



APPLICATION ACCEPTED: March 20, 2009
MOVED AT APPLICANT'S REQUEST
BOARD OF ZONING APPEALS: November 3, 2009
TIME: 9:00 a.m.

County of Fairfax, Virginia

October 27, 2009

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SPA 95-Y-069-03

SULLY DISTRICT

APPLICANT: HARCO III, Inc., T/A Fast Eddies

ZONING: C-7, HC, SC and WS

LOCATION: 14100, 14114 – 14116 Lee Highway

ZONING ORDINANCE PROVISION: 4-703

TAX MAP: 54-4 ((1)) 8C

LOT SIZE: 9.21 acres

FAR: 0.21

PLAN MAP: Mixed Use

SP PROPOSAL: Amend SP 95-Y-069 previously approved for a billiard hall with an eating establishment to permit a dance hall and modification of development conditions.

STAFF RECOMMENDATION: Staff recommends approval of SPA 95-Y-069-03 subject to the proposed development conditions contained in Appendix 1.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. ✓

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Shelby Johnson

Department of Planning and Zoning
Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5509
Phone 703-324-1290 FAX 703-324-3924
www.fairfaxcounty.gov/dpz/



It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals. A copy of the BZA's Resolution setting forth this decision will be mailed within five (5) days after the decision becomes final.

The approval of this special permit does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

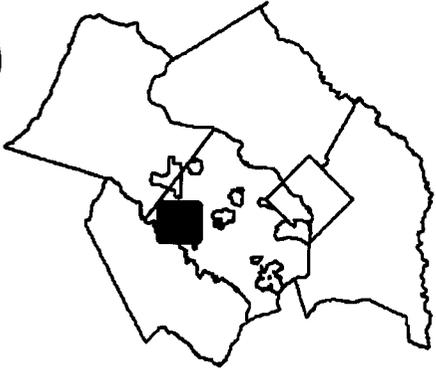
For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505.**



Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit Amendment

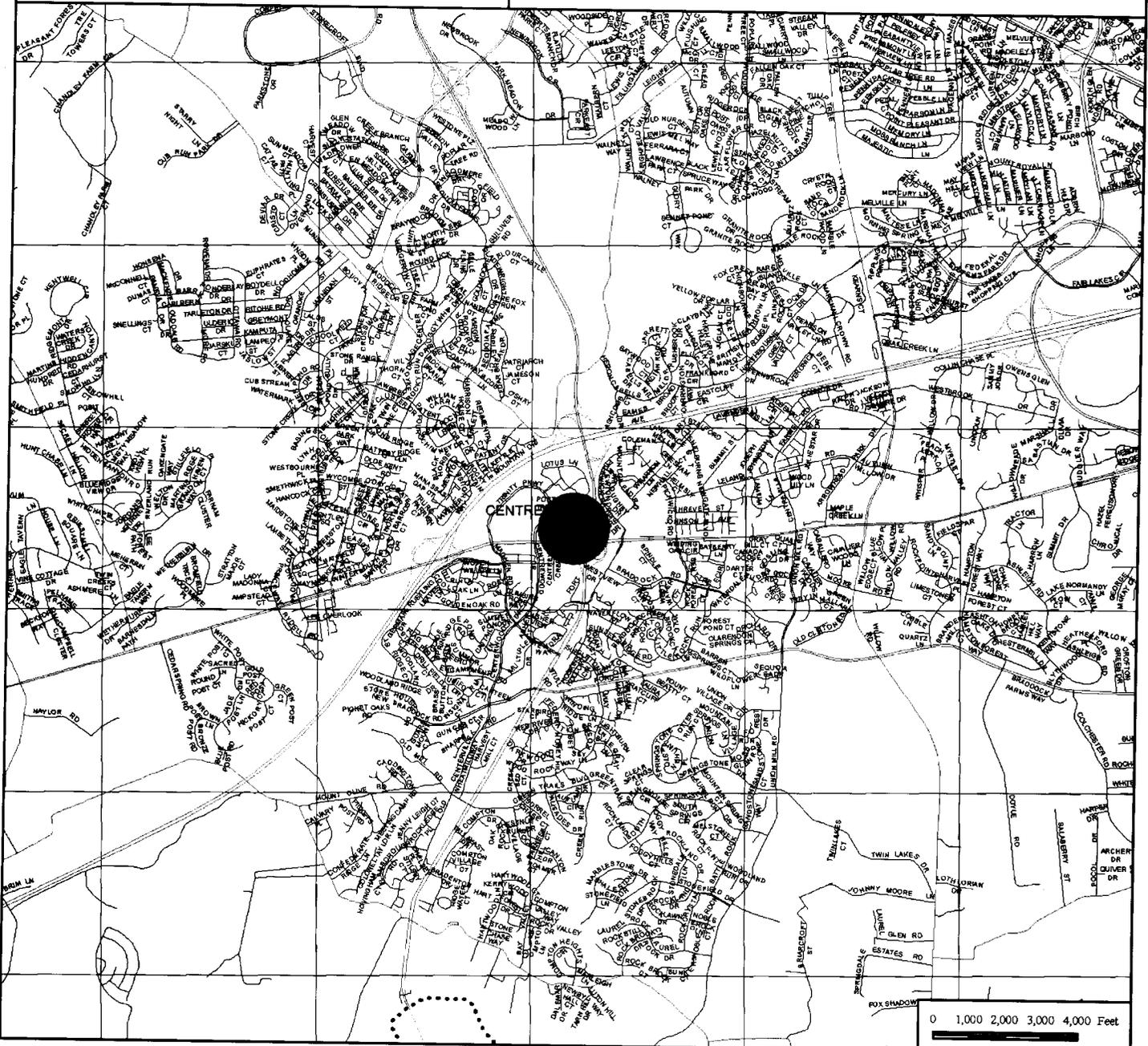
SPA 95-Y-069-03



Applicant:
Accepted:
Proposed:

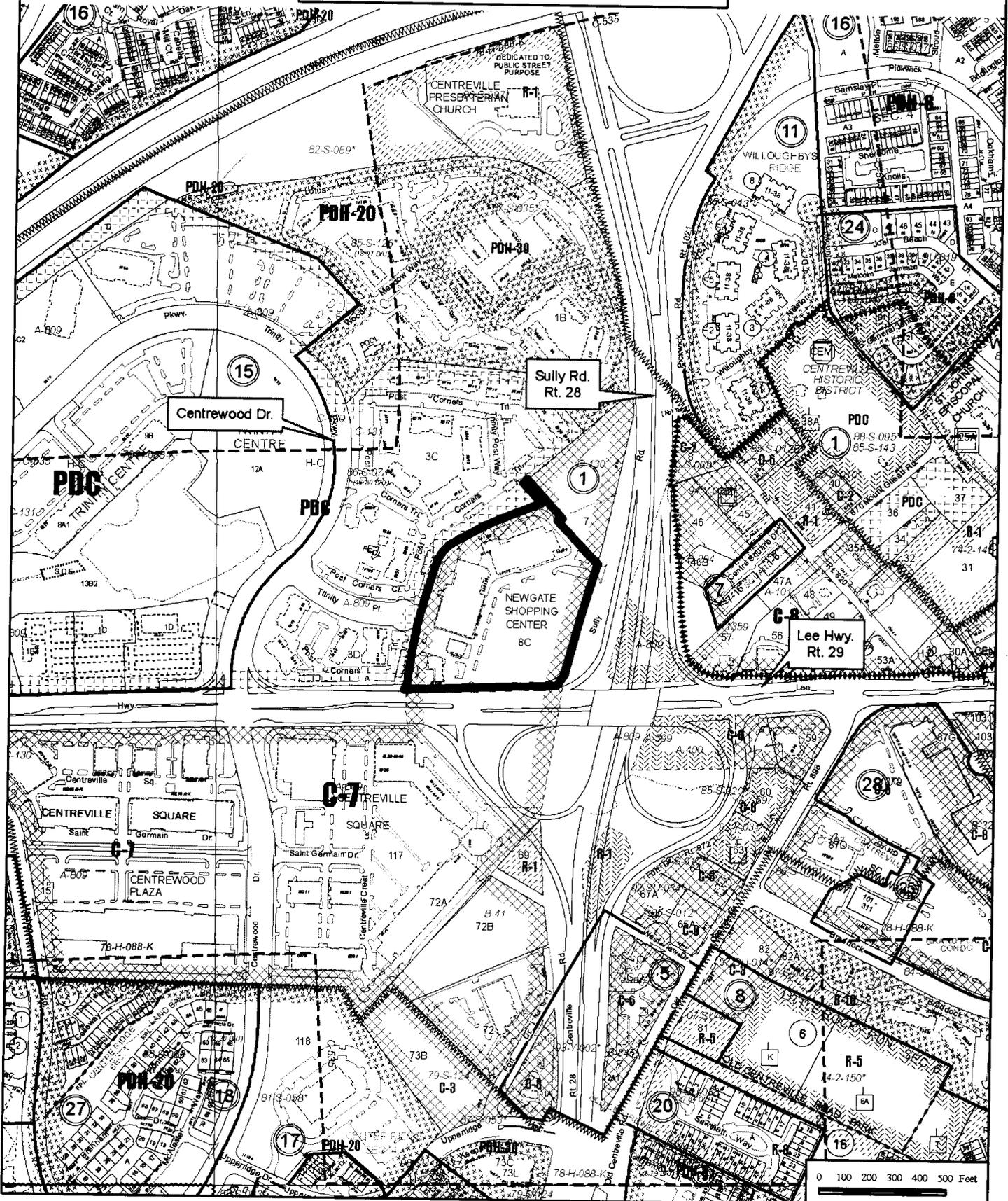
HARCO III, INC., T/A FAST EDDIES
03/20/2009
AMEND SP 95-Y-069 PREVIOUSLY APPROVED
FOR BILLIARD HALL WITH AN EATING
ESTABLISHMENT TO PERMIT DANCE HALL
AND MODIFICATION OF DEVELOPMENT CONDITIONS

Area: 8.6 AC OF LAND; DISTRICT - SULLY
Zoning Dist Sect: 04-0703
Art 8 Group and Use: 5-01 5-05
Located: 14114 - 14116 LEE HIGHWAY
Zoning: C-7
Overlay Dist: SC WS HC
Map Ref Num: 054-4 /01/ /0008C



Special Permit Amendment

SPA 95-Y-069-03





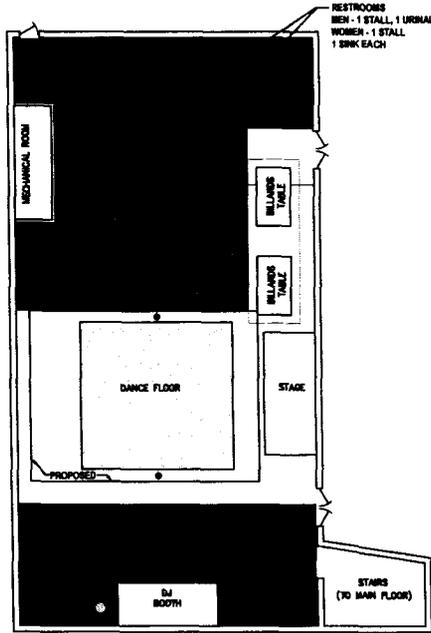
LEGEND

	Seats	Amount	Total
● 2'-10" Table	4	12	48
● Proposed	4	4	16
⌢ 8'-0" Booth with 2'-4"x3'-6" Table (1 Booth approved to NE Corner)	6	6	36
● 2'-6" Tall Table	0	3	0
● 3'-0" Table	4	3	12
● Proposed	4	8	32
○ 2'-0" Tables	2	1	2
Total			158
Ⓛ Bar Seats	1	10	10

Existing Dance Floor
 Eating Establishment Area = 2,546 SF

AREAS

Footprint 4,600 SF
 Dance Floor 28'x37' = 1,036 SF



LOWER FLOOR



LEGEND

	Seats	Amount	Total
● 2'-10" Table	4	12	48
● Proposed	4	8	32
● 3'-0" Table	4	2	8
● Proposed	4	3	12
⌢ 2'-6" Table	4	8	32
⌢ Proposed	4	2	8
● 3'-6" Table	4	7	28
Total			168
Ⓛ Bar Seats	1	49	49

Eating Establishment Area = 4,460 SF

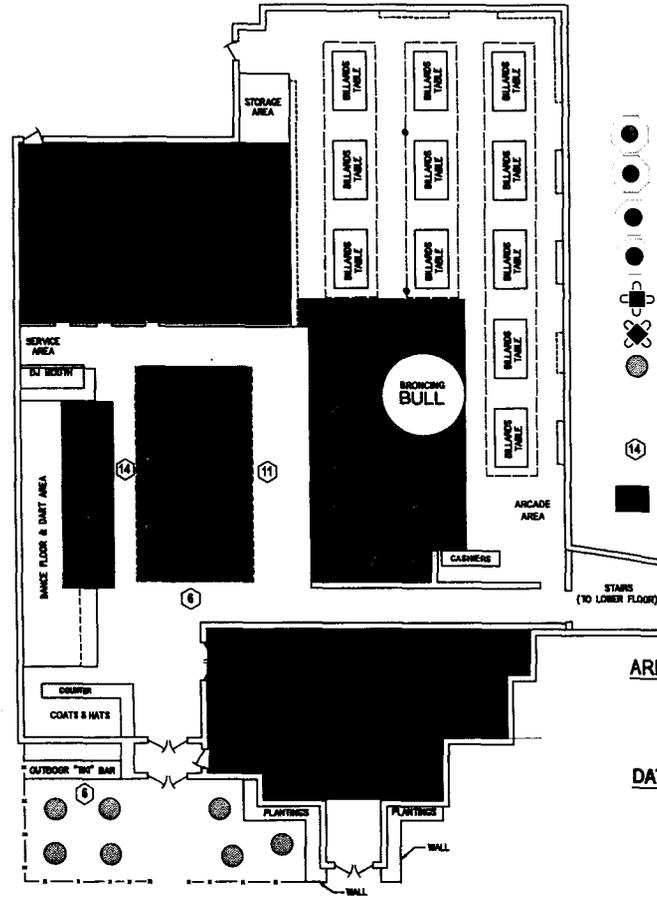
Note: Gray dashes & lines are for design purposes only.

AREAS

Footprint 9,970 SF
 Dance Floor 12'x43' = 516 SF

DATA

Pool Tables 13
 Employees 25



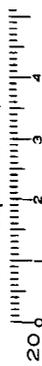
MAIN FLOOR

Jane Kelsey & Associates, Inc.
 Land Use Consultants
 4041 Autumn Court
 Fairfax, VA 22030-5168
 703-385-4087 (PHONE)
 703-385-8760 (FAX)
 jk@jka.com

PROPOSED FLOOR PLAN
 HARCO III, INC.
 NEWGATE SHOPPING CENTER
 FAIRFAX COUNTY, VIRGINIA

Attachment to Sheet 1

DATE: September 15, 2009



SCALE: 1" = 20'
 PREPARED BY: Bruce Kelsey

DESCRIPTION OF THE APPLICATION**Special Permit Request:**

Amend SP 95-Y-069 previously approved for a billiard hall with an eating establishment to permit the addition of a dance hall and modification of development conditions. The applicant requests the flexibility to change the name under which the establishment operates, "Fast Eddies". The applicant/permittee will continue to be HARCO, III, Inc. and only the trade name may change.

The applicant also proposes to increase the number of employees and increase the number of table seats in the eating establishment from 160 to 298 seats, however the number of bar and outdoor seats as well as the number of pool tables will decrease. No physical changes are proposed to the exterior of the site.

Size:

Tenant Space: 14,570 sq. ft.
(Fast Eddies)

Shopping Center: 70,525 sq. ft

Site: 9.21 acres

	<u>Previously Approved SPA 95-Y-069-02</u>	<u>Proposed SPA 95-Y-069-03</u>
Number of Billiard Tables:	22	13
Number of Seats (Eating Establishment):	160	298
Number of Seats (Bar Seats):	70	59
Number of Seats (Seasonal Outdoor Seating):	50	28
Number of Employees:	16	25
Parking:	162 spaces	162 spaces
Hours of Operation:	7:00 A.M. to 2:00 A.M.	No Change

Waivers and Modifications: There are no physical exterior changes proposed to the site and transitional screening and barrier requirements along the northern and western property lines were previously waived for the shopping center.

LOCATION AND CHARACTER

Existing Site Description:

The 9.21-acre application site is located at the northwest corner of Lee Highway (Route 29) and Centerville Road (Route 28) in an existing shopping center. The site is zoned to the C-7 District with Highway Corridor (HC), Sign Control (SC) and Water Supply Protection (WS) Overlay Districts. The portion of the site subject to this special permit amendment (SPA) consists of 14,570 square feet, used as a billiard hall and eating establishment previously approved under SPA 95-Y-069. In addition to Fast Eddies, the shopping center has several other retail and commercial uses including a service station, the US Post Office, a fabric store and several eating establishments. A total of 500 asphalt surface parking spaces are located on site with an access point provided along Lee Highway and one access point along the western boundary onto Trinity Place.

Surrounding Area Description:

Direction	Use	Zoning	Plan
North	Multi-Family Residential	PDH-30, HC, SC and WS	Mixed Use
East	Commercial Retail	C-8, HC, SC and WS	Retail and Others Commercial Uses
South	Commercial Retail	C-7, HC, SC and WS	Mixed Use
West	Multi-Family Residential	PDC, PDH-30, HC, SC and WS	Mixed Use

BACKGROUND

Site History:

County records indicate that the existing shopping center was developed in 1970.

- On January 23, 1996, the Board of Zoning Appeals (BZA) approved SP 95-Y-069 to establish a billiard hall at this site. The development conditions limited the billiard tables to 30 and restaurant seating to 120 with 70 bar seats.

- On August 11, 1998, the BZA approved SPA 95-Y-069 to permit building additions and to modify development conditions to permit 22 billiard tables, 160 seats in the restaurant, 70 bar seats, 50 outside seasonal seats and 16 employees.
- On May 18, 2004, the BZA approved SPA 95-Y-069-02 to permit a change in permittee from Karharias Inc. T/A the Shark Club Billiards & Café/The Shark Club to HARCO III, Inc. T/A Fast Eddies. A copy of the approved development conditions may be found in Appendix 4.
- On April 30, 2008, a notice of violation (NOV) was issued to the registered agent of HARCO III, Inc for operating a dance hall use without a special permit approval and in the C-7 District and for exceeding the seating capacity and maximum number of employees on site at any one in violation of the Non-RUP, subject to SPA 95-Y-069-02. A copy of the NOV is included as Appendix 5.

COMPREHENSIVE PLAN PROVISIONS

Plan Area: Area III
Planning District: Bull Run Planning District
Planning Sector: Centreville Area Planning Sector, Suburban Center
Plan Map: Mixed Use

ANALYSIS

Special Permit Plat (Copy at front of staff report)

Title of SP Plat: Special Permit Plan, Fast Eddies at Newgate Shopping Center
Prepared By: Walter L. Phillips, Incorporated, Signed by Aaron M. Vinson,
Professional Engineer
Dated: January 14, 2009, as revised through September 15, 2009

Proposed Use:

The applicant seeks special permit approval to amend SP 95-Y-069 previously approved for a billiard hall with an eating establishment, to add a dance hall and to permit modification of development condition #1 to allow the flexibility to change the name under which the establishment operates, "Fast Eddies". The applicant/permittee will continue to be HARCO, III, Inc. and only the trade name may change. The proposed dance hall use is comprised of two dance floor areas totaling 1,552 square feet in area within the existing billiard hall and eating establishment; the dance floor area on the main floor consists of 516 square feet (12 feet x 43 feet) and the dance floor on the lower level contains 1,036 square feet (28 feet x 37 feet). No exterior changes are proposed for the site with this application.

The applicant also proposes to increase the number of employees permitted on site at any one time from 16 to 25 and to change the number of seats in the eating establishment. Currently they are permitted a maximum of 160 table seats, 70 bar seats and 50 outdoor seats, for a total number of seats in the eating establishment of 280. The applicant proposes to increase the table seating to 298 seats and decrease the bar and outdoor seating to 59 and 28 seats respectively, for a total number of seats of 398. The applicant is also reducing the number of billiard tables from 22 to 13. Required parking for the entire shopping center including Fast Eddies is 500 spaces; 500 are provided.

Land Use Analysis

The Comprehensive Plan recommends mixed uses, consisting of retail uses and office/high tech industrial uses that do not exceed 0.6 FAR. Within the Centreville Suburban Center, a suburban core area is designated. The core contains a mix of uses similar to that found in the overall Suburban Center; however, a higher density/intensity use is encouraged in order to shape a distinct community identity and to encourage the concentration of employment to facilitate access by transit services. The core is planned to be located in the area generally south of I-66, west of Route 28 and north of Route 29 in the area designated as Land Unit E.

The subject application is located in Land Unit E – Suburban Center. Land Unit E is planned for high density residential, retail, office and research uses. Research and development (R&D) and office uses are planned along I-66 because of high visibility, good access and an excellent panorama of the Blue Ridge Mountains.

The application site maintains an overall FAR of 0.21 and is improved with a shopping center. The billiard hall, eating establishment and proposed dance hall are located in an existing masonry building within the shopping center. The building fronts in the shopping center are oriented towards the expansive asphalt surface parking lot located east of the shopping center buildings. The parking area contains 500 surface parking spaces with several landscape islands along the periphery of the parking lot. Sidewalks are provided along the building fronts. The primary access point to the site is from Lee Highway to the south; a secondary access point is provided from Trinity Place to the west.

Discussion:

Zoning inspectors determined that a dance hall had been added without special permit approval of the use and that the seating capacity and maximum number of employees on site at any one was exceeded in violation of the Non-RUP and development conditions of the previously approved special permit, SPA 95-Y-069-02. During the review of this application, staff determined that the previously approved occupancy load maximums issued in 1997 and 2003 should be updated to reflect the current uses on site. As such, staff has proposed a development condition requiring the applicant to obtain an updated occupancy load determination as determined by the Department of Public Works and Environmental Services (DPWES) and the Fairfax County Fire Marshal.

Additionally, during review of the application, staff found that there had been incidences reported on site which required the police to respond. These included fights among patrons leaving Fast Eddies. Subsequent correspondence with Sully District Police Officers indicates that these issues have subsided. Staff, however is concerned about a third use being added and has included a development condition for a term limit on the dance hall of two years. If, at the end of that term, the applicant wishes to continue the dance hall, the applicant will need to file a special permit amendment to continue the use. The use could then be re-evaluated for its impact. With the implementation of these development conditions, staff believes that the proposed uses are in conformance with the Comprehensive Plan.

Environmental Analysis

There are no environmental issues associated with this request.

Transportation Analysis (Appendix 6)

No transportation issues have been identified with this request.

ZONING ORDINANCE PROVISIONS

Special Permit Requirements

- General Special Permit Standards (Sect. 8-006)
- Group 5 Standards (Sect. 8-503)

Summary of Zoning Ordinance Provisions

This special permit is subject to Sects. 8-006 and Sect. 8-503 of the Zoning Ordinance as referenced above, a copy of which is included in Appendix 7. Subject to development conditions, the special permit must meet these standards.

General Special Permit Standards (Sect. 8-006)

Staff believes that the application for the addition of a dance hall generally meets all eight General Special Permit Standards. Zoning inspectors determined that a dance hall had been added without special permit approval and that the seating capacity and maximum number of employees on site at any one was exceeded in violation of the Non-RUP. Staff has proposed a development condition requiring the applicant to obtain updated occupancy load determinations as required by DPWES and the Fairfax County Fire Marshal for all approved uses related to this special permit amendment. Additionally, in light of previously reported disturbances associated with the dance hall use, staff is concerned about the impact of the additional dance hall use to the site and has included a development condition for a term limit on the dance hall of two years. If, at that the end of this term, the applicant wishes to continue the dance hall use, the applicant can file a special permit amendment. The use could then be re-evaluated for its impact.

Group 5 Standards (Sect. 8-503)

The Group 5 Standards require that the proposed use comply with lot size and bulk regulations for the C-7 District, comply with performance standards, and be subject to site plan review. As there are no site modifications proposed, the use meets these standards.

CONCLUSIONS AND RECOMMENDATIONS

Staff believes that all applicable standards for this use as outlined in Sects. 8-006 and 8-503 will be satisfied with adoption of the proposed development conditions. Staff therefore recommends **approval** of SPA 95-Y-069-03, subject to the adoption of the Proposed Development Conditions contained in Appendix 1 of this staff report

The approval of this special permit does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals.

APPENDICES

1. Proposed Development Conditions
2. Affidavit
3. Statement of Justification
4. Development Conditions Approved for SPA 95-Y-069-02
5. Notice of Violation
6. Transportation Analysis
7. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS**October 27, 2009**

If it is the intent of the Board of Zoning Appeals to approve SPA 95-Y-069-03 located at Tax Map 54-4 ((1)) 8C to amend SPA 95-Y-069 previously approved for a billiard hall and eating establishment to permit the addition of a dance hall and modification of development conditions, pursuant to Sect. 4-803 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions. The conditions carried forward from the previous special permit are marked with an asterisk (*). Minor edits has been made to these conditions to conform to current terminology. These edits are shown in underline.

1. This approval is granted to the applicant only, HARCO III, Inc., and is not transferable without further action of this Board, and is for the location indicated on the application, and is not transferable to other land. Other by-right, special exception and special permit uses may be permitted on the lot without a special permit amendment, if such uses do not affect this special permit use.*
2. This special permit is granted only for the purposes, structures and/or uses indicated on the special permit plat prepared by Walter L. Phillips, Incorporated, Signed by Aaron M. Vinson, Professional Engineer, dated January 14, 2009, as revised through September 15, 2009, approved with this application, as qualified by these development conditions.*
3. A copy of this special permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.*
4. This special permit amendment is subject to the provisions of Article 17, Site Plans. Any plan submitted to the Department of Public Works and Environmental Services (DPWES) pursuant to this special permit shall be in substantial conformance with these conditions. Minor modifications to the approved special permit may be permitted pursuant to Par. 4 of Sect. 803 of the Zoning Ordinance.*
5. The hours of operation shall not commence prior to 7:00 A.M. nor extend past to 2:00 A.M. daily.*
6. Any signage erected on the building shall be of a size and materials which are compatible with existing signage in the shopping center as determined by the Department of Planning and Zoning (DPZ), and shall be subject to the requirements of Article 12 of the Zoning Ordinance.*

7. The maximum number of employees on-site shall not exceed 25 at any one time. The maximum number of pool/billiard tables within the use shall not exceed 13. Within the building, the maximum number of eating establishment seats shall not exceed 298 seats, and the maximum number of bar seats shall not exceed 59. Seasonal outdoor seating shall not exceed 28 seats on the east side of the building in the area shown on Attachment 1 of these development conditions. There shall be no seasonal outdoor seating on the north side of the building.*
8. The dance hall use is limited to the two dance floor areas totaling 1,552 square feet in area as depicted in Attachment 1 to these development conditions; the dance floor on the main floor shall consist of 516 square feet (12 feet x 43 feet) in area and the dance floor on the lower level shall consist of 1,036 square feet (28 feet x 37 feet) in area.
9. A new Non-RUP shall be obtained for this special permit use. Prior to the issuance of the Non-RUP, a parking tabulation revision shall be prepared for the review and approval of DPWES and the Zoning Permit Review Branch, DPZ reflecting all current uses to verify that adequate parking exists to serve all uses on the application site. If it is determined that adequate on-site parking does not exist to accommodate all uses, the maximum number of seats for the eating establishment shall be reduced to meet the parking requirements as determined necessary by DPWES and DPZ. Two parking spaces shall be reserved for the use of a limousine; limousines shall be prohibited from parking or standing at the front curb for the billiard hall.
10. Prior to the issuance of the Non-RUP, the applicant shall obtain an occupancy load certificate for the establishment as determined necessary by DPWES and the Fairfax County Fire Marshal.
11. No events such as those that feature strippers, striptease, bathing suit or underwear costumes shall be permitted.*
12. No trailers for storage or any other purpose shall be permitted for this use.*
13. No further additions of expansion to the billiard hall or eating establishment shall be permitted without approval of an amendment to the special permit.*
14. The dance hall use shall be approved for a period of two years from the approval date of this special permit. A special permit amendment must be filed and diligently pursued prior to the expiration date, or the dance hall use shall cease at the end of the two-year period.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Pursuant to Sect.8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, six (6) months after the date of approval unless the use has been established. The Board of Zoning Appeals may grant additional time to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

Application No.(s): SPA 95-Y-069-03
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: April 15, 2009
(enter date affidavit is notarized)

I, Jane Kelsey, Jane Kelsey & Associates, Inc., do hereby state that I am an
(enter name of applicant or authorized agent)

(check one) applicant
 applicant's authorized agent listed in Par. 1(a) below 103415a

and that, to the best of my knowledge and belief, the following is true:

1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,* and, if any of the foregoing is a **TRUSTEE,**** each **BENEFICIARY** of such trust, and all **ATTORNEYS and REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(NOTE: All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
Harco III, Inc. t/a Fast Eddies Daniel S. Harris, President	14114 Lee Highway Centreville, VA	Applicant/Lessee Agent
Westview Associates, LLC J. Randall Minchew, Member	c/o Ravensworth Management 5526 Port Royal Road Springfield, VA 22151	Title Owner/Lessor of TM 054-4((1))8 C
Jane Kelsey & Associates, Inc. Jane Kelsey Donald E. Lucas	4041 Autumn Court Fairfax, VA 22030-5168	Agent for Applicant Agent Agent

(check if applicable) There are more relationships to be listed and Par. 1(a) is continued on a "Special Permit/Variance Attachment to Par. 1(a)" form.

* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.

** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

Application No.(s): SPA 95-Y-069-03
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: April 15, 2009
(enter date affidavit is notarized)

103415a

1(b). The following constitutes a listing*** of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(NOTE: Include **SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS** herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)
Harco III, Inc. *aka Fort Eddie*
14114 Lee Highway
Centreville, VA

DESCRIPTION OF CORPORATION: (check one statement)
 There are 10 or less shareholders, and all of the shareholders are listed below.
 There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
 There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF SHAREHOLDERS: (enter first name, middle initial, and last name)

Daniel S. Harris

(check if applicable) There is more corporation information and Par. 1(b) is continued on a "Special Permit/Variance Attachment 1(b)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): SPA-95-Y-069-03
(county-assigned application number(s), to be entered by County Staff) Page 1 of 2

Special Permit/Variance Attachment to Par. 1(b)

DATE: April 15, 2009 103415a
(enter date affidavit is notarized)

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

Westview Associates, LLC
c/o Ravensworth Management
5526 Port Royal Road
Springfield, VA 22151

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)

J. Randall Minchew, Member
William H. Minchew, Member
Minchew-Westview Associates, LLC Member

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

Minchew - Westview Associates, LLC
c/o Ravensworth Mgt.,
5526 Port Royal Road
Springfield, VA 22151

DESCRIPTION OF CORPORATION: (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)

J. Randall Minchew, Member	John R. Minchew Trust, Member
William H. Minchew, Member	J. Randall Minchew, William H. Minchew,
Lucille S. Minchew, Member	and Weine S. Minchew,
	Trustee/Beneficiaries

(check if applicable) There is more corporation information and Par. 1(b) is continued further on a "Special Permit/Variance Attachment to Par. 1(b)" form.

Application No.(s): SPA 95-Y-069-03
(county-assigned application number(s), to be entered by County Staff) Page 2 of 2

Special Permit/Variance Attachment to Par. 1(b)

DATE: April 15, 2009 103415 a
(enter date affidavit is notarized)

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)
Jane Kelsey & Associates, Inc.
4041 Autumn Court
Fairfax, VA 22030-5168

DESCRIPTION OF CORPORATION: (check one statement)
 There are 10 or less shareholders, and all of the shareholders are listed below.
 There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
 There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)
Jane Kelsey

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

DESCRIPTION OF CORPORATION: (check one statement)
 There are 10 or less shareholders, and all of the shareholders are listed below.
 There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
 There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)

(check if applicable) There is more corporation information and Par. 1(b) is continued further on a "Special Permit/Variance Attachment to Par. 1(b)" form.

Application No.(s): SPA-95-Y-069-03
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: April 15, 2009
(enter date affidavit is notarized)

103415_u

1(c). The following constitutes a listing*** of all of the **PARTNERS**, both **GENERAL** and **LIMITED**, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state, and zip code)

N/A

(check if applicable) The above-listed partnership has no limited partners.

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. **General Partner, Limited Partner, or General and Limited Partner**)

(check if applicable) There is more partnership information and Par. 1(c) is continued on a "Special Permit/Variance Attachment to Par. 1(c)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): SPA-95-Y-069-03
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: April 15, 2009
(enter date affidavit is notarized)

103415a

1(d). One of the following boxes **must** be checked:

In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land:

Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land.

2. That no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on the line below.)

NONE

(check if applicable) There are more interests to be listed and Par. 2 is continued on a "Special Permit/Variance Attachment to Par. 2" form.

Application No.(s): SPA 95-Y-069-03
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: April 15 2009
(enter date affidavit is notarized)

103415a

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on line below.)
None.

(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) [] There are more disclosures to be listed and Par. 3 is continued on a "Special Permit/Variance Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

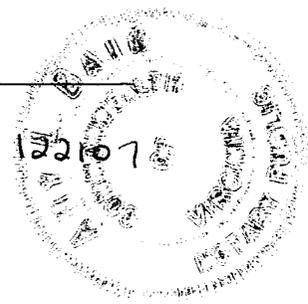
WITNESS the following signature:

(check one) [] Applicant Jane Kelsey [x] Applicant's Authorized Agent

Jane Kelsey, President, Jane Kelsey & Associates, Inc.
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 15th day of April 2009, in the State/Comm. of Virginia, County/City of Fairfax.

Amy L. Bai
Notary Public
registration # 122107



My commission expires: 4/30/12

**WRITTEN STATEMENT DESCRIBING PROPOSED USE
AS REQUIRED UNDER SECTION 8-011, Par. 6.**

Zoning Evaluation Division

Request:

Type of Operation: Amend SP 95-Y-069-2, approved for a billiard hall with eating establishment, to add **dancing with a DJ or a live band, karaoke, darts and to change and/or delete existing Special Permit Amendment Conditions Nos. 1, 7 and 10.**

No. 1 related to Permittee. The flexibility to change the trade name is requested.

Justification for Changing Condition 1: There are a number of billiard establishments in Fairfax City, Fairfax County, and adjoining counties called Fast Eddies that are not owned by Harco III, Inc. Harco III, Inc., the Permittee, would like the flexibility to change the name under which the establishment operates. The applicant/Permittee will continue to be Harco III, Inc. and only the trade name may change. The name of The Beach Club is contemplated, if this name has not already been taken or if this does not work from an economic standpoint. Flexibility will give the Permittee, Harco III, Inc. the option of selecting other names under which to trade. We request condition No. 1 be rewritten to state:

"The applicant may change the trade name of the billiard hall and eating establishment to any name he selects by registering the trade name with the Circuit Court of Fairfax County and the State Corporation Commission, if such is required, and advising the Fairfax County Zoning Administrator of such change."

No. 7. A recent parking study of the Newgate Shopping Center prepared by Walter Phillips, Inc., engineering firm, verified that the number of spaces provided in the shopping center more than meet the number required for both this use and all other businesses in the shopping center. Parking spaces actually exceed both the calculated requirement and the need. It appears the focus of No. 7 is to ensure that there is an adequate number of parking spaces at all times. The wording of this condition is both convoluted and not logical. It appears to be a holdover to a former owner's operation.

No. 10. This condition was imposed, we believe, because of some building expansion that was done without proper approvals by the former owner. It seems that if the parking can be met, to remove or add a billiard table and substitute eating tables should not trigger a Special Permit Amendment.

We request that the conditions be combined and reworded to require that should the number of eating or billiard tables be changed which would trigger more parking, a parking study be approved to show that the required parking is met.

Hours of Operation: No change. 7:00 a.m. until 2:00 ^{gpk} a.m. The Applicant does not propose to serve breakfast, does not open at 7:00 a.m., but would like to reserve that option.

gpk

Number of Patrons: This number varies based upon the time and day of the week. The peak is on weekend evenings, when the greatest number of patrons may visit the establishment throughout the evening. The County Fire Marshall's permit establishes the maximum occupancy load at 780 for both levels and the deli area, but, according to Harco III, Inc.'s President, there has never been a number even close to that in the facility since Harco III, Inc. moved into this location.

Number of employees: The maximum number of employees is 25.

Traffic Impact: The traffic impact will not change. Dining patrons of the restaurant may also use the dance floor, play darts or billiards. Peak traffic is in the evenings when the Post Office and other commercial establishments are closed.

Vicinity to be served: The Centreville area.

Description of building: Two story masonry building fronting on sidewalk and parking lot. See photos. No changes are proposed to the building façade.

Hazardous materials: None.

Statement of conformance to provisions of all regulations: The establishment conforms to all Code regulations.

Background:

January 23, 1996, the Board of Zoning Appeals (BZA) granted a Special Permit SPA 95-Y-069 to John Tsiaoushis for a billiard hall. The conditions limited the billiard tables to 30 and the restaurant seating to 120 with 70 bar seats.

August 11, 1998, the BZA approved a SPA 95-Y-069-1 to Karharias Inc. T/A The Shark Club Billiards & Café/The Shark Club to permit building additions and change in development conditions. The conditions permitted 22 billiard tables, 160 seats in the restaurant, 70 bar seats, and 50 outside seasonal seats, and 16 employees.

May 18, ²⁰⁰⁴~~1998~~, the BZA approved SPA 95-Y-069-2 to Harco III, Inc. T/A Fast Eddies for a change in Permittee. The conditions remained the same as for SPA 95-Y-069-1.

August 8, 2008, a zoning violation notice was issued for operating a dance hall without Board of Zoning Appeals approval and for having more dining seats and more employees than the Special Permit allowed.

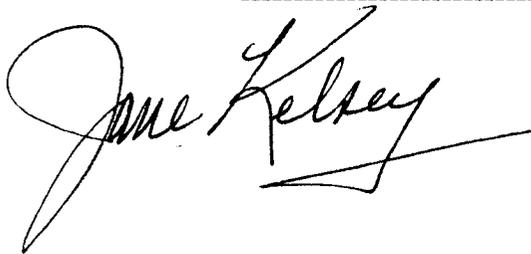
Mr. Harris, President of Harco III, Inc., the Permittee, believes that the operations that existed when he purchased the business were legal. He continued to operate the billiard hall and eating establishment with the same furniture and equipments as when he purchased the business. There are four eating locations: On the main level, there is a deli

that serves lunch, the main dining area, the outside seating area open in the summer, and the lower level eating area, open on the weekends. The number of restaurant seats and number of employees fluctuate between winter and summer months. The Permittee believed that the size of the dance floor did not exceed that which would be permitted by right and could be accessory to the eating establishment. He had a certified engineer measure the inside of the facility, but Staff did not agree with the measurements. Since the number of billiard tables was 14 and the Special Permit permitted 22, he believed if he reduced the number of billiard tables and increased the number of dining tables, both the billiards and dance area would be accessory to the eating establishment. An appeal was filed on this issue and the issues became very contentious. Staff suggested and the Permittee agreed that a Special Permit Amendment would be the best course of action.

There are no changes proposed to the physical improvements on the property.

The use meets all of the Standards for Special Permit uses and is compatible with the surrounding uses in the shopping center. The lower level of the shopping center is separated from the nearest residential neighborhood by a courtyard, driveway, and 6 foot fence with space on the other side of the fence. To our knowledge, this establishment has not caused any disturbance to any of the adjacent residential neighborhoods.

We reserve the right to continue with the pending Appeal and to challenge the County's "policy" on the amount of space that must be provided for a billiard table instead of using the amount that is actually provided in an establishment and whether or not the dancing aspect of the operation is accessory to the eating establishment based on these measurements.



COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

HARCO III, INC., T/A FAST EDDIES, SPA 95-Y-069-02 Appl. under Sect(s). 4-703 of the Zoning Ordinance to amend SP 95-Y-069 previously approved for billiard hall with an eating establishment to permit change in permittee. Located at 14114 - 14116 Lee Hwy. on approx. 8.6 ac. of land zoned C-7, WS, HC and SC. Sully District. Tax Map 54-4 ((1)) 8C. Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on May 18, 2004; and

WHEREAS, the Board has made the following findings of fact:

1. The applicants are the owners of the land.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sect(s). 4-703 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED** with the following limitations:

1. This approval is granted to the applicant only, Harco III, Inc., T/A Fast Eddie's, and is not transferable without further action of this Board, and is not transferable to other land. Other by-right, Special Exception and Special Permit uses may be permitted on the lot without a Special Permit Amendment, if such uses do not affect this Special Permit use.
2. This Special Permit is granted for the purpose(s), structures and/or use(s) indicated on the special permit plat prepared by The Tech Group Inc., (Anthony Morse) dated March 31, 1998, as revised through April 7, 1998, and signed May 13, 1998, approved with this application, as qualified by these development conditions.
3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This Special Permit is subject to the provisions of Article 17, Site Plans, as may be determined by the Director, Department of Public Works and Environmental Services. Any plan submitted pursuant to this special permit shall be in conformance with the approved Special Permit Plat and these development conditions.
5. The hours of operation shall not commence prior to 7:00 a.m. nor extend past 2:00 a.m. daily.

6. Any signage erected on the building shall be of a size and materials which are compatible with existing signage in the shopping center as determined by DPZ, and shall be subject to the requirements of Article 12 of the Zoning Ordinance.
7. The maximum number of employees on-site shall not exceed 16 at any one time. The maximum number of pool/billiard tables within the use shall not exceed 22. Within the building the maximum number of eating establishment tables shall not exceed 160 seats, and the maximum number bar seats shall not exceed 70. Seasonal outdoor seating shall not exceed 50 seats on the east side of the building in the area shown on the special permit plat. There shall be no seasonal outdoor seating on the north side of the building. Irrespective of that shown on the special permit plat, a minimum of 162 parking spaces shall be provided on-site as shown on the plat, based upon the formula for calculating parking as follows: 1 parking space for every three persons using the billiards tables, using 8 persons for each billiard table, 1 parking space for every 4 eating establishment table seats (both indoor and outdoor), 1 parking space for every 2 bar seats, and 1 parking space for every 2 employees present at one time. Prior to the issuance of a Non-Rup, the applicant shall prepare a parking tabulation revision for the review and approval of the Department of Public Works and Environmental Services, (DPWES) and Zoning Permit Review Branch of the Department of Planning and Zoning (DPZ), reflecting all current uses on the site, to verify that adequate parking exists on the site to serve all uses. If it is determined that adequate parking does not exist on site to accommodate the billiard hall, the maximum number of seats for the eating establishment shall be reduced to meet the parking spaces available for the use. Two parking spaces shall be reserved for the use of a limousine; limousines shall be prohibited from parking or standing at the front curb for the billiard hall.
8. No events such as those the feature strippers, stripteases, bathing suit, or underwear costumes shall be permitted.
9. No trailers for storage or any other purpose shall be permitted for this use.
10. No further additions or expansion to the billiard hall or eating establishment shall be permitted without approval of an amendment to the special permit.

These development conditions incorporate and supercede all previous development conditions. This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Pursuant to Sect.8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, six (6) months after the date of approval* unless a new Non-Residential Use Permit has been obtained. The Board of Zoning Appeals may grant additional time to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

Mr. Beard seconded the motion which carried by a vote of 6-0. Ms. Gibb was absent from the meeting.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on May 26, 2004. This date shall be deemed to be the final approval date of this special permit.

A Copy Teste:

A handwritten signature in black ink, appearing to read "Vanessa A. Bergh". The signature is fluid and cursive, with a long horizontal stroke at the end.

Vanessa A. Bergh, Deputy Clerk
Board of Zoning Appeals



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

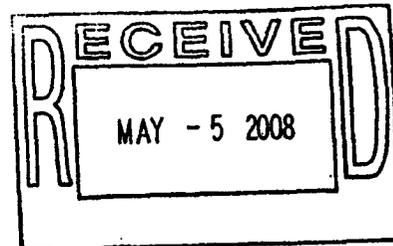
April 30, 2008

NOTICE OF VIOLATION

CERTIFIED MAIL

Return Receipt Requested

Receipt #7007 1490 0000 3214 7108



John Minchew, Registered Agent
Westview Associates, L.L.C..
1 E. Market Street, 3rd Floor
Leesburg, Virginia 22176

Re: Fast Eddie's Restaurant
14114 Lee Highway
Tax Map Ref: 54-4 ((1)) 0008C
Zoning Districts: C-7, WC, HC, SC

Dear Mr. Minchew:

The purpose of this letter is to notify you of violations of the Fairfax County Zoning Ordinance existing on the above-referenced property. The violations pertain to the occupancy and use of the referenced property by Harco III, Inc. (t/a Fast Eddie's Restaurant) for non-compliance with the conditions of Special Permit Amendment SPA 95-Y-069-2, and changing the use of the Non-Residential Use Permit (Non-RUP).

On May 11, 2004, the Fairfax County Board of Zoning Appeals (BZA) approved Special Permit Amendment SPA 95-Y-069-2 to permit a change in permittee for the operation of a billiard hall, subject to conditions at 14114 Lee Highway. A copy of the BZA's resolution approving SPA 95-Y-069-2, which includes the conditions, is enclosed.

A zoning investigation, including a zoning inspection of the above-referenced property on April 19, 2008, revealed that Harco III, Inc. (t/a Fast Eddie's Restaurant) is operating both a billiard hall and a dance hall from the above-referenced property. Non-Residential Use Permit (Non-RUP) #A-2004-1013 was issued on June 10, 2004, for a Billiard Hall. The use of the referenced property, as a dance hall is not in conformance with the approved conditions of Special Permit Amendment SPA 95-Y-069-2; thereby, constituting an expansion of the Special Permit use without approval from the Board of Zoning Appeals, and therefore in violation of Par. 2 of Sect. 8-004 of the Zoning Ordinance which states:

Department of Planning and Zoning
Zoning Administration Division
Zoning Enforcement Branch

12055 Government Center Parkway, Suite 829
Fairfax, Virginia 22035-5508
Phone 703-324-1300 FAX 703-324-1343
www.fairfaxcounty.gov/dpz/

John Minchew, Registered Agent
Westview Associates, L.L.C..
April 30, 2008
Page 2

Once established, the use shall be conducted in substantial conformance with the permit, any conditions or restrictions imposed by the BZA, and all other requirements of this Ordinance. Except as may be permitted under Paragraphs 3 and 4 below, no use shall be enlarged, expanded, increased in intensity or relocated and no condition of the special permit shall be modified unless an application is made, and approved for an amendment to the special permit in accordance with Sect. 014 below or a new special permit is approved.

Further, a review of Fairfax County records reveals Harco III, Inc. (t/a Fast Eddie's Restaurant) has changed, and expanded the use without having obtained a valid Non-Residential Use Permit (Non-RUP) in violation of Sect. 18-701 of the Zoning Ordinance which states:

No occupancy or use shall be made of any structure hereinafter erected or of any premises hereinafter improved, and no change in use shall be permitted, unless and until a Residential or Non-Residential Use Permit has been approved in accordance with the provisions of this Part. A Residential or Non-Residential Use Permit shall be deemed to authorize, and is required for both the initial and continued occupancy and use of the building or land to which it applies.

For your information, a dance hall is permitted, as a Group 5 Special Permit Use, in the C-7 District, with the approval of a Special Permit Application by the Board of Zoning Appeals (BZA). It is noted, that Par. 1 of Sect. 2-303 of the Fairfax County Zoning Ordinance provides:

No use of a structure or land that is designated as a special permit use in any zoning district shall hereafter be established, and no existing use shall hereafter be changed to another use that is designated as a special permit use in such district, unless a special permit has been approved by the BZA and the use has been established in accordance with the provisions of Article 8.

Therefore, the Registered Agent for Harco III, Inc. is in violation of Par. 1 of Sect. 2-303.

On June 10, 2004, a Non-Residential Use Permit (Non-Rup) subject to SPA 95-Y-069-02 was issued for Fast Eddie's Restaurant located at 14114 Lee Highway. The limitations and conditions of the Non-Rup and SPA 95-Y-069-02 are as follows: 160 restaurant seats, 70 bar seats, 22 billiard tables and 16 employees on-site at any one time.

The inspection on April 19, 2008 demonstrated that Fast Eddie's Restaurant, an eating establishment and billiard hall, is occupying the above-referenced property in violation of the provisions of the aforementioned Non-Rup. At the time of that inspection, Fast Eddie's Restaurant had 211 restaurant seats (an excess of 51) and 25 employees (an excess of 9). There

John Minchew, Registered Agent
Westview Associates, L.L.C..
April 30, 2008
Page 3

were also 14 billiard tables and 12 bar seats.

Therefore, Fast Eddie's Restaurant is in violation of Sect. 18-901 of the Fairfax County Zoning Ordinance, which states:

Any building erected or improvements constructed contrary to any of the provisions of this Ordinance and any use of any building or land which is conducted, operated or maintained contrary to any of the provisions of this Ordinance or contrary to any detailed statement or plan approved under the provisions of this Ordinance shall be and the same is hereby declared to be unlawful.

The Registered Agent for Harco III, Inc. is, hereby, directed to clear these violations within thirty (30) days of the date of this Notice. Compliance shall be accomplished by the following:

1. Cease operating the dance hall and remove the dance hall area from the above-referenced property, and complying with the development conditions of SPA 95-Y-069-2.
2. Make the necessary adjustments in seating capacity and the maximum number of employees on-site at one time; and thereby comply with the provisions of Non-Residential Use Permit A-2204-1013.

If Harco III, Inc. desires to have a dance hall, the corporation may apply for and obtain approval of an amendment to Special Permit SPA 95-Y-069-2 from the Fairfax County Board of Zoning Appeals (BZA) to allow both a billiard hall and dance hall to operate from the above-referenced property, and obtain all necessary permits and approvals to include obtaining approval of a Non-Residential Use Permit (Non-RUP) to reflect all permitted uses.

A follow-up inspection will be made at the expiration of this time. Failure to comply, with this Notice, **shall** result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance.

Harco III, Inc. may have the right to appeal this Notice of Zoning Violation within thirty (30) days of the date of this letter in accordance with Sec. 15.2-2311 of the Code of Virginia. This decision shall be final and unappealable if it is not appealed within such thirty (30) days. Should Harco III, Inc. choose to appeal, the appeal must be filed with the Zoning Administrator and the Board of Zoning Appeals (BZA) in accordance with Part 3 of Article 18 of the Fairfax County Zoning Ordinance. Those provisions require the submission of an application form, written statement setting forth the decision being appealed, date of decision, the grounds for the appeal, how the appellant is an aggrieved party and any other information you may wish to submit and a \$375.00 filing fee. Once an appeal application is accepted, it is scheduled for public hearing and decision before the BZA.

John Minchew, Registered Agent
Westview Associates, L.L.C..
April 30, 2008
Page 4

Should you have any questions or need additional information, please do not hesitate to contact me at (703) 324-1478 or (703) 324-1300.

Sincerely,



Wayne Bass
Property Maintenance/Zoning Enforcement Inspector

WB/

Special Permit Application information enclosed
Copy of BZA's resolution approving SPA 95-Y-069-2



County of Fairfax, Virginia

MEMORANDUM**DATE:** April 17, 2009

TO: Regina Coyle, Director
Zoning Evaluation Division,
Department of Comprehensive Planning

FROM: Angela Kadar Rodeheaver, Chief
Site Analysis Section
Department of Transportation

FILE: 3- 6 (SP 95-Y-069)

SUBJECT: Transportation Impact

REFERENCE: SPA 95-Y-069-03; Harco III., Fast Eddies
Traffic Zone: 1674
Land Identification Map: 54-4 ((01)) 8C

Transmitted herewith are comments from the Department of Transportation with respect to the referenced application. These comments are based on the plat dated January 14, 2009.

The subject site is approved for a billiard hall with an eating establishment. The subject special permit amendment request is to permit a dance hall, and to permit modifications to the development conditions.

This department has reviewed this subject request and notes that the proposed hours of operation, from 7:00 am to 2:00 pm, will include the daily am and pm peak hours. As such, this department has determined that the site improvement will not have any major impact on the surrounding roadway network.

Therefore, this department does not object to the special permit request.

AKR/AK W:SP95Y068HarcoFastEddies...SJ
CC: Michelle Brickner, Director, Design Review, DPW & ES



COMMONWEALTH of VIRGINIA

DAVID S. EKERN, P.E.
COMMISSIONER

DEPARTMENT OF TRANSPORTATION

14685 Avion Parkway
Chantilly, VA 20151
(703) 383-VDOT (8368)

May 18, 2009

Ms. Regina Coyle
Director of Zoning Evaluation
Department of Planning and Zoning
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5511

Re: Newgate Shopping Center
Harco III, Inc.
SPA 95-Y-069-03
Tax Map No.: 54-4((1)) 8C

Dear Ms. Coyle:

We have reviewed the referenced plan as requested and offer the following comment:

- All previously approved conditions should be carried forward with this application.

If you have any questions, please call me at (703) 383-2059.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter K. Gerner".

Peter K. Gerner, P.E.
Transportation Engineer

cc: Ms. Angela Rodeheaver

8-006 General Standards

In addition to the specific standards set forth hereinafter with regard to particular special permit uses, all special permit uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

8-503 Standards for all Group 5 Uses

In addition to the general standards set forth in Sect. 006 above, all Group 5 special permit uses shall satisfy the following standards:

1. All uses shall comply with the lot size and bulk regulations of the zoning district in which located, except as may be qualified below.
2. All uses shall comply with the performance standards specified for the zoning district in which located, including the submission of a sports illumination plan as may be required by Part 9 of Article 14.
3. No building designed primarily and specifically for such use shall be located within 100 feet of any adjoining property which is in an R district.
4. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans.