

# STAFF EVALUATION

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To: City Council

Prepared By: Lucy Stoll  
Reviewed By: Keith Cannady, AICP  
Bonnie Brown

727-6301  
728-5239  
727-6157

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Case No.: Use Permit Application No. 16-00009

Date: 11/9/2016

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## General Information

Applicant Charlene Smith

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Owner Coliseum Partners, LLC

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Location 2165 Cunningham Drive, LRSN 7001532



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Requested Action Use Permit to allow for indoor live entertainment 2 in conjunction with a restaurant with a capacity greater than fifty (50) people.

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Description of Proposal The applicant is proposing to provide live entertainment inside a restaurant. Live entertainment will feature both live bands and a DJ. Additionally, conditions recommended by staff slightly expand upon the hours of operation requested by the applicant in order to allow for future operational flexibility while still remaining consistent with similar establishments.

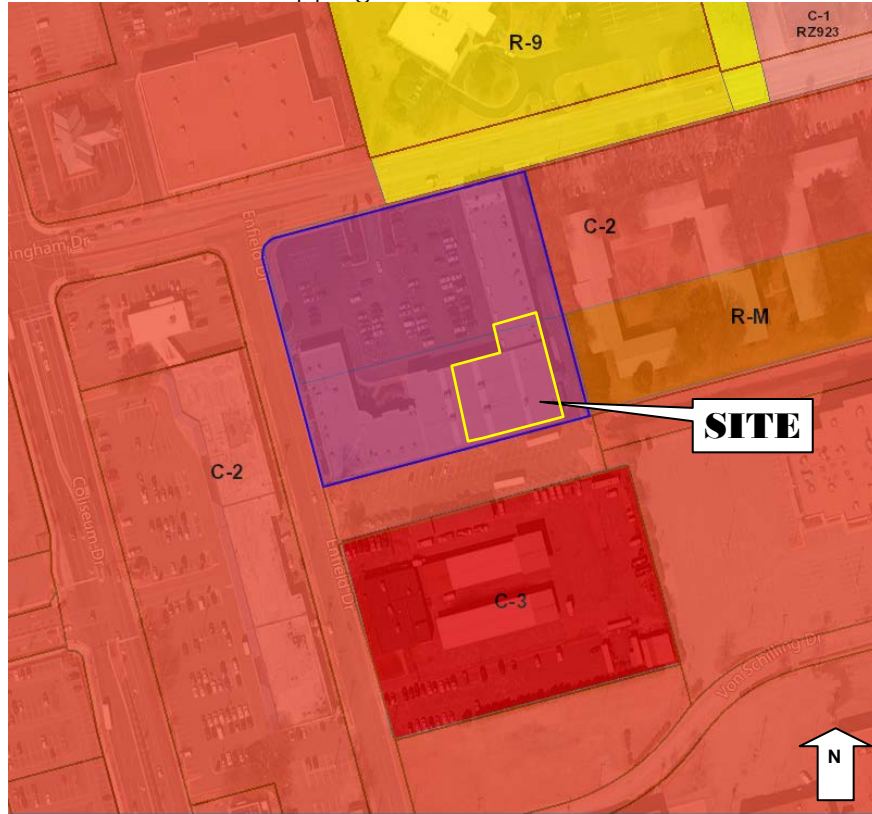
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Existing Land Use Vacant

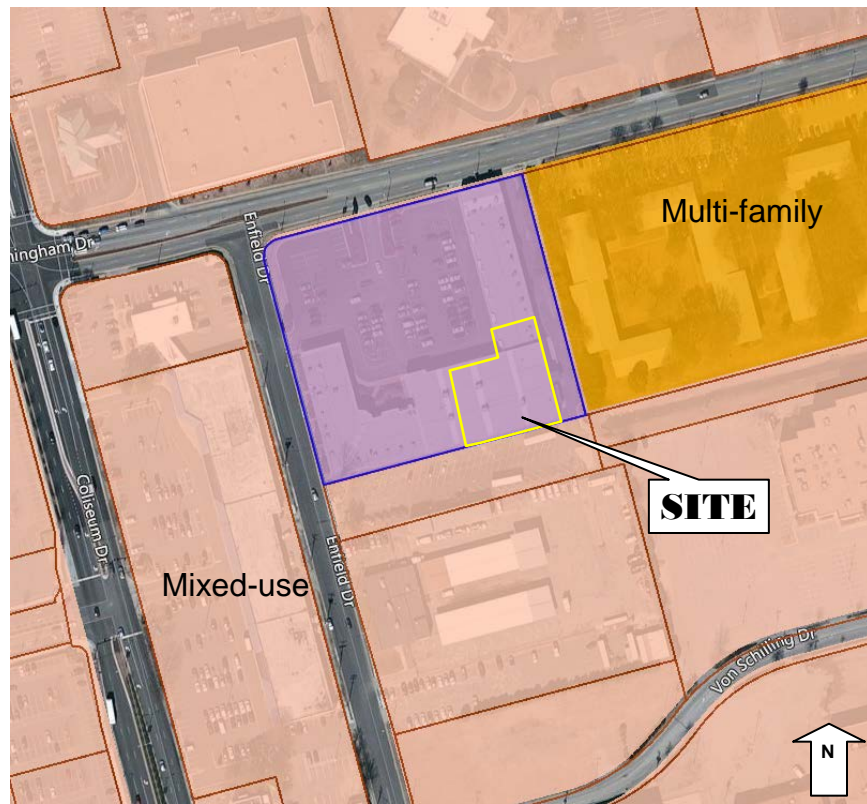
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*Zoning* C-2 (Limited Commercial District), and O-CC (Coliseum Central Overlay District).

*Surrounding Land Use and Zoning* **North:** C-2, O-CC, Church  
**South:** C-3, O-CC, Office  
**East:** C-2, R-M, O-CC, Multi-family residential  
**West:** C-2, O-CC, Shopping Center



*Public Policy* The Hampton Community Plan (2006, as amended) recommends mixed-use for this property, and mixed-use and multifamily residential for adjacent properties. The site falls into the recommended mixed-use urban core of the Coliseum Central Master Plan (2015). The site is also part of the Riverdale Plaza recommendation in the Coliseum Central Master Plan, which shows recommended “flexible” blocks that allow for a variety of uses (retail, office, residential) as market needs arise. The preferred long-term vision is for this shopping center to be converted into multi-family residential.



One of the eight “key vision qualities” established in the Community Plan is a Healthy Business Climate, and a primary goal to achieving this is that Hampton will be a unique regional retail and entertainment destination.

Objectives and policies supporting this vision include:

**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 Policy 4:** Nurture small and start-up businesses.

**ED Policy 6:** Expand tourism, entertainment, and cultural opportunities within the city.

*Zoning History*

Previously granted variances VA11-032 and VA11-040, which both reduced required building setbacks in Unit 2179 and 2173, respectively.

*Applicable Regulations*

The C-2 district allows for live entertainment 2 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 minimize project impacts on the adjoining properties.

*Traffic/Parking*

As parking in the shopping center is limited, and there is the potential for a high building occupant load in the restaurant and lounge, staff has recommended a capacity limit that will help make sure sufficient

	parking is available in the shopping center at all times for all the tenants. This recommended capacity also alleviates concerns from traffic engineering of stress on the transportation network.
<i>Schools</i>	This proposal does not impact city schools.
<i>Environmental</i>	Because no physical changes are proposed for the building, newly created environmental impacts are not anticipated.
<i>Community Meeting</i>	At this time, no community meeting has been scheduled. The applicant plans to host a meeting with her customers on the evening of October 6 <sup>th</sup> .

## Analysis

Comfort Zone Restaurant and Lounge is relocating a short distance from its existing location to 2165 Cunningham Drive (the Coliseum Corner shopping center). The applicant is requesting a live entertainment 2 use permit. Live entertainment will primarily feature live bands and a DJ. The property is zoned C-2 (Limited Commercial) District, which allows for live entertainment 2 with the approval of a use permit. The restaurant is also located in the Coliseum Central Overlay (O-CC) District.

Staff recommends permitted live entertainment operating hours be from 11:00 AM to 12:00 AM Sunday-Thursday and 11:00 AM – 2:00 AM Friday-Saturday. These hours are similar to use permits previously recommended by City staff and issued for similar establishments (see Table 1 below). The Peninsula Grove Apartments are located adjacent to the shopping center. Live entertainment is limited to indoors only, and has been conditioned to a location on the end of the restaurant furthest from the apartments. The kitchen and back of house (storage, office) are closest to the apartments, and there is no expectation that there will be ambient noise concerns for residents or other surrounding tenants.

Live entertainment in conjunction with a restaurant is a use that is considered to be more intense than a restaurant on its own (or a retail store, which the space previously housed). As such, it is likely there will be greater demands on parking with the live entertainment use. Staff is recommending a limit to the total building capacity when live entertainment is in use to ensure adequate parking is available for the entire shopping center. With the recommendation that capacity be limited due to parking constraints, traffic engineering does not have concerns that there will be undue stress on the transportation network.

In order to determine an appropriate capacity based on the parking limitations, staff first considered the parking needs of the shopping center exclusive of the space leased by Comfort Zone. After those needs are met, the remaining parking spaces can be counted towards Comfort Zone. In a shopping center, the City Zoning Ordinance requires 1 space per 250 square feet of retail space (this removes storage and back of house space). In the past, the City has applied an industry standard of 25% of square footage dedicated to back of house space. The square footage for all the tenant spaces allows staff to calculate how many parking spaces should be allocated to those other tenants (see table below).

104 parking spaces are available for use by Comfort Zone after accounting for other tenants. As the smaller section will not have live entertainment, its occupant load of 70 people will need 20 parking spaces (1 space per 75 square feet of dining area). The remaining 84 parking spaces are applied to the live entertainment parking requirement: 1 parking space is required for every 3 occupants. The 84 parking spaces equates to 252 occupants. This plus the 70 occupants in the

smaller section led to the overall 322 person occupant load calculation for the entire Comfort Zone tenant space.

Address	Square Feet	Square feet - 25% for Back of House	Parking Spaces Needed
2153	1,485	1113.75	5
2155A	1,632	1224	5
2155B	1,110	832.5	4
2157A/B	2,220	1665	7
2159B	1,110	832.5	4
2159A	1,110	832.5	4
2161A	1,110	832.5	4
2161B	1,110	832.5	4
2163A/B	COMFORT ZONE 2,220	N/A	20
2165A	7,825	5868.75	24
2166	COMFORT ZONE 13,343	N/A	84
2167	1,380	1035	5
2169	1,310	982.5	4
2171	1,295	971.25	4
2173	1,082	811.5	4
2175	728	546	3
2177	805	603.75	3
2179	986	739.5	3
2181	1,110	832.5	4
2183	2,568	1926	8
2189	2,244	1683	7
2191	550	412.5	2

**TOTAL SPACES NEEDED BY OTHER STORES POST 25% REDUCTION: 108**

**LEFTOVER FOR Comfort Zone TOTAL: 104**

The proposed live entertainment 2 use permit for Comfort Zone Restaurant and Lounge is consistent with the Hampton Community Plan (2006 as amended), which calls for mixed use in the area and has a goal to make Hampton a unique regional retail and entertainment destination. While the long-term preferred vision for the Coliseum Corner shopping center is for multi-family housing, the Coliseum Central Master Plan (2015) also calls for creating "flexible" blocks that can appropriately respond to market demand, making them viable for a mix of uses.

If this application is approved, staff recommends attaching conditions that will limit the impact of the use on surrounding tenants and neighbors. These conditions address aspects of the operation of the live entertainment including hours of operation, location of live entertainment, and capacity.

***Staff recommends approval of Use Permit Application #16-00009 with 12 conditions.***

Table 1: Recently Considered Applications for Live Entertainment						
Establishment	Adjacent to Single Family	Adjacent to Multi Family	Hours of Live Entertainment	Capacity	Decision	Indoor/Outdoor
LV's (1565 Briarfield)	No	Yes	Indoor: 11:00AM-10:00PM Sun- Sat		Approved	Indoor
Papa Ciccio's	No	No	Indoor: 11:00AM-12:00 AM Sun-Thurs 2:00AM Fri-Sat	125	Approved	Indoor
Sushi Hampton LLC (Sushi King)	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
Avenue Blue Piano Bar	No	No	10:00 PM Sun-Thurs 2:00 AM Fri-Sat	168	Approved	Indoor
Peninsula Soul Food & Sports Bar	Yes	No	11:00PM Sun – Thurs. 1:00AM Fri - Sat		Approved	Indoor
Stillwater Tavern (UP 14-00017)	No	No	12:00AM Sun. – Thurs. 2:00AM Fri. - Sat	80	Approved	Indoor
Grandview Island Grill (UP 14-00009)	Yes	No	Indoor: 12:00PM - 10:00PM Sun – Sat  Outdoor: 4:00PM - 8:00PM Fri & Sat	134	Approved	Indoor/Outdoor
The Point (UP 1091-2013)	No	No	12:00AM Sun-Thurs 2:00AM Friday - Sat	80	Approved	Indoor
Applebee's (CP 139-2013)	No	No	12:00AM Sun. – Thurs. 1:00AM Fri.- Sat.	165	Approved	Indoor
An Event to Remember (CP 136-2013)	No	No	11:00PM Sun.- Thurs.	189	Approved	Indoor

			12:00AM Fri. - 1:00 AM Sat.			
The Turtle (CP 130-2012)	Yes	No	12:00AM Sun.-Thurs.  1:00AM Fri.-Sat.	105	Approved	Indoor
Bar Louie (CP-129-2012)	No	Yes	11:00 PM Sun.- Tues.  2:00 AM Wed.- Sat.	248	Approved	Indoor
The Jewish Mother (CP 128-2012)	No	No	12:00AM weekdays  2:00AM weekends	80	Approved	Indoor
Mirro'z (CP 120-2011)	Yes	No	11:00 PM weekdays  1:00 AM weekends	240	Approved	Indoor
Terra (CP 116-2011)  2320 McMenamin Street	No	Yes	Indoor: 11PM Sun.-Tues. 2:00AM Wed.- Sat.  Outdoor: 9:00 PM Sun - Thurs 10:00 Fri - Sat	160	Approved	Indoor/ Outdoor
Queens Way Soul Café (CP 112)	No	Yes	12:00 AM weekdays  2:00 AM weekends	148	Approved	Indoor

**Use Permit Application No. 16-00009**  
**Live Entertainment 2 in Conjunction with a Restaurant**  
**Comfort Zone Restaurant**  
**2165 Cunningham Drive, Hampton, VA 23664**

**1. Issuance of Permit**

The Use Permit applies only to the location at 2165 Cunningham Drive [LRSN 2003249] outlined in red 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 14' x 30' area indicated on the attached floor plan identified as "Stage," 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**

During the time that live entertainment is being provided, patronage and staff shall not exceed 322 people or the maximum capacity determined by a City building official, whichever is lower.

**5. Sound**

Live entertainment located at 2165 Cunningham Drive shall comply with City Code section 22-9 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 restaurant 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 with respect to dancing on the premises and dance floor area.

**9. Third Party Promoters**

Neither the facility nor any portion of it shall be leased, let, or used by any third party to stage an event for profit. No outside promoter shall be permitted to use, operate, rent, or host any event at the facility.



#### **10. Revocation**

Failure to comply with any conditions of this Use Permit shall constitute a violation of the provisions of Chapter 14 of the Zoning Ordinance and shall be cause for revocation of the use permit by City Council.

#### **11. Nullification**

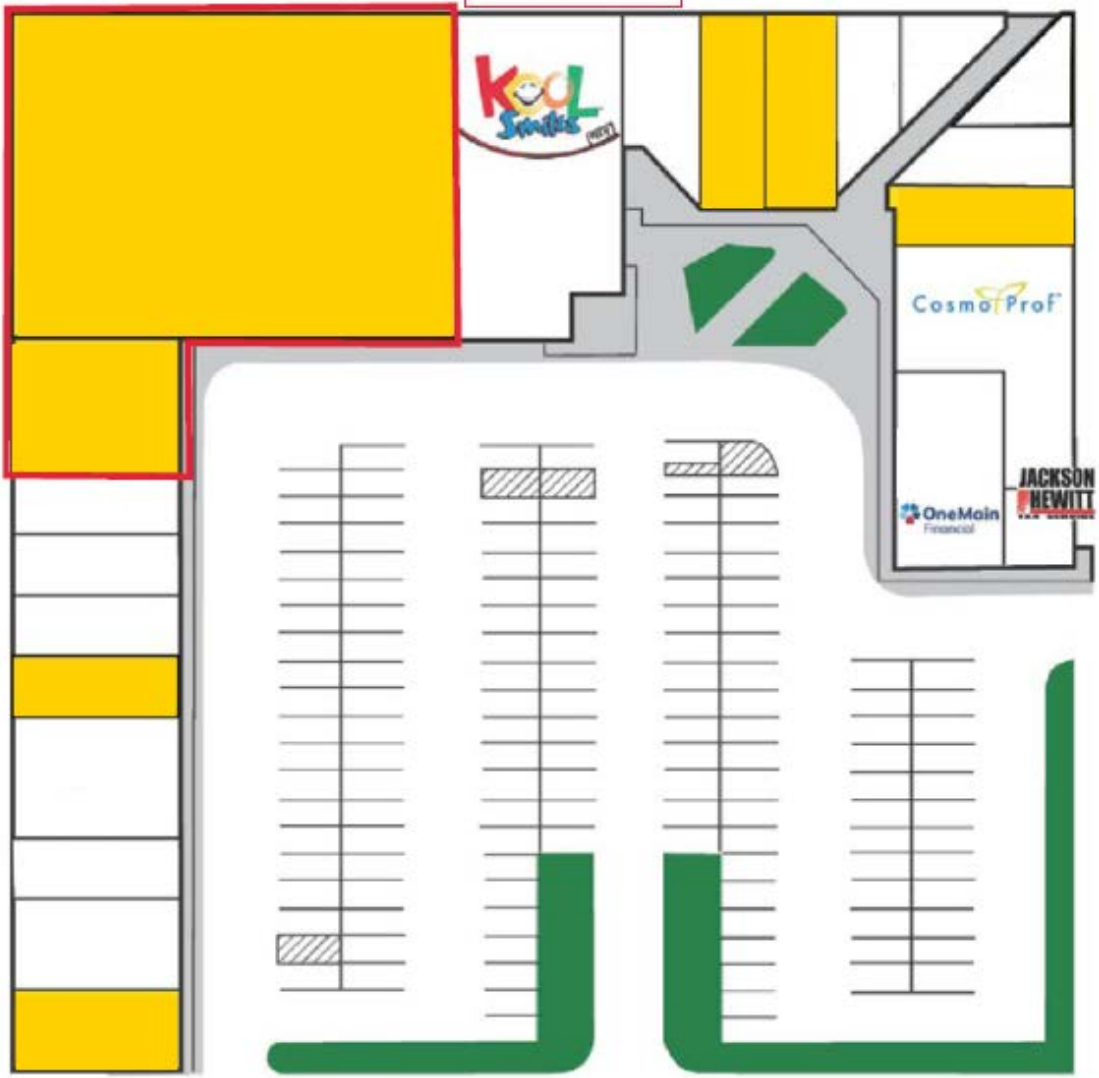
The use permit shall automatically expire and become null and void under any of the following conditions:

- (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 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

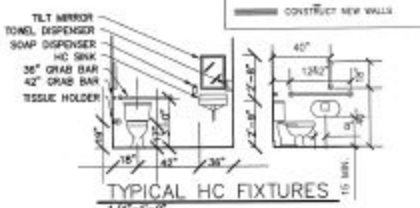
Exhibit A



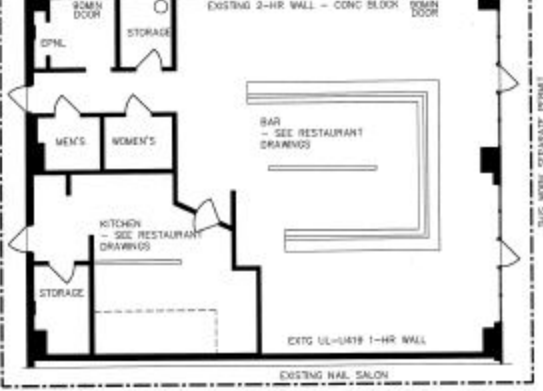
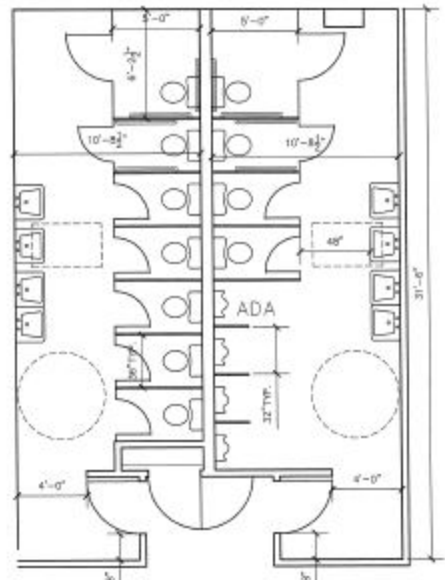
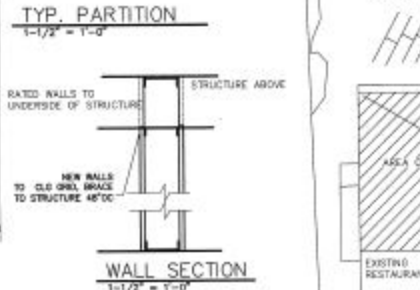
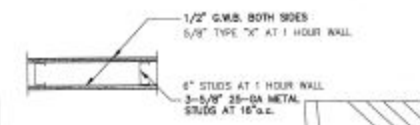
CUNNINGHAM DRIVE

USE GROUP: A2 RESTAURANT  
BUILDING IS SPRINKLED  
CONSTRUCTION TYPE IS 20  
OCCUPANT LOAD FOR DINING/EVENT SPACE IS 800 MAX.  
DINING/EVENT SPACE IS 13420SF  
100% OF BUILDING PERIMETER IS OPEN LAND/PARKING.  
ALL WORK AND SYSTEMS TO COMPLY WITH 2012 VIRGINIA REHABILITATION CODE

EXER. LITE SHOWN ON ELEC. PLAN  
EXIT SIGN R/W EMER LIGHT  
**PARTITION LEGEND**  
--- EXISTING WALLS TO REMAIN  
--- CONSTRUCT NEW WALLS



- DOORS:  
1 - 72" PAIR ALUM STOREFRONT, PAND BARS, CLOSERS, WEATHERSTRIP  
2 - 72" PAIR FLUSH METAL INSULATED, PAND BARS, CLOSERS, WEATHERSTRIP  
AND DRIP CAP, KEEP HOLES  
3 - 36" CORRIDOR 20-MINUTE DOORS, LEVER LOCKSET, GLOSS, BASEPLATE  
4 - 36" DOOR, LEVER LOCKSET  
5 - 36" DUTCH DOOR, LEVER LOCKSET



**FLOOR PLAN**  
1/8" = 1'-0"

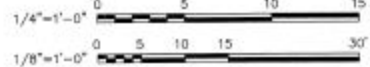
**GENERAL NOTES:**

- EGRESS DOORS INDICATED WILL BE READILY OPERABLE FROM THE INSIDE WITHOUT A KEY OR SPECIAL KNOWLEDGE.
- HANDICAP PARKING IS LOCATED AT PARKING IN FRONT OF ENTRY.
- SERVICE SINK IN UTILITY CLOSET.
- ACCESSIBLE TOILET SHALL COMPLY WITH SECTION 1110B.2.  
A) WATER CLOSET AND LAV USED FOR ACCESSIBLE USE.  
B) 5" TURNING RADIUS AND CLEARANCES AS SHOWN.  
C) GRAB BARS SHALL BE PROVIDED 33 INCHES ABOVE FLOOR. SIDE BAR WILL BE 48" LONG AND START 12" FROM SIDE WALL. REAR BAR SHALL BE 36" LONG AND BE CENTERED ON THE WATER CLOSET. 18" HERTY BAR 40" OUT, 40" UP.  
D) LAVATORY SHALL BE MOUNTED WITH RIM 34" ABOVE FLOOR AND 29" CLEAR UNDER FRONT FACE. LAVATORY FAUCET SHALL HAVE ADA PADDLE HANDLES. ACCESSIBLE KNEE AREA WILL BE INCLUDED BELOW WITH ALL EXPOSED PIPING AND SUPPORTS INSULATED.  
E) ALL TOILET ACCESSORIES AT THE PROPER HEIGHT. TOP OF WATER CLOSET SHALL BE 11" ABOVE THE FLOOR. HUBBARD WILL BE WITHIN 36" OF THE FLOOR AT THE BOTTOM EDGE.  
F) SIGNAGE WITH INTERNATIONAL SYMBOL OF ACCESSIBILITY AND HUBBARD.  
G) DOOR LOCK FOR ACCESSIBLE USE ON RESTROOM INTERIOR.
- ALL GLASS MUST COMPLY WITH IRC SECTION 2408 FOR SAFETY GLASS.
- LIGHTING  
EMERGENCY LIGHTING TO BE PROVIDED AT ALL OCCUPIED AREAS.  
EMERGENCY LIGHTING TO MEET UL924, NEC, OSHA AND NFPA.  
EMERGENCY WALL LIGHTING/FIXTURES MIN. 7'-0" APART.  
ELECTRICAL SUPPLY WITH TIMER TO BE PROVIDED TO EXTERIOR SIGNS.  
EXISTING EXTERIOR LIGHTING FOR FRONT AND BACK EXITS TO BE POWERED WITH A BATTERY-OPERATED EMERGENCY POWER SYSTEM THAT WILL OPERATE IN THE EVENT OF A POWER FAILURE.
- NEW WORK SHALL COMPLY WITH ICC/ANSI 1117.1.  
A) LEVER OR PUSH/PULL, 36-INCH DOORS - EACH LEAF, UNDO.  
B) THRESHOLD AND APPROVED DOOR CLOSER ON FRONT DOORS.  
30" WIDE KNEE-SPACE AT ADA  
34" HIGH COUNTER IN VESTIBULE

ENTIRE FACILITY TO BE NON-SMOKING  
WATER WILL BE SERVED FREE ON REQUEST  
TYPICAL NON-RATED INTERIOR PARTITION IS 3-5/8" METAL STUD WITH 1/2" GWS ON BOTH SIDES.

NON-COMBUSTIBLE 1-HOUR CORRIDOR WALLS. IBC DESIGN B405, DA #P1200  
ONE LAYER 5/8" THK 7" STS24M W/REINFORCED APPLIED PARALLEL OR AT RIGHT ANGLES TO EACH SIDE OF 3-5/8" WALL. GRADE 240C WITH 1" TYPE 5 (DRY) SANDWICH 8" IFC AT VERTICAL JOINTS AND 12" IFC AT FLOOR AND CEILING RUMBERS AND INTERMEDIATE STUDS.

**LOCATION PLAN**  
1" = 50'-0"



RECEIVED  
SEP 29 2015  
BY: *TTB*  
Bilo-00988  
C:\Users\ [Date] [Time]  
Date: September 29, 2015  
Design: ARB  
Drawn: ARB  
Checked: ARB  
Title: No. 9306-000000  
Scale: AS SHOWN  
Sheet 1 of 1  
FLOOR PLAN