



Memorandum

Date: February 28, 2013

To: SOUTHERN NEVADA DISTRICT BOARD OF HEALTH

From: Lorraine Forston, Environmental Health Specialist II *LF*
Susan LaBay, Environmental Health Supervisor *SL*
Glenn Savage, Director of Environmental Health *GS*
John Middaugh, M.D., Interim Chief Health Officer *JRC on behalf of Jm*

Petitioner: Cowabunga Bay Las Vegas Land, LLC, d/b/a Cowabunga Bay Water Park Las Vegas Operations, 7300 Fun Center Way, Tukwila, WA 98188
For Health Permits: PR0104086, PR0104426, PR0104427, PR0104428, PR0104429, PR0104430, PR0104431, PR0104432
Marvin Howell, Manager

Subject: Variance Request to Operate a Public Bathing Places not in Compliance with the Nevada Administrative Code (NAC) 444.214.1, NAC 444.214.2, NAC 444.278, NAC 444.133 and NAC 444.134 [Assessor's Parcel Number (APN) 161-35-402-014, 161-35-402-015]

I. BACKGROUND:

Cowabunga Bay Las Vegas Land, LLC, d/b/a Cowabunga Bay Water Park Las Vegas Operations is petitioning for a variance as requested by Marvin Howell, Manager, of the Cowabunga Bay Water Park Las Vegas (See Attachment A: Nevada Secretary of State Corporation Information), to operate eight public bathing places not in compliance with the Nevada Administrative Code (NAC) 444.214.1, which states in part: "... (a) For males: One water flush toilet, two water flush urinals and one lavatory is presumed adequate for the first 100 bathers. One water closet, one urinal and one lavatory must be provided for each additional 100 bathers or major fraction thereof ... (b) For females: Not less than three water flush toilets and one lavatory must be provided which will be assumed to be adequate for the first 100 bathers. Two water closets and one lavatory must be provided for each additional 100 bathers or major fraction thereof....," NAC 444.214.2, which states in part: "... minimum criteria for bathhouse plumbing facilities are based upon the anticipated maximum attendance in bathers....," NAC 444.278, which states in part: "... maximum number of bathers permitted within the pool enclosure must be posted at each facility. The number must be based on the area of the facility or on the sanitary facilities which are provided. The most restrictive regulation applies...." In addition, NAC 444.133, which states in part: "... (c) Be perpendicular to the

edge of the pool at any point where it meets the edge or, if the edge is curved at the point of intersection, to a tangent passing through that point...,” NAC 444.134, which states in part: “...a clear, unobstructed deck must be provided around the entire perimeter of a pool. In no case may the width of the deck be less than 4 feet (1.2 meters). A deck may be obstructed for a distance equal to not more than 10 percent of the perimeter of the pool if:(a) The design of the obstruction does not endanger the health or safety of persons using the pool; (b) An unobstructed area of deck not less than 4 feet wide is provided around or through the obstruction not more than 15 feet (4.55 meters) from the edge of the pool....” The public bathing places will be located on APN 161-35-402-014 and 161-35-402-015 (see Attachment C: Assessor’s Parcel Information, and Attachment D: Assessor’s Map), at 900 Galleria Drive, Henderson, Nevada.

II. RECOMMENDATION:

Staff is of the opinion that there exist circumstances which satisfy the requirements for a variance. The granting of this variance will not be detrimental or pose an unreasonable danger to public health and safety if the following conditions as recommended are included:

1. The petitioner agrees to increase the number of sanitary facilities should the Health Authority determine that current facilities are inadequate. Indicators of inadequate facilities include but are not limited to the following:
 - a. The patron wait time at the provided facilities exceeds three minutes
 - b. The sanitary conditions of the existing facilities cannot be maintained
 - c. The sanitary conditions of any body of water cannot be maintained
2. The petitioner agrees to increase the number of sanitary facilities as prescribed by the Health Authority according to the following timelines:
 - a. Shower heads will be added within one week of notification by the Health Authority
 - b. Restroom fixtures will be added within one calendar year of notification by the Health Authority to include: toilets, urinals and lavatories
3. The petitioner agrees to limit the park capacity to 1500 bathers should the Health Authority determine the existing facilities are inadequate
4. The petitioner agrees to maintain all other walkway area around the Lazy River accessible and free from obstruction
5. The petitioner agrees to adhere to all other applicable requirements of the Public Bathing Places Public Spa Regulations, NAC 444
6. Failure of the petitioner to prevent public health and safety issues, as determined by the Health Authority, will result in the revocation of this variance
7. The variance is automatically terminated without further notice upon the closing of any sale transaction involving the subject property, or upon petitioner leasing or assigning operation of these public bathing facilities to any other person or entity

III. CONDITIONS:

The petitioner request a variance (See Attachment B: Variance Application Letter) “...to provide 20% of the minimum required number of sanitary plumbing facilities...” and “... for the ability to eliminate the required 4 foot wide path around an obstruction on the decks to accommodate

ADA requirements and to allow bridges to be slightly skewed from the 90 degree requirements.”

NAC 439.240 Approved by board.

1. *The state board of health will grant a variance from a regulation only if it finds from the evidence presented at the hearing that:*
 - (a) *There are circumstances or conditions which:*
 - (1) *Are unique to the applicant*
 - (2) *Do not generally affect other persons subject to the regulation;*
 - (3) *Make compliance with the regulation unduly burdensome; and*
 - (4) *Cause of a hardship to and abridge a substantial property right of the applicant;*
and
 - (b) *Granting the variance:*
 - (1) *Is necessary to render substantial justice to the applicant and enable him to preserve and enjoy his property right; and*
 - (2) *Will not be detrimental or pose a danger to public health and safety.*
2. *Whenever an applicant for a variance alleges that he suffers or will suffer economic hardships by complying with the regulations, he must submit evidence demonstrating the costs of his compliance with the regulation. The board will consider the evidence and determine whether those costs are unreasonable. [Bd. Of Health, Variance Reg.§§ 2.7-2.8, eff. 10-16-80; A 2-5-82; 1-19-84]*

The petitioner states the following in regard to this requirement:

1. There must be circumstances or conditions which are unique to the applicant, and do not generally affect other persons subject to the regulation.

I.Bathroom Requirements: Because Nevada Administrative Code Chapter 444 does not specifically take into account waterparks the size and scope of Cowabunga Bay Las Vegas, when determining fixture counts, the code requires an unrealistic and impractical number of fixtures which makes it unfeasible to build and or operate a waterpark as per the NAC 444.

II.Unobstructed Deck/Bridges: The unique design of the waterpark requires bridges over the lazy river to provide access to its patrons to access the inside area of the lazy river. This includes access by handicap patrons over an ADA ramps that have been incorporated into the bridge design. The length of the bridge was designed to meet ADA requirements and to accommodate grade differences. The bridge is also designed to be wide enough to accommodate maintenance vehicles and food service carts. In order for the proposed bridge to meet NAC 444, ADA requirements and to accommodate reasonable maintenance and operational needs, Cowabunga Bay Las Vegas is requesting a variance for the ability to eliminate the required 4 foot wide path around the ADA ramps. The bridges are also designed to be slightly skewed from the 90 degrees to accommodate the necessary grade differences. The bridges meet other code requirements for the height from the water elevation and pool bottom, and does not pose a threat to anyone’s safety.

2. There must be circumstances or conditions which make compliance with the regulation unduly burdensome and cause a hardship to and abridge a substantial property right of the applicant, and the variance is necessary to render substantial justice to and preserve the property rights of the applicant.

I. Bathhouse Requirement Hardships:

- A. Compliance with this regulation would cause the following hardships to the business. The cost to construct bathhouses/restrooms to meet regulatory compliance would cost an estimated \$2.5 million. Also the required space to construct buildings to house the fixture count as per NAC 444 is not feasible or realistic to consider.
- B. In addition to the hardship incurred by the owner and operator by compliance with the regulation, the State of Nevada, Clark County and the City of Henderson will each realize negative impacts if this project is not build as summarized:
 - i. **Taxable Revenue:** Total Projected Taxable Revenue to the community is projected at \$10 million annually.
 - ii. **Community Business Revenue:** Total Operating Expenses where revenue generated into the community for services rendered are anticipated to be \$10-12 million annually.
 - iii. **Construction Revenue:** Total Economic Impact on the region during the construction phase is projected to be approximately \$30 million with contractors, hotels, food services, suppliers, banks and vendors contracting their services to the project.

II. Unobstructed Deck / Bridge Hardships:

- A. Compliance with NAC 444.1333 Bridge requirements, NAC 444.134 Decks, ADA requirements and reasonable maintenance and operation needs of the facility pose a significant hardship on the business. The bridges and ramps are designed to meet both ADA compliance to accommodate vehicles for reasonable maintenance and operations of the facility. Therefore, the design does not allow for a 4 foot wide unobstructed deck within 15 feet from the edge of the pool. This variance is requested in order for the facility to achieve ADA compliance.
- B. Compliance with NAC 444.133, 444.134, ADA requirements and for reasonable maintenance and operations of the facility will require excessive cost and affecting reasonable functionality for both its patrons, maintenance and operations crews. The cost to construct a bridge and ramps to accommodate these needs would cost hundreds of thousands of dollars making it unworkable.
- C. The required space to construct the ADA ramps and to meet the requirements of both NAC 444.134 Decks and NAC 444.1333 Bridges is not possible because of the amount of space required that will impact the flow of patron traffic within the waterpark causing a potential safety hazard.

D. In order to access the inside area of the Lazy River and to meet the NAC height requirements from water and pool floor elevations, the bridges are designed at a slight angle from the perpendicular edge requirements of NAC 444.133 2(c). The proposed angles are not to exceed +/- 20 degrees off the perpendicular edge of the pool.

3. Granting the variance will not be detrimental or pose a danger to the public health and safety.

I. Bathhouse Fixtures:

- a. Cowabunga Bay Las Vegas is providing three (3) separate restroom facilities, strategically placed throughout the park to make restrooms easily accessible to all patrons throughout the park. Included in the requested variance, Cowabunga Bay Las Vegas is providing six (6) unisex family restrooms, which are highly favored by waterpark patrons and allows parents with small children to more conveniently utilize the facilities.
- b. The proposed bathhouse fixture counts are in line with waterpark industry standards and the Uniform Plumbing Code. Cowabunga Bay Las Vegas is committed to provide adequate facilities to ensure its patrons are safe and have sanitary bathhouse facilities to use.

Fixtures	Men's				Women's			Family			
	Toilets	Urinals	Lavatories	Showers	Toilets	Lavatories	Showers	Toilets	Urinals	Lavatories	Showers
Required per NAC	69	69	69	172	138	69	172	-	-	-	-
UNIFORM PLUMBING CODE	9	11	8	-	32	8	-	-	-	-	-
PROPOSED FIXTURE COUNT											
Bathhouse	5	5	5	16	12	5	16	8	-	4	4
Secondary Restrooms	4	4	2	-	8	2	-	2	1	2	-
Ancillary Restrooms	1	2	1	-	3	1	-	-	-	-	-
Total Fixture Count	10	11	8	16	23	8	16	10	1	6	4

II. Unobstructed Decks / Bridges:

- a. Cowabunga Bay Las Vegas will use a third party safety compliance consultant to regularly evaluate and determine how to safely operate and staff the Lazy River with life guards to ensure the variance will not cause harm or safety issues to its patrons.
- b. The slightly angled bridge designs will not pose a threat to anyone's safety.


SL

Attachments:

- A: Nevada Secretary of State Corporate Information
- B: Variance Application Letter
- C: Assessor's Parcel Information
- D: Assessor's Map
- E: Affidavit of Public Notice
- F: Proposed Construction Site Map for Restrooms
- G: Proposed Construction Plan for Lazy River – Unobstructed Deck and Bridge Requirements
- H: Artist Rendition of Cowabunga Bay Park

Attachment A: Nevada Secretary of State Corporate Information

Entity Details - Secretary of State, Nevada



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Business Entity Information			
Status:	Active	File Date:	8/31/2012
Type:	Domestic Limited-Liability Company	Entity Number:	E0455692012-8
Qualifying State:	NV	List of Officers Due:	8/31/2013
Managed By:	Managing Members	Expiration Date:	
NV Business ID:	NV20121534373	Business License Exp:	8/31/2013

Registered Agent Information			
Name:	GREGORY S. SMITH LTD.	Address 1:	2520 ST ROSE PARKWAY SUITE 210
Address 2:		City:	HENDERSON
State:	NV	Zip Code:	89074
Phone:		Fax:	
Mailing Address 1:		Mailing Address 2:	
Mailing City:		Mailing State:	NV
Mailing Zip Code:			
Agent Type:	Commercial Registered Agent - Corporation		
Jurisdiction:	NEVADA	Status:	Active
View all business entities under this registered agent			

Officers <input checked="" type="checkbox"/> Include Inactive Officers			
Manager - MARV HOWELL			
Address 1:	2220 VILLAGE WALK DR. #3215	Address 2:	
City:	HENDERSON	State:	NV
Zip Code:	89052	Country:	
Status:	Active	Email:	
Manager - SCOTT HUISH			
Address 1:	7300 FUN CENTER WAY	Address 2:	

[http://nvsos.gov/sosentitysearch/CorpDetails.aspx?bx8nvq=3rFDan7mrit%252bIKXbKuktQ%253d%253d&nt7=0\[2/6/2013 7:46:19 AM\]](http://nvsos.gov/sosentitysearch/CorpDetails.aspx?bx8nvq=3rFDan7mrit%252bIKXbKuktQ%253d%253d&nt7=0[2/6/2013 7:46:19 AM])

Attachment A: Nevada Secretary of State Corporate Information

Entity Details - Secretary of State, Nevada

City:	TUKWILA	State:	WA
Zip Code:	98188	Country:	
Status:	Active	Email:	

Actions\Amendments

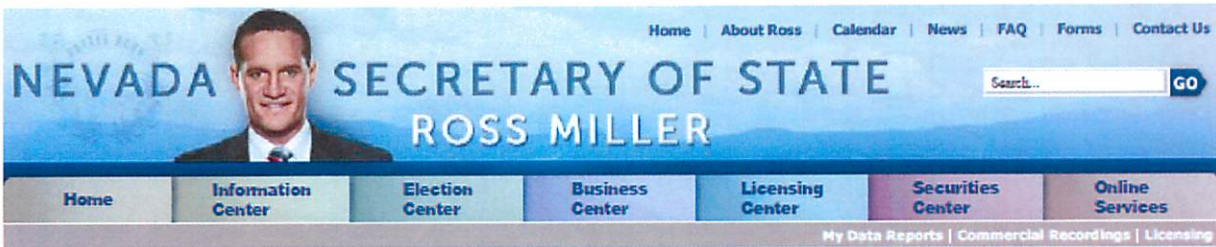
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Attachment A: Nevada Secretary of State Corporate Information



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Business Entity Information			
Status:	Active	File Date:	8/31/2012
Type:	Domestic Limited-Liability Company	Entity Number:	E0455682012-7
Qualifying State:	NV	List of Officers Due:	8/31/2013
Managed By:	Managing Members	Expiration Date:	
NV Business ID:	NV20121534360	Business License Exp:	8/31/2013

Registered Agent Information			
Name:	GREGORY S. SMITH LTD.	Address 1:	2520 ST ROSE PARKWAY SUITE 210
Address 2:		City:	HENDERSON
State:	NV	Zip Code:	89074
Phone:		Fax:	
Mailing Address 1:		Mailing Address 2:	
Mailing City:		Mailing State:	NV
Mailing Zip Code:			
Agent Type:	Commercial Registered Agent - Corporation		
Jurisdiction:	NEVADA	Status:	Active
View all business entities under this registered agent			

Officers		<input checked="" type="checkbox"/> Include Inactive Officers
Manager - MARV HOWELL		
Address 1:	2220 VILLAGE WALK DR. #3215	Address 2:
City:	HENDERSON	State: NV
Zip Code:	89052	Country:
Status:	Active	Email:
Manager - SCOTT HUISH		
Address 1:	7300 FUN CENTER WAY	Address 2:

[http://nvsos.gov/sosentitysearch/CorpDetails.aspx?b&nvq=u7OygVc3RvRtdqQJNz1FIQ%253d%253d&nt7=0\[2/5/2013 4:42:42 PM\]](http://nvsos.gov/sosentitysearch/CorpDetails.aspx?b&nvq=u7OygVc3RvRtdqQJNz1FIQ%253d%253d&nt7=0[2/5/2013 4:42:42 PM])

Attachment A: Nevada Secretary of State Corporate Information

City:	TUKWILA	State:	WA
Zip Code:	98188	Country:	
Status:	Active	Email:	

Actions/Amendments

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February 28, 2013

Attachment B: Variance Application Letter



December 18, 2012

Glenn D. Savage, REHS
Environmental Health Director
Southern Nevada Health District
330 S. Valley View Blvd.
Las Vegas, NV 89127

Re: Cowabunga Bay Las Vegas Operations, LLC

- I. Request for variance on Bathhouses: NAC 444.214.1, NAC 444.214.2 and NAC 444.278.

-Wave Pool	-Raft Slide	-MLPS Wet
-Lazy River	-Kids Activity	-Deck
-Mat Slides	-Pool	-VIP Pool
-Tube Slide		
- II. Request for variance on Unobstructed Decks & Bridges: NAC 444.134, NAC 444.133

Dear Mr. Savage;

Please accept this letter as a request for the two variances referenced above.

- I. A variance on bathhouse requirements submitted on behalf of Cowabunga Bay Las Vegas Operations, LLC. The owner specifically requests a variance from NAC 444.214.1, NAC 444.214.2 and NAC 444.278 for the bodies of water listed above.

The requested variance is for the ability to provide a realistic number of sanitary plumbing facilities to reasonably accommodate a waterpark facility the size of Cowabunga Bay Las Vegas, which is not specifically address in NAC 444.

The sanitary plumbing facilities comparison matrix for Cowabunga Bay Las Vegas is as follows:

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Fixtures	Men's				Women's		
	Toilets	Urinals	Lavatories	Showers	Toilets	Lavatories	Showers
Required per NAC	69	69	69	172	138	69	172
Variance Request per Submitted Plan	15	12	11	21	28	11	21

The sections of the Nevada Administration Code that apply to the request for a variance are:

NAC 444.214 Minimum sanitary plumbing facilities. (NRS 439.200, 444.070)

1. Minimum sanitary plumbing facilities must be provided at each public bathing or swimming facility as follows:
 - (a) For males: One water flush toilet, two water flush urinals and one lavatory is presumed adequate for the first 100 bathers. One water closet, one urinal and one lavatory must be provided for each additional 100 bathers or major fraction thereof. Not less than two shower heads must be provided which will be assumed to be adequate for the first 80 bathers. One additional shower head must be provided for each additional 40 bathers.
 - (b) For females: Not less than three water flush toilets and one lavatory must be provided which will be assumed to be adequate for the first 100 bathers. Two water closets and one lavatory must be provided for each additional 100 bathers or major fraction thereof. Not less than two shower heads must be provided which is presumed to be adequate for the first 80 bathers. One shower head must be added for each 40 additional bathers.
 - (c) Fixture schedules should be increased for facilities at schools or other similar locations where bather loads may reach peaks due to schedules of use.
2. These minimum criteria for bathhouse plumbing facilities are based upon the anticipated maximum attendance in bathers.

NAC 444.278 Capacity. (NRS 439.200, 444.070)

1. For the purpose of determining the capacity of any pool in a public bathing or swimming facility, those portions of the pool less than 5 feet (1.52 meters) deep or from the breakpoint to the shallow end is designated as the "nonswimming" area and the portion of the pool more than 5 feet (1.52 meters) deep or from the breakpoint to the deep end is designated as the "swimming" area.
2. The maximum number of bathers permitted within the pool enclosure at one time must be based on the following formula:

$$\text{Maximum Bathing Load} = \frac{\text{Nonswimming Area (ft.}^2\text{)}}{10} + \frac{\text{Swimming Area (ft.}^2\text{)}}{24}$$

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3. *The health authority may make additional allowance in cases of facilities with extensive deck areas used by patrons for lounging or sunbathing.*
4. *The maximum number of bathers permitted within the pool enclosure must be posted at each facility. The number must be based on the area of the facility or on the sanitary facilities which are provided. The most restrictive regulation applies.*
5. *The owner of the facility is responsible for seeing that the maximum capacity is not exceeded.*

Because Nevada Administrative Code Chapter 444 does not specifically take into account waterparks the size and scope of Cowabunga Bay Las Vegas, when determining fixture counts, the code requires an unrealistic and impractical number of fixtures which makes it unfeasible to build and or operate a waterpark as per the NAC 444.

Cowabunga Bay Las Vegas has researched and proposed a realistic fixture count that is in line with waterpark industry standards. In addition, Cowabunga Bay Las Vegas is providing three (3) separate restroom facilities, strategically placed throughout the park to make restrooms easily accessible to all patrons throughout the park. Included in the requested variance, Cowabunga Bay Las Vegas is providing six (6) unisex family restrooms, which are highly favored by waterpark patrons and allows parents with small children to more conveniently utilize the facilities.

Compliance with this regulation would cause the following hardships to the business. The cost to construct bathhouses/restrooms to meet regulatory compliance would cost an estimated \$2.5 million. Also the required space to construct buildings to house the fixture count as per NAC 444 is not feasible or realistic to consider.

In addition to the hardship incurred by the owner and operator by compliance with the regulation, the State of Nevada, Clark County and the City of Henderson will each realize negative impacts if this project is not build as summarized:

- a. **Taxable Revenue:** Total Projected Taxable Revenue to the community is projected at \$10 million annually.
- b. **Community Business Revenue:** Total Operating Expenses where revenue generated into the community for services rendered are anticipated to be \$10-12 million annually.
- c. **Construction Revenue:** Total Economic Impact on the region during the construction phase is projected to be approximately \$30 million with contractors, hotels, food services, suppliers, banks and vendors contracting their services to the project

The proposed bathhouse fixture counts are in line with waterpark industry standards. Cowabunga Bay Las Vegas is committed to provide adequate facilities to ensure its patrons are safe and have sanitary bathhouse facilities to use.

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Fixtures	Proposed Fixture Count											
	Men's				Women's				Family			
	Toilets	Urinals	Lavatories	Showers	Toilets	Lavatories	Showers	Toilets	Urinals	Lavatories	Showers	
Bathhouse	5	5	5	16	12	5	16	8	-	4	4	
Secondary Restrooms	4	4	2	-	8	2	-	2	1	2	-	
Ancillary Restrooms	1	2	1	-	3	1	-	-	-	-	-	
Total Fixture Count	10	11	8	16	23	8	16	10	1	6	4	

A variance on the "Unobstructed Deck" and "Bridge" requirements submitted on behalf of Cowabunga Bay Las Vegas Operations, LLC. The owner specifically requests a variance from NAC 444.133 and 444.134 for the above referenced bodies of water.

The requested variance is for the ability to eliminate the required 4 foot wide path around an obstruction on the decks to accommodate ADA requirements and to allow bridges to be slightly skewed from the 90 degrees requirements.

The section of the Nevada Administration Code that applies to the request for a variance is:

NAC 444.134 Decks. (NRS 439.200, 444.070)

1. Except as otherwise provided in this subsection and in NAC 444.196 and 444.199, a clear, unobstructed deck must be provided around the entire perimeter of a pool. In no case may the width of the deck be less than 4 feet (1.2 meters). A deck may be obstructed for a distance equal to not more than 10 percent of the perimeter of the pool if:
 - (a) The design of the obstruction does not endanger the health or safety of persons using the pool;
 - (b) An unobstructed area of deck not less than 4 feet wide is provided around or through the obstruction not more than 15 feet (4.55 meters) from the edge of the pool; and
 - (c) Written approval for the obstruction is obtained from the health authority before construction or installation of the obstruction.
2. The paved area of the deck must extend not less than 4 feet (1.2 meters) from both sides and rear of any diving board or its appurtenances.
3. The surface of the paved deck must not drain into the pool or the overflow gutter. Drainage must be conducted from the deck in a manner that will not create muddy, hazardous or objectionable conditions. Decks must slope on a

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minimum slope of 1/4 inch per foot (2 percent) to the drains to points at which the water will have a free, unobstructed flow to points of disposal at all times. If deck drains are provided, they must be spaced or arranged so that not more than 400 square feet (37.2 square meters) of area is tributary to each drain and drains must not be more than 25 feet (7.6 meters) apart. Drainage from the decks must not be returned to the recirculation system.

- 4. The deck must have a slip-resistant surface that can be cleaned by hosing and causes no discomfort to bare feet.*
- 5. Provision must be made to prevent the drainage of materials from lawns or landscaped areas onto the pool decks or into the pool.*

The unique design of the waterpark requires a bridge over the lazy river to provide access to its patrons to access the inside area of the lazy river. This includes access by handicap patrons over an ADA ramps that have been incorporated into the bridge design. The length of the bridge was designed to meet ADA requirements and to accommodate grade differences. The bridge is also designed to be wide enough to accommodate maintenance vehicles and food service carts. In order for the proposed bridge to meet NAC 444, ADA requirements and to accommodate reasonable maintenance and operational needs, Cowabunga Bay Las Vegas is requesting a variance for the ability to eliminate the required 4 foot wide path around the ADA ramps. The bridges are also designed to be slightly skewed from the 90 degrees to accommodate the necessary grade differences. The bridges still meet other code requirements for the height from the water elevation and pool bottom, and does not pose a threat to anyone's safety.

Cowabunga Bay Las Vegas will use a third party safety compliance consultant to regularly evaluate and determine how to safely operate and staff the Lazy River with life guards to ensure the variance will not cause harm or safety issues to its patrons. In addition the slightly angled bridge designs will not pose a threat to anyone's safety.

Compliance with NAC 444.1333 Bridge requirements, NAC 444.134 Decks, ADA requirements and reasonable maintenance and operation needs of the facility pose a significant hardship on the business. The bridges and ramps are design to meet both ADA compliance to accommodate vehicles for reasonable maintenance and operations of the facility. Therefore, the design does not allow for a 4 foot wide unobstructed deck within 15 feet from the edge of the pool. This variance is requested in order for the facility to achieve ADA compliance.

Compliance with NAC 444.133, 444.134, ADA requirements and for reasonable maintenance and operations of the facility will requires excessive cost and affecting reasonable functionality for both its patrons, maintenance and operations crews. The cost to construct a bridge and ramps to accommodate these needs would cost hundreds of thousands of dollars making it unworkable.

The required space to construct the ADA ramps and to meet the requirements of both NAC 444.134 Decks and NAC 444.1333 Bridges is not possible because of the amount of space required that will impact the flow of patron traffic within the waterpark causing a potential safety hazard.

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In order to access the inside area of the Lazy River and to meet the NAC height requirements from water and pool floor elevations, the bridges are designed at a slight angle from the perpendicular edge requirements of NAC 444.133 2(c). The proposed angles are not to exceed +/- 20 degrees off the perpendicular edge of the pool.

Cowabunga Bay Las Vegas is committed to providing a fun and safe facilities that can be enjoyed by all patrons including those that are handicap.

Thank you for considering this request for a variance. Please contact me if you need additional information concerning this matter.

Sincerely,


Marvin H. Howell

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February 28, 2013

Attachment C: Assessor's Parcel Information

Clark County Real Property

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GENERAL INFORMATION	
PARCEL NO.	161-35-402-014
OWNER AND MAILING ADDRESS	COWABUNGA BAY L V LAND L L C %WEST COAST WATER PARKS LLC %S HUI SH 7306 FUN CENTER WAY TUKWILA WA 98188-5581
LOCATION ADDRESS CITY/UNINCORPORATED TOWN	900 W GALLERIA DR HENDERSON
ASSESSOR DESCRIPTION	PARCEL MAP FILE 116 PAGE 90 LOT 2 SEC 35 TWP 21 RNG 62
RECORDED DOCUMENT NO.	* 20120907:02714
RECORDED DATE	09/07/2012
VESTING	NO STATUS

*Note: Only documents from September 15, 1999 through present are available for viewing.

ASSESSMENT INFORMATION AND SUPPLEMENTAL VALUE	
TAX DISTRICT	523
APPRAISAL YEAR	2012
FISCAL YEAR	12-13
SUPPLEMENTAL IMPROVEMENT VALUE	0
SUPPLEMENTAL IMPROVEMENT ACCOUNT NUMBER	N/A

REAL PROPERTY ASSESSED VALUE		
FISCAL YEAR	2012-13	2013-14
LAND	519325	503576
IMPROVEMENTS	0	0
PERSONAL PROPERTY	0	0
EXEMPT	0	0
GROSS ASSESSED (SUBTOTAL)	519325	503576
TAXABLE LAND+IMP (SUBTOTAL)	1483786	1438789
COMMON ELEMENT ALLOCATION ASSD	0	0
TOTAL ASSESSED VALUE	519325	503576
TOTAL TAXABLE VALUE	1483786	1438789

ESTIMATED LOT SIZE AND APPRAISAL INFORMATION	
ESTIMATED SIZE	11.01 Acres
ORIGINAL CONST. YEAR	0
LAST SALE PRICE MONTH/YEAR	4647444 09/12
LAND USE	0-00 VACANT
DWELLING UNITS	0

<http://sandgate.co.clark.nv.us/assrealprop/ParcelDetail.aspx?hdnParcel=161-35-402-014&h...> 2/6/2013

Attachment C: Assessor's Parcel Information

Clark County Real Property

Page 1 of 1

GENERAL INFORMATION	
<u>PARCEL NO.</u>	161-35-402-015
<u>OWNER AND MAILING ADDRESS</u>	COWABUNGA BAY L V LAND L L C %WEST COAST WATER PARKS LLC %S HUI SH 7300 FUN CENTER WAY TUKWILA WA 98188-5581
<u>LOCATION ADDRESS</u> <u>CITY/UNINCORPORATED TOWN</u>	HENDERSON
<u>ASSESSOR DESCRIPTION</u>	PARCEL MAP FILE 116 PAGE 90 LOT 3 SEC 35 TWP 21 RNG 62
<u>RECORDED DOCUMENT NO.</u>	* 20120907:02714
<u>RECORDED DATE</u>	09/07/2012
<u>VESTING</u>	NO STATUS

*Note: Only documents from September 15, 1999 through present are available for viewing.

ASSESSMENT INFORMATION AND SUPPLEMENTAL VALUE	
<u>TAX DISTRICT</u>	523
<u>APPRAISAL YEAR</u>	2012
<u>FISCAL YEAR</u>	12-13
<u>SUPPLEMENTAL IMPROVEMENT VALUE</u>	0
<u>SUPPLEMENTAL IMPROVEMENT ACCOUNT NUMBER</u>	N/A

REAL PROPERTY ASSESSED VALUE		
<u>FISCAL YEAR</u>	2012-13	2013-14
<u>LAND</u>	519325	503576
<u>IMPROVEMENTS</u>	0	0
<u>PERSONAL PROPERTY</u>	0	0
<u>EXEMPT</u>	0	0
<u>GROSS ASSESSED (SUBTOTAL)</u>	519325	503576
<u>TAXABLE LAND+IMP (SUBTOTAL)</u>	1483786	1438789
<u>COMMON ELEMENT ALLOCATION ASSD</u>	0	0
<u>TOTAL ASSESSED VALUE</u>	519325	503576
<u>TOTAL TAXABLE VALUE</u>	1483786	1438789

ESTIMATED LOT SIZE AND APPRAISAL INFORMATION	
<u>ESTIMATED SIZE</u>	11.01 Acres
<u>ORIGINAL CONST. YEAR</u>	0
<u>LAST SALE PRICE</u> <u>MONTH/YEAR</u>	4647444 09/12
<u>LAND USE</u>	0-00 VACANT
<u>DWELLING UNITS</u>	0

<http://sandgate.co.clark.nv.us/assrrealprop/ParcelDetail.aspx?hdnParcel=161-35-402-015&h...> 2/6/2013

[illegible]

BEING A MERGER AND RESUBDIVISION OF PARCELS "2A" AND "2B" OF PARCEL MAP FILE 87, PAGE 68, LOCATED WITHIN THE SOUTH HALF (S 1/2) OF SECTION 34, TOWNSHIP 21 SOUTH, RANGE 02 EAST, N.M., CITY OF HENDERSON, CLARK COUNTY, NEVADA.

THE COMPANY HAS A 50% INTEREST IN THE ST. LOUIS LUMBER COMPANY, WHICH MANUFACTURES LUMBER, AND A 50% INTEREST IN THE ST. LOUIS LUMBER COMPANY, WHICH MANUFACTURES LUMBER, AND A 50% INTEREST IN THE ST. LOUIS LUMBER COMPANY, WHICH MANUFACTURES LUMBER.

[illegible]

DECLARED UNDER A SPECIAL AUTHORITY OF THE FEDERAL BUREAU OF INVESTIGATION, U.S. DEPARTMENT OF JUSTICE, AND IN ACCORDANCE WITH THE PROVISIONS OF THE NATIONAL DEFENSE EDUCATION ACT, AS AMENDED, 20 USC 1621-1628.

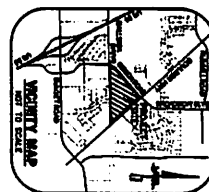
DATE: 2-28-78

SIGNATURE: [Signature]

TITLE & NAME: ASSISTANT ATTORNEY GENERAL

FILE NO.: 5-1409

Country of Origin: USA
 Date of Issue: 1-27-81
 The undersigned hereby certifies that the above information is true and correct to the best of his knowledge and belief.
 Signature: [Signature]
 Title: President
 Name of Company: AMERICAN ELECTRIC COMPANY, INC.
 Address: 1000 N. 10th St., Milwaukee, WI 53233
 Telephone: (414) 224-1000
 Fax: (414) 224-1000
 E-mail: amercorp@aol.com
 Website: www.amercorp.com
 I hereby certify that the above information is true and correct to the best of my knowledge and belief.
 Signature: [Signature]
 Title: President
 Name of Company: AMERICAN ELECTRIC COMPANY, INC.
 Address: 1000 N. 10th St., Milwaukee, WI 53233
 Telephone: (414) 224-1000
 Fax: (414) 224-1000
 E-mail: amercorp@aol.com
 Website: www.amercorp.com

[illegible][illegible][illegible]

1. The above information was obtained from the files of the Federal Bureau of Investigation, New York Office, and is being furnished to you for information only.
2. The above information was obtained from the files of the Federal Bureau of Investigation, New York Office, and is being furnished to you for information only.
3. The above information was obtained from the files of the Federal Bureau of Investigation, New York Office, and is being furnished to you for information only.
4. The above information was obtained from the files of the Federal Bureau of Investigation, New York Office, and is being furnished to you for information only.



1. DATE 10/1/79
 2. TO MR. J. E. HARRIS
 3. FROM MR. J. E. HARRIS
 4. SUBJECT RE: J. E. HARRIS
 5. REMARKS RE: J. E. HARRIS
 6. INITIALS RE: J. E. HARRIS
 7. SIGNATURE RE: J. E. HARRIS
 8. DATE RE: J. E. HARRIS
 9. TIME RE: J. E. HARRIS
 10. LOCATION RE: J. E. HARRIS
 11. OFFICE RE: J. E. HARRIS
 12. STATUS RE: J. E. HARRIS
 13. REMARKS RE: J. E. HARRIS
 14. INITIALS RE: J. E. HARRIS
 15. SIGNATURE RE: J. E. HARRIS
 16. DATE RE: J. E. HARRIS
 17. TIME RE: J. E. HARRIS
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 20. STATUS RE: J. E. HARRIS
 21. REMARKS RE: J. E. HARRIS
 22. INITIALS RE: J. E. HARRIS
 23. SIGNATURE RE: J. E. HARRIS
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 129. TIME RE: J. E. HARRIS
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 131. OFFICE RE: J. E. HARRIS
 132. STATUS RE: J. E. HARRIS
 133. REMARKS

William J. Quinn / Vice

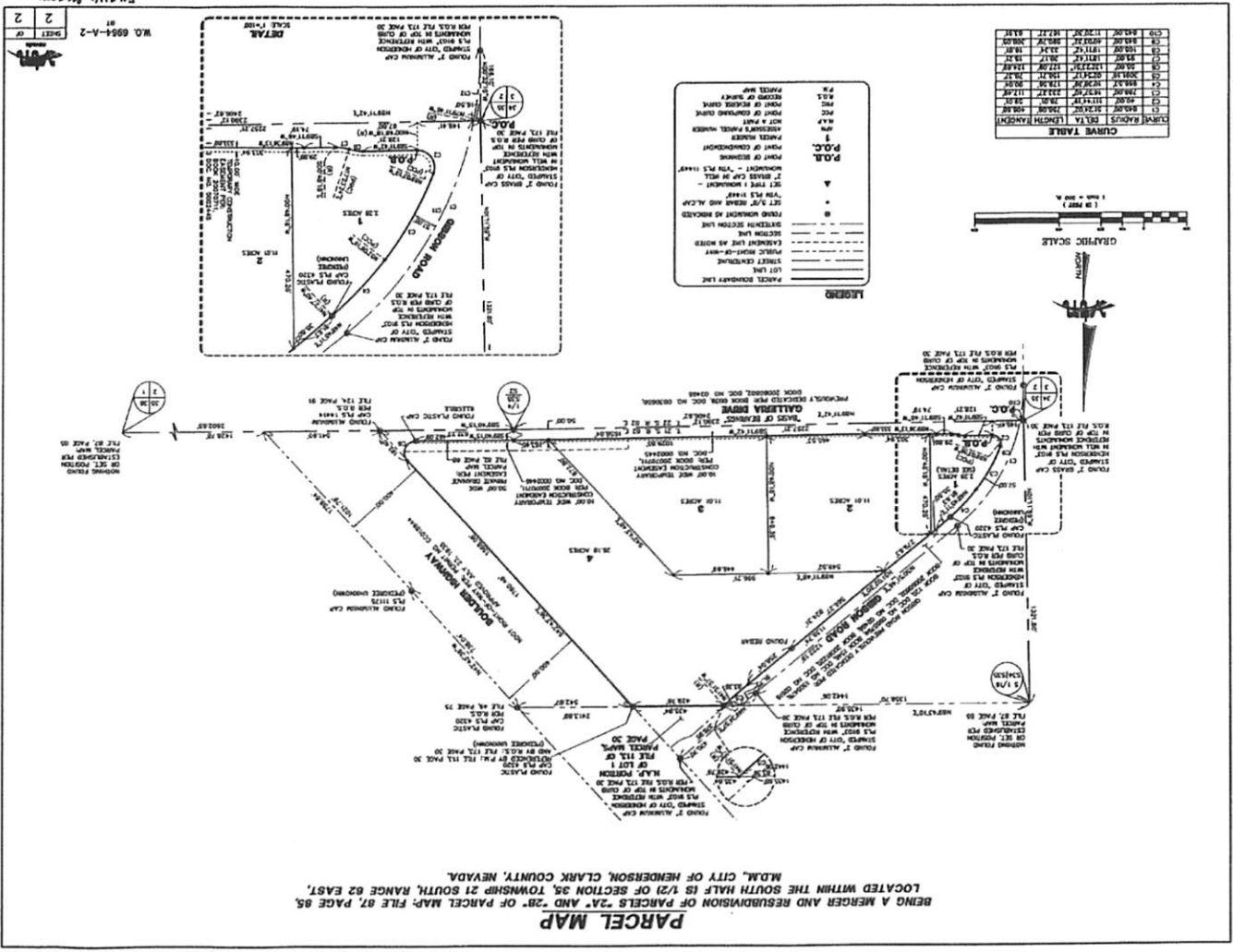
COMMUNITY SERVICE BOARD
CITY OF KANSAS CITY

6/19/2007
5841

any business interests in the city or county and are not interested by reason of being County Records Commission and not

[illegible]

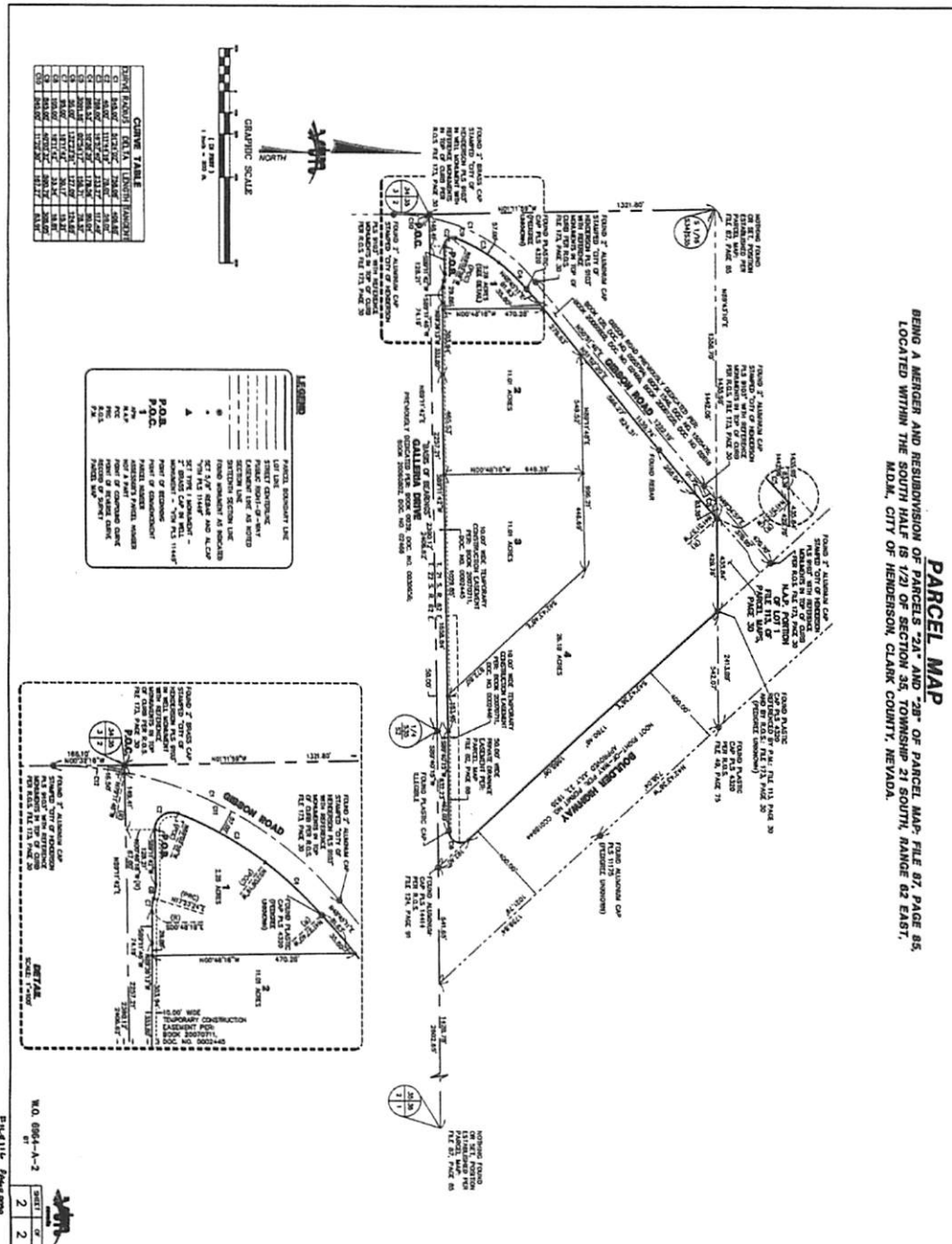
Attachment D: Assessor's Map



Attachment D: Assessor's Map

21

PARCEL MAP
BEING A MERGER AND RESUBDIVISION OF PARCELS "A" AND "B" OF PARCEL MAP FILE 87, PAGE 95,
LOCATED WITHIN THE SOUTH HALF (S 1/2) OF SECTION 35, TOWNSHIP 21 SOUTH, RANGE 02 EAST,
MDM, CITY OF HENDERSON, CLARK COUNTY, NEVADA.



February 28, 2013

Attachment E: Affidavit of Public Notice

AFFIDAVIT OF PUBLICATION

STATE OF NEVADA)
COUNTY OF CLARK) SS:

Stacey M. Lewis, being 1st duly sworn, deposes and says: That she is the Legal Clerk for the Las Vegas Review-Journal and the Las Vegas Sun, daily newspapers regularly issued, published and circulated in the City of Las Vegas, County of Clark, State of Nevada, and that the advertisement, a true copy attached for,

SOUTHERN NEVADA HEALTH DIST 7591204SOU 8297576

was continuously published in said Las Vegas Review-Journal and / or Las Vegas Sun in 1 edition(s) of said newspaper issued from 01/09/2013 to 01/09/2013, on the following days:

01/09/2013

SNHD
Southern Nevada Health District

PUBLIC NOTICE

The Southern Nevada Health District Board of Health will conduct a PUBLIC HEARING on Thursday, FEBRUARY 28, 2013 at 8:30 a.m., during its monthly meeting held at 330 S. VALLEY VIEW BOULEVARD, LAS VEGAS, NEVADA 89107 to approve or deny a variance request to operate a public bathing place not in compliance for Cowabunga Bay LV Land, LLC dba Cowabunga Bay Water Park, located at 900 W. Gibson Rd and Galleria Dr. PARCEL MAP FILE 116 PAGE 90, LOT 2, Henderson, NV, APN 161-35-402-014. Note, if this application is not presented at the February 28, 2013 meeting, it will be presented at the March 28, 2013 meeting.

This variance request is made to allow the Petitioner to construct and operate public bathing places which are not in accordance with Nevada Administrative Code (NAC) 444 Public Bathing Places and Public Spas: NAC 444.134 Decks, except as otherwise provided in NAC 444.196, 444.199; NAC 444.212 General Requirements; NAC 444.214 Minimum Sanitary Plumbing Facilities; NAC 444.224 Entrances and Exits; and NAC 444.290 Spectators and Non-bathers.

Interested persons may appear at the public hearing and present their views thereon. Written comments will also be considered by the Southern Nevada Health District Board of Health and must be forwarded to Lorraine Forston, Environmental Health Specialist, Southern Nevada Health District, P.O. Box 3902, Las Vegas, Nevada 89127-3902, no later than February 14, 2013. The variance application request is available for review at the Southern Nevada Health District, Environmental Health Division, 330 S. Valley View Blvd, Las Vegas, NV 89107.

If there are special viewing needs, please contact Phyllis Crittenden at (702) 759-0609 to schedule an appointment to review the permit application during normal business hours of 8:00 a.m. to 4:00 p.m. Copies of documents may be requested during that time for \$1.00 per page.

Glenn D. Savage, R.E.H.S.,
Environmental Health Director
Southern Nevada Health District

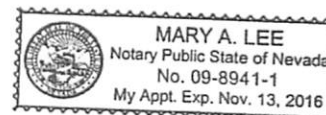
PUB: January 9, 2013
LV Review-Journal

Signed: _____

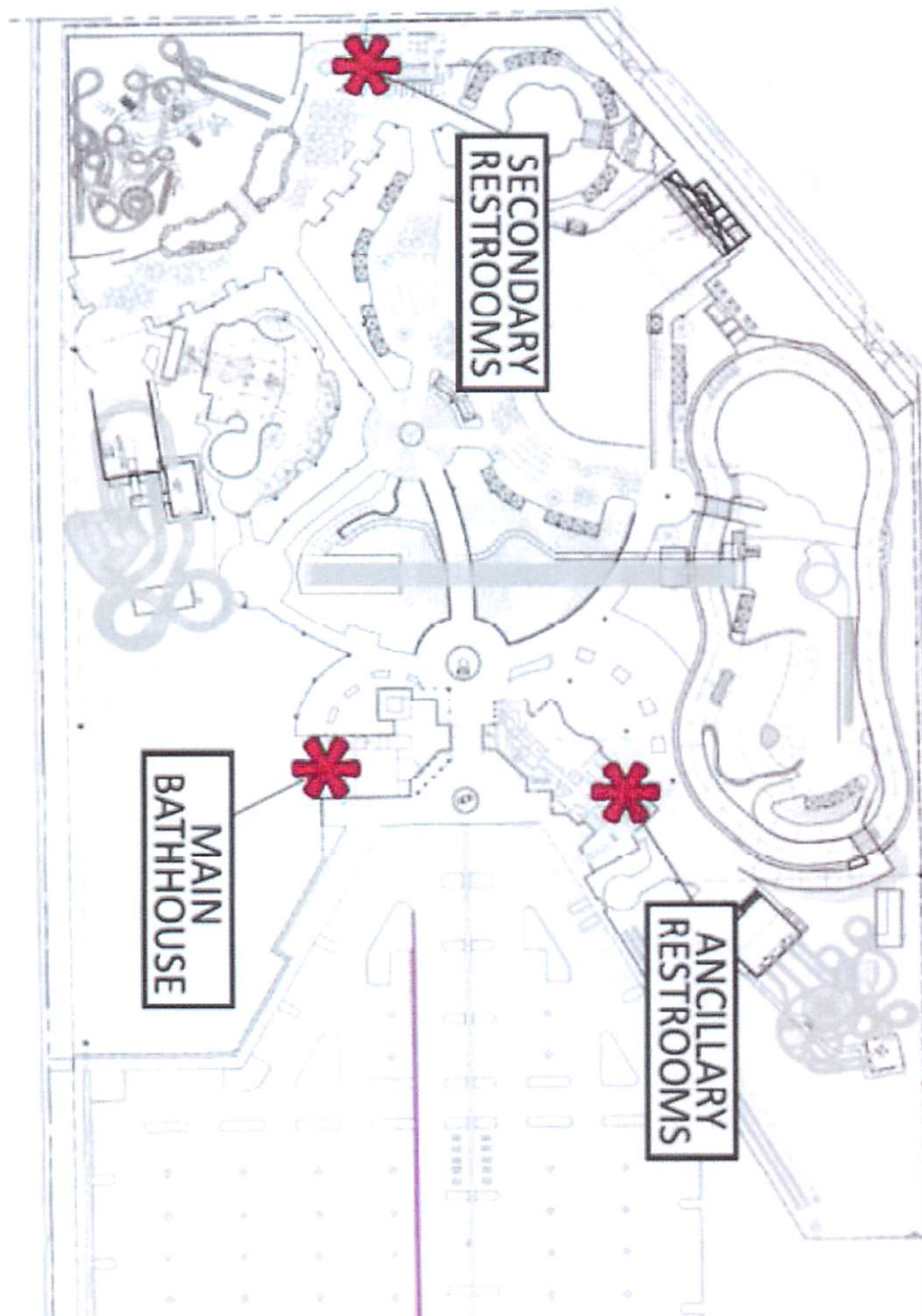
SUBSCRIBED AND SWORN BEFORE ME THIS, THE

9th day of Jan, 2013.

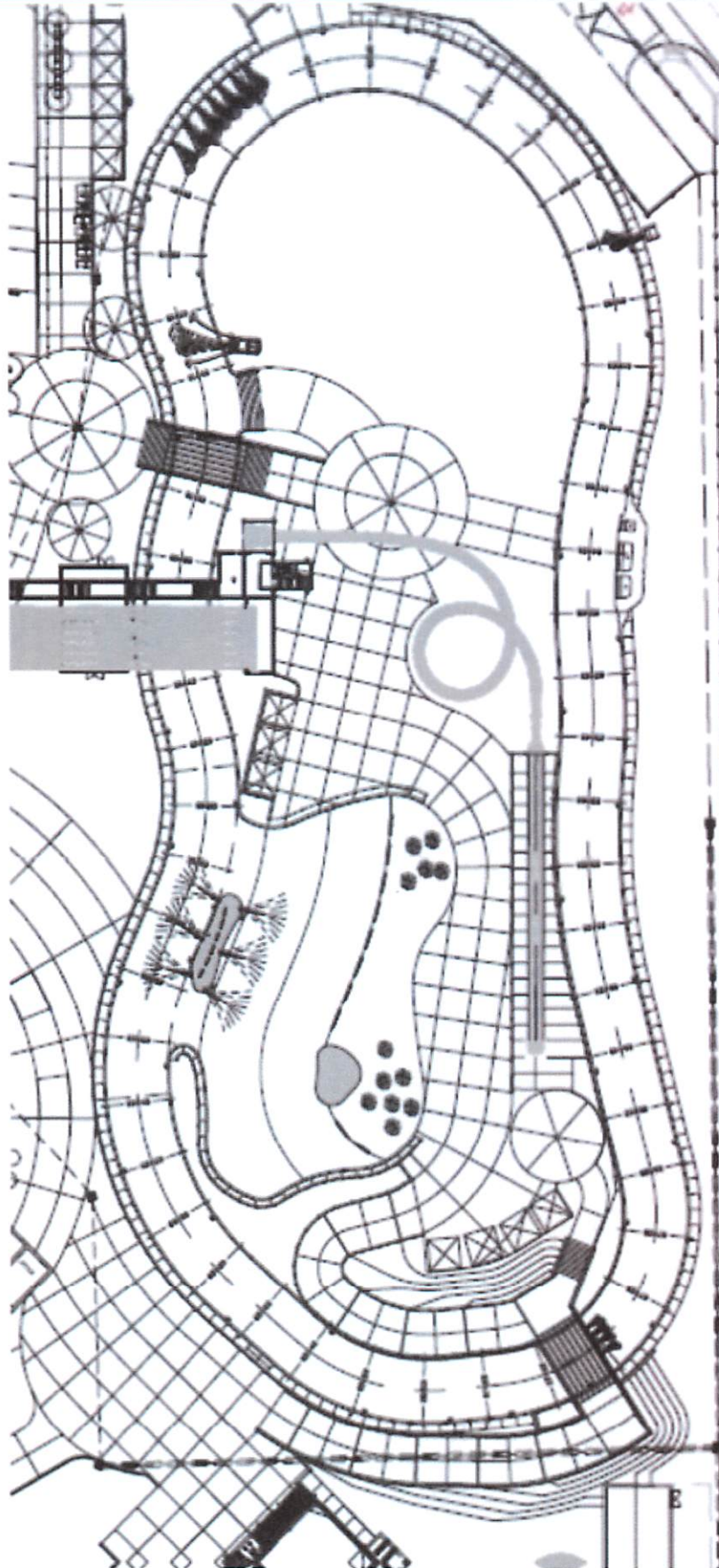
Notary Public



Attachment F: Proposed Construction Site Map for Restrooms



Attachment G: Proposed Construction Plan for Lazy River – Unobstructed Deck and Bridge



Attachment H: Artist Rendition of Cowabunga Bay Park Requirements

