

# STAFF EVALUATION

To: City Council

Prepared By: Tolu Ibikunle, AICP

728-5237

Reviewed By: Mike Hayes, AICP

728-5244

Bonnie Brown

727-6157

Case No.: Use Permit No. 18-00012

Date: January 9, 2019

## General Information

Applicant

Randy Bowman

Property Owner

Nguyen My, Diep Huy, Nguyen Nhi, Nguyen Dien & Nugyen Trang & Le Ngoc

Location

1899 N Armistead Avenue [LRSN 7001182]



Requested Use

Use Permit to allow for indoor live entertainment 2 in conjunction with a restaurant.

Description of Proposal

The applicant is proposing to provide live entertainment inside Bowman's Soul-N-The Wall located at 1899 N Armistead Ave. The requested hours for indoor live entertainment are from 11AM until 9PM Tuesday through Thursday, 11AM until 2AM Friday and Saturday, and 11AM until 9PM Sunday. To allow for flexibility for the live entertainment hours, staff recommends live entertainment be allowed 11AM until 11PM Sunday through Thursday and 11AM until 1AM Friday and Saturday, which is consistent with other similar use permits.

Existing Land Use

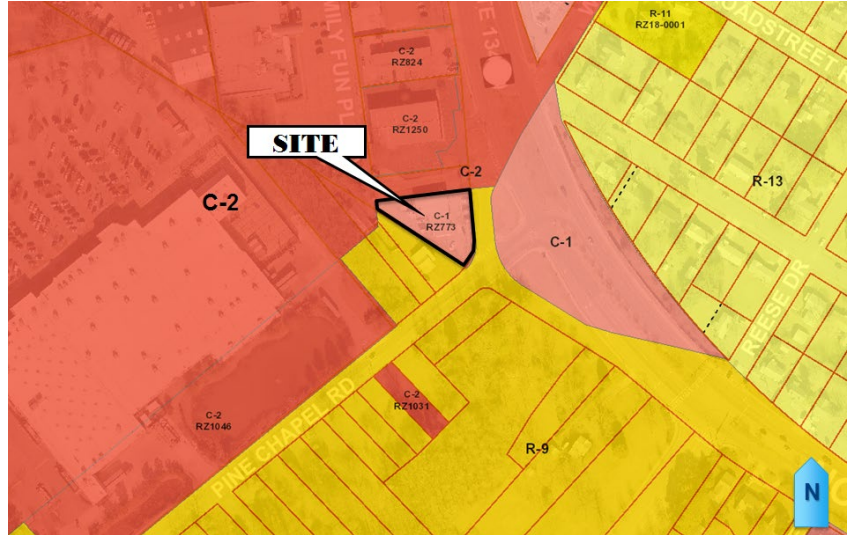
Bowman's Soul-N-The Wall restaurant

Zoning

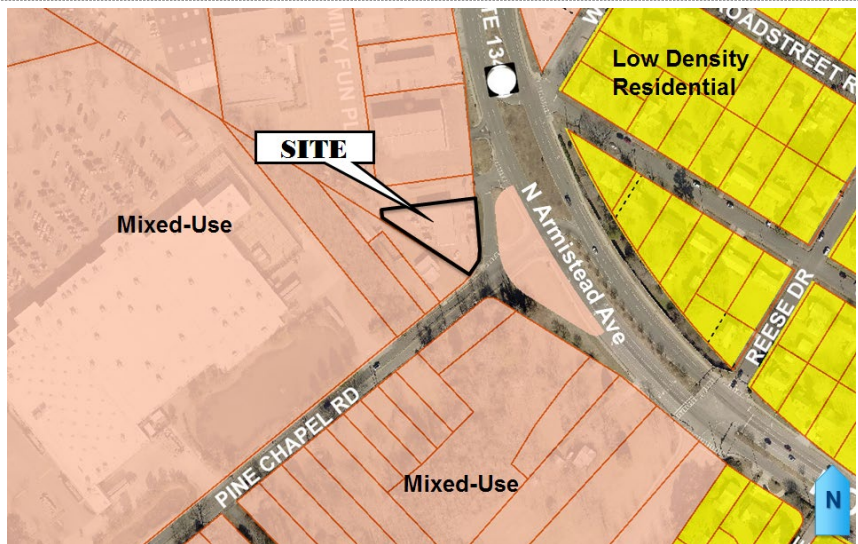
The subject site is zoned C-1 (Neighborhood Commercial) District, which allows for Live Entertainment 2 in conjunction with a restaurant subject to use permit approval, and falls into the O-CC (Coliseum Central Overlay) District.

Surrounding Land Use and Zoning

- North:** C-2 (Limited Commercial) District – Commercial, bowling alley, religious facility
- South:** R-9 (One-Family Residential) District – single family home, vacant land
- East:** C-1 (Neighborhood Commercial) District, R-13 (One-Family Residential) District – Residential neighborhood
- West:** C-2 (Limited Commercial) District – Commercial, Walmart



Public Policy



The Hampton Community Plan (2006, as amended) recommends mixed-use for the subject property and much of the surrounding area. Residential uses are recommended for properties to the east of the subject property, across Armistead Avenue.

Listed below are policies related to this request. These policies involve making Hampton a unique regional retail and entertainment destination by supporting the City's economic development priorities:

**LU-CD Policy 6:** Support the City's economic development priorities: high wage jobs in targeted industry segments; regional retail and entertainment destination; first retail choice for Hampton residents; tourism destination and higher value housing.

**ED-5:** Nurture small and start-up businesses. [pg. ED-23]

**ED-6:** Expand tourism, entertainment, and cultural opportunities within the city. [pg. ED-23]

Additional policy guidance is found in the Coliseum Central Master Plan, (2015 as amended). The Master Plan recommends that subject site remain as commercial [pg. 44].

<i>Zoning History</i>	This property was subject to RZ 773 and VA 10-02. RZ 773 rezoned the property from R-9 (One-Family Residential) District to C-1 (Neighborhood Commercial) District. VA 10-02 granted specific reductions for a church use: a reduction in required front setback and both side setbacks for parking; a reduction in required both building side yard setbacks; reduction of the required building rear yard setback; and a reduction in required number of parking spaces.
<i>Applicable Regulations</i>	C-1 and O-CC allow live entertainment subject to securing a Use Permit. The purpose of this Use Permit is to identify the operational characteristics of the proposal and establish the conditions under which the facility will be operated. This action is necessary to ensure the safety and welfare of the public as well as minimizing impacts on the adjoining properties.
<i>Community Meeting</i>	The applicant hosted a community meeting on October 23 <sup>rd</sup> . Approximately 30-40 individuals attended.

**Analysis**

Use Permit Application No. 18-00012 is a request for Live Entertainment 2 in conjunction with a restaurant. The subject property is located at 1899 North Armistead Avenue which is at the corner of N Armistead Avenue and Pine Chapel Road [LRSN: 7001182]. The subject property contains .46± acres, with an existing building that includes three separate tenant spaces with a combined total of approximately 4,492± square feet. The restaurant Bowman's Soul-N-The-Wall, occupies 2,800± square feet. If approved, the use permit would only apply to the retail space currently leased by Bowman's Soul-N-The-Wall. It is important to note that, if the business operation changes and a new restaurant/operator occupy the subject property, the use permit remains valid so long as the use does not lapse for longer than two years.

The applicant is proposing to feature live entertainment that includes: small bands, soloists, spoken word, karaoke, and the like. The proposed operating hours for the live entertainment are as follows:

- Sunday: 11AM-9PM
- Monday: Closed
- Tuesday-Thursday: 11AM-9PM
- Friday-Saturday: 11AM-2AM

This proposal is consistent with the city's zoning ordinance as the subject site is zoned C-1 (Neighborhood Commercial) District, which allows for Live Entertainment 2 in conjunction with a restaurant subject to an approved use permit. The property also falls into the O-CC (Coliseum Central Overlay) District.

Looking to the city's policy documents for guidance, the Hampton Community Plan (2006, as amended) recommends mixed-use for the subject property and much of the surrounding

**USE PERMIT NO. 18-00012****STAFF EVALUATION**

area. Residential uses are recommended for properties to the east of the subject property, across Armistead Avenue. The policies in the City's comprehensive plan related to this request signify the importance of making Hampton a unique regional retail and entertainment destination, by supporting the City's economic development priorities. It also underscores the need to "nurture small and start-up businesses", [pg. ED-23] to ensure their long-term sustainability. The proposed use permit is consistent with the City's goals and policies, as outlined in the Hampton Community Plan (2006, as amended) and it will also serve as a neighborhood amenity for nearby residents. Additional policy guidance is found in the Coliseum Central Master Plan, (2015 as amended. The Master Plan recommends that subject site remain as commercial [pg. 44].

Staff has identified several conditions based on the proposed use's operational characteristics while ensuring the consistency with other approved Live Entertainment 2 permits [see Table 1]. To allow for flexibility for the live entertainment hours and respect neighboring uses, staff recommends live entertainment be allowed 11AM until 11PM Sunday through Thursday and 11AM until 1AM Friday and Saturday, which is consistent with other similar use permits. Other conditions relate to building capacity, sound volume, staffing, and various state and city codes and ordinances.

***Based on the analysis of this proposal, staff and planning commission recommends approval of Use Permit Application No. 18-00012 with 12 conditions.***

<b>Table 1: Recently Considered Applications for Live Entertainment</b>						
<b>Establishment</b>	<b>Adjacent to Single Family</b>	<b>Adjacent to Multi Family</b>	<b>Hours of Live Entertainment</b>	<b>Capacity</b>	<b>Decision</b>	<b>Indoor/Outdoor</b>
<b>Bowman's Soul-N-The-Wall</b>	Yes	No	Indoor: 11:00AM-11:00PM Sun-Thurs 11AM - 1:00AM Fri-Sat	85		Indoor
<b>Capstan Bar Brewing Co.</b>	No	No	Indoor: 5:30PM-12AM Mon-Fri 11AM-2AM Sat-Sun	70	Approved	Indoor
<b>Bull Island Brewing Company</b> 758 Settlers Landing Rd	No	No	Indoor: 11:00AM-12:00AM Sun-Thurs 11:00AM-2:00AM Fri-Sat	164	Approved	Indoor
<b>Déjà vu Restaurant &amp; Lounge</b> 2080 Nickerson Blvd	No	Yes	Indoor: 11:00AM-12:00 AM Sun-Thurs 11:00 AM - 2:00AM Fri-Sat	160 or less	Withdrawn	Indoor
<b>The Comfort Zone</b> 2165 Cunningham	No	Yes	Indoor: 11:00AM-12:00 AM Sun-Thurs 2:00AM Fri-Sat	517	Approved	Indoor
<b>The Vanguard</b> 504 North King	Yes	No	Indoor: 11:00AM-11:00PM Sun-Thurs 11AM - 1:00AM Fri-Sat  Outdoor: 4:00PM to 8:00PM Mon-Thurs 12:00PM to 8:00PM Fri-Sun	1100	Approved	Indoor/Outdoor
<b>LV's</b> 1565 Briarfield Road	No	Yes	Indoor: 11:00AM-10:00PM Sun- Sat		Approved	Indoor
<b>Papa Ciccio's</b> 89 Lincoln	No	No	Indoor: 11:00AM-12:00 AM Sun-Thurs 2:00AM Fri-Sat	125	Approved	Indoor
<b>Sushi Hampton LLC (Sushi King)</b> 5101 Kilgore	No	No	Indoor: 10:00PM Sun-Thurs 2:00 AM Fri-Sat  Outdoor: 9:00PM Sun-Thurs 10:00 Fri-Sat	300	Approved	Indoor/Outdoor
<b>Avenue Blue Piano Bar</b> 2330	No	No	10:00 PM Sun-Thurs	168	Approved	Indoor

**USE PERMIT NO. 18-00012**

**STAFF EVALUATION**

McMenamin			2:00 AM Fri-Sat			
<b>Stillwater Tavern (UP 14-00017)</b> 555 Settlers Landing	No	No	12:00AM Sun. – Thurs.  2:00AM Fri. - Sat	80	Approved	Indoor
<b>Grandview Island Grill (UP 14-00009)</b> 155 State Park	Yes	No	Indoor: 12:00PM - 10:00PM Sun – Sat  Outdoor: 4:00PM - 8:00PM Fri & Sat	134	Approved	Indoor/Outdoor
<b>The Point (UP 1091-2013)</b> 30 E Mellen	No	No	12:00AM Sun-Thurs  2:00AM Friday - Sat	80	Approved	Indoor
<b>Applebee's (CP 139-2013)</b> 2159 Coliseum	No	No	12:00AM Sun. – Thurs.  1:00AM Fri.- Sat.	165	Approved	Indoor
<b>An Event to Remember (CP 136-2013)</b> 2000 W Mercury	No	No	11:00PM Sun.-Thurs.  12:00AM Fri. - 1:00 AM Sat.	189	Approved	Indoor
<b>The Turtle (CP 130-2012)</b> 24 N Mallory	Yes	No	12:00AM Sun.-Thurs.  1:00AM Fri.-Sat.	105	Approved	Indoor
<b>Bar Louie (CP-129-2012)</b> 3530 Von Schilling	No	Yes	11:00 PM Sun.-Tues.  2:00 AM Wed.-Sat.	248	Approved	Indoor
<b>The Jewish Mother (CP 128-2012)</b> 2 Town Center	No	No	12:00AM weekdays  2:00AM weekends	80	Approved	Indoor
<b>Mirro'z (CP 120-2011)</b> 2710 W Mercury	Yes	No	11:00 PM weekdays  1:00 AM weekends	240	Approved	Indoor
<b>Terra (CP 116-2011)</b> 2330 McMenamin	No	Yes	11PM Sun.-Tues.  2:00AM Wed.-Sat.	160	Approved	Indoor/Outdoor
<b>Queens Way Soul Café (CP 112)</b> 1144 Big Bethel	No	Yes	12:00 AM weekdays  2:00 AM weekends	148	Approved	Indoor

**Use Permit Application No. 18-00012**

**Live Entertainment 2 in Conjunction with a Restaurant**

**Bowman's Soul-N-The Wall | 1899 N. Armistead Ave, Hampton, VA 23666 [LRSN 7001182]**

**1. Issuance of Permit**

The Use Permit applies only to the location at 1899 N. Armistead Ave [LRSN 7001182] denoted in purple with diagonal lines and attached hereto as Exhibit A and is not transferable to another location.

**2. Location of Live Entertainment**

Live Entertainment may be conducted inside the building only and shall be limited to the location denoted as "live entertainment area" indicated on the attached floor plan denoted in green with a checkered pattern, and attached hereto as Exhibit B. The set up and use of any equipment shall not interfere with required clear space for safe exit in the case of emergency, per the Uniform Statewide Building Code and/or the Statewide Fire Prevention Code.

**3. Hours of Operation**

The hours of operation for live entertainment shall be limited to the following:

- Sunday - Thursday 11:00AM to 12:00AM
- Friday - Saturday 11:00 AM to 2:00 AM

**4. Capacity**

Patronage and staff shall not exceed 85 people or the maximum capacity determined by the Building Official whichever is lower.

**5. Sound**

Live entertainment located at 1899 N. Armistead Ave [LRSN 7001182] shall comply with the Hampton City Code, Section 22-9 (as amended) with respect to any sound or noise.

**6. Staffing**

Sufficient staff shall be provided to monitor patron behavior upon their exit of the building into the surrounding areas.

**7. Licensing and Compliance with all Laws**

When required by law, the business must maintain a valid license from the Virginia Department of Alcoholic Beverage Control (VABC) and comply with all restrictions or requirements imposed by VABC. In addition, this Use Permit may be terminated for any violation of federal, state, or local law.

**8. Dancing**

The property owner shall comply with section 4-16 of the Hampton City Code (as amended) with respect to dancing on the premises and dance floor area.

**9. Third Party Events**

If the facility is leased, let, or used by any third party for any event, the owner/operator, or his or her employees, shall be present at all times during the event and shall be responsible for compliance with all conditions of this use permit regardless of any contract or agreement with any third party regarding the facility. Any cover charges or tickets shall be collected directly by the owner/operator.

**10. Revocation**

Notwithstanding any condition or provision of this use permit to the contrary, the use permit may be revoked for violation of any terms or conditions of the use permit as set forth in chapter 14 of the Hampton Zoning Ordinance (as amended).

**11. Nullification**

The use permit shall automatically expire and become null and void under any of the following conditions:

(1) If, in the case of new construction, the building has not been erected, with doors, windows, roof covering and exterior finish materials in place within two (2) years of the issuance of the use permit;

(2) No building permit to construct the authorized improvements has been issued within twelve (12) months of the date of approval by the city council, or if no building permit is required, if the use is not established within twelve (12) months of the date of approval by the city council; or

(3) Once the property may be occupied, if the property is not used for the permitted purpose for a continuous two-year period unless otherwise specified in the zoning ordinance. In making this determination the city may consider such matters as the issuance of a building permit, a business license, utility connections and such related factors.

**12. Review of Live Entertainment Uses**

After 12 months of operation, the Use Permit will be scheduled for review by the Director of Community Development (the "Director") to consider if the continuation of the Use Permit would not be detrimental to the public health, safety, and welfare and that to continue the activities under the Use Permit would not cause public inconvenience, annoyance, disturbance, or have an undue impact on the community or be incompatible with other uses of land in the zoning district. The review will be based, in part, upon a physical site review, traffic flow and control, access to and circulation within the property, off-street parking and loading, hour and manner of operation, noise, light, neighborhood complaints, police service calls, and any violations of any federal, state, or local law. If after review, the Director determines that the Use Permit would not be detrimental to the public health, safety, and welfare and that to continue the activities under the Use Permit would not cause public inconvenience, annoyance, disturbance, or have an undue impact on the community or be incompatible with other uses of land in the zoning district, the permit shall be scheduled for the same administrative review in 5-year increments. If the Director determines that the Use Permit would be detrimental to



**Use Permit Application No. 18-00012**

the public health, safety, and welfare and that to continue the activities under the Use Permit would cause public inconvenience, annoyance, disturbance, or have an undue impact on the community or be incompatible with other uses of land in the zoning district, the Director will notify the Permittee in writing and may initiate the revocation process before City Council. Nothing contained herein shall limit the City's ability to enforce City Code violations at any time during the operation.

EXHIBIT A

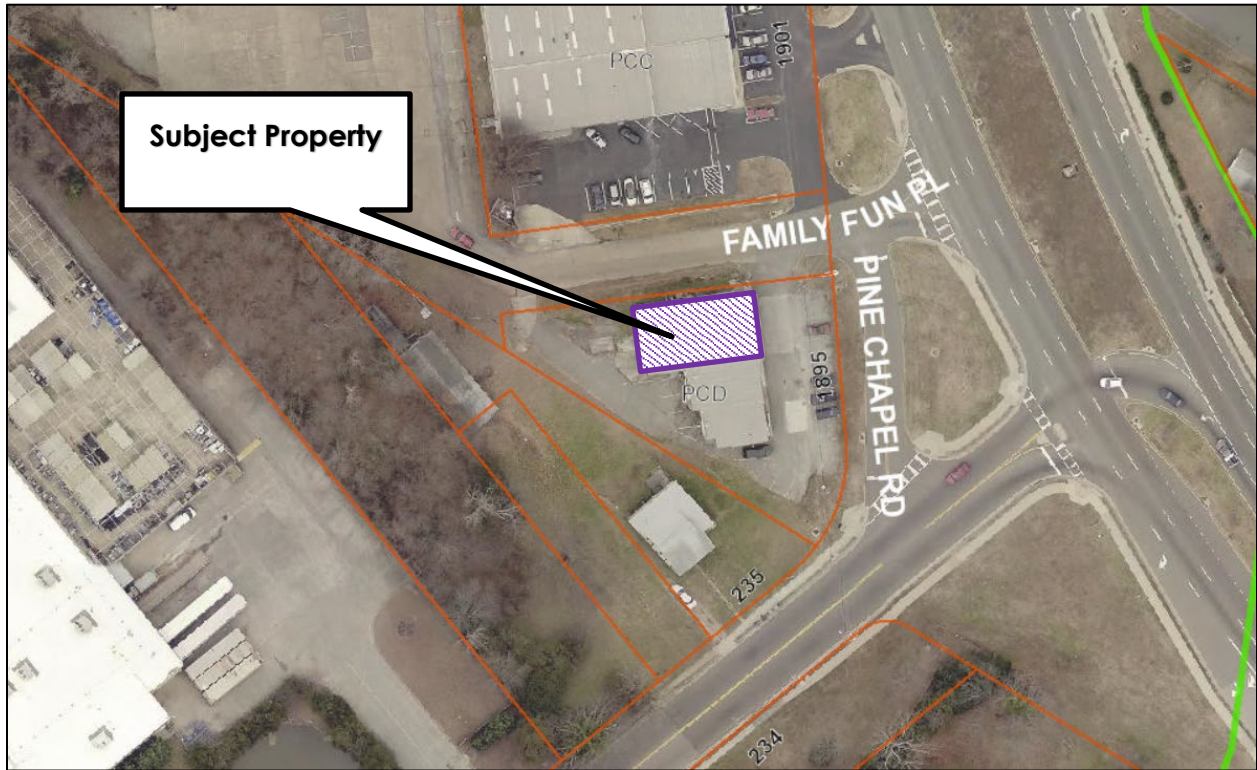
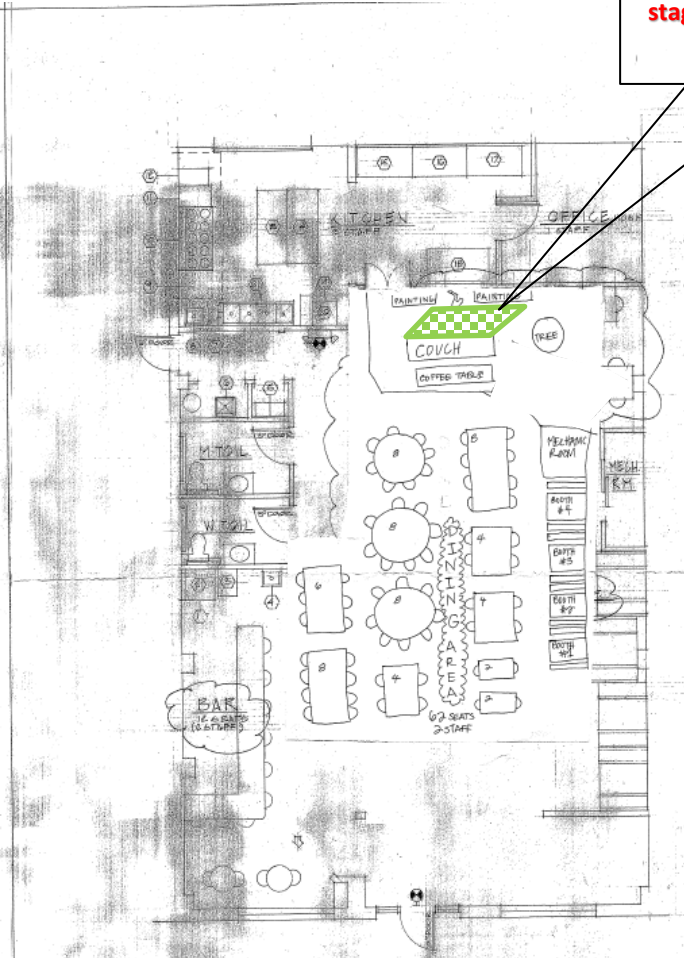


Exhibit B

Live Entertainment Area:  
checked green area is the  
stage where live entertainment  
will occur

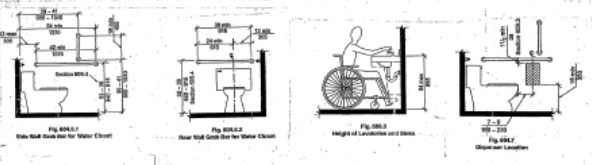


- EQUIPMENT LIST**
- 1) 66 WORK TABLES 60W X 50 D X 28H
  - 2) ICE MAKER 30W X 50 D
  - 3) SOFT DRINK DISPENSER 18W X 50 D X 64H
  - 4) HAND SINK
  - 5) EMPLOYEE LOCKERS
  - 6) MOP SINK
  - 7) GREASE TRAP
  - 8) HAND SINK
  - 9) 2 FT RANGE HOOD W/ FIRE SUPPRESSION
  - 10) 20" DEEP RANGE W/ DEL OVEN
  - 11) FRYER #1 30W X 50 D X 65H
  - 12) FRYER #2 10W X 50 D X 65H
  - 13) STEAM TABLE 74W X 50 D X 56H
  - 14) 66 WORK TABLES 74W X 50 D X 56H
  - 15) 8 DOOR DRESS BOYS 64W X 19 D X 74H
  - 16) 8 DOOR DRESS BOYS 64W X 19 D X 74H
  - 17) 2 DOOR PRESSURE 64W X 50 D X 74H
  - 18) 66 SUBMITTING TABLES 60W X 50 D X 74H
  - 19) 66 WORK TABLES 60W X 50 D X 56H
  - 20) DISHWASHER 34W X 50 D
  - 21) 4 COMPARTMENT SINK 74W X 50 D X 56H
  - 22) 10 60W X 50 D BUFFET SERVICING TABLES

**BUILDING DESIGN ANALYSIS**

JOB GROUP: RC RESTAURANT  
 CONSTRUCTION TYPE: 5B  
 6" SHAB FLOOR TILES 15" X 15" @ 5/8" J  
 SEATING: 70 PERSONS  
 TOTAL OCCUPANCY: 95 PERSONS

PER THE CONSTRUCTION CODE SECTION 107.11, 58 OF 78 SEATS (63%) ARE ACCESSIBLE IF ALL PERPENDICULAR RECTANGULAR DINING TABLES ARE 24" ABOVE FINISHED FLOOR.



ACCESSIBLE TOILET DETAILS  
N.T.S.

**EXISTING FLOOR PLAN**

SEATING & DINING AREA - 64  
 STAGE - 12  
 BAR - 10

TOTAL SEATS FOR DINING = 76  
 TOTAL STAFF = 8  
 TOTAL BUILDING OCCUPANCY = 84

RECEIVED  
MAY 24 2018  
105th FLOOR

THIS DOCUMENT IS PREPARED IN ACCORDANCE WITH THE 2012 INTERNATIONAL BUILDING CODE AND 2012 VA ABC



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FOOD SERVICE EQUIPMENT LAYOUT AND SEATING  
 FOR BOWMAN & BOULDER - THE WALL RESTAURANT  
 1875 W. MAIN STREET, SUITE 200  
 CHARLOTTESVILLE, VA 22902

SHEET #  
ONE  
OF 1