use permitted as of right in the _____ Zoning District.
 Use complies with conditional _____ Zoning District and the _____ Zoning District.
 Use permitted by special exception granted by the City of Roanoke Board of Zoning Appeals On: _____
Date: _____ Appeal #: _____

Continuation of legally established for which special exception would be required if it were a new use.

Non-Conforming Use: Continuation of a non-conforming use.

Development Plan Review: Basic Comprehensive Not Applicable

Certificate of Occupancy Required: Yes No

*Needed for Health Dept
Separation of Smoking/NonSmoking*

Zoning Approval By: [Handwritten Signature] Date: 5-20-13



ROANOKE
BUILDING INSPECTIONS

**Owner/Builder
Affidavit**

Complete Form & Click Here to Submit Electronically

(Name of Applicant) **Lowells Rest. INC DBA SSS Rest & Lounge
Stark Sone S**

(Address of Applicant) **2328 Melrose Ave
Roanoke, VA 24017**

I have applied for a construction permit for the above-described property. I affirm that I have read the requirements for obtaining permits for the construction of any building, highway, sewer or structure, or any removal, grading or improvement, and that I am exempt from the requirements of Chapter 10, Contractors, of Title 54.1, Professions, of the Code of Virginia (1950), as amended (hereafter, "Act").

The basis for my exemption is the following, such exemptions begin the same as are set forth in Sections 54.1-1100 and 54.1-1101 of the Act.

- I represent a governmental agency performing with its own forces;
- I am performing work bid upon or undertaken for the armed services of the United States;
- I am performing work bid upon or undertaken for the United States government on land under the exclusive jurisdiction of the federal government either by statute or deed of cession;
- I am performing work bid upon or undertaken for the Virginia Department of Transportation on the construction, reconstruction, repair or improvement of any highway or bridge;

I am specifically excluded by another law, such law being the following:

I understand that I am exempted from the requirements for obtaining permits only to the extent permitted by such law;

- I am a material supplier who renders advice concerning use of products sold and who does not provide construction or installation services;
- I am a person who will be performing or supervising the construction, removal, repair or improvement of no more than one primary residence owned by me and for my own use during any 24-month period;
- I am a person who will be performing or supervising the construction, removal, repair or improvement of a house upon my own real property as a bona fide gift to a member of my immediate family provided such member will live or lives in the house. For purposes of this exclusion, "immediate family" includes my mother, father, son daughter, brother, sister, grandchild, grandparent, mother-in-law and father-in-law.

I am a person who will be performing or supervising the repair or improvement of industrial or manufacturing facilities, or a commercial or retail building, for my own use;

I am a person who will be performing or supervising the repair or improvement of residential dwelling units owned by myself that are subject to the Virginia Residential Landlord and Tenant Act (§55-248.2 et seq. of the Code of Virginia (1950), as amended);

I am an owner-developer, and any third party purchaser is, or will be, a third party beneficiary to a contract between the myself and a licensed contractor whereby the contractor's obligation to perform the contract extends to both myself and the third party; or

Work undertaken by students as part of a career and technical education project as defined in §22.1-228 of the Code of Virginia (1950), as amended, established by any school board in accordance with Article 5 (§22.1-228 et seq.) of Chapter 13 of Title 22.1 of the Code of Virginia (1950), as amended, for the construction of portable classrooms or single family homes.

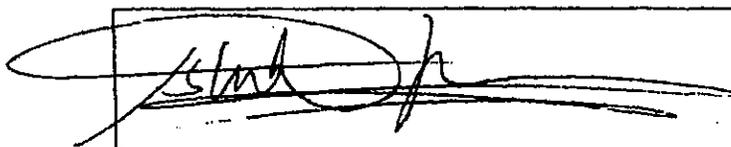
I understand that any reference to me in this document also includes the company or entity I own, work for, or represent.

I understand that even if I am exempt from the Act pursuant to the provisions of Exemption Nos. 7-12, above, I must comply with all other provisions of the Uniform Statewide Building Code.

I understand that if I have stated that I am exempt pursuant to the provisions of Exemption Nos. 7, 10, 11 or 12 above, I am required to obtain a certificate of occupancy for any building constructed, repaired or improved by me prior to conveying such property to a third party purchaser, unless such purchaser has acknowledged in writing that no certificate of occupancy has been issued and that such purchaser consents to acquire the property without a certificate of occupancy.

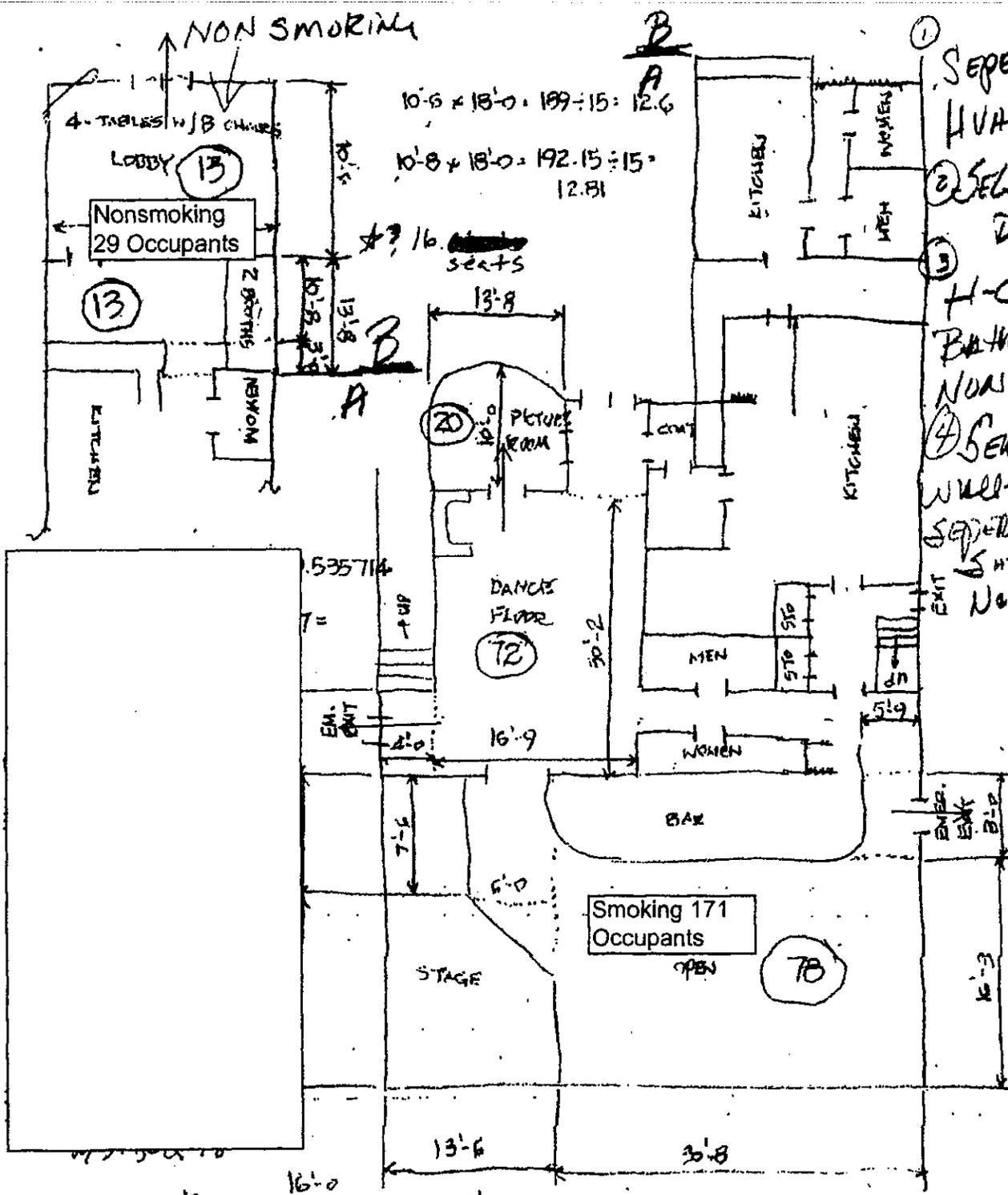
I understand that any work performed by any person other than me, any member of my immediate family, or any employee of any company that I own, will be performed by a licensed contractor.

I understand that anyone who undertakes work without a valid Virginia Contractor's license or certificate, when a license or certificate is required by the Act, is subject to criminal prosecution.

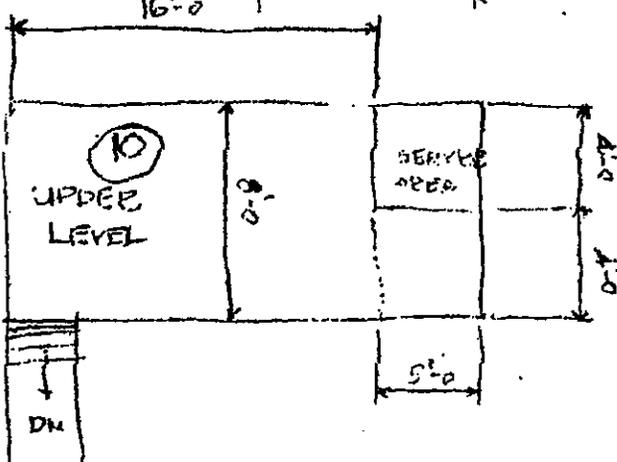
Signature: 

Name (Printed): Stark Jones

Company (if any): Lowells Rest. Inc.



- ① Separate HVAC System
- ② Self Closing Doors
- ③ H-C Bathroom Non-Smoking
- ④ Sealed walls & door separate smoking and non-smoking



$$8'-0 \times 16'-0 = 128$$

$$4'-0 \times 5'-0 = 20$$

$$148 \div 15 = 9.866666$$

PERMIT-200

JB'S RESTAURANT
2328 MELROSE AVE.



Permit Summary

City of Roanoke
permitcenter@roanokeva.gov
215 Church Ave, SW
Room 170
Roanoke VA 24011
(540) 853-1090 Fax: 853-1594
Inspection Line: 853-1142

Permit #: B130496
Expiration: 11/16/2013
Type: B1BLDG
Prefix: Commercial
Location of Work: Lowells Restaurant
Project Description: CO Requested Change current CO to include Smoking & Non-Smoking area

Date Applied: 05/20/2013
Date Issued:
Date Approved:
Date Finaled:

Date Closed:
AEP Notified:
Subtype: Comb

LOCATION:

Taxmap: 2322207
Address: 2328 MELROSE AVE NW ROA
Building: Floor: Unit:
Zoning: CN Assessor's Nbhd Code: 630
Legal Desc: LOT 2-3 BLK 102 MELROSE

Jeff Shawver, Bane Compton and the Fire Marshals office (Daniel Rakes, Ronnie Campbell) on 07-11-2013 held a meeting to discuss Certificate of Occupancy at 2328 Melrose Ave. NW. The present CO for the Building at 2328 Melrose is an A-3 Restaurant use group. Stark Jones the owner of the restaurant has requested a new Certificate of Occupancy establishing a smoking and nonsmoking area in the building. The floor plan submitted shows a bar/alcohol, a stage for music and dance floor which the 1987 USBC categorizes as an A-2 Night Club. The result of the meeting was to allow the CO establishing the smoking and nonsmoking area for current use as a restaurant. Mr. Jones has been made aware that the operation of a Night Club is not allowed under the current classification of the building. Any occupancy change or use group change would require to be done by a Design Professional.

CONTACTS:

APPLICANT STARK JONES 05/20/2013 Phone: 540-314-3279
LOWELLS REST INC
P.O. BOX 1881
ROANOKE, VA 24008
License:

REVIEWER BANE COMPTON 05/20/2013 Phone: (540) 853-1139
NOEL C. TAYLOR MUNICIPAL BUILDING
215 CHURCH AVE, SW, ROOM 170
ROANOKE, VA 24011 24011
License: C000003004

OWNER DGW ENTERPRISES LLC 05/20/2013 Phone:
PO BOX 1881
ROANOKE,VA
24008
License:

CONTACT DON RICHARDSON 05/20/2013 Phone: (540) 853-6878
NOEL C. TAYLOR MUNICIPAL BUILDING
215 CHURCH AVENUE, SW, ROOM 170
ROANOKE, VA 24011 24011
License: C000003586

CODE & STRUCTURE INFORMATION:

Code Edition: POST_USBC Use Group(s): A3 Churches, Recreation, Amusement
Type Construction: 5B
Stated Size: 4236 Actual Size: 4236 Use Stated Size: Y
Flood Plain (Y/N):
Variances Granted: N Variances will be listed in Conditions

Ex. No. 2-1

APPROVALS

Item: 00023 Application Review
05/20/2013 pldr1 Action: BAPP

Item: 00015 NDD Review
05/20/2013 pldr1 Action: BAPP

Item: 00018 Review of Asbestos Survey
07/09/2013 Bane Action: BINF Requesting Smoking Certificate of Occupancy
No bulding surfaces will be disturbed. Asbestos letter must be completed.
07/15/2013 Bane Action: BAPP No work performed

Item: 00107 Owner Builder Affidavit
07/15/2013 pldr1 Action: BAPP

Item: 00020 Zoning Review
07/15/2013 thw Action: PAPP An "Eating and Drinking Establishment, not abutting a residential district" is permitted
by right in the CN, Commercial Neighborhood district. No additional zoning comments.

Item: 00010 Building Review
05/31/2013 Bane Action: BINF Plan Review Comments:
Called applicant for meeting to discuss Night Club occupancy
called 314-3279
file cabinet

06/05/2013 Bane Action: BINF Held a meeting with Stark Jones, Nell Kasee, Ronnie Campbell and Joey Pugh
concerning

current Certificate of Occupancy. Applicant is operating as a Night Club (A-2) while building is classified as a Restaurant
(A-3). Current CO classifies building as a Restaurant. Applicant will be getting back with the city concerning new
Certificate

of Occupancy.
07/09/2013 Bane Action: BINF Plan Review Comments:
CO for Resturant use only. Night Club not approved.
Applicant needs to sign plans.
called Stark@314-3279
file cabinet

07/15/2013 Bane Action: BINF Applicant needs to sign plans.
Items met compliance

- 1) Separate HVAC systems between smoking and nonsmoking
- 2) Self closing doors.
- 3) Both men's and woman's restrooms are located in the non smoking area.
- 4) Sealed wall and doors between smoking and non smoking.
- 5) Entrance to nonsmoking is from the exterior of the building.
- 6) 29 occupant's nonsmoking section, 171 occupants for smoking section
- 7) Smoking and nonsmoking completed separate areas. Rooms do not connect except through kitchen areas.

07/16/2013 Bane Action: BDEN Plan Review Comments: DENIED
CO for Restaurant use only. Night Club not approved.
The building does not meet the Night Club requirements. Bane Compton and Jeff Shawver met with applicant to explain
denial of
request and Appeals Procedure.

Item: 00021 Approved Site Plan
07/09/2013 Bane Action: BINF Requesting Smoking Certificate of Occupancy
07/15/2013 Bane Action: BAPP

CONDITIONS:

FEE SUMMARY:

Declared Value: \$1.00 Calculated Value: \$0.00 Use Declared Value: Y

REVIEW FEES:

Plan Review Fee: \$0.00 Site/Plot Plan Review Fee: \$0.00 Total Review Fees: \$0.00

PERMIT FEES:

Permit Fee: \$0.00 Certificate of Occupancy Fee: \$0.00 State Surcharge: \$0.00

Penalty Fee: \$0.00

TOTAL FEES: \$0.00

INSPECTIONS:

Item: 00096 Field Comments

Ex. No. 2155

07/19/2013 By: Bane Action: BAPP Comments: --July 14-13- Mr. Jones called Bane Compton requesting the permit to be issued as a restaurant. Bane Compton set an appointment to meet at the site with the Fire Marshall's Office (Joey Pugh) and see if any Code issues were apparent before Plan approval. A checklist of requirements was entered into Permits Plus showing the State's requirements for separating smoking/non smoking sections. The building met all requirements for a Restaurant smoking/non smoking. At the meeting Mr. Jones brought up the request to have the non smoking section serve alcohol and the smoking section (Dancing / Music section) is restricted as a non alcohol section. At that time Bane Compton relayed to Mr. Jones that he would be glad to meet with the Fire Official (Daniel Rakes) and Building Commissioner (Jeff Shawver) and relay his request. Bane Compton held the meeting with Daniel Rakes and Jeff Shawver the same day and all agreed the proposal was not approved.

Item: 00097 Office Comments

06/05/2013 By: Bane Action: BAPP Comments: Held a meeting with Stark Jones, Neil Kasea, Ronnie Campbell and Joey Pugh concerning current Certificate of Occupancy. Applicant is operating as a Night Club (A-2) while building is classified as a Restaurant (A-3). Current CO classifies building as a Restaurant. Applicant will be getting back with the city concerning new Certificate of Occupancy.

Item: 00051 Final NDD Compliance

Item: 00010 Temporary Electrical Service

Item: 00011 Footing/Foundation

Item: 00014 Underslab Plumbing

Item: 00015 Underslab Electrical

Item: 00016 Slab Preparation

Item: 00020 Rough-In Electrical

Item: 00021 Rough-In Plumbing

Item: 00022 Rough-In HVAC

Item: 00023 Rough-In Hood

Item: 00024 Rough-In Fire Supression

Item: 00025 Rough-In Fire Alarm

Item: 00026 Rough-In Gas

Item: 00027 Rough-In Framing

Item: 00028 Insulation/Energy Installation

Item: 00030 Water Service Lateral

Item: 00031 Sewer Service Lateral

Item: 00032 Electrical Service Lateral

Item: 00040 Power On No Occupancy

Item: 00041 Final Plumbing

Item: 00042 Final Cross Connection Device

Item: 00043 Final HVAC

Item: 00044 Final Hood

Item: 00045 Final Fire Suppression

Item: 00046 Final Fire Alarm

Item: 00047 Final Gas

Item: 00049 Final Electrical

Item: 00081 Fire Main

Item: 00082 Gas Main

Item: 00083 Sewer Main

Item: 00084 Water Main

Item: 00085 Storm Drain

Item: 00053 Final Building



AP010013
 Planning Building & Development
 215 Church Ave., SW, Room 170
 Roanoke, VA 24011
 Phone: (540) 853-1090 Fax: 853-1694
 www.roanokeva.gov
 permitcenter@roanokeva.gov

Date: 7/16/13

RECEIVED

JUL 16 2013

Application For An
Appeal
 of A Code Decision

CITY OF ROANOKE
 PLANNING BUILDING AND DEVELOPMENT

Print Form

A \$75 Appeal Fee Must Be Included With This Application

The owner of a building or structure, the owner's agent or any other person involved in the design or construction or use of a building or structure may appeal a decision of the code official concerning the application of the USBC to such building or structure and may also appeal a refusal by the code official to grant a modification to the provisions of the USBC pertaining to such building or structure. The applicant shall submit a written request for appeal to the Local Board of Code Appeals (LBCA) within 30 calendar days of the receipt for the Virginia Construction Code, within 14 days of receipt for the Virginia Maintenance Code, and within 14 days of receipt for the Virginia Amusement Device Regulations, of the decision being appealed.

The application shall contain the name and address of the owner of the building or structure and in addition, the name and address of the person appealing, when the applicant is not the owner. A copy of the code official's decision shall be submitted along with the application for appeal and maintained as part of the record.

The application shall be marked by the LBCA to indicate the date received. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of a building official's decision.

Applicant Name: Stark Jones / JB'S Rest & Lounge / Lowell Restoran
 Relationship: Owner Owner's Agent
 Applicant Address: 2328 Melrose Ave City: Roanoke State: VA Zip Code: 24017
 Phone Number: 540-314-3279 Fax Number: _____ email: Starkjones@cox.net

Owner Name: Stark Jones
 Owner Address: P.O. Box 1881 City: Roanoke State: VA Zip Code: 24008
 Phone Number: 540-314-3279 Fax Number: _____ email: Starkjones@cox.net

Date of Code Official's Decision: 5-1-13 Written Copy of Code Official's Decision Must Be Attached To This Appeal

Description of Appeal (Attach additional sheets if necessary):
I have owned this business for 10 yrs plus as a nightclub. The previous owner operated this business as a nightclub for 20 yrs. Now, Mr. Compton & Fire Dept states I'm not a nightclub. They said I cannot open back up as a nightclub. I have been not open since May. I bought this business in Sept. 2002 as a nightclub & it was not a problem then and now is a problem. I should be grandfathered in as a nightclub.

Signature: [Signature]
 Applicant Received By: [Signature] Date Received: 7/16/13 \$75 Appeal Fee Received



PLANNING BUILDING AND DEVELOPMENT
 Noel C. Taylor Municipal Building
 215 Church Avenue, SW, Room 166
 Roanoke, Virginia 24011
 540-853-1730 fax 540-853-1230
planning@roanokeva.gov

Building and Fire Code Board of Appeals Resolution

IN RE: Stark Jones v. City of Roanoke Building Department
Permit No. B130496
Appeal No. AP010013
Premises: 2328 Melrose Avenue, N.W.
Tax Parcel No: 2322207

WHEREAS, the City of Roanoke Building and Fire Code Board of Appeals ("Board") is duly appointed to hear appeals arising out of the enforcement of the Uniform Statewide Building Code ("Building Code");

WHEREAS, Mr. Stark Jones ("Appellant") filed an application, with accompanying plans, for a certificate of occupancy to allow for the designation of smoking and non-smoking areas in a "Restaurant/Lounge;"

WHEREAS, the Building Official determined that the current Certificate of Occupancy applicable to the subject property, Certificate No. 12413, allows only an A-3 Use Group, and a copy of such Certificate of Occupancy is attached to this Resolution (Exhibit A);

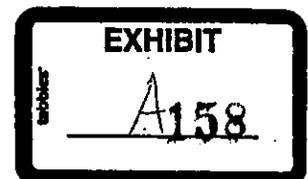
WHEREAS, the Building Official determined that under the 1987 Building Code in effect when Certificate No. 12413 was issued, an A-3 Use Group includes Restaurants but not Night Clubs;

WHEREAS, the Building Official determined that the application, and accompanying plans, depicted a Night Club, not a Restaurant;

WHEREAS, the Building Official concluded that according to the application, and accompanying plans, no Certificate of Occupancy could be issued because the application, and accompanying plans, depicted a Night Club, a use allowed in the A-2 Use Group, but not the A-3 Use Group, of the 1987 Building Code;

WHEREAS, Mr. Stark Jones filed a timely appeal from the finding and decision of the Building Official that no Certificate of Occupancy could be issued based upon the application, and accompanying plans, submitted by Mr. Jones;

WHEREAS, pursuant to notice and agreement, Mr. Dan L. Brokaw, Builder; Mr. Justin Biller, Engineer; Mr. Nelson D. Reed, Retired Firefighter; Mr.



Jeffry D. Parkhill, Architect; and Ms. Justina Megginson, Property Manager; having been duly appointed to serve on the Board, convened on August 1, 2013, to hear the above-captioned appeal; and

WHEREAS, the City Administration appeared by Mr. Bane Compton, Deputy Building Commissioner, and was represented by Mr. Steven J. Talevi, Assistant City Attorney, and the appellant appeared in person, and both parties announced that they were prepared to proceed pursuant to the notice issued in this matter.

WHEREUPON, the Board elected Mr. Justin Biller as its Chair; Mr. Jeffry D. Parkhill as its Vice-Chair; and Ms. Candace Martin as its Secretary; and

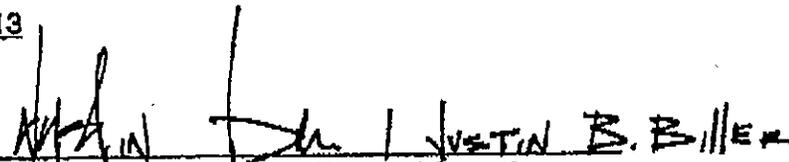
WHEREUPON, the Board adopted the By-Laws previously considered and distributed, a copy of which By-laws is attached to this Resolution (Exhibit B); and

WHEREUPON, upon hearing the parties and considering all the information presented and submitted by both, including the documents submitted by both parties, the Board unanimously found that the Building Official correctly interpreted the Building Code in finding that no Certificate of Occupancy could be issued based upon Appellant's application, and accompanying plans, as submitted on the ground that the application, and accompanying plans, depict a Night Club, a use not allowed pursuant to Certificate No. 12413, the current Certificate of Occupancy applicable to the subject property.

The appeal is accordingly denied.

Date: August 1, 2013

Signature:


Justin B. Biller
Chair of Building and Fire Code Board of Appeals

Note: Any person who was a party to the appeal may appeal to the State Review Board by submitting an application to such Board within twenty-one (21) calendar days upon receipt by certified mail of this resolution. Application forms are available from the Office of the State Review Board, 600 East Main Street, Richmond, Virginia 23219, (804) 371-7150.

Building and Fire Code Board of Appeals By-laws

Article 1. Officers

- 1-1. The Building and Fire Code Board of Appeals shall organize; and annually elect a chair and vice-chair and appoint a secretary in the month of July.
- 1-2. The chair shall preside at meetings and hearings and shall decide points of order or procedure.
- 1-3. The vice-chair shall assume the duties of the chair in the chair's absence.
- 1-4. The secretary shall handle correspondence subject to these rules at the direction of the board; shall send out notices required by these rules; shall keep the minutes of the board's proceedings; and shall keep a file on each appeal which comes before the board.

Article 2. Meetings

- 2-1. Special meetings may be called by the chair, provided at least five (5) days written notice of such meeting is given each member.
- 2-2. A majority of the board shall constitute a quorum.
- 2-3. Business conducted at meetings of the board shall follow Roberts' Rules of Order or other parliamentary procedure.
- 2-4. The board may adjourn a meeting if all applications or appeals cannot be disposed of on the meeting day, and no further notice shall be necessary for a continuation of such meeting.

Article 3. Procedure for Hearing Appeals

- 3-1. Appeals to the Building and Fire Code Board of Appeals shall be filed with the code official on a form provided by the board. The code official shall transmit the appeal application form to the secretary of the board along with all papers constituting the record of action upon which the appeal is based.
- 3-2. The applicant shall provide the secretary with all information requested on the form provided by the Building and Fire Code Board of Appeals and any such additional information or evidence as may be reasonably required for consideration of the matter.
- 3-3. An application for appeal filed according to the above shall be assigned an appeal number within five (5) days. Applications for appeals will be heard in the order they are received.

3-4. The secretary of the Building and Fire Code Board of Appeals shall schedule the appeal, notify all interested parties of the hearing and give notice including the time, date and place of the meeting to anyone requesting such information.

3-5. The applicant may appear on his own behalf at the hearing or may be represented by legal counsel or an agent.

Both the applicant and the code official may speak to the appeal and any person whose interests are affected may speak for or against the issue. The applicant shall be given an opportunity for final rebuttal.

3-6. The final decision on any appeal to the Building and Fire Code Board of Appeals shall be in the form of a resolution approved by a quorum of the board.

3-7. The Building and Fire Code Board of Appeals shall notify the interested parties and the code official of the decision within seven (7) days after the signing of the resolution by the chair, and in any event, within fourteen (14) days after the meeting in which the decision is made and within sixty (60) days on which the application for appeal was filed.

Article 4. Records

4-1. A complete file on each appeal shall be kept by the secretary as part of the records of the Building and Fire Code Board of Appeals.

4-2. All records of the Building and Fire Code Board of Appeals shall be public records.

Adopted by the City of Roanoke Building and Fire Code Board of Appeals on this 1st day of August, 2013.

Attest: [Signature]
Chair

8/1/13
Date

[Signature]
Secretary

8/1/13
Date

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
State Building Codes Office and Office of the State Technical Review Board
Main Street Centre, 600 E. Main Street, Suite 300, Richmond, Virginia 23219
Tel: (804) 371-7150, Fax: (804) 371-7092, Email: alan.mcmahan@dhcd.virginia.gov

APPLICATION FOR ADMINISTRATIVE APPEAL

Regulation Serving as Basis of Appeal (check one):

- Uniform Statewide Building Code
 Statewide Fire Prevention Code
 Industrialized Building Safety Regulations
 Amusement Device Regulations

Appealing Party Information (name, address, telephone number and email address):

Stark Jones (starkjones@cox.net)
Lowell's Restaurant, Inc.
P.O. Box 1881
Roanoke, VA 24018

Opposing Party Information (name, address, telephone number and email address of all other parties):

Roanoke City Building and Fire Code Board of Appeals
Attn: Justin Biller
Noel C. Taylor Municipal Building
215 Church Avenue, SW, Room 166
Roanoke, VA 24011
Telephone: 540-853-1730
planning@roanokeva.gov

Additional Information (to be submitted with this application)

- Copy of enforcement decision being appealed
- Copy of record and decision of local government appeals board (if applicable and available)
- Statement of specific relief sought

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of August, 2013, a completed copy of this application, including the additional information required above, was either mailed, hand delivered, emailed or sent by facsimile to the Office of the State Technical Review Board and to all opposing parties listed.

Note: This application must be received by the Office of the State Technical Review Board within five (5) working days of the date on the above certificate of service for that date to be considered as the filing date of the appeal. If not received within five (5) working days, the date this application is actually received by the Office of the Review Board will be considered to be the filing date.

Signature of Applicant: _____

Name of Applicant: John K. Prillaman, Esq.

Stark Jones ("Mr. Jones") filed an application (the "Application") for a certificate of occupancy to allow for the designation of smoking and non-smoking areas in his business, Lowell's Restaurant, Inc., d/b/a JB's Restaurant and Lounge, located at 2328 Melrose Avenue, N.W., Roanoke, VA, Tax Parcel No. 2322207 (the "Property").

Bane Compton, the Deputy Building Commissioner of Roanoke City (the "Commissioner"), determined that the current Certificate No. 12413 (the "Certificate"), which identifies the Property as use A-3, did not support the proposed use of the Property as a "night club" under the Uniform Statewide Building Code (the "Building Code"). Rather, in order to continue operating as a night club the Commissioner held that the Property must be zoned as A-2. As a result of this decision, Mr. Jones' business has been shut down since April of this year. This has caused Mr. Jones an extreme financial hardship.

Mr. Jones appealed the decision of the Commissioner. On August 1, 2013, the Roanoke City Building and Fire Code Board of Appeals (the "Board") confirmed this decision and held that the Property must be zoned as A-2 to operate as a "night club" under the Building Code. A copy of this decision is attached hereto as **Exhibit A**. Mr. Jones submits this appeal and requests that, because of the past history and operation of the Property, the Property be grandfathered in as a "nightclub" and re-classified as A-2.

In 1990, Mr. Lowell, the then owner of the Property, was issued a certificate of occupancy which identifies the Property as A-3 (restaurant) under the Building Code. A night club is designated as A-2 under the Building Code. Under the Building Code, a "night club" is a building that has (i) a dance floor; (ii) serves alcohol; and (iii) provides entertainment. Virginia Uniform State Building Code, Section 202 (2012). In order to come into compliance with the Code, Mr. Jones will need to install a sprinkler system at an expense of almost \$70,000. Virginia Uniform State Building Code, Section 903.2.1.2 (2012). At this point, his business is unable to support that type of capital expense and compliance would likely force him out of business.

When Mr. Jones purchased the Property in 2002, he believed that the Property was licensed as a night club because of its prior operating history. Mr. Lowell had operated the Property as a night club, with a dance floor, alcohol, and entertainment, since 1985. Under this belief, Mr. Jones has continuously operated the Property as a night club since 2002.

It is only because of Mr. Jones' attempt to comply with local rules that his business can no longer operate. For over eleven years, Mr. Jones has operated the Property as a night club. During that time, he has applied for a business license which designates his business as both a restaurant and a night club, openly and notoriously advertised the Property as a night club, paid admission tax, and obtained an ABC license from the Commonwealth. A copy of business licenses previously filed by Lowell's Restaurant, Inc. is attached hereto as **Exhibit B**. Additionally, the Property has had numerous inspections, that have failed to raise this issue, including inspections by the Deputy Building Commissioner, fire inspections, roof inspections,

and general inspections. If Mr. Jones had not filed the Application, he would still be operating the same way that the Property has since 1985, as a night club.

Roanoke City has been aware of the use of the Property since 1985 when Mr. Lowell submitted plans to the Roanoke City Planning Board (the "Plans"). The Plans show that the Property had a dance floor, and otherwise satisfied the definition of a "night club" under the definition provided in the Building Code. A copy of the Plans is attached hereto as **Exhibit C**.

The Board primarily based its decision on the prior owner's request in 1985 that the Property be classified as a restaurant, even though the Plans clearly identified that the Property would function as a night club, as that term is defined in the Building Code. As quoted in the minutes of the hearing on Mr. Jones' appeal before the Board, "... back in 1990, under the 1987 Code, there was a distinction between dance halls and restaurants and Mr. Lowell signed the application asking for a c.o. for a restaurant, he asserted 'I want a restaurant' regardless of what these plans show, and it may not have been what was built" Essentially, the Board's argument is that Mr. Jones should be held accountable for a distinction in a prior version of the Building Code not understood by the previous owner that changed the 1990 c.o. for the Property. Roanoke City, however, acting through the Commissioner's Office and other Roanoke City offices, failed to catch the same distinction for almost thirty years. This holding is unfair to Mr. Jones and holds him responsible for every other City official who has come in contact with the Property and also failed to recognize that the Property operates as a night club.

Additionally, a sprinkler system is unnecessary to protect patrons at Lowell's Restaurant because there is a fire wall separating the restaurant from the night club. The existence of a fire wall, coupled with the past history of the Property, obviates the need for a sprinkler system.

Because Roanoke City has been on notice of the Property's use for twenty-eight years, it is unfair to now change the rules on Mr. Jones. Accordingly, we request that the Property be allowed to be grandfathered in as a "night club" and be allowed to continue operating as it has continuously since 1985.

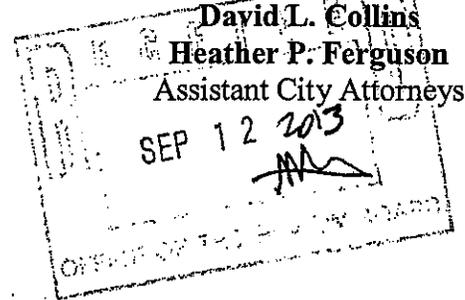


Daniel J. Callaghan
City Attorney

CITY OF ROANOKE
OFFICE OF THE CITY ATTORNEY
464 MUNICIPAL BUILDING
215 CHURCH AVENUE, SW
ROANOKE, VIRGINIA 24011-1595

TELEPHONE 540-853-2431
FAX 540-853-1221
EMAIL: cityatty@roanokeva.gov

Timothy R. Spencer
Steven J. Talevi
Gary E. Tegenkamp
David L. Collins
Heather P. Ferguson
Assistant City Attorneys



September 5, 2013

Alan McMahan, CBO, CLGM
Senior Construction Inspector II and
Staff-State Building Code Technical Review Board
State Building Code Office
Division of Building & Fire Regulation
Department of Housing and Community Development
600 East Main Street, Suite 300
Richmond, Virginia 23219

Re: Stark Jones-Appeal to the Review Board
Appeal No. 13-6

Dear Mr. McMahan:

This letter is to inform you that I represent the City of Roanoke in the above-captioned matter. Please note in your file our representation to ensure that we receive copies of all future correspondence and/or other documentation associated with this matter.

Thank you for your assistance in this matter.

Sincerely yours,

Steven J. Talevi
Assistant City Attorney

SJT/mmc

Enc.

Cc: John K. Prillaman, Esq.



Daniel J. Callaghan
City Attorney

CITY OF ROANOKE
OFFICE OF THE CITY ATTORNEY
464 MUNICIPAL BUILDING
215 CHURCH AVENUE, SW
ROANOKE, VIRGINIA 24011-1595

TELEPHONE 540-853-2431
FAX 540-853-1221
EMAIL: cityatty@roanokeva.gov

Timothy R. Spencer
Steven J. Talevi
Gary E. Tegenkamp
David L. Collins
Heather P. Ferguson
Assistant City Attorneys

September 12, 2013

Alan McMahan, CBO, CLGM
Senior Construction Inspector II and
Staff-State Building Code Technical Review Board
State Building Code Office
Division of Building & Fire Regulation
Department of Housing and Community Development
600 East Main Street, Suite 300
Richmond, Virginia 23219

Re: Stark Jones-Appeal to the Review Board
Appeal No. 13-6

Dear Mr. McMahan:

I have received Mr. Prillaman's letter dated August 27, 2013, and accompanying exhibits. Please accept this as the City's response to the same.

On May 20, 2013, Mr. Stark Jones ("Mr. Jones") applied on behalf of Lowell's Restaurant, Inc., t/a JB's Restaurant & Lounge, for a new Certificate of Occupancy, allowing him to create separate smoking and non-smoking areas in a commercial establishment. (Ex. No. 1-1.) According to Mr. Jones, the new Certificate of Occupancy sought by Mr. Jones was required by the Virginia Department of Health. (Ex. No. 1-2.) Accompanying Mr. Jones' Application for a new Certificate of Occupancy was a hand-drawn plan for the construction of the improvements. (Ex. No. 1-5.) Those plans identify the location of a dance floor and a bar. (Ex. No. 1-5.)

A floor plan of a restaurant with alcohol being served at a bar, a stage for music, and a dance floor, results in the property being categorized as an A-2, Night Club, under the USBC. (Ex. No. 2-1.) At the time of the Application for the new Certificate of Occupancy, however, the existing Certificate of Occupancy in effect for the building at 2328 Melrose Avenue, N.W., allowed the property to be used as an A-3, Restaurant Use Group. (Ex. No. 2-1.) The Certificate of Occupancy in effect for the building at 2328 Melrose Avenue, NW, at the time of Mr. Jones' Application had been issued on December 26, 1990. (Ex. No. 3.) Accordingly,

the Building Official for the City of Roanoke concluded that Mr. Jones could not obtain a new Certificate of Occupancy for an A-2, Night Club, without at least installing a sprinkler system.

To understand the present dispute, it is helpful to know the background in this matter. On August 14, 1984, Ronald H. Miller, Building Commissioner for the City of Roanoke, issued a Certificate of Occupancy for the subject property. (Ex. No. 4.) The Certificate of Occupancy was issued to Mr. Lowell D. Reeves, owner of the building and proprietor of the restaurant located on the property, Lowell's Restaurant. By its own terms, the Certificate of Occupancy specifically provided that the "certificate . . . granted permission to use the building and land" for only a "Restaurant." (Ex. No. 4.)

Six years later, Mr. Reeves applied for another Certificate of Occupancy. (Ex. No. 5-1.) In his Application, Mr. Reeves specifically stated that the *present* use of the property was "Restaurant" and that the *proposed* use of the property was "Restaurant." In the "sign-off" for the Certificate of Occupancy, the property was identified as being in the A-3, Restaurant, Use Group. (Ex. No. 5-2.) Acting upon the Application, Mr. Miller issued a Certificate of Occupancy dated December 26, 1990. (Ex. No. 3.) At the time the Certificate of Occupancy dated December 26, 1990, was issued, the 1987 USBC was in effect, and it provided that a A-3 Use Group included Restaurants, but not Night Clubs. The Certificate of Occupancy dated December 26, 1990, specifically provided that "[n]o change in use-group classification of this building will be permitted without first obtaining a new certificate."¹ (Ex. No. 3.) At no time subsequent to December 26, 1990, has any owner of the subject property sought to amend the Certificate of Occupancy dated December 26, 1990. Thus, for purposes of this hearing, it is the operative Certificate of Occupancy.

It is important to remember that Mr. Stark currently has the right to use his property as a Restaurant under the current Building Code. Furthermore, if a Restaurant (1) serves alcohol, (2) has a dance floor, AND (3) plays music, then under both the 1987 USBC which was in effect in 1990 and the current USBC, the owner is operating a Night Club. Put another way, a Restaurant, under the current USBC, can serve alcohol (and even play music) without needing to obtain a new Certificate of Occupancy for a change in use, if dancing is not allowed. Similarly, a Restaurant, under the current USBC, can play music and allow dancing but not serve alcohol, and that same restaurant can have a dance floor and serve alcohol, as long as it does not play music, and still be classified as a Restaurant. Thus, Mr. Jones exaggerates his plight when he implies that he is forced to close his establishment.

At no point in the Position Statement filed on behalf of Mr. Jones did Mr. Jones contend that a Certificate of Occupancy exists which allows Mr. Jones to operate a Night Club. And the reason for such a glaring omission is that there is no such Certificate of Occupancy. Instead, Mr. Jones has opted to request special dispensation from this Board based solely on his allegations that the nature and character of the business has not changed since at least the mid-1980s. For reasons of public safety, this Board cannot, and should not,

¹ On October 1, 2003, the 2000 ICC Codes were adopted which abolished the A-3 designation for Restaurants, but combined Night Clubs and Restaurants into the A-2 Use Group. Restaurant and Night Club uses, however, continued to have different requirements under the USBC.

engage in the process of granting special permission to an applicant who operates outside the parameters of his Certificate of Occupancy.

Mr. Jones alleges that City employees inspected other areas of the subject property and that this somehow translates into a right for a new Certificate of Occupancy for a change-in-use. Such a position is untenable. *Each of the City employees identified by Mr. Jones was on the premises or dealing with Mr. Jones for reasons other than to check or confirm the existence of a Certificate of Occupancy.* Specifically, Mr. Jones alleges that because he has obtained a business license from the Commissioner of the Revenue as a "restaurant/night club," paid the Commissioner of the Revenue admissions taxes, and has obtained an ABC license from the Commonwealth of Virginia, the Building Official should, for some reason, issue a new Certificate of Occupancy. Clearly, the Commissioner of the Revenue does not have an interest in knowing, or a need to know, whether the subject property is operating lawfully under the USBC. Specifically, the Commissioner of the Revenue seeks only to collect business license taxes and admissions taxes; the Commissioner has no connection whatsoever to whether Mr. Jones is in compliance with the USBC. Similarly, the Commonwealth of Virginia, in issuing an ABC license, seeks only to ensure that its regulations are being met. Thus, Mr. Jones' position that because one agency knows something, all agencies within the municipal corporation known as the City of Roanoke should be charged with that knowledge, is untenable.

Similarly, Mr. Jones alleges that because the Building Department and Fire Marshall inspected his premises with respect to other issues, the City is somehow precluded from applying and enforcing the USBC against him. Specifically, Mr. Jones alleges that because building code and fire code inspectors conducted inspections before he sought the new Certificate of Occupancy and did not raise the fact that he did not have a Certificate of Occupancy for a Night Club, the City of Roanoke should be barred from requiring a new Certificate of Occupancy. Even if the inspections by the building code inspectors required a preliminary finding that the property being inspected is the subject of a Certificate of Occupancy and is being lawfully used pursuant to that Certificate, it is well established that a local government is not required to enforce the terms of a Certificate of Occupancy or be barred later from doing so. Specifically, the Virginia Supreme Court has long held that a delay in enforcing a local government ordinance or regulation does not bar the local government from later taking governmental action to enforce such local government law or regulation. Dick Kelly Enterprises v. City of Norfolk, 243 Va. 373, 381, 416, S.E.2d 680, 685 (1992); Segaloff v. City of Newport News, 209 Va. 259, 261, 163 S.E.2d 135, 137 (1968).

In Dick Kelly Enterprises, 243 Va. 373, 416 S.E.2d 680 (1992), a landowner received from the city a building permit to construct a motel. After the Certificate of Occupancy was issued, the building was used as an apartment building. Several years later, the locality sought to enjoin further use of the property as an apartment building. The landowner alleged that because he had used the building for so long, the government should be prevented, or "estopped," from taking governmental action and enforcing the law. The Court rejected the landowner's argument and held that the Doctrine of Estoppel "does not apply to the government in the discharge of governmental functions." Dick Kelly Enterprises, 243 Va. at 381, 416 S.E.2d at 685 (1992).

Similarly, in Segaloff v. City of Newport News, 209 Va. 259, 163 S.E.2d 135 (1968), a builder constructed a building in violation of a local setback ordinance. The locality approved the building plans which depicted the violation. After the approval of the plans, an inspector visited the premises and cited the owner for having an overhang too close to the property line. The owner asserted that because the locality knew about the violation, *and even approved it by approving the plans*, the locality was prevented (“estopped”) from enforcing the local ordinance against the owner. The Virginia Supreme Court disagreed, and held that a local government is “not estopped as a result of its acts or those of its agents or employees from taking governmental action to enforce a local ordinance or regulation.” Segaloff, 209 Va. at 261, 163 S.E.2d at 137. Clearly, in the present case, the City of Roanoke is not precluded from refusing to issue a new Certificate of Occupancy in order to protect the public’s safety.

Mr. Jones further alleges that his “business has been shut down since April of this year.” (Jones Statement, p. 2.) Such a statement, however, is a mischaracterization of Mr. Jones’ circumstances. Despite knowing that he had permission under the USBC to open only as a Restaurant, and days before his Position Statement was filed with this Board, ***Mr. Jones reopened as a Night Club on August 23, 2013.*** As Lt. Richard Morrison clearly states in his affidavit, patrons were consuming alcohol purchased on the premises, using the dance floor and listening to loud music at that time (Ex. No. 6), all activities characteristic of a Night Club under the USBC and all activities which place members of the public at risk in the event of fire. Clearly, Mr. Jones comes before this Board, seeking permission to operate legally as a Night Club, while not only operating illegally as a Night Club but also mischaracterizing his history of operation. For this reason alone, Mr. Jones’ appeal should be denied.

Finally, Mr. Jones complains that the law requiring him to install a sprinkler system would “force him out of business.” Sometimes, compliance with the law costs money. And sometimes, a commercial enterprise cannot exist, if it must spend money to comply with the law. But the litmus test for compliance with the law is not whether doing so will force an enterprise to go out of business. If such were the case, what would the City of Roanoke tell the commercial enterprises who pay for business licenses, pay admission taxes and spend the money necessary to install legally compliant sprinkler systems? Is it fair to those enterprises to allow Mr. Jones not to comply with the USBC? Furthermore, should the City of Roanoke explain to those enterprises that the better way to operate a business in the City is to do so illegally while “flying under the radar,” hoping that it will not get caught doing so? And what should the City of Roanoke say when a tragedy occurs because no one dancing to loud music could hear the fire alarm over the music, and there was no sprinkler system to slow the spread of fire? Should the City of Roanoke, in those circumstances, simply turn its palms up and concede that because Mr. Jones had been operating illegally for so many years, he was allowed to continue doing so?

The City of Roanoke respectfully requests that the appeal be denied and that the Building Commissioner’s decision be affirmed.

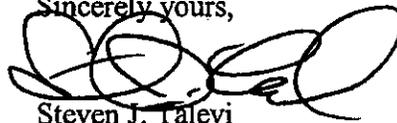
Alan McMahan, CBO, CLGM

September 12, 2013

Page 5

On behalf of the City of Roanoke, I thank you for your time and consideration of this matter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Steven J. Talevi". The signature is stylized with large, overlapping loops and a long horizontal stroke extending to the right.

Steven J. Talevi

Assistant City Attorney

SJT/mmc

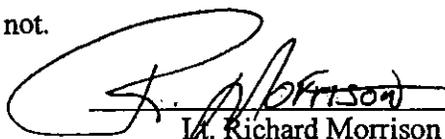
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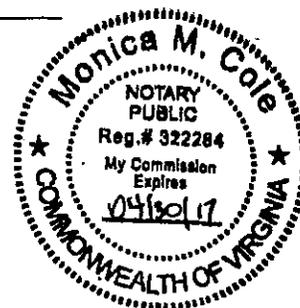
Cc: John K. Prillaman, Esq. (w/ enclosures)

AFFIDAVIT

1. I am Lt. Richard Morrison.
2. I am the Northwest Zone Commander in the Police Department for the City of Roanoke, and I have been employed by the City of Roanoke as a police officer for over sixteen (16) years.
3. On August 24, 2013, at approximately 1:30 a.m., I was at JB's Restaurant & Lounge/Lowell's Restaurant & Lounge ("JB's"), located at 2328 Melrose Avenue, Roanoke, Virginia, in my official capacity, investigating matters of official concern. I, along with one other police officer from the City of Roanoke Police Department, was inside the primary structure known as JB's, at which time I witnessed alcohol being purchased and consumed by patrons of JB's, very loud music being played, and people dancing on the dance floor.
4. During the entire time I was inside JB's on August 24, 2013, the interior lights were very low, making walking around and within the premises difficult, and the music was so loud that it would have been difficult to hear a person standing or sitting next to me.

FURTHER the Affiant sayeth not.


 Lt. Richard Morrison



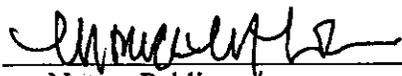
COMMONWEALTH OF VIRGINIA

CITY OF Roanoke to-wit:

I, Monica M. Cole, a notary public, in and for the City of Roanoke, Commonwealth of Virginia, do hereby certify that Lt. Richard Morrison, whose name is signed to the foregoing, personally appeared before me and made oath that the same is true to the best of his knowledge, information and belief.

GIVEN under my hand this 12th day of September, 2013.

My commission expires: 04/30/17


 Notary Public



Daniel J. Callaghan
City Attorney

CITY OF ROANOKE
OFFICE OF THE CITY ATTORNEY
464 MUNICIPAL BUILDING
215 CHURCH AVENUE, SW
ROANOKE, VIRGINIA 24011-1595

TELEPHONE 540-853-2431
FAX 540-853-1221
EMAIL: cityatty@roanokeva.gov

Timothy R. Spencer
Steven J. Talevi
Gary E. Tegenkamp
David L. Collins
Heather P. Ferguson
Laura M. Carini
Assistant City Attorneys

December 20, 2013

Alan McMahan, CBO, CLGM
Senior Construction Inspector II and
Staff-State Building Code Technical Review Board
State Building Code Office
Division of Building & Fire Regulation
Department of Housing and Community Development
600 East Main Street, Suite 300
Richmond, Virginia 23219

Re: Stark Jones-Appeal to the Review Board
Appeal No. 13-6

Dear Mr. McMahan:

Enclosed please find an Affidavit pertaining to the above-captioned matter.

The City of Roanoke would appreciate your ensuring that the enclosed materials are forwarded to the Board for its consideration.

As always, your assistance and the consideration of the Board is greatly appreciated.

Please do not hesitate to contact me, if you have any questions.

Sincerely yours,

Steven J. Talevi
Assistant City Attorney

SJT/rrv

Enc.

AFFIDAVIT

1. I am Neil Holland, Acting Building Official for the City of Roanoke. I have been the Acting Building Official since October 21, 2013. I was appointed to replace Mr. Jeff Shawver, who retired from the City of Roanoke as its Building Official effective November 1, 2013.
2. By e-mail dated August 5, 2013, at 3:51 p.m., Mr. Shawver asked for certain plans from Mr. Jones to accompany his application for a building permit. (Exhibit No. 1.) At no time subsequent to August 5, 2013, the date on which Mr. Shawver asked for those plans from Mr. Jones, did Mr. Jones submit the plans requested by Mr. Shawver.
3. No Certificate of Occupancy has been issued to Mr. Jones subsequent to August 5, 2013, the date on which Mr. Shawver asked for the plans from Mr. Jones.
4. Mr. Shawver stated in an e-mail dated August 5, 2013, at 4:20 p.m. that Mr. Jones stated that he was willing to remain a restaurant under the Building Code. (Exhibit No. 2.) Mr. Jones confirmed Mr. Shawver's understanding that Mr. Jones wished to operate a restaurant on the subject property in an e-mail dated August 6, 2013, at 12:52 p.m. to Mr. Shawver. (Exhibit No. 3.)
5. Several days later on August 24, 2013, Mr. Jones reopened his commercial establishment as a night club without a Certificate of Occupancy for that use.

FURTHER the Affiant sayeth not.

Neil Holland
Neil Holland

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF Roanoke to-wit:

I, Candace R. Martin a notary public, in and for the City/County of Roanoke, Commonwealth of Virginia, do hereby certify that Neil Holland, whose name is signed to the foregoing, personally appeared before me and made oath that the same is true to the best of his knowledge, information and belief.

GIVEN under my hand this 19th day of December 2013.

My commission expires: 11/30/2016

Candace R. Martin
Notary Public

CANDACE R. MARTIN
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #282076
My Commission Expires 11/30/2016

Jeff
Shawver/Employees/City_of_
Roanoke

08/05/2013 03:51 PM

To <starkjones@cox.net>,

cc Daniel
Rakes/Employees/City_of_Roanoke@City_of_Roanoke,
Ronnie

bcc

Subject: Re: New col

Good afternoon Mr. Jones,

My suggestion would be to contact a registered design professional (RDP) architect or engineer (AE) to explore your options. Because, the fire suppression is only one component that is required and there may be additional items that need to be met for the change of use. We will need to have a complete building evaluation for a "change in use" to include but not limited to; use group classification, occupant load, number of toilet fixtures, number of exits, building construction type, accessibility features, ventilation air rates, egress travel distance / exit & emergency lights, etc. Basically, the information is referred to as code data / summary of the building and life/ safety elements. With this information then we can evaluate if compliance is achieved. The process is normally a building permit application along with stamped /sealed (AE) drawings are submitted for our review. No fees are collected for submittal and we can officially start our review process. In addition, I did provide a link to the Virginia Building Codes that may provide some guidance. If you have any question please, let me know.

Best regards,

Jeff

http://www.ecodes.biz/ecodes_support/Free_Resources/Virginia2009/09Virginia_main.html

Jeffrey S. Shawver, CBO
Building Commissioner
Planning, Building & Development Department
City of Roanoke, Virginia
Jeff.Shawver@roanokeva.gov
(540) 853-1891 Office (540) 853-1594 Fax

Exhibit No. 1

Jeff
Shawver/Employees/City_of_
Roanoke

08/05/2013 04:20 PM

To Daniel
Rakes/Employees/City_of_Roanoke@City_of_Roanoke,
cc Ronnie
Campbell/Employees/City_of_Roanoke@City_of_Roanoke,
Bane

bcc

Subject Re: New co 

History

 This message has been replied to

All,

Just talked with Mr. Jones and he wants to remain as a A-3 (restaurant) or sports bar. With that being said, we will be in position to approved and issue the permit and perform the inspections. Once completed we will issue a new CO to indicate a non-smoking and smoking sections for a A-3 use per the 1987 USBC.

Please let me know if you have any issues or concerns.

Thank you,
Jeff

Jeffrey S. Shawver, CBO
Building Commissioner
Planning, Building & Development Department
City of Roanoke, Virginia
Jeff.Shawver@roanokeva.gov
(540) 853-1891 Office (540) 853-1594 Fax

Exhibit No. 2

From: <starkjones@cox.net>
To: Jeff.Shawver@roanokeva.gov,
Date: 08/06/2013 12:52 PM
Subject: opening as a restaurant

Hey, Jeff! Before this appeal. Bane was ready to give me my co for restaurant. I want to open back up as a restaurant. When can I pick up my co for a restaurant. Trying to open asap.

Stark

Exhibit No. 3

176

State Building Code Technical Review Board Proposed 2014 Meeting Schedule

State Holidays	January	February	March
<u>January 1</u> New Year's Day	S M T W T F S	S M T W T F S	S M T W T F S
<u>January 17</u> Lee-Jackson Day	① 2 3 4	1	1
<u>January 20</u> Martin Luther King, Jr. Day	5 6 7 8 9 10 11	2 3 4 5 6 7 8	2 3 4 5 6 7 8
<u>February 17</u> George Washington Day	12 13 14 15 16 ①⑦ 18	9 10 11 12 13 14 15	9 10 11 12 13 14 15
<u>May 26</u> Memorial Day	19 ②⑩ 21 22 23 ②④ 25	16 ①⑦ 18 19 20 ②① 22	16 17 18 19 20 ②① 22
<u>July 4</u> Independence Day	26 27 28 29 30 31	23 24 25 26 27 28	23 24 25 26 27 28 29
<u>September 1</u> Labor Day			30 31
<u>October 13</u> Columbus Day	April	May	June
<u>November 11</u> Veterans Day	S M T W T F S	S M T W T F S	S M T W T F S
<u>November 26</u> 4 hours additional holiday time	1 2 3 4 5	1 2 3	1 2 3 4 5 6 7
<u>November 27</u> Thanksgiving	6 7 8 9 10 11 12	4 5 6 7 8 9 10	8 9 10 11 12 13 14
<u>November 28</u> Day After Thanksgiving	13 14 15 16 17 ①⑧ 19	11 12 13 14 15 ①⑥ 17	15 16 17 18 19 ②⑩ 21
<u>December 24</u> 4 hours additional holiday time	20 21 22 23 24 25 26	18 19 20 21 22 23 24	22 23 24 25 26 27 28
<u>December 25</u> Christmas	27 28 29 30	25 ②⑥ 27 28 29 30 31	29 30
	July	August	September
	S M T W T F S	S M T W T F S	S M T W T F S
	1 2 3 ④ 5	1 2	① 2 3 4 5 6
	6 7 8 9 10 11 12	3 4 5 6 7 8 9	7 8 9 10 11 12 13
	13 14 15 16 17 ①⑧ 19	10 11 12 13 14 ①⑤ 16	14 15 16 17 18 ①⑨ 20
	20 21 22 23 24 25 26	17 18 19 20 21 22 23	21 22 23 24 25 26 27
	27 28 29 30 31	24 25 26 27 28 29 30	28 29 30
		31	
	October	November	December
	S M T W T F S	S M T W T F S	S M T W T F S
	1 2 3 4	1	1 2 3 4 5 6
	5 6 7 8 9 10 11	2 3 4 5 6 7 8	7 8 9 10 11 12 13
	12 ①③ 14 15 16 ①⑦ 18	9 10 ①① 12 13 14 15	14 15 16 17 18 ①⑨ 20
	19 20 21 22 23 24 25	16 17 18 19 20 ②① 22	21 22 23 ②④ ②⑤ ②⑥ 27
	26 27 28 29 30 31	23 24 25 ②⑥ ②⑦ ②⑧ 29	28 29 30 31

Denotes Meeting

Denotes Holiday