



# Memorandum

**Date:** March 22, 2018

**To:** SOUTHERN NEVADA DISTRICT BOARD OF HEALTH

**From:** Jeremy Harper, REHS, Environmental Health Supervisor  
Karla Shoup, REHS, Environmental Health Manager  
Jacqueline Reszetar, REHS, Director of Environmental Health  
Joseph P. Iser, MD, DrPH, MSc, Chief Health Officer

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**Subject:** Variance Request to Operate Public Bathing Places not in Compliance with the Nevada Administrative Code (NAC) 444.128, 444.134, and 444.168; O & O Enterprises, LLC, dba SwimLabs Las Vegas, located at 10640 Southern Highlands Parkway, Las Vegas, Nevada 89141; [Assessor's Parcel Number (APN) 177-31-117-002] for Health Permits PR0126421, PR0126422, PR0126423, and PR0126424; Spencer Fronk, for the Owner(s), O & O Enterprises, LLC.

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## I. BACKGROUND:

O & O Enterprises, LLC, dba SwimLabs Las Vegas, is petitioning for a variance as requested by Spencer Fronk, representative for the owner, to construct and operate four public swimming pools not in compliance with Nevada Administrative Code (NAC) **444.128.1 and 444.128.2**, which state the following: "Stairs or ladders must be provided at the shallow portion of a pool if the vertical distance from the bottom of the pool to the deck or walk is over 2 feet (0.6 meter). Stairs or ladders must be provided at the deep portion of the pool. If the pool is over 30 feet (9.1 meters) wide, such stairs or ladders must be provided at each side of the deep portion of the pool," and, "A minimum of one ladder must be provided for each 75 feet (22.3 meters) of perimeter and not less than two ladders must be provided at any pool. Where stairs are provided in a pool, one ladder may be deleted for each set of stairs provided;" **NAC 444.134**, which states the following: "Except as otherwise provided in this subsection and in NAC 444.196 and 444.1995, 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;" and **NAC 444.168**, which states the following: "There must be no fewer than two skimmers in every pool."

The public bathing places will be located on APN 177-31-117-002, at 10640 Southern Highlands Parkway, Las Vegas, Nevada.

## II. DISCUSSION:

The petitioner is requesting a variance from the regulations, which would allow them to construct four public bathing places – instructional swimming pools at a swim school – which are above ground and constructed by Endless Pools. The pools are prefabricated and do not use steps or stairs for pool access, instead using a marked bench for access around the perimeter of the pool. The pools are above ground and adjacent to one another, and do not have continuous decking around the entire perimeter of each pool. Due to the small size of the pools, they each only have one skimmer.

The evidence presented by the applicant for granting a variance to permit SwimLabs Las Vegas to deviate from NAC 444 by allowing public bathing places to be constructed with these provisions, is listed below.

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:

SwimLabs Las Vegas variance request is unique because the private swim school utilizes above ground Endless Pools for learn-to-swim and competitive stroke analysis. The above ground pools are extremely small in size (160 to 256 square feet) for a total of 832 square feet of water within the facility. These pools provide unique instruction environments as they utilize constant current flow for both learn-to-swim lessons and in-place competitive swimming instruction. There are currently none of these constant current endless pools in Nevada, making this situation unique to only this individual occurrence and circumstance.

The Endless Pools utilized within the SwimLabs facility are small enough to not need two skimmers. With just one skimmer, each pool still meets the required water turnover by NAC.

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:

The use of a small above ground pool provides unique coaching advantages in the facility. By having a coach stand at ground level, he/she has the opportunity to look at the swimmer's stroke at eye-level. This allows a much better instructional opportunity for both the swimmer and the coach. Such a coaching environment means the pools can't be wrapped fully with decking, as this would deteriorate the operational capacity of the swim school. Adding stairs to the pools would impede the instruction and swimming area of the pools.

From a swimmer's perspective, and in order to access these above ground pools, SwimLabs provides an access platform made out of TREX decking between each set of pools. This platform provides adequate access into the pools for a swimmer, as seen throughout SwimLabs nationwide locations. A swimmer accesses the pools by walking up the platform, sitting down on the deck, and stepping onto the clearly marked bench wrapping the entire perimeter of the pool. This process is clearly described and overseen by a SwimLabs certified instructor each time a swimmer enter into the pool area. If stairs were included within these small bodies of water, they would impact the swimming area of the pools. Each pool is equipped with a constant current flow system, where a swimmer swims in place. Stairs into the pool would protrude into this swimming area, making it impossible for a swimmer to actually swim at all. This proves to not only add undue burden to SwimLabs, but more importantly makes the SwimLabs business inherently impossible to run.

As described in the informational section of the SwimLabs business model, SwimLabs utilizes above ground pools within our facilities. The operational use of these above ground pools is due to the coaching perspective they provide. Rather than standing on a deck and looking down at a swimmer (a standard coaching view), SwimLabs' above ground pools provide a uniquely advantageous perspective for the coach. At SwimLabs, a coach is able to stand at ground level and look directly at a swimmer's stroke at eye level. This offers an improved coaching view when compared to a standard coaching view. If SwimLabs were required to wrap the pools with decking flush with coping this operational advantage would no longer exist, making it unduly burdensome to preform business in the way an above ground pool provides. Such decking inherently makes an above ground pool no longer function like an above ground pool.

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

SwimLabs Las Vegas is a private swim school programmed through appointment only reservations. The pool area has controlled access, and is monitored by not only CPR, first aid, and lifeguard trained instructors at each pool, but also clear sight lines from the separate lobby and front desk area. SwimLabs has operated over 750,000 incident free lessons throughout the country using a standardized method of design, instruction, and safety.

From a safety perspective, the small sized pools in conjunction with the provided access platform provide adequate rescue space for a distressed swimmer. Due to the minimal pool size, there would never be an instance where a distressed swimmer was more than 14'-0" feet away from an access platform. This distance is vastly less than a typical large in-ground pool, where a swimmer could be upwards of 32'-0" away from decking. This rescue accessibility falls within the spirit and harmony of the NAC.

One intention of a 4'-0" wide spacing requirement per NAC is to provide emergency assistance for a distressed swimmer, and since the access platform described above meets this operational capacity, other areas between pools exist as less than 4'-0" (where raised decking does not exist). We are consequently requesting spacing less than 4'-0" in areas

where the access platform does not exist. One concern of this spacing might be that a swimmer on deck could slip into the pool if adequate deck space was not provided between pools. This, however, is not possible because the pools are above ground, and a dry swimmer in an area beside the access platform could not physically enter the water. The above ground pools without fully wrapped decking exist as a safe environment as dry swimmers have a physical barrier between them and the water, allowing for reduction of the code mandated 4'-0" spacing between pools. With the above ground pools, the reduced spacing does not create additional safety hazards; rather, the pools themselves increase safety around a pool area. This falls within the spirit and harmony of the NAC.

### **III. RECOMMENDATION:**

Regarding a variance from NAC 444.128, 444.134, and 444.168, to allow the petitioner to construct public bathing places without continuous deck around the perimeter, without stairs/ladders entering the pools, and without two skimmers in each pool, staff is of the opinion that circumstances exist which satisfies the requirements for a variance. Staff believes that granting a variance from these regulations will not be detrimental or pose a danger to public health and safety.

Staff recommends approval of a variance with the conditions outlined below.

### **IV. CONDITIONS**

1. The petitioner agrees to keep the existing deck space free and clear from obstruction;
2. The petitioner agrees to adhere to all other applicable requirements of the Public Bathing Places Public Spas Regulations, NAC 444;
3. Failure of the petitioner to prevent public health and safety issues, as determined by the health authority, will result in the voiding of this variance;
4. This 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 pools and spas to any other person or entity.

JH

#### **Attachments:**

- A. Nevada Secretary of State Corporate Information
- B. Variance Application Letter
- C. Variance Candidate Worksheet
- D. Assessor's Parcel Information
- E. Assessor's Map
- F. Site Plan
- G. Public Notice

# ATTACHMENT

A

# O & O ENTERPRISES, L.L.C.

Business Entity Information			
<b>Status:</b>	Active	<b>File Date:</b>	10/6/1998
<b>Type:</b>	Domestic Limited-Liability Company	<b>Entity Number:</b>	LLC5729-1998
<b>Qualifying State:</b>	NV	<b>List of Officers Due:</b>	10/31/2018
<b>Managed By:</b>	Managing Members	<b>Expiration Date:</b>	12/31/2050
<b>NV Business ID:</b>	NV19981057309	<b>Business License Exp:</b>	10/31/2018

Additional Information	
<b>Central Index Key:</b>	

Registered Agent Information			
<b>Name:</b>	GOOLD PATTERSON	<b>Address 1:</b>	1975 VILLAGE CENTER CIRCLE STE 140
<b>Address 2:</b>		<b>City:</b>	LAS VEGAS
<b>State:</b>	NV	<b>Zip Code:</b>	89134
<b>Phone:</b>		<b>Fax:</b>	
<b>Mailing Address 1:</b>		<b>Mailing Address 2:</b>	
<b>Mailing City:</b>		<b>Mailing State:</b>	NV
<b>Mailing Zip Code:</b>			
<b>Agent Type:</b>	Commercial Registered Agent - Limited-Liability Corporation		
<b>Jurisdiction:</b>	NEVADA	<b>Status:</b>	Active

Financial Information			
<b>No Par Share Count:</b>	0	<b>Capital Amount:</b>	\$ 0
<b>No stock records found for this company</b>			

- Officers		<input checked="" type="checkbox"/> Include Inactive Officers	
<b>Managing Member - GARRY V GOETT</b>			
<b>Address 1:</b>	11411 SOUTHERN HIGHLANDS PARKWAY SUITE 300	<b>Address 2:</b>	
<b>City:</b>	LAS VEGAS	<b>State:</b>	NV
<b>Zip Code:</b>	89141	<b>Country:</b>	USA
<b>Status:</b>	Historical	<b>Email:</b>	
<b>Managing Member - GARRY V GOETT</b>			
<b>Address 1:</b>	11411 SOUTHERN HIGHLANDS PARKWAY SUITE 300	<b>Address 2:</b>	
<b>City:</b>	LAS VEGAS	<b>State:</b>	NV
<b>Zip Code:</b>	89141	<b>Country:</b>	
<b>Status:</b>	Active	<b>Email:</b>	

<b>- Actions/Amendments</b>			
<b>Action Type:</b>	<b>Articles of Organization</b>		
<b>Document Number:</b>	LLC5729-1998-001	<b># of Pages:</b>	2
<b>File Date:</b>	10/6/1998	<b>Effective Date:</b>	
<b>(No notes for this action)</b>			
<b>Action Type:</b>	<b>Registered Agent Change</b>		
<b>Document Number:</b>	LLC5729-1998-003	<b># of Pages:</b>	1
<b>File Date:</b>	11/9/1998	<b>Effective Date:</b>	
<b>GOOLD, PATTERSON, DEVORE, ALES &amp; ROADHOUSE MJM</b>			
<b>4496 SOUTH PECOS RD. LAS VEGAS NV 89121 MJM</b>			
<b>Action Type:</b>	<b>Annual List</b>		
<b>Document Number:</b>	LLC5729-1998-007	<b># of Pages:</b>	1
<b>File Date:</b>	11/3/1999	<b>Effective Date:</b>	
<b>(No notes for this action)</b>			
<b>Action Type:</b>	<b>Annual List</b>		
<b>Document Number:</b>	LLC5729-1998-008	<b># of Pages:</b>	1
<b>File Date:</b>	9/25/2000	<b>Effective Date:</b>	
<b>(No notes for this action)</b>			
<b>Action Type:</b>	<b>Annual List</b>		
<b>Document Number:</b>	LLC5729-1998-005	<b># of Pages:</b>	1
<b>File Date:</b>	11/8/2001	<b>Effective Date:</b>	
<b>(No notes for this action)</b>			
<b>Action Type:</b>	<b>Annual List</b>		
<b>Document Number:</b>	LLC5729-1998-006	<b># of Pages:</b>	1
<b>File Date:</b>	10/7/2002	<b>Effective Date:</b>	
<b>(No notes for this action)</b>			
<b>Action Type:</b>	<b>Annual List</b>		
<b>Document Number:</b>	LLC5729-1998-004	<b># of Pages:</b>	1
<b>File Date:</b>	10/9/2003	<b>Effective Date:</b>	
<b>(No notes for this action)</b>			
<b>Action Type:</b>	<b>Annual List</b>		
<b>Document Number:</b>	LLC5729-1998-002	<b># of Pages:</b>	1
<b>File Date:</b>	9/10/2004	<b>Effective Date:</b>	
<b>List of Officers for 2004 to 2005</b>			
<b>Action Type:</b>	<b>Annual List</b>		
<b>Document Number:</b>	20050467725-68	<b># of Pages:</b>	1
<b>File Date:</b>	10/7/2005	<b>Effective Date:</b>	
<b>(No notes for this action)</b>			
<b>Action Type:</b>	<b>Annual List</b>		
<b>Document Number:</b>	20060575877-07	<b># of Pages:</b>	1
<b>File Date:</b>	9/7/2006	<b>Effective Date:</b>	

(No notes for this action)

<b>Action Type:</b>	Annual List		
<b>Document Number:</b>	20070580034-49	<b># of Pages:</b>	1
<b>File Date:</b>	8/23/2007	<b>Effective Date:</b>	

(No notes for this action)

<b>Action Type:</b>	Annual List		
<b>Document Number:</b>	20080534106-69	<b># of Pages:</b>	1
<b>File Date:</b>	8/11/2008	<b>Effective Date:</b>	

(No notes for this action)

<b>Action Type:</b>	Annual List		
<b>Document Number:</b>	20090767579-22	<b># of Pages:</b>	1
<b>File Date:</b>	10/30/2009	<b>Effective Date:</b>	

(No notes for this action)

<b>Action Type:</b>	Annual List		
<b>Document Number:</b>	20100804066-57	<b># of Pages:</b>	1
<b>File Date:</b>	10/26/2010	<b>Effective Date:</b>	

(No notes for this action)

<b>Action Type:</b>	Annual List		
<b>Document Number:</b>	20110723466-92	<b># of Pages:</b>	1
<b>File Date:</b>	10/6/2011	<b>Effective Date:</b>	

(No notes for this action)

<b>Action Type:</b>	Annual List		
<b>Document Number:</b>	20120786333-35	<b># of Pages:</b>	1
<b>File Date:</b>	11/21/2012	<b>Effective Date:</b>	

(No notes for this action)

<b>Action Type:</b>	Annual List		
<b>Document Number:</b>	20130717475-17	<b># of Pages:</b>	1
<b>File Date:</b>	10/31/2013	<b>Effective Date:</b>	

(No notes for this action)

<b>Action Type:</b>	Amendment		
<b>Document Number:</b>	20140071029-36	<b># of Pages:</b>	1
<b>File Date:</b>	1/30/2014	<b>Effective Date:</b>	

(No notes for this action)

<b>Action Type:</b>	Annual List		
<b>Document Number:</b>	20140740554-82	<b># of Pages:</b>	1
<b>File Date:</b>	10/30/2014	<b>Effective Date:</b>	

(No notes for this action)

<b>Action Type:</b>	Annual List		
<b>Document Number:</b>	20150442116-86	<b># of Pages:</b>	1
<b>File Date:</b>	10/6/2015	<b>Effective Date:</b>	

(No notes for this action)

<b>Action Type:</b>	Annual List		
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<b>Document Number:</b>	<b>20160444144-80</b>	<b># of Pages:</b>	<b>1</b>
<b>File Date:</b>	<b>10/6/2016</b>	<b>Effective Date:</b>	
<b>(No notes for this action)</b>			
<b>Action Type:</b>	<b>Annual List</b>		
<b>Document Number:</b>	<b>20170446691-60</b>	<b># of Pages:</b>	<b>1</b>
<b>File Date:</b>	<b>10/23/2017</b>	<b>Effective Date:</b>	
<b>(No notes for this action)</b>			

# ATTACHMENT

B



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**Southern Nevada Health District**  
**333 N. Rancho Drive.,**  
**Las Vegas, NV, 89106**

*Nonconforming Condition Variance Request*  
*Pool Deck, Pool Spacing, Skimmers, and Lifeguards of Special Purpose Above Ground Pool*  
SwimLabs Las Vegas  
10640 Southern Highlands Marketplace,  
Las Vegas, NV, 89141

Thank you for considering our request for approval of a nonconforming condition regarding the pool deck, pool spacing, for a proposed SwimLabs Franchise in Las Vegas, Nevada. This facility will be the 15th operating SwimLabs within the United States, with the other locations spanning from California to New York. All locations are designed using above ground NSF approved Endless Pools and access platforms flush with coping.

SwimLabs Las Vegas is requesting a variance for the below NAC criteria:

- 1) NAC 444.128 – Requiring pools to have steps for pool access.
- 2) NAC 444.134 – Requiring pools to have deck flush with pool coping around the entire pool perimeter. Also requiring pools to have a minimum of 4ft of deck around the entire pool.
- 3) NAC 444.270 – Requiring lifeguards for the operations of the swim school.
- 4) NAC 444.168 – Requiring a minimum of two skimmers per pool.

**About SwimLabs Las Vegas:**

SwimLabs Las Vegas (**Exhibit A**) is a private swim school business providing swim lessons and competitive swimmer training sessions in aboveground NSF approved Endless pools (**Exhibit B, Exhibit C, and Exhibit D**). The pools are located in a controlled space within the facility, with self-latching/self-closing doors not accessible from the public waiting areas without instructor supervision. Instructors, both CPR and lifeguard certified, monitor all swimmers on a per pool basis (1 instructor per pool). The instructors are responsible for managing students within the pool area, with a maximum instructor to student ratio of 4:1 within any pools. The proposed pools have a limited size of either 10' X 16' or 16' X 16', with a maximum water depth of 42". These pools are extremely small when compared to a standard swim school pool. The architectural layout shows elevated access platforms between the above ground pools.



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### Rational for Variance Request:

- 1) NAC 444.128 – Requiring pools to have steps for pool access

From a swimmers perspective, and in order to access these above ground pools, SwimLabs provides an access platform made out of TREX decking between each set of pools (**Exhibit A**). This platform provides adequate access into the pools for a swimmer, as seen throughout SwimLabs nationwide locations (**Exhibit B** and **Exhibit C**). A swimmer accesses the pools by walking up the platform, sitting down on the deck, and stepping onto the clearly marked bench wrapping the entire perimeter of the pool. This process is clearly described and overseen by a SwimLabs certified instructor each time a swimmer enter into the pool area.

If stairs were included within these small bodies of water, they would impact the swimming area of the pools. Each pool is equipped with a constant current flow system, where a swimmer swims in place. Stairs into the pool would protrude into this swimming area, making it impossible for a swimmer to actually swim at all. This proves to not only add undue burden to SwimLabs, but more importantly makes the SwimLabs business inherently impossible to run.

- 2) NAC 444.134 – Requiring pools to have deck flush with pool coping around the entire pool perimeter. Also requiring pools to have a minimum of 4ft of deck around the entire pool.

As described in the informational section of the SwimLabs business model, SwimLabs utilizes above ground pools within our facilities. The operational use of these above ground pools is due to the coaching perspective they provide. Rather than standing on a deck and looking down at a swimmer (a standard coaching view), SwimLabs' above ground pools provide a uniquely advantageous perspective for the coach. At SwimLabs, a coach is able to stand at ground level and look directly at a swimmer's stroke at eye level (see marked coaching areas in **Exhibit A**). This offers an improved coaching view when compared to a standard coaching view. If SwimLabs were required to wrap the pools with decking flush with coping this operational advantage would no longer exist, making it unduly burdensome to preform business in the way an above ground pool provides. Such decking inherently makes an above ground pool no longer function like an above ground pool.

From a safety perspective, the small sized pools in conjunction with the provided access platform provide adequate rescue space for a distressed swimmer. Due to the minimal pool size, there would never be an instance where a distressed swimmer was more than 14'-0" feet away from an access platform. This distance is vastly less than a typical large in-ground pool, where a swimmer could be upwards of 32'-0" away from decking. This rescue accessibility falls within the spirit and harmony of the NAC.

Beyond the operational and safety needs of above ground pools, these exposed pools offer health and safety benefits beyond a typical in-ground body of water. From a health perspective, the exposed pools within our facilities allow for easy access to wet areas. If our above ground pools were required to be wrapped with decking, our facilities would have a crawl space below the raised

decking in a wet environment. While our facilities meet code regarding drainage (1/4" slope per 1'-0"), there would still be some water trapped below an expansive raised deck. Access to cleaning this area would be limited as a code compliant raised deck would be flush with the pool coping, and wrap the entire pool area. This adherence to code would create a difficult to clean moist crawl space environment. Such space under an expansive raised deck could foster an atmosphere for bacteria and growth. By reducing the deck space around SwimLabs raised pools to the aforementioned access platforms, the requested variance is in harmony with the spirit and purpose of the NAC guidelines; allowing cleanliness in a wet environment.

One intention of a 4'-0" wide spacing requirement per NAC is to provide emergency assistance for a distressed swimmer, and since the access platform described above meets this operational capacity, other areas between pools exist as less than 4'-0" (where raised decking does not exist). We are consequently requesting spacing less than 4'-0" in areas where the access platform does not exist (**Exhibit A**). One concern of this spacing might be that a swimmer on deck could slip into the pool if adequate deck space was not provided between pools. This, however, is not possible because the pools are above ground, and a dry swimmer in an area beside the access platform could not physically enter the water. The above ground pools without fully wrapped decking exist as a safe environment as dry swimmers have a physical barrier between them and the water, allowing for reduction of the code mandated 4'-0" spacing between pools. With the above ground pools, the reduced spacing does not create additional safety hazards; rather, the pools themselves increase safety around a pool area. This falls within the spirit and harmony of the NAC.

3) NAC 444.270 – Requiring lifeguards for the operations of the swim school.

As aforementioned, SwimLabs pools always have a 4:1 student to instructor ratio. These instructors are lifeguard, CPR and first aid trained. The NAC code requires lifeguards in addition to these qualified instructors. Due to the small bodies of water, having additional lifeguards outside of the instructors (who are already lifeguard trained) would add burdensome cost to the location (~\$50K/Year). A lifeguard-trained instructor within our small pools is sufficient to provide the supervision required for NAC safety standards.

Beyond this, SwimLabs currently has fifteen (15) operating facilities within the United States. All of these facilities utilize the same small above ground pool design, with similar instructor certification requirements. Due to a combination of readily available access platforms, the aforementioned safety controlled environment of the SwimLabs model, and small bodies of water with dedicated safety trained instructors, SwimLabs has never had a safety incident. This culminates to over 750,000 incident free lessons. SwimLabs Las Vegas is designed in such a manner to mimic other safety proven operational facilities throughout the country.

4) NAC 444.168 – Requiring a minimum of two skimmers per pool.

The Endless Pools (**Exhibit D**) utilized within the SwimLabs facility are small enough to not need 2 skimmers. With just one skimmer, each pool still meets the required water turnover by NAC.



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**Summary:**

We are requesting a variance to not have decking around the entire above ground Endless Pools, to be allowed less than 4'-0" spacing where access platforms do not exist, to have instructors qualify as lifeguards, and to only have one (1) skimmer per pool.

Respectfully,

A handwritten signature in black ink that reads "Spencer Fronk". The signature is stylized with a large, sweeping "S" and "F".

Spencer Fronk  
SwimLabs Las Vegas Representative

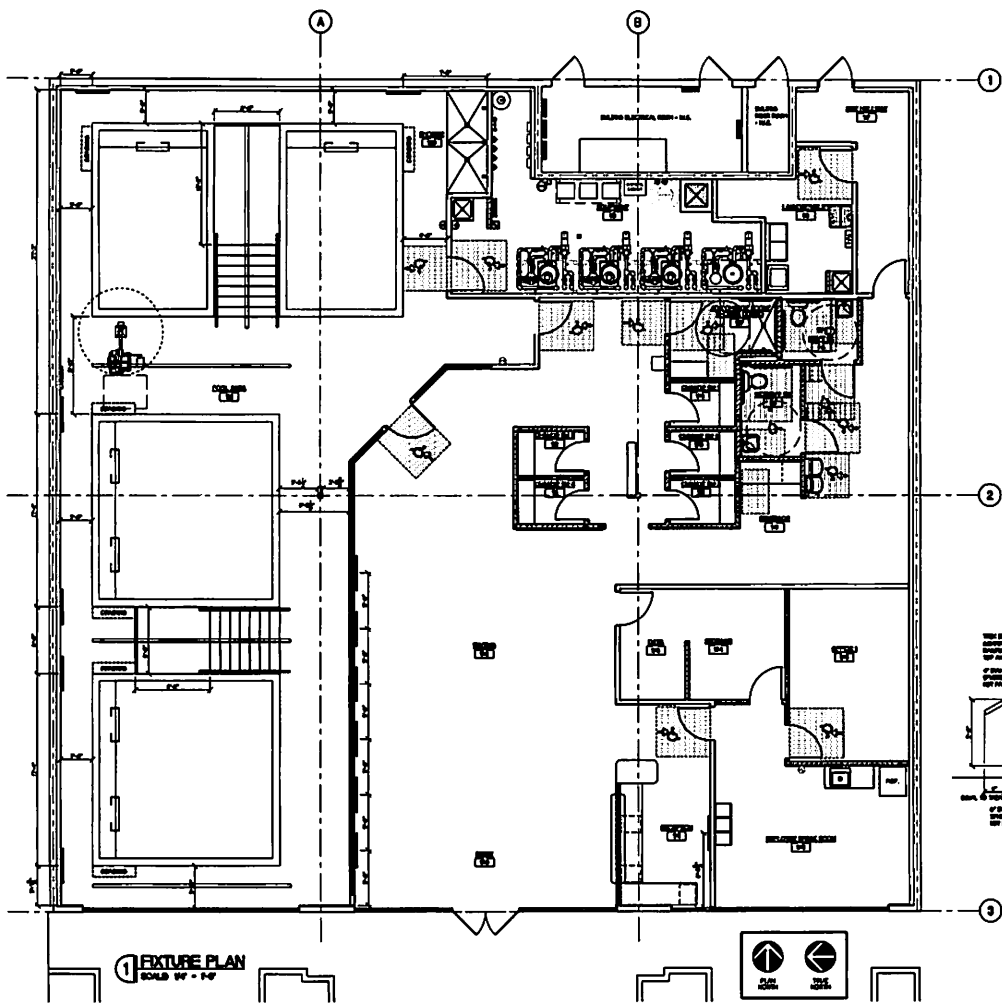
**Exhibits Attached Herein**

*Exhibit A:* Facility floor plan showing desired spacing and decking of Pool Room.

*Exhibit B:* Photo of SwimLabs Orange County—View from lobby

*Exhibit C:* Photo of SwimLabs Orange County—View within pool area

*Exhibit D:* Cut Sheets of NSF approved above ground Endless Pools



**SwimLabs**  
of  
Swim Schools

**SOUTHERN HIGHLANDS MARKETPLACE**  
EDDIE BROTHERN HIGHLANDS MARKETPLACE  
LAS VEGAS, NV 89168

**FREDERICK J. GOGLIA**  
ARCHITECT, INC. 1000  
1000 CHURCH ST. SUITE 100  
LAS VEGAS, NV 89101

**SK-1**  
EXHIBIT A



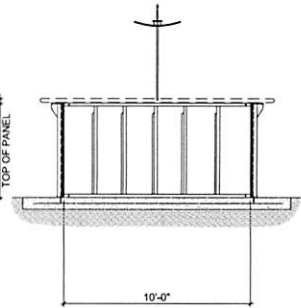
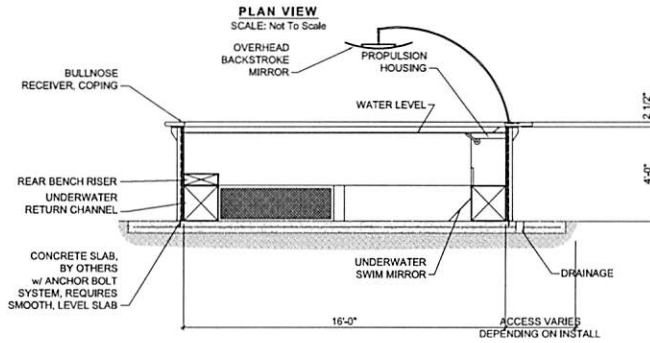
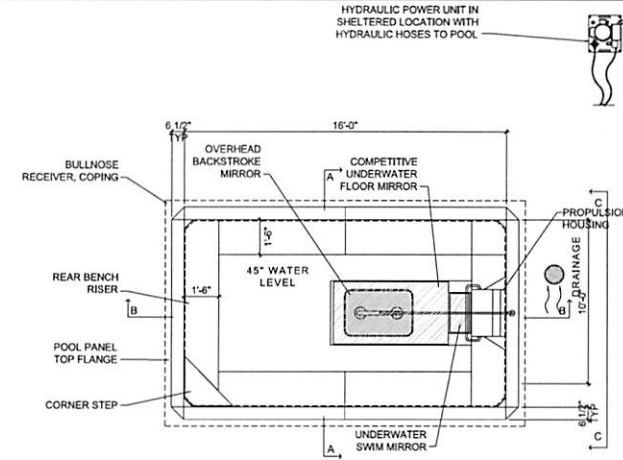
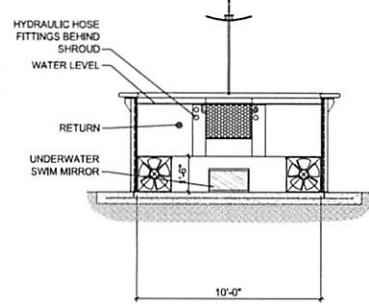




**GENERAL NOTES:**

- POOL SITE MUST BE CAPABLE OF SUPPORTING A LOAD OF 75 LB/SF FOR EVERY FOOT OF POOL HEIGHT. IF POURING A CONCRETE SLAB, IT SHOULD EXTEND A MINIMUM OF 6 IN BEYOND THE POOL'S BOTTOM FLANGE.
- CONTRACTOR TO VERIFY SITE CONDITIONS PRIOR TO INSTALLATION.
- ACCESS MUST BE MAINTAINED TO THE WATER-QUALITY SYSTEM, AS WELL AS TO THE POWER UNIT, WHEN A HYDRAULIC TREADMILL OR AN AUTOMATIC RETRACTABLE SECURITY COVER IS SPECIFIED & TO THE EXTERIOR OF THE PANEL WHERE OPTIONAL JETS AND/OR LIGHTS ARE INSTALLED.
- ENDLESS POOLS CANNOT STRESS ENOUGH THE NECESSITY OF DRAINAGE AT THE POOL SITE. FLOOR DRAINS OR SLUMP SYSTEMS SHOULD BE LOCATED ADJACENT TO THE POOL AND TESTED TO ENSURE WATER DRAINS PROPERLY.
- THE POOL SHOULD BE BONDED TO ITS ASSOCIATED EQUIPMENT & SLAB OR DECKING, IF APPLICABLE, IN ACCORDANCE WITH LOCAL CODE.
- THE ENDLESS POOL SHALL BE INSTALLED IN ACCORDANCE WITH ALL APPLICABLE CODES. REQUIRED PERMITTING IS THE SOLE RESPONSIBILITY OF THE OWNER.
- THE ENTIRE ENDLESS POOL SYSTEM IS ETL LISTED, REF #2001779 AND CONFORMS TO UL STANDARD #1563. INDIVIDUALLY, ALL ELECTRICAL COMPONENTS OF THE ENDLESS POOL ARE UL or CSA APPROVED.
- ALL ELECTRIC CIRCUITS MUST BE GFCI/RCD PROTECTED.
- THIS DRAWING MAY NOT REFLECT ALL THE OPTIONS SELECTED BY THE OWNER.

**PRELIMINARY DRAWING - NOT FINALIZED**  
 DETAILS SUBJECT TO CHANGE



**POOL CONFIGURATION**  
 (For Additional Information, Request Appropriate Detail Drawings from your Design Representative)

- Width 10 ft Inside Dimension
- Length 16 ft Inside Dimension
- Height 48 in Panel
- Anchor Bolt System (Detail EP-2.0)
- 6" Rear Bench Riser (Detail EP-8.2)
- Commercial Reinforced 60 mil Membrane (Details Sect 11.5)
- Bullnose Coping Receiver System (Details EP-4.5 & EP-4.6)
- Underwater Return Channel (Color: Sapphire)
- Corner Step, Rear Right Side (Details EP-8.4, EP-8.5, EP-8.6)
- Competitive Underwater Floor Mirror
- Backstroke Swim Mirror (Detail EP-7.9)
- Underwater Swim Mirror (Detail EP-7.8 for Deeper Sections)
- Hydraulic Power Unit, 7.5 HP (Detail EP-12.1)
- WQS Omitted by Customer



**FULLY ABOVE GROUND ELITE  
 COMMERCIAL MODULAR SWIM SPA**

Client Name: **Spencer Fronk**  
 Client Address: **Swimlabs Las Vegas (Pool #1)**  
 Las Vegas, NV 89901  
 Client No: **2368628**

DRAWING NO. **AFS-1**  
 DATE: 10/13/17

**GENERAL NOTES:**

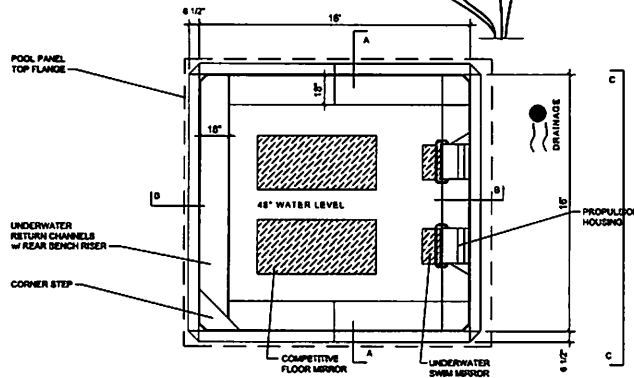
- POOL SITE MUST BE CAPABLE OF SUPPORTING A LOAD OF 75 LBS/FT FOR EVERY FOOT OF POOL HEIGHT. IF POURING A CONCRETE SLAB, IT SHOULD EXTEND A MINIMUM OF 6" BEYOND THE POOL'S BOTTOM FLANGE.
- CONTRACTOR TO VERIFY SITE CONDITIONS PRIOR TO INSTALLATION.
- ACCESS MUST BE MAINTAINED TO THE HYDRAULIC POWER UNIT, THE WATER-QUALITY SYSTEM, AS WELL AS TO THE EXTERIOR OF THE PANEL WHERE OPTIONAL JETS AND/OR LIGHTS ARE INSTALLED.
- ENDLESS POOLS CANNOT STRESS ENOUGH THE NECESSITY OF DRAINAGE AT THE POOL SITE. FLOOR DRAINS OR SUMP SYSTEMS SHOULD BE LOCATED ADJACENT TO THE POOL AND TESTED TO ENSURE WATER DRAINS PROPERLY.
- THE POOL SHOULD BE BONDED TO ITS ASSOCIATED EQUIPMENT & SLAB OR DECKING, IF APPLICABLE, IN ACCORDANCE WITH LOCAL CODE.
- THE ENDLESS POOL SHALL BE INSTALLED IN ACCORDANCE WITH ALL APPLICABLE CODES. REQUIRED PERMITTING IS THE SOLE RESPONSIBILITY OF THE OWNER.
- THE ENTIRE ENDLESS POOL SYSTEM IS ETL LISTED, REF. #2001779 AND CONFORMS TO UL STANDARD #1553. INDIVIDUALLY, ALL ELECTRICAL COMPONENTS OF THE ENDLESS POOL ARE UL OR CSA APPROVED.
- ALL ELECTRIC CIRCUITS MUST BE GFCI/RCD PROTECTED.
- THIS DRAWING MAY NOT REFLECT ALL THE OPTIONS SELECTED BY THE OWNER.

See Detail Drawing EP-17.1 for Electrical Requirements

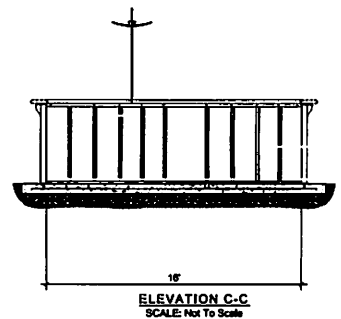
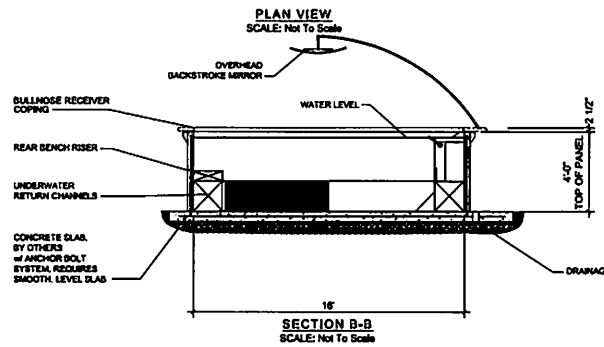
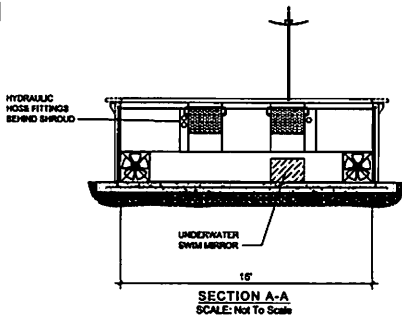
HYDRAULIC POWER UNITS FOR SWIM CURRENT IN SHIELD TUBED LOCATION WITH HYDRAULIC HOSES TO POOL

Pool Configuration (For Additional Information, Request Appropriate Detail Drawings from your Design Representative)

- Width 10' Inside Dimension
- Length 15' Inside Dimension
- Height 42" Panel
- 2 Hydraulic Power Units, 5 HP each (Detail Sect. EP-7)
- Custom Commercial 80 Mil Membrane, Color & Texture TBD (Reference Details Sect. 11)
- Commercial Water Quality System (Detail EP-11.0)
- Anchor Bolt System (Detail Sect. EP-2)
- Underwater Return Channels (Color Sapphire)
- Bulbnose Coping Receiver System (Details EP-4.5, EP-4.6)
- 6" Rear Bench Riser (Detail EP-4.2)
- Corner Step, Rear Right Side (Reference Details Sect. 8)
- Underwater Swim Mirror (Detail EP-7.A, for Deeper Area)
- Underwater Elba Floor Mirror
- Overhead Backstroke Mirror
- WQS Onsite by Customer



**PRELIMINARY DRAWING - NOT FINALIZED**  
DETAILS SUBJECT TO CHANGE



**Fully Above Ground  
Dual Current Commercial Endless Pool  
Modular Swimming Machine**

Client Name: **Spencer Fronk**  
Client Address: **Swimlabs Las Vegas (Pool #2)  
Las Vegas, NV 88901**  
Client #: **2368630**

DRAWING NO. **AFS-2**  
DATE: **10/13/17**



# ATTACHMENT

C



VARIANCE CANDIDATE WORKSHEET

PART I:

ESTABLISHMENT INFORMATION

Name of Facility/Establishment: SwimLabs Las Vegas
Health Permit Number: FA0085817 Date of Inquiry: 11-16-17
Name of Operator/Agent: Chlorine Dreams, LLC
Address of Operator/Agent: 4320 Comanche, Laramie WY, 82072
Contact Information of Operator/Agent:
Office Phone: Cell Phone: 303-345-1914
Fax Number: Email Address: spencer@ibbmanage.com
If corporation, the name/title of individual to sign for Variance document:
Name: Spencer Fronk
Title: Owners Representative

OWNER INFORMATION

Name of Property Owner: O & O Enterprises, L.L.C., a Nevada limited liability company
Address of Property Owner: 11411 Southern Highlands Parkway, Suite 300
Contact Information of Property Owner:
Office Phone: 702-220-6565 Cell Phone:
Fax Number: 702-220-6566 Email Address:

PROPERTY INFORMATION

Property Address: 10640 Southern Highlands Marketplace, Las Vegas, NV, 89141
Assessor's Parcel Number (APN):
Describe location within larger facility (i.e. hotel/casino/resort, etc.):

SwimLabs Las Vegas will be a 5,005 square foot Tenant Finish in Southern Highlands Marketplace. The swim school is in-line retail, immedietly to the south of Ace Hardware. SwimLabs Las Vegas will be the 15th SwimLabs swim school in the United States, and the first SwimLabs in Nevada.

Describe Variance Issue (s): (Include sections of the Regulation or Nevada Administrative Code that applies to the request for a variance)

SwimLabs facilities utilize above ground NSF approved endless pools. These bodies of water are 160 to 256 square feet in size, and require the following variances:
NAC 444.128 - Endless pools do not use steps-pool access is through a marked bench
NAC 444.134 - Since pools are above ground, 4 ft decking does not wrap the pool
NAC 444.270 - Instructors act as lifeguards, being lifeguard, CPR and first aid trained.
NAC 444.168 - Endless pools only have one skimmer/pool since they are very small

**PART II:**

Nevada Administrative Code 439.240 states in general that certain conditions or circumstances must be shown to exist in order for a Board of Health to approve a request for a Variance from adopted public health regulations. A variance application letter (as noted below in PART III) MUST specifically address each of the following issues:

1. There must be circumstances or conditions which are unique to the applicant, and do not generally affect other persons subject to the regulation. Please indicate how your request is unique to your situation and is, therefore, not likely to affect other persons subject to the regulations:

SwimLabs Las Vegas variance request is unique because the private swim school utilizes above ground endless pools for learn-to-swim and competitive stroke analysis. The above ground pools are extremely small in size (160 to 256 square feet) for a total of 832 square feet of water within the facility. These pools provide unique instruction environments as they utilize constant current flow for both learn-to-swim lessons and in-place competitive swimming instruction. There are currently none of these constant current endless pools in Nevada, making this situation unique to only this individual occurrence and circumstance.

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. Please indicate in what manner compliance with the regulation would be burdensome or cause a hardship on your business or how the free use of your property may be affected (if economic factors are an issue, please include estimates regarding the costs that would be incurred by compliance):

The use of a small above ground pool provides unique coaching advantages in the facility. By having a coach stand at ground level, he/she has the opportunity to look at swimmer's stroke at eye-level. This allows a much better instructional opportunity for both the swimmer and the coach. Such a coaching environment means the pools can't be wrapped fully with decking flush with coping, as this would deteriorate the operational capacity of the swim school. Adding stairs to the pools would impede the instruction and swimming area of the pools. Providing a lifeguard within the facility adds economic burden (\$50k/year) since each pool has a CPR certified instructor.

3. Granting the variance will not be detrimental or pose a danger to the public health and safety. Please provide evidence that the variance request, if approved, will not adversely affect the safe and sanitary operation of the applicant(s) pool, spa, or food establishment:

SwimLabs Las Vegas is a private swim school programmed through appointment only reservations. The pool area has controlled access, and is monitored by not only CPR + first aid trained instructors at each pool, but also clear site lines from the separate lobby and front desk area. SwimLabs has operated over 750,000 incident free lessons throughout the country using a standardized method of design, instruction and safety.

**NAC 439.240 Approval by State Board of Health. (NRS 439.150, 439.190, 439.200)**

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 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 the applicant to preserve and enjoy his or her 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 or she suffers or will suffer economic hardship by complying with the regulation, the applicant must submit evidence demonstrating the costs of compliance with the regulation. The Board will consider the evidence and determine whether those costs are unreasonable.  
[Bd. of Health, Variances Reg. §§ 2.7-2.8, eff. 10-16-80; A 2-5-82; 1-19-84]

**PART III:**

**A Variance Application Letter**, which includes all information provided by the applicant on his worksheet, must be submitted in writing to the Environmental Health Division (EHD) Director no later than 40 days before the monthly Board of Health Meeting. **The Application letter must be on the owner's letterhead signed by the Owner/Corporate Officer specifically listing which part(s) of the Regulation the proposed Variance covers with this completed Worksheet as an attachment. The written Application Letter must take particular care in providing statements and evidence of circumstances or conditions and reasons why the District Board of Health should grant the Variance as listed in NAC 439.240 as shown at the top of this page. ALL information you have provided in PART I and II of this Worksheet must be included in the body of the letter.** The evidence required may include 8 1/2" x 11" or 11" x 17" detailed drawings and/or photographs.

The Variance process is outlined in Nevada Administrative Code (NAC) 439.200 through 439.260 with the exception that an application fee is payable to SOUTHERN NEVADA HEALTH DISTRICT (SNHD).

**This section to be completed by SNHD staff ONLY**

Next closing date is: 12/15/2017 for the 01/25/2018 BOH Meeting.

Referred by: \_\_\_\_\_  
(Print Name of REHS)  
Completed by: Jeremy Harper Date: 11/28/2017  
(Print Name of REHS if not by supervisor)  
Received by: \_\_\_\_\_ Date: \_\_\_\_\_  
(Owner/Operator/Agent)  
Reviewed by: [Signature] Date: 11/28/17  
(Signature of SNHD Manager)

# ATTACHMENT

D



GENERAL INFORMATION	
PARCEL NO.	177-31-117-002
OWNER AND MAILING ADDRESS	O & O ENTERPRISES L L C 11411 SOUTHERN HIGHLANDS PKWY #110 LAS VEGAS NV 89141-3265
LOCATION ADDRESS CITY/UNINCORPORATED TOWN	10600 SOUTHERN HIGHLANDS PKWY ENTERPRISE
ASSESSOR DESCRIPTION	SOUTHERN HIGHLANDS MARKETPLACE PLAT BOOK 124 PAGE 51 PT LOT 1
RECORDED DOCUMENT NO.	* 20000127:01624
RECORDED DATE	Jan 27 2000
VESTING	NS

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

ASSESSMENT INFORMATION AND VALUE EXCLUDED FROM PARTIAL ABATEMENT	
TAX DISTRICT	635
APPRAISAL YEAR	2017
FISCAL YEAR	2018-19
SUPPLEMENTAL IMPROVEMENT VALUE	0
INCREMENTAL LAND	0
INCREMENTAL IMPROVEMENTS	0

REAL PROPERTY ASSESSED VALUE		
FISCAL YEAR	2017-18	2018-19
LAND	2472291	2781327
IMPROVEMENTS	6877331	6743245
PERSONAL PROPERTY	0	0
EXEMPT	0	0
GROSS ASSESSED (SUBTOTAL)	9349622	9524572
TAXABLE LAND+IMP (SUBTOTAL)	26713206	27213063
COMMON ELEMENT ALLOCATION ASSD	22	0
TOTAL ASSESSED VALUE	9349644	9524572
TOTAL TAXABLE VALUE	26713269	27213063

ESTIMATED LOT SIZE AND APPRAISAL INFORMATION	
ESTIMATED SIZE	20.27 Acres
ORIGINAL CONST. YEAR	2004
LAST SALE PRICE MONTH/YEAR SALE TYPE	0
LAND USE	40.355 - General Commercial. Neighborhood Shopping Center
DWELLING UNITS	1

PRIMARY RESIDENTIAL STRUCTURE					
1ST FLOOR SQ. FT.	0	CASITA SQ. FT.	0	ADDN/CONV	
2ND FLOOR SQ. FT.	0	CARPORT SQ.	0	POOL	NO

		<b>FT.</b>			
<b>3RD FLOOR SQ. FT.</b>	0	<b>STYLE</b>	Shopping Center, Neighbourhood	<b>SPA</b>	NO
<b>UNFINISHED BASEMENT SQ. FT.</b>	0	<b>BEDROOMS</b>	0	<b>TYPE OF CONSTRUCTION</b>	
<b>FINISHED BASEMENT SQ. FT.</b>	0	<b>BATHROOMS</b>	0	<b>ROOF TYPE</b>	
<b>BASEMENT GARAGE SQ. FT.</b>	0	<b>FIREPLACE</b>	0		
<b>TOTAL GARAGE SQ. FT.</b>	0				

# ATTACHMENT

E

**NOTES**

This map is for assessment use only and does NOT represent a survey.  
 No liability is assumed for the accuracy of the data delineated herein.  
 Information on roads and other non-assessed parcels may be obtained from the Road Document Listing in the Assessor's Office.  
 This map is compiled from official records, including surveys and deeds, but only contains the information required for assessment. See the recorded documents for more detailed legal information.  
 USE THIS SCALE SHEET WHEN MAP REDUCED FROM 1:1517 ORIGINAL

**MAP LEGEND**

- PARCEL BOUNDARY
- SUB BOUNDARY
- PMAD BOUNDARY
- ROAD EASEMENT
- MATCH LEADER LINE
- HISTORIC LOT LINE
- HISTORIC SUB BOUNDARY
- HISTORIC PMAD BOUNDARY
- SECTION LINE
- CONDOMINIUM UNIT
- AIR SPACE PCL
- RIGHT OF WAY PCL
- SUB-SURFACE PCL
- ROAD PARCEL NUMBER
- PARCEL NUMBER
- ACREAGE
- PARCEL SUB/SEQ NUMBER
- PLAT RECORDING NUMBER
- BLOCK NUMBER
- LOT NUMBER
- GRID LOT NUMBER

**ASSESSOR'S PARCELS - CLARK CO., NV.**  
 Michele W. Shafer - Assessor

**T22S R61E**

176	177
192	191

**31**

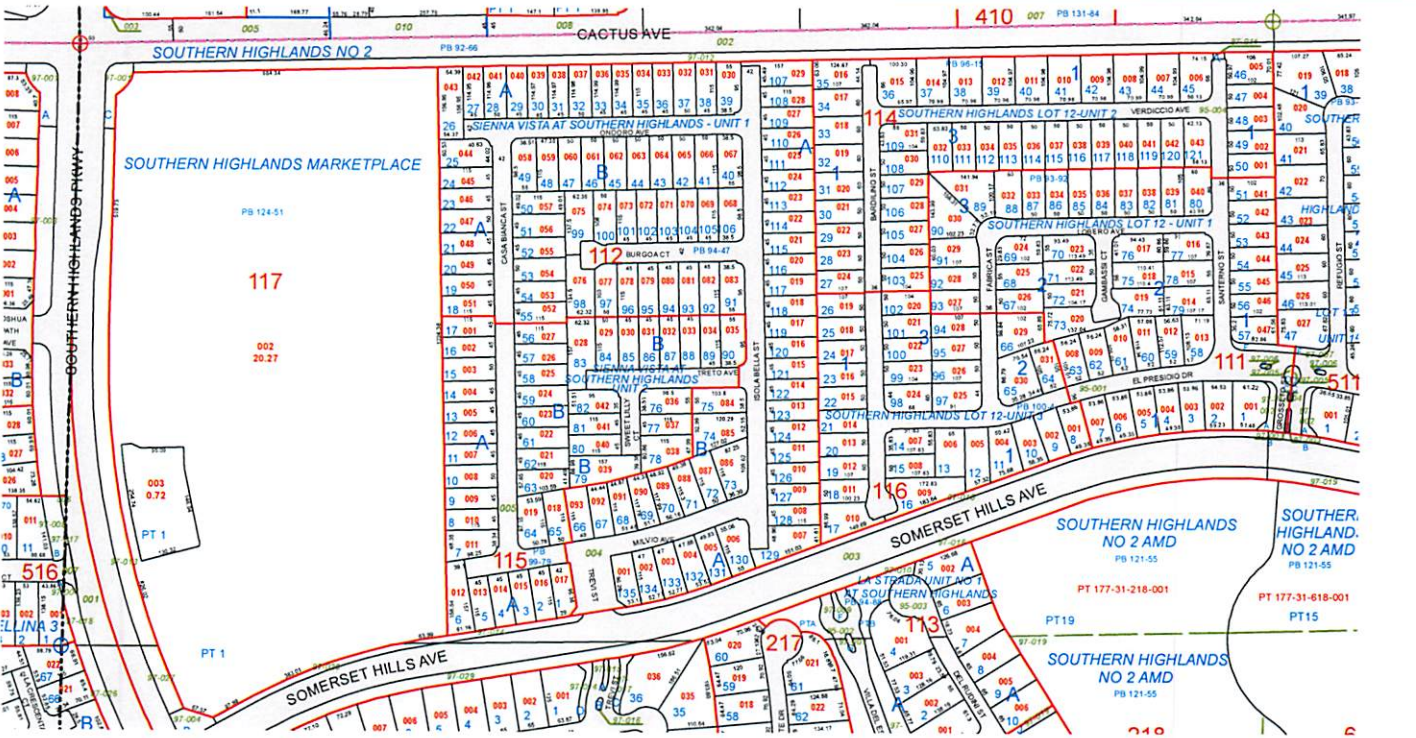
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13	14	15	16
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25	26	27	28
29	30	31	32

**N 2 NW 4**

5	4	8	4
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6	2	6	2
7	3	7	3
8	4	8	4
5	1	5	1

**177-31-1**

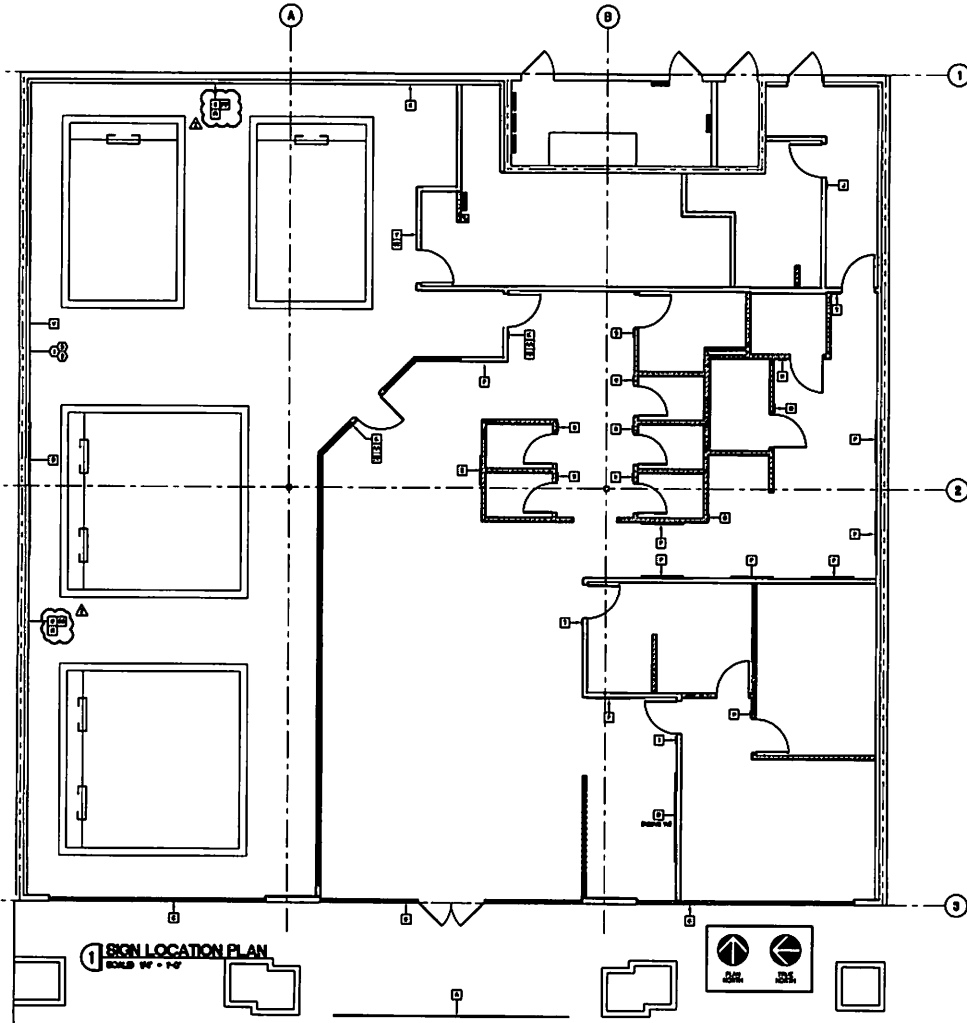
Scale: 1" = 200' Rev: 2/26/2014



TAX DIST 635

# ATTACHMENT

F



1 SIGN LOCATION PLAN  
SHEET 14 OF 17

SIGN SCHEDULE	
1	POWER SYMBOL SIGN
2	ONE WAY PAUL SYMBOL ONLY
3	NO PARKING
4	NO PARKING, 2HR - 15MIN, 15MIN AND LATER
5	NO PARKING, 15MIN AND LATER
6	NO PARKING, 15MIN AND LATER
7	NO PARKING, 15MIN AND LATER
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**KEYED NOTE**  
 1 POWER SYMBOL  
 2 ONE WAY PAUL SYMBOL ONLY  
 3 NO PARKING  
 4 NO PARKING, 2HR - 15MIN, 15MIN AND LATER  
 5 NO PARKING, 15MIN AND LATER  
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**SOUTHERN HIGHLANDS MARKETPLACE**  
 1540 SOUTHERN HIGHLANDS MARKETPLACE  
 LUD LOST, KY 40417

**SwimLabs**  
 Swim School

**FREDERICK J. GOGLIA**  
 ARCHITECT, INC.  
 11111 LEE HIGHWAY  
 FALLS CHURCH, VA 22046

**A220**  
 SIGN LOCATION PLAN

# ATTACHMENT

G



## PUBLIC NOTICE

The Southern Nevada Health District Board of Health will conduct a PUBLIC HEARING on March 22, 2018 at 8:30 a.m. during its monthly meeting held at 280 S Decatur Blvd, Las Vegas, NV 89107, to approve or deny a variance request to operate a public bathing place not in compliance for O & O Enterprises LLC, DBA SwimLabs Las Vegas, located at 10640 Southern Highlands Parkway, APN 177-31-117-002. Note, if this application is not presented at the March 22, 2018 meeting, it will be presented at the April 26, 2018 meeting.

The variance request is made to allow the Petitioner to operate instruction/training pools not in accordance with the Nevada Administrative Code (NAC) 444 Public Bathing Places and Public Spas: NAC 444.128, 444.134, and 444.168; for multiple instructional pools with no stairs entering the pools, no decking around the entire perimeter of the pools, and only having a single skimmer in each pool.

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 Jeremy Harper, Environmental Health Supervisor for the Aquatic Health Program, Southern Nevada Health District, P.O. Box 3902, Las Vegas, Nevada 89127-3902, or via email at harper@snhd.org, no later than March 15, 2018. The variance application request is available for review at the Southern Nevada Health District, Environmental Health Division, 333 N Rancho Drive, Las Vegas, NV 89106.

If there are special viewing needs, please contact Bonnie Archie at (702) 759-0572 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 the documents may be requested during that time for \$1.00 per page.

-S-

\_\_\_\_\_  
Jacqueline L Reszetar, Environmental Health Director  
Southern Nevada Health District

03/05/2018

Date