

BBA18-001

CITY OF ANN ARBOR  
RECEIVED

JAN 22 2018

APPLICATION FOR VARIANCE  
BUILDING BOARD OF APPEALS

PLANNING & DEVELOPMENT SERVICES

Section 1: Applicant Information

Name of Applicant: Mark Messmore / La Taqueria Ann Arbor LLC  
Address of Applicant: 106 E. Liberty Street, Suite 120 / Ann Arbor, MI 48104  
Daytime Phone: 734-846-9660  
Fax: \_\_\_\_\_  
Email: mark@lataqueriaannarbor.com  
Applicant's Relationship to Property: Tenant

Section 2: Property Information

Address of Property: 106 E. Liberty Street, Suite 120 / Ann Arbor, MI 48104  
Zoning Classification: \_\_\_\_\_  
Tax ID# (if known): \_\_\_\_\_

Section 3: Request Information

Variance

Chapter(s) and Section(s) from which a variance is requested:

OSHA Bathroom  
Requirements

Example: 2003 Building Code, Sec 5:26

REQUIRED dimension:

1 unisex bathroom  
for 15 or fewer employees

Example: 7' Ceiling Clearance

PROPOSED dimension:

1 unisex bathroom downstairs  
+2 unisex bathrooms upstairs  
(w/ written permission for use)

Example: 6'5" under landing

Give a detailed description of the work you are proposing and why it will require a variance (attach additional sheets if necessary)

We currently have 1 bathroom in the basement. We have written permission to have ready access during our business hours to give customers access to the 2 additional bathrooms on the second floor.

Section 4: Variance Request (If not applying for a variance, skip to section 5)

The City of Ann Arbor Building Board of Appeals has the powers granted by State law and Building Codes. A variance may be granted by the Building Board of Appeals only in cases involving practical difficulties or unnecessary hardships when **ALL** of the following is found **TRUE**. Please provide a complete response to each item below. These responses, together with the required materials in Section 5 of this application, will form the basis for evaluation of the request by staff and the Building Board of Appeals.

1. Are there hardships or practical difficulties to complying with the Code? Are these hardships or practical difficulties an exception or unique to the property compared to other properties in the City?

There is not physical space in the existing area to add a bathroom.

We have one bathroom at the bottom of our stairs (ADA accessible via the elevator).

We also have written permission from the tenants upstairs to allow ready access during our open-hours so that customers can use the 2 additional bathrooms on the second floor (allowing our total of 40 seats).

2. Are the hardships or practical difficulties more than mere inconvenience, inability to obtain a higher financial return, or both? (explain)

The hardship exists because of the physical borders in the space. The way this space was divided by the landlord does not permit another bathroom to be installed without a complete reconfiguration of the space. Without additional bathrooms, we can only have 14 chairs, not the 40 that are there. (continued)

3. What effect will granting the variance have on the neighboring properties? \_\_\_\_\_

The variance will not have any effect on the neighboring properties, except the 2nd floor tenant who has agreed in writing to allow our customers to use their bathrooms whenever needed.

4. What physical characteristics of your property in terms of size, shape, location or topography prevent you from using it in a way that is consistent with the Code?

The borders and makeup of the space do not permit space for another bathroom within the current walls. Thus, the bathrooms on the second floor are requested for utilization.

5. Is the condition which prevents you from complying with the ordinance self-imposed? How did the condition come about?

We purchased this property from a previous owner who had 40 chairs in the space. We were not aware of the bathroom limitations until we started the permitting process to bring everything up to code (which the previous tenants did not do).

**Section 5: Required Materials**

The following materials are required for all variance requests. Failure to provide these materials will result in an incomplete application and will delay staff review and Building Board of Appeals consideration of the request. The materials listed below must accompany the application and constitute an inseparable part of the application.

All materials must be provided on 8 1/2" by 11" sheets. If incomplete, you will be scheduled for the NEXT MEETING DATE ON THE FOLLOWING MONTH.

- State proposed use of the property, size of lot and size and type of proposed changes.
- Building floor plans showing interior rooms, including dimensions.
- Photographs of the property and any existing buildings involved in the request.
- Any other graphic or written materials that support the request.

\*\*Glen Dempsey and Marc Howell have visited the property and have these items already in-hand.

**Section 7: Acknowledgement**

**SIGNATURES**

I, the applicant, request a variance from the above named Chapter(s) and Section(s) of the State of Michigan Building Residential/Commercial Code(s) for the stated reasons, in accordance with the materials attached hereto.

MARK G. MESSMORE \_\_\_\_\_

*Mark G. Messmore* \_\_\_\_\_

734 846 9660  
Phone Number

Signature

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Print Name

Email Address

CITY OF ANN ARBOR  
RECEIVED

Date Submitted: JAN 22 2018

**STAFF USE ONLY**

Fee Paid: \$500

File No.:	_____	Date of Public	_____
Hearing	_____		
Pre-filing Staff Reviewer & Date	_____	BBA Action:	_____
Pre-Filing Review:	_____		
Staff Reviewer & Date:	_____		



# CITY OF ANN ARBOR

100 N. FIFTH AVE • ANN ARBOR, MI 48104  
(734) 794-6267

**Receipt Number: 2018-00042812**

**Project Number** BBA18-001  
**Receipt Print Date:** 01/22/2018  
**Address** 106 E LIBERTY ST 120  
**Applicant** Mark Messmore/La Taqueria  
**Owner** 301 SMS, LLC  
**Project Description** Variance from OSHA Bathroom Requirements

## FEES PAID

---

0026-033-3370-0000-4361

P&D - APPEAL FEES 15/16

BBA - ALL OTHER STRUCTURES	0026-033-3370-0000-4361	500.00
----------------------------	-------------------------	--------

---

<b>Total Fees for Account 0026-033-3370-0000-4361:</b>	<b>500.00</b>
--	---------------

---

<b>TOTAL FEES PAID</b>	<b>500.00</b>
------------------------	---------------

DATE PAID: Monday, January 22, 2018

PAID BY: LOGOS

PAYMENT METHOD: CREDIT CARD TYPE NOT

La Taqueria Ann Arbor LLC  
106 E. Liberty Street, Suite 120  
Ann Arbor, Michigan 48104

22 January 2018

To Whom It May Concern:

I purchased the former "Maize and Blue Delicatessen" located at 106 E. Liberty Street in July 2017. We purchased the restaurant in "as-is" condition. When we were getting ready to open, we decided to check with the City as a courtesy to make sure everything was in order. We discovered it was not.

For the past 7 months, we have been working with the City of Ann Arbor to retroactively go back and update plans and permits for work the previous owners did to the space.

We learned that the 40 seats we purchased with the restaurant could not be used because there was not enough bathroom capacity for 40 patrons plus employees. Our single unisex bathroom in the basement would not be sufficient for anything more than 14 seats.

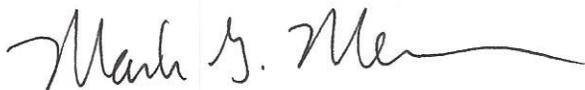
The footprint and existing walls of the space cannot support another bathroom without significant demolition and changes to the main plumbing stack in the building. There is not another common bathroom in the building, only the bathroom available in the bathroom of our space.

So, we worked with our neighbors upstairs at Franworth. They agreed in writing to allow us to have unrestricted access during our business hours to use their bathrooms on the second floor (same distance as the one downstairs).

If approved, this would allow us the appropriate capacity to utilize all 40 chairs in the restaurant and increase the occupancy load as outlined in the attached, sealed letter from Foresta Architects LLC.

Thank you for your time and consideration in this matter. Please let me know if you would like any additional information.

Thank you,



Mark G. Messmore  
La Taqueria Ann Arbor LLC



PROJECT:  
DATE: 1.05.2018

---

La Tacqueria Restaurant 106 E. Liberty St, Suite 120 Ann Arbor, MI 48104

To whom it may concern:

The above referenced restaurant, will have a maximum occupancy of 49 people. There are three single use restrooms available. One in the lower level of the restaurant, and two on the second floor over the restaurant. The landlord has authorized the use of the second floor restrooms for the restaurant. Three restrooms, per code, has capacity for in excess of 150 occupants.

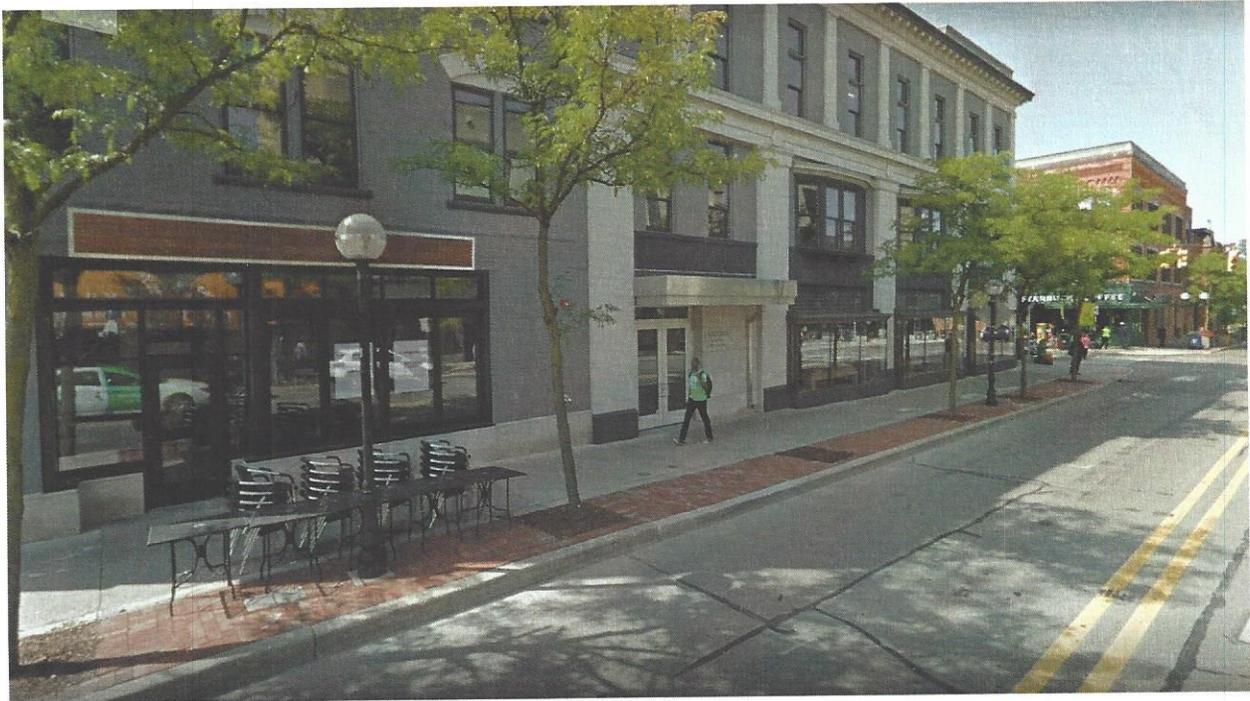
Attached are drawings of the second floor restrooms for reference.

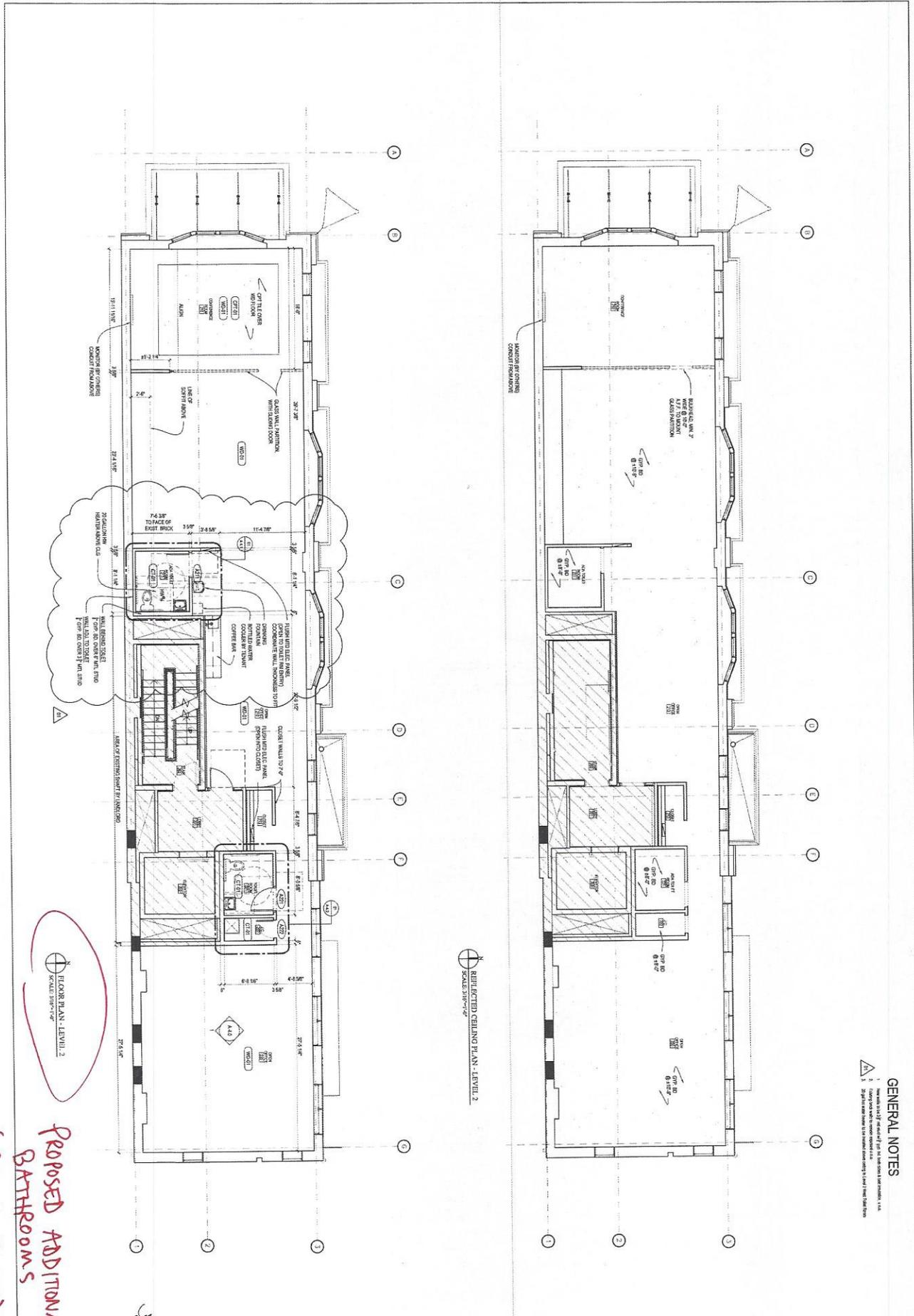
Sincerely,



A handwritten signature in black ink that reads 'Brian Foresta'.

Brian Foresta  
Architect





**GENERAL NOTES**

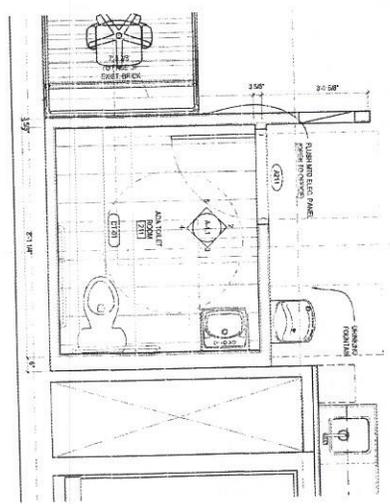
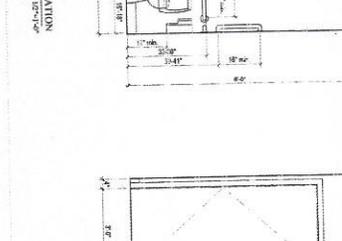
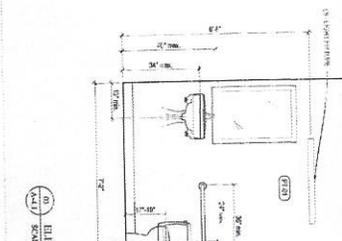
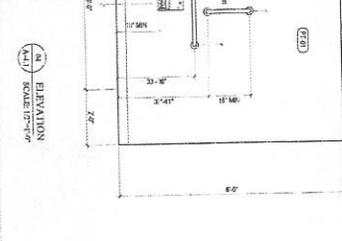
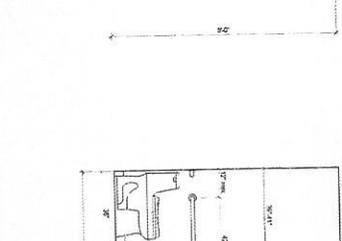
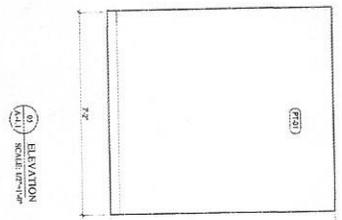
1. See notes on sheet of general notes for all notes and conditions.

2. All dimensions are to center unless noted otherwise.

3. All dimensions are to be confirmed by field survey.

**PROPOSED ADDITIONAL BATHROOMS (SECOND FLOOR)**

PROJECT NO. Level 2 Floor Plan, Refl. Clg. Plan A-2.0	 Angelini & Associates Architects 113 East Ann Street Ann Arbor, MI 48104 (734) 968-0735	PROJECT NAME <b>TBC International Corporate Offices</b> PROJECT ADDRESS 106 E. Liberty Street	PREPARED BY 12/15/14 Review 01/19/15 Permit 02/20/15 Permit Revisions	PROJECT # 1454-09	<b>8</b>
			DATE 02/20/15		



341 ENLARGED PLAN - TOILET RM 211  
SCALE 1/2" = 1'-0"

A-4.1

Interior Elevations

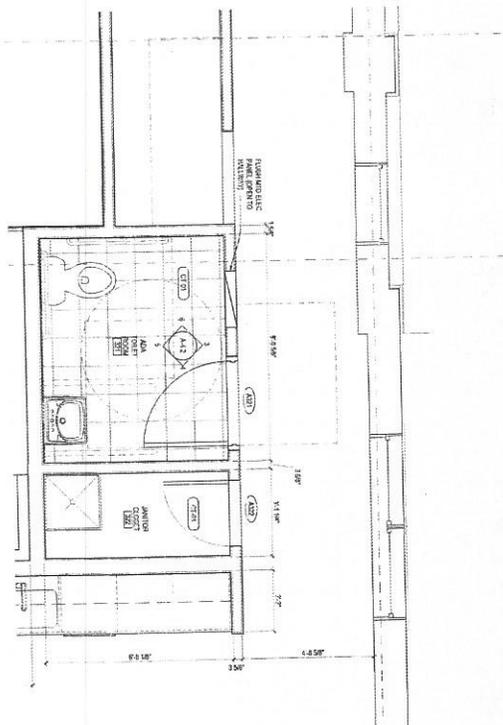


Angelini & Associates Architects  
111 East Ann Street  
Ann Arbor, MI 48104  
(734) 998-0735

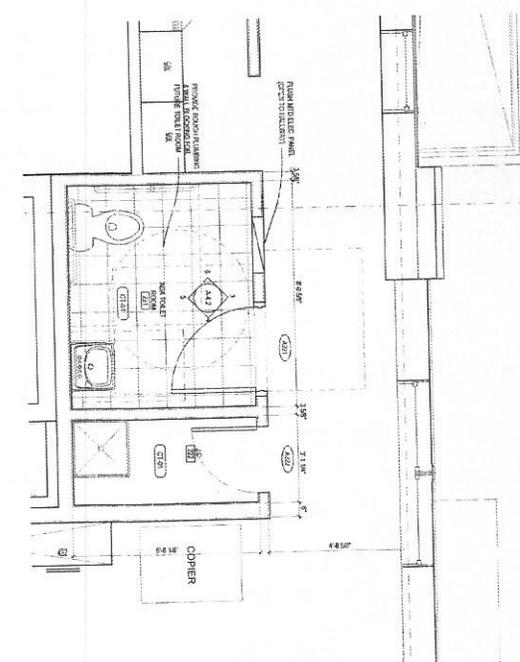
TBC International Corporate Offices  
106 E. Liberty Street

12/15/11: Review  
01/19/13: Permit

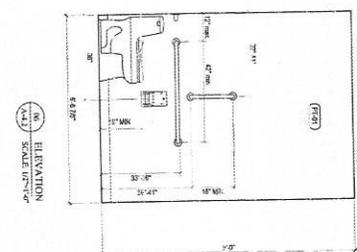
1454-05



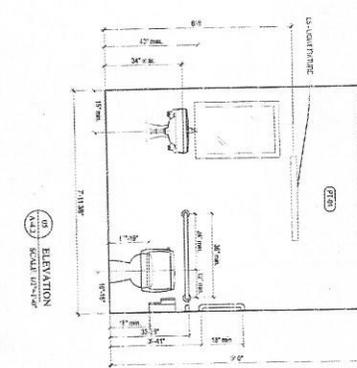
EN-ANGEDD PLAN TOILET RM 221  
SCALE 1/8\"/>



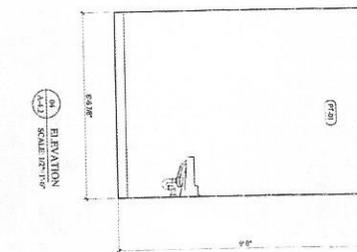
EN-ANGEDD PLAN TOILET RM 221  
SCALE 1/8\"/>



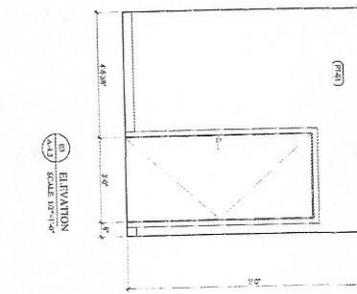
ELEVATION  
SCALE 1/8\"/>



ELEVATION  
SCALE 1/8\"/>



ELEVATION  
SCALE 1/8\"/>



ELEVATION  
SCALE 1/8\"/>

A-4.2

Interior Elevations



Angelini & Associates Architects  
111 East Ave Street  
Arts Arbor, 5th Floor  
154-001

TBC International Corporate Offices  
106 E. Liberty Street

12/15/14 Review  
01/16/15 Permit

154-001





**A2.102 TAGGED NOTES**

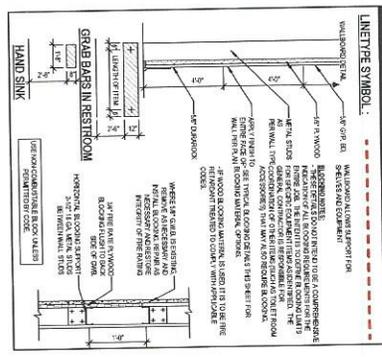
1. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODE (IBC) AND THE NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) CODES.
2. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL MECHANICAL AND ELECTRICAL (IMC) AND PLUMBING AND MECHANICAL (PM) CODES.
3. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL ENERGY CONSERVATION (IECC) CODE.
4. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL RESIDENTIAL CODE (IRC).
5. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL FIRE AND SMOKE ALARMING (IFSA) CODE.
6. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL FIRE AND SMOKE DETECTION AND NOTIFICATION (IFSDN) CODE.
7. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL FIRE AND SMOKE DETECTION AND NOTIFICATION (IFSDN) CODE.
8. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL FIRE AND SMOKE DETECTION AND NOTIFICATION (IFSDN) CODE.
9. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL FIRE AND SMOKE DETECTION AND NOTIFICATION (IFSDN) CODE.
10. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL FIRE AND SMOKE DETECTION AND NOTIFICATION (IFSDN) CODE.
11. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL FIRE AND SMOKE DETECTION AND NOTIFICATION (IFSDN) CODE.

**A1.03 WALL TYPES**

NEW	EXISTING	DEMOL	SYMBOL	CONSTRUCTION
			1	1 1/2" MIN. STUCCO ON 1/2" MIN. GYPSUM BOARD OVER 1/2" MIN. INSULATION OVER 1/2" MIN. SHEATHING OVER 1/2" MIN. STUDS OVER 1/2" MIN. JOISTS
			2	1 1/2" MIN. STUCCO ON 1/2" MIN. GYPSUM BOARD OVER 1/2" MIN. INSULATION OVER 1/2" MIN. SHEATHING OVER 1/2" MIN. STUDS OVER 1/2" MIN. JOISTS
			3	1 1/2" MIN. STUCCO ON 1/2" MIN. GYPSUM BOARD OVER 1/2" MIN. INSULATION OVER 1/2" MIN. SHEATHING OVER 1/2" MIN. STUDS OVER 1/2" MIN. JOISTS
			4	1 1/2" MIN. STUCCO ON 1/2" MIN. GYPSUM BOARD OVER 1/2" MIN. INSULATION OVER 1/2" MIN. SHEATHING OVER 1/2" MIN. STUDS OVER 1/2" MIN. JOISTS
			5	1 1/2" MIN. STUCCO ON 1/2" MIN. GYPSUM BOARD OVER 1/2" MIN. INSULATION OVER 1/2" MIN. SHEATHING OVER 1/2" MIN. STUDS OVER 1/2" MIN. JOISTS
			6	1 1/2" MIN. STUCCO ON 1/2" MIN. GYPSUM BOARD OVER 1/2" MIN. INSULATION OVER 1/2" MIN. SHEATHING OVER 1/2" MIN. STUDS OVER 1/2" MIN. JOISTS
			7	1 1/2" MIN. STUCCO ON 1/2" MIN. GYPSUM BOARD OVER 1/2" MIN. INSULATION OVER 1/2" MIN. SHEATHING OVER 1/2" MIN. STUDS OVER 1/2" MIN. JOISTS
			8	1 1/2" MIN. STUCCO ON 1/2" MIN. GYPSUM BOARD OVER 1/2" MIN. INSULATION OVER 1/2" MIN. SHEATHING OVER 1/2" MIN. STUDS OVER 1/2" MIN. JOISTS
			9	1 1/2" MIN. STUCCO ON 1/2" MIN. GYPSUM BOARD OVER 1/2" MIN. INSULATION OVER 1/2" MIN. SHEATHING OVER 1/2" MIN. STUDS OVER 1/2" MIN. JOISTS
			10	1 1/2" MIN. STUCCO ON 1/2" MIN. GYPSUM BOARD OVER 1/2" MIN. INSULATION OVER 1/2" MIN. SHEATHING OVER 1/2" MIN. STUDS OVER 1/2" MIN. JOISTS
			11	1 1/2" MIN. STUCCO ON 1/2" MIN. GYPSUM BOARD OVER 1/2" MIN. INSULATION OVER 1/2" MIN. SHEATHING OVER 1/2" MIN. STUDS OVER 1/2" MIN. JOISTS
			12	1 1/2" MIN. STUCCO ON 1/2" MIN. GYPSUM BOARD OVER 1/2" MIN. INSULATION OVER 1/2" MIN. SHEATHING OVER 1/2" MIN. STUDS OVER 1/2" MIN. JOISTS
			13	1 1/2" MIN. STUCCO ON 1/2" MIN. GYPSUM BOARD OVER 1/2" MIN. INSULATION OVER 1/2" MIN. SHEATHING OVER 1/2" MIN. STUDS OVER 1/2" MIN. JOISTS

**NOTE:** ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODE (IBC) AND THE NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) CODES.

**A2.106 BLOCKING DETAILS**



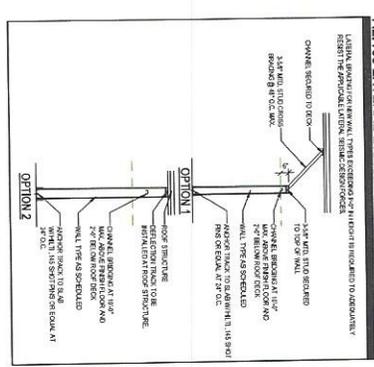
**A2.110 DOOR SCHEDULE**

MARK ROOM NAME	SIZE	MATERIAL	HARDWARE SET
1	3'-0" x 7'-0"	1 1/2" PREPARED	1 1/2" SET
2	3'-0" x 7'-0"	1 1/2" PREPARED	1 1/2" SET
3	3'-0" x 7'-0"	1 1/2" PREPARED	1 1/2" SET
4	3'-0" x 7'-0"	1 1/2" PREPARED	1 1/2" SET
5	3'-0" x 7'-0"	1 1/2" PREPARED	1 1/2" SET
6	3'-0" x 7'-0"	1 1/2" PREPARED	1 1/2" SET
7	3'-0" x 7'-0"	1 1/2" PREPARED	1 1/2" SET
8	3'-0" x 7'-0"	1 1/2" PREPARED	1 1/2" SET
9	3'-0" x 7'-0"	1 1/2" PREPARED	1 1/2" SET
10	3'-0" x 7'-0"	1 1/2" PREPARED	1 1/2" SET
11	3'-0" x 7'-0"	1 1/2" PREPARED	1 1/2" SET
12	3'-0" x 7'-0"	1 1/2" PREPARED	1 1/2" SET
13	3'-0" x 7'-0"	1 1/2" PREPARED	1 1/2" SET

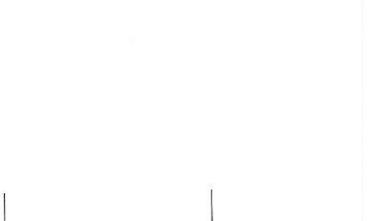


**A2.104 SLAB REPAIR DETAIL**

**A2.105 LATERAL BRACING DETAILS**



**A2.107 TYP. FRAMING FOR CONC. OPENINGS**



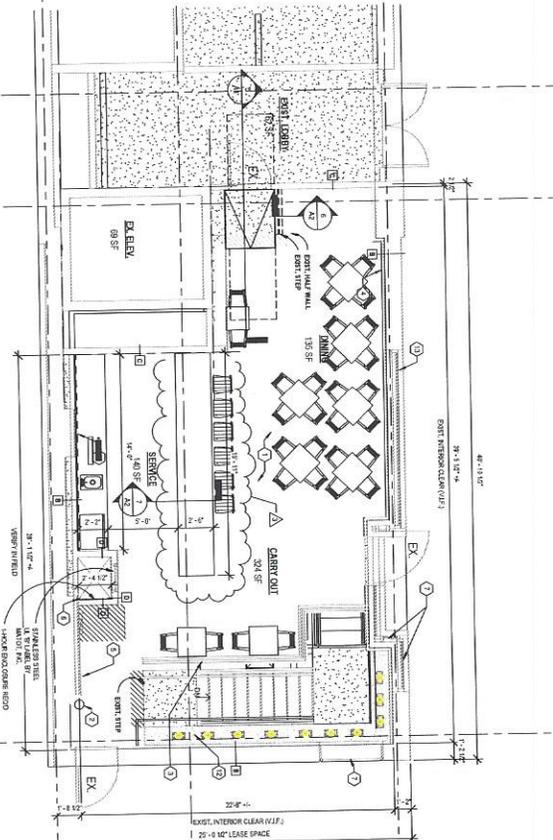
**A2.108 HALF WALL 1 SECTION**

**A2.109 HALF WALL 2 SECTION**

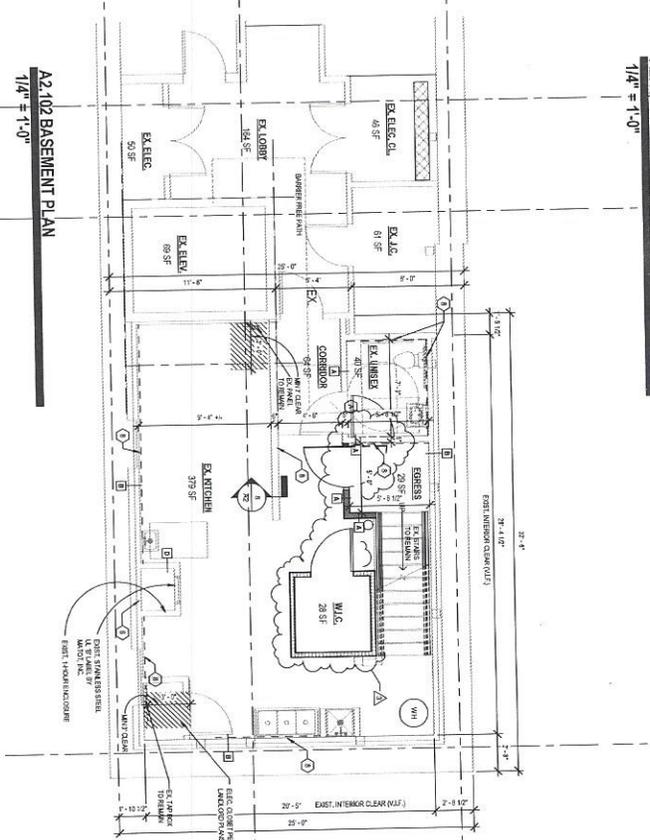
**A2.110 HALF WALL 3 SECTION**



**A2.101 FIRST FLOOR PLAN**



**A2.102 BASEMENT PLAN**



**Forestia**  
ARCHITECTS PLLC

FORESTIARROUP.COM  
9030 GENERAL DRIVE  
PLYMOUTH, MI 48170  
P 248.471.2900

**NOTES**

1. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODE (IBC) AND THE NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) CODES.
2. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL MECHANICAL AND ELECTRICAL (IMC) AND PLUMBING AND MECHANICAL (PM) CODES.
3. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL ENERGY CONSERVATION (IECC) CODE.
4. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL RESIDENTIAL CODE (IRC).
5. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL FIRE AND SMOKE ALARMING (IFSA) CODE.
6. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL FIRE AND SMOKE DETECTION AND NOTIFICATION (IFSDN) CODE.
7. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL FIRE AND SMOKE DETECTION AND NOTIFICATION (IFSDN) CODE.
8. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL FIRE AND SMOKE DETECTION AND NOTIFICATION (IFSDN) CODE.
9. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL FIRE AND SMOKE DETECTION AND NOTIFICATION (IFSDN) CODE.
10. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL FIRE AND SMOKE DETECTION AND NOTIFICATION (IFSDN) CODE.
11. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL FIRE AND SMOKE DETECTION AND NOTIFICATION (IFSDN) CODE.
12. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL FIRE AND SMOKE DETECTION AND NOTIFICATION (IFSDN) CODE.
13. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL FIRE AND SMOKE DETECTION AND NOTIFICATION (IFSDN) CODE.

**PROJECT**  
17480

**LA TOUVERNA**  
106 E LIBERTY  
ANN ARBOR, MI 48102

**SEAL**

DATE  
06.09.2015

SUBMITTAL  
ASBUILT

SHEET NAME  
FLOOR PLAN

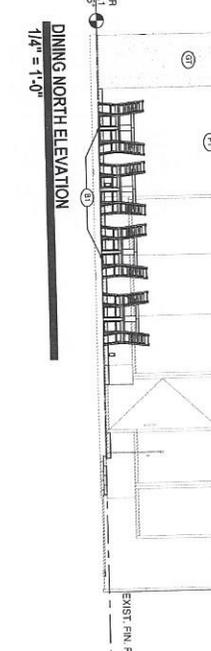
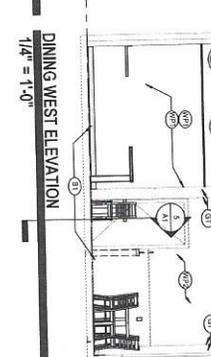
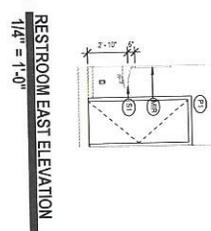
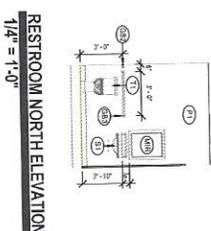
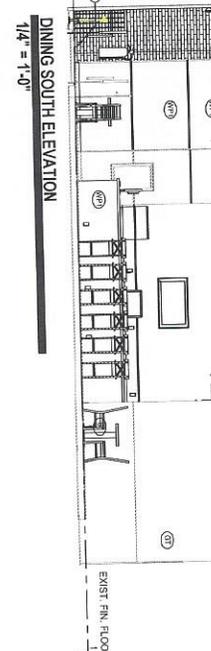
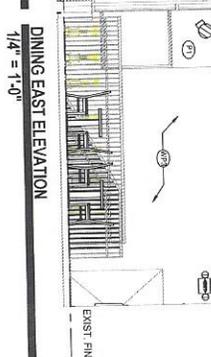
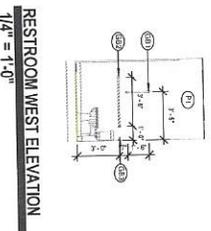
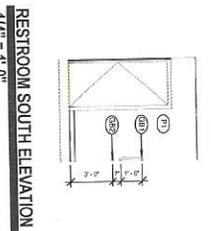
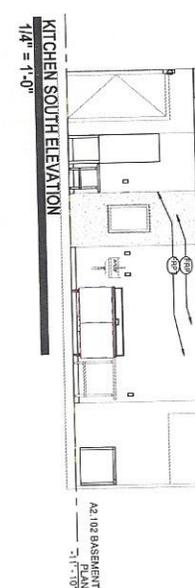
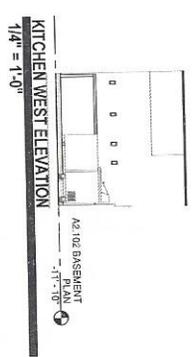
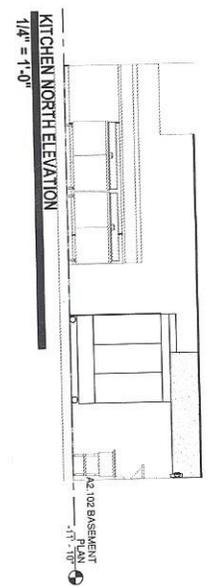
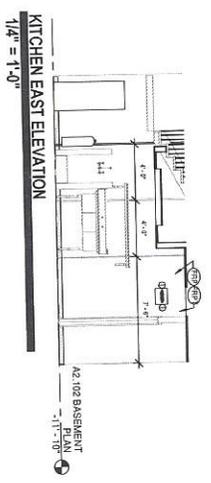
SHEET #  
A2





AS.101 INTERIOR ELEVATION NOTES

MARK	QTY	MANUFACTURER	MODEL	DESCRIPTION	COMMENTS
082		REBRICK	18" CONC. TIE ROD, TUBING, TIE ROD ANCHOR		
083		REBRICK	3" SCHED. 40 X 3		
084		REBRICK	3" SCHED. 40 X 3		
085		REBRICK	3" SCHED. 40 X 3		
086		REBRICK	3" SCHED. 40 X 3		
087		REBRICK	3" SCHED. 40 X 3		
088		REBRICK	3" SCHED. 40 X 3		
089		REBRICK	3" SCHED. 40 X 3		
090		REBRICK	3" SCHED. 40 X 3		
091		REBRICK	3" SCHED. 40 X 3		
092		REBRICK	3" SCHED. 40 X 3		
093		REBRICK	3" SCHED. 40 X 3		
094		REBRICK	3" SCHED. 40 X 3		
095		REBRICK	3" SCHED. 40 X 3		
096		REBRICK	3" SCHED. 40 X 3		
097		REBRICK	3" SCHED. 40 X 3		
098		REBRICK	3" SCHED. 40 X 3		
099		REBRICK	3" SCHED. 40 X 3		
100		REBRICK	3" SCHED. 40 X 3		



**NOTES**

1. CONSULT THE L&S ARCHITECT FOR ALL INTERIOR FINISHES.
2. THE RESTROOMS SHALL BE CONSTRUCTION QUALITY.
3. THE RESTROOMS SHALL BE CONSTRUCTION QUALITY.
4. THE RESTROOMS SHALL BE CONSTRUCTION QUALITY.
5. THE RESTROOMS SHALL BE CONSTRUCTION QUALITY.
6. THE RESTROOMS SHALL BE CONSTRUCTION QUALITY.
7. THE RESTROOMS SHALL BE CONSTRUCTION QUALITY.
8. THE RESTROOMS SHALL BE CONSTRUCTION QUALITY.
9. THE RESTROOMS SHALL BE CONSTRUCTION QUALITY.
10. THE RESTROOMS SHALL BE CONSTRUCTION QUALITY.



FORESTARGROUP.COM  
9100 GENERAL DRIVE  
PLYMOUTH, MI 48170  
P. 248.471.2900

**PROJECT**  
LA TRADERIA  
106 E. LIBERTY  
ANN ARBOR, MI SUITE 102

**DATE**  
03/09/2015

**SEAL**

**SUBMITAL**  
ASBUILT

**SHEET NAME**  
INTERIOR ELEVATIONS

**SHEET #**  
A4



**PROJECT**  
LA TRADERIA  
106 E. LIBERTY  
ANN ARBOR, MI SUITE 102

**DATE**  
03/09/2015

**SEAL**

**SUBMITAL**  
ASBUILT

**SHEET NAME**  
INTERIOR ELEVATIONS

**SHEET #**  
A4











## BUILDING OFFICIAL'S STAFF REPORT

Appeal Hearing for BBA18-0001 at 106 E. Liberty Street, Ann Arbor, MI 48104(Parcel Identification Number: 09-09-29-130-005).

Mark G. Messmore  
106 E. Liberty Street  
Ann Arbor, MI 48104

### DESCRIPTION AND DISCUSSION

Mark G. Messmore the applicant for 106 E. Liberty Street, Suite 120 (La Taqueria Restaurant) is requesting to allow the additional bathrooms in the office space on the second floor, to meet the bathroom requirements of the plumbing code.

### Code Interpretation

The Architect had originally indicated that the occupant load for the La Taqueria is 15 people. While this was the approved allowed occupant load (15 persons) for the previous business, the La Taqueria floor plan now shows a much larger occupant load. The Architect in his current document has now indicated the space and seating to have an occupant load of 49 people in this business use. Table 403.1 (attached) shows that a minimum number of bathrooms - 1 Men's and 1 Women's must be provided. Section 403.3.3 allows the use of bathrooms one floor above and one floor below and the distance shall not exceed 500 feet. However, the additional bathrooms on the second floor required to meet the minimum code, are not in a common space. The bathrooms are controlled by another tenant in the building and they are behind a locked door.

The Michigan Plumbing Code Section "**403.1 Minimum number of fixtures.** Plumbing fixtures shall be provided for the type of occupancy and in the minimum number shown in Table 403.1. Types of occupancies not shown in Table 403.1 shall be considered individually by the code official. The number of occupants shall be determined in accordance with the Michigan building code."

The Michigan Plumbing Code Section "**403.3.3 Location of toilet facilities in occupancies other than malls.** In occupancies other than covered and open mall buildings, the required public and employee toilet facilities shall be located not more than one story above or below the space required to be provided with toilet facilities, and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m).

**Exception:** The location and maximum distances of travel to required employee facilities in factory and industrial occupancies are permitted to exceed that required by this section, provided that the location and maximum distance of travel are approved.”

In summary, the owner of the La Taqueria has only control over one bathroom and at any time, the second floor tenant may refuse the patrons entry into their space, to use the bathrooms.

Please see the attached code sections for reference.

### **Standards for Approval**

#### **PA 230 Section 125.15.15**

Specific variance from code: breach of condition; permissible variance.

Sec. 15.

- (1) After a public hearing a board of appeals may grant a specific variance to a substantive requirement of the code if the literal application of the substantive requirement would result in an exceptional, practical difficulty to the applicant, and if both of the following requirements are satisfied:
  - a. The performance of the particular item or part of the building or structure with respect to which the variance is granted shall be adequate for its intended use and shall not substantially deviate from performance required by the code of that particular item or part for the health, safety and welfare of the people of this state.
  - b. The specific condition justifying the variance shall be neither so general nor recurrent in nature as to make an amendment of the code with respect to the condition reasonably practical or desirable.
2. A board of appeals may attach in writing any condition in connection with the granting of a variance that in its judgement is necessary to protect the health, safety and welfare of the people of this state. The breach of a condition shall automatically invalidate the variance and any permit, license and certificate granted on the basis of it. In no case shall more than a minimum variance from the code be granted than is necessary to alleviate the exceptional, practical difficulty.

## CHAPTER 4

### FIXTURES, FAUCETS AND FIXTURE FITTINGS

#### SECTION 401 GENERAL

**401.1 Scope.** This chapter shall govern the materials, design and installation of plumbing fixtures, faucets and fixture fittings in accordance with the type of *occupancy*, and shall provide for the minimum number of fixtures for various types of occupancies.

**401.2 Prohibited fixtures and connections.** Water closets having a concealed trap seal or an unventilated space or having walls that are not thoroughly washed at each discharge in accordance with ASME A112.19.2/CSA B45.1 shall be prohibited. Any water closet that permits siphonage of the contents of the bowl back into the tank shall be prohibited. Trough urinals shall be prohibited.

**401.3 Water conservation.** The maximum water flow rates and flush volume for plumbing fixtures and fixture fittings shall comply with Section 604.4.

#### SECTION 402 FIXTURE MATERIALS

**402.1 Quality of fixtures.** Plumbing fixtures shall be constructed of *approved* materials, with smooth, impervious surfaces, free from defects and concealed fouling surfaces, and shall conform to standards cited in this code. All porcelain enameled surfaces on plumbing fixtures shall be acid resistant.

**402.2 Materials for specialty fixtures.** Materials for specialty fixtures not otherwise covered in this code shall be of stainless steel, soapstone, chemical stoneware or plastic, or shall be lined with lead, copper-base alloy, nickel-copper alloy, corrosion-resistant steel or other material especially suited to the application for which the fixture is intended.

**402.3 Sheet copper.** Sheet copper for general applications shall conform to ASTM B152 and shall not weigh less than 12 ounces per square foot (3.7 kg/m<sup>2</sup>).

**402.4 Sheet lead.** Sheet lead for pans shall not weigh less than 4 pounds per square foot (19.5 kg/m<sup>2</sup>) and shall be coated with an asphalt paint or other *approved* coating.

#### SECTION 403 MINIMUM PLUMBING FACILITIES

**403.1 Minimum number of fixtures.** Plumbing fixtures shall be provided for the type of occupancy and in the minimum number shown in Table 403.1. Types of occupancies not shown in Table 403.1 shall be considered individually by the code official. The number of occupants shall be determined in accordance with the Michigan building code. Occu-

pancy classification shall be determined in accordance with the Michigan building code.

#### Exceptions:

1. The actual number of occupants determined by a supporting affidavit from the owner or agency.
2. Hand washing sinks in food service establishments shall be provided in accordance with regulation no. 553, food establishments, R 285.553.1 to R 285.553.26 of the Michigan department of agriculture and rural development.
3. Toilet facilities for public swimming pools shall be provided in accordance with public swimming pools, R 325.2111 to R 325.2199 of the Michigan department of environmental quality.
4. Toilet facilities for child care center, day care center, and nursery school facilities shall be provided in accordance with child day care licensing – child care centers, R 400.8101 to R 400.8840 of the Michigan department of licensing and regulatory affairs.
5. Toilet facilities for children's camps shall be provided in accordance with children's and adult foster care camps, R 400.11101 to R 400.11413 of the Michigan department of licensing and regulatory affairs.

R 408.30758

**403.1.1 Fixture calculations.** To determine the occupant load of each sex, the total occupant load shall be divided in half. To determine the required number of fixtures, the fixture ratio or ratios for each fixture type shall be applied to the occupant load of each sex in accordance with Table 403.1. Fractional numbers resulting from applying the fixture ratios of Table 403.1 shall be rounded up to the next whole number. For calculations involving multiple *occupancies*, such fractional numbers for each *occupancy* shall first be summed and then rounded up to the next whole number.

**Exception:** The total occupant load shall not be required to be divided in half where *approved* statistical data indicates a distribution of the sexes of other than 50 percent of each sex.

**403.1.2 Family or assisted-use toilet and bath fixtures.** Fixtures located within family or assisted-use toilet and bathing rooms required by Section 1109.2.1 of the *International Building Code* are permitted to be included in the number of required fixtures for either the male or female occupants in assembly and mercantile *occupancies*.

**FIXTURES, FAUCETS AND FIXTURE FITTINGS**

**403.2 Separate facilities.** Where plumbing fixtures are required, separate facilities shall be provided for each sex.

**Exceptions:**

1. Separate facilities shall not be required for private facilities.
2. Separate facilities shall not be required in structures or tenant spaces with a total occupant load, including both employees and customers, of 15 or fewer.
3. Separate facilities shall not be required in mercantile occupancies in which the maximum occupant load is 50 or fewer.

R 408.30722

**403.2.1 Family or assisted-use toilet facilities serving as separate facilities.** Where a building or tenant space requires a separate toilet facility for each sex and each toilet facility is required to have only one water closet, two family or assisted-use toilet facilities shall be permitted to serve as the required separate facilities. Family or assisted-use toilet facilities shall not be required to be identified for exclusive use by either sex as required by Section 403.4.

**403.3 Required public toilet facilities.** Customers, patrons and visitors shall be provided with *public* toilet facilities in structures and tenant spaces intended for public utilization. The number of plumbing fixtures located within the required toilet facilities shall be provided in accordance with Section 403 for all users. Employees shall be provided with toilet facilities in all *occupancies*. Employee toilet facilities shall be either separate or combined employee and *public* toilet facilities.

**Exception:** *Public* toilet facilities shall not be required in:

1. Open or enclosed parking garages where there are no parking attendants.
2. Structures and tenant spaces intended for quick transactions, including takeout, pickup and drop-off, having a public access area less than or equal to 300 square feet (28 m<sup>2</sup>).

**403.3.1 Access.** The route to the public toilet facilities required by section 403.3 shall not pass through kitchens, storage rooms, or closets. Access to the required facilities shall be from within the building. All routes shall comply with the accessibility requirements of the Michigan building code. The public shall have access to the required toilet facilities at all times that the building is occupied.

R 408.30758

**TABLE 403.1**  
**MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES\***  
(See Sections 403.1.1 and 403.2)

NO.	CLASSIFICATION	OCCUPANCY	DESCRIPTION	WATER CLOSETS (URINALS: SEE SECTION 419.2)		LAVATORIES		BATHTUBS/SHOWERS	DRINKING FOUNTAIN <sup>1</sup> (SEE SECTION 410)	OTHER
				MALE	FEMALE	MALE	FEMALE			
1	Assembly	A-1 <sup>d</sup>	Theaters and other buildings for the performing arts and motion pictures	1 per 125	1 per 65	1 per 200		—	1 per 500	1 service sink
		A-2 <sup>d</sup>	Nightclubs, bars, taverns, dance halls and buildings for similar purposes	1 per 40	1 per 40	1 per 75		—	1 per 500	1 service sink
			Restaurants, banquet halls and food courts	1 per 75	1 per 75	1 per 200		—	1 per 500	1 service sink
		A-3 <sup>d</sup>	Auditoriums without permanent seating, art galleries, exhibition halls, museums, lecture halls, libraries, arcades and gymnasiums	1 per 125	1 per 65	1 per 200		—	1 per 500	1 service sink
			Passenger terminals and transportation facilities	1 per 500	1 per 500	1 per 750		—	1 per 1,000	1 service sink
			Places of worship and other religious services	1 per 150	1 per 75	1 per 200		—	1 per 1,000	1 service sink
A-4	Coliseums, arenas, skating rinks, pools and tennis courts for indoor sporting events and activities	1 per 75 for the first 1,500 and 1 per 120 for the remainder exceeding 1,500	1 per 40 for the first 1,520 and 1 per 60 for the remainder exceeding 1,520	1 per 200	1 per 150	—	1 per 1,000	1 service sink		

(continued)

FIXTURES, FAUCETS AND FIXTURE FITTINGS

TABLE 403.1 —continued  
 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES\*  
 (See Sections 403.1.1 and 403.2)

NO.	CLASSIFICATION	OCCUPANCY	DESCRIPTION	WATER CLOSETS (URINALS: SEE SECTION 419.2)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN <sup>a,1</sup> (SEE SECTION 410)	OTHER
				MALE	FEMALE	MALE	FEMALE			
1 (cont.)	Assembly	A-5 <sup>i</sup>	Stadiums, amusement parks, bleachers and grandstands for outdoor sporting events and activities	1 per 75 for the first 1,500 and 1 per 120 for the remainder exceeding 1,500	1 per 40 for the first 1,520 and 1 per 60 for the remainder exceeding 1,520	1 per 200	1 per 150	—	1 per 1,000	1 service sink
		A-5	Outdoor educational and municipal venues not larger than 3,000 spectators	1 per 125	1 per 65	1 per 200	1 per 150	—	1 per 1,000	1 service sink
2	Business	B	Buildings for the transaction of business, professional services, other services involving merchandise, office buildings, banks, light industrial and similar uses	1 per 25 for the first 50 and 1 per 50 for the remainder exceeding 50		1 per 40 for the first 80 and 1 per 80 for the remainder exceeding 80		—	1 per 100	1 service sink <sup>g</sup>
3	Educational	E	Educational facilities	1 per 50		1 per 50		—	1 per 100	1 service sink
4	Factory and industrial	F-1 and F-2	Structures in which occupants are engaged in work fabricating, assembly or processing of products or materials	1 per 100		1 per 100		(see Section 411)	1 per 400	1 service sink
5	Institutional	I-1	Residential care	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
		I-2	Hospitals, ambulatory nursing home care recipient	1 per room <sup>e</sup>		1 per room <sup>e</sup>		1 per 15	1 per 100	1 service sink per floor
			Employees, other than residential care <sup>b</sup>	1 per 25		1 per 35		—	1 per 100	—
			Visitors, other than residential care	1 per 75		1 per 100		—	1 per 500	—
		I-3	Prisons <sup>b</sup>	1 per cell		1 per cell		1 per 15	1 per 100	1 service sink
			Reformatories, detention centers, and correctional centers <sup>b</sup>	1 per 15		1 per 15		1 per 15	1 per 100	1 service sink
I-4	Adult day care and child day care	1 per 15		1 per 15		1	1 per 100	1 service sink		
6	Mercantile	M	Retail stores, service stations, shops, salesrooms, markets and shopping centers	1 per 500		1 per 750		—	1 per 1,000	1 service sink <sup>e</sup>

(continued)

FIXTURES, FAUCETS AND FIXTURE FITTINGS

TABLE 403.1 —continued  
 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES\*  
 (See Sections 403.1.1 and 403.2)

NO.	CLASSIFICATION	OCCUPANCY	DESCRIPTION	WATER CLOSETS (URINALS: SEE SECTION 419.2)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN <sup>a,1</sup> (SEE SECTION 410)	OTHER
				MALE	FEMALE	MALE	FEMALE			
7	Residential	R-1	Hotels, motels, boarding houses (transient)	1 per sleeping unit		1 per sleeping unit		1 per sleeping unit	—	1 service sink
		R-2	Dormitories, fraternities, sororities and boarding houses (not transient)	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
		R-2	Apartment house	1 per dwelling unit		1 per dwelling unit		1 per dwelling unit	—	1 kitchen sink per dwelling unit; 1 automatic clothes washer connection per 20 dwelling units
		R-3	Congregate living facilities with 16 or fewer persons	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
		R-3	One- and two-family dwellings and lodging houses with five or fewer guestrooms	1 per dwelling unit		1 per dwelling unit		1 per dwelling unit	—	1 kitchen sink per dwelling unit; 1 automatic clothes washer connection per dwelling unit
		R-4	Congregate living facilities with 16 or fewer persons	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
8	Storage <sup>b</sup>	S-1 S-2	Structures for the storage of goods, warehouses, storehouse, and freight depots. Low and Moderate Hazard.	1 per 100		1 per 100		See Section 411	1 per 1,000	1 service sink

- a. The fixtures shown are based on 1 fixture being the minimum required for the number of persons indicated or any fraction of the number of persons indicated. The number of occupants shall be determined by the *International Building Code*.
- b. Toilet facilities for employees shall be separate from facilities for inmates or patients.
- c. A single-occupant toilet room with 1 water closet and one lavatory serving not more than 2 adjacent patient sleeping units shall be permitted where such room is provided with direct access from each patient room and with provisions for privacy.
- d. The occupant load for seasonal outdoor seating and entertainment areas shall be included when determining the minimum number of facilities required.
- e. The minimum number of required drinking fountains shall comply with Table 403.1 and Chapter 11 of the *International Building Code*.
- f. Drinking fountains are not required for an occupant load of 15 or fewer.
- g. For business and mercantile occupancies with an occupant load of 15 or fewer, service sinks shall not be required.
- h. Structures not designed for occupants or as an employee's regular working area, are not required to have toilet facilities.
- i. Water closets and lavatories in adjacent school buildings may be included in the required minimum fixture count, if they are located within a 500-foot walking distance to the stadium. Signage for the location of these rest rooms is required.

R 408.30758

## FIXTURES, FAUCETS AND FIXTURE FITTINGS

**[BG] 403.3.2 Prohibited toilet room location.** Toilet rooms shall not open directly into a room used for the preparation of food for service to the public.

**403.3.3 Location of toilet facilities in occupancies other than malls.** In occupancies other than covered and open mall buildings, the required *public* and employee toilet facilities shall be located not more than one story above or below the space required to be provided with toilet facilities, and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m).

**Exception:** The location and maximum distances of travel to required employee facilities in factory and industrial *occupancies* are permitted to exceed that required by this section, provided that the location and maximum distance of travel are *approved*.

**403.3.4 Location of toilet facilities in malls.** In covered and open mall buildings, the required *public* and employee toilet facilities shall be located not more than one story above or below the space required to be provided with toilet facilities, and the path of travel to such facilities shall not exceed a distance of 300 feet (91 m). In mall buildings, the required facilities shall be based on total square footage within a covered mall building or within the perimeter line of an open mall building, and facilities shall be installed in each individual store or in a central toilet area located in accordance with this section. The maximum distance of travel to central toilet facilities in mall buildings shall be measured from the main entrance of any store or tenant space. In mall buildings, where employees' toilet facilities are not provided in the individual store, the maximum distance of travel shall be measured from the employees' work area of the store or tenant space.

**403.3.5 Pay facilities.** Where pay facilities are installed, such facilities shall be in excess of the required minimum facilities. Required facilities shall be free of charge.

**403.3.6 Door locking.** Where a toilet room is provided for the use of multiple occupants, the egress door for the room shall not be lockable from the inside of the room. This section does not apply to family or assisted-use toilet rooms.

**403.4 Signage.** Required *public* facilities shall be provided with signs that designate the sex, as required by Section 403.2. Signs shall be readily visible and located near the entrance to each toilet facility. Signs for accessible toilet facilities shall comply with Section 1111 of the *International Building Code*.

**403.4.1 Directional signage.** Directional signage indicating the route to the required *public* toilet facilities shall be posted in a lobby, corridor, aisle or similar space, such that the sign can be readily seen from the main entrance to the building or tenant space.

**403.5 Drinking fountain location.** Drinking fountains shall not be required to be located in individual tenant spaces provided that *public* drinking fountains are located within a distance of travel of 500 feet (152 m) of the most remote location in the tenant space and not more than one story above or below the tenant space. Where the tenant space is in

a covered or open mall, such distance shall not exceed 300 feet (91 m). Drinking fountains shall be located on an accessible route.

#### SECTION 404 ACCESSIBLE PLUMBING FACILITIES

**404.1 Where required.** Accessible plumbing facilities and fixtures shall be provided in accordance with the *International Building Code*. \*

#### SECTION 405 INSTALLATION OF FIXTURES

**405.1 Water supply protection.** The supply lines and fittings for every plumbing fixture shall be installed so as to prevent backflow.

**405.2 Access for cleaning.** Plumbing fixtures shall be installed so as to afford easy access for cleaning both the fixture and the area around the fixture.

**405.3 Setting.** Fixtures shall be set level and in proper alignment with reference to adjacent walls.

**405.3.1 Water closets, urinals, lavatories and bidets.** A water closet, urinal, lavatory or bidet shall not be set closer than 15 inches (381 mm) from its center to any side wall, partition, vanity or other obstruction, or closer than 30 inches (762 mm) center to center between adjacent fixtures. There shall be not less than a 21-inch (533 mm) clearance in front of the water closet, urinal, lavatory or bidet to any wall, fixture or door. Water closet compartments shall be not less than 30 inches (762 mm) in width and not less than 60 inches (1524 mm) in depth for floor-mounted water closets and not less than 30 inches (762 mm) in width and 56 inches (1422 mm) in depth for wall-hung water closets.

**405.3.2 Public lavatories.** In employee and *public* toilet rooms, the required lavatory shall be located in the same room as the required water closet.

**405.3.3 Location of fixtures and piping.** Piping, fixtures or equipment shall not be located in such a manner as to interfere with the normal operation of windows, doors or other means of egress openings.

**405.3.4 Water closet compartment.** Each water closet utilized by the *public* or employees shall occupy a separate compartment with walls or partitions and a door enclosing the fixtures to ensure privacy.

##### Exceptions:

1. Water closet compartments shall not be required in a single-occupant toilet room with a lockable door.
2. Toilet rooms located in child day care facilities and containing two or more water closets shall be permitted to have one water closet without an enclosing compartment.
3. This provision is not applicable to toilet areas located within Group I-3 housing areas.



**CITY OF ANN ARBOR, MICHIGAN**  
Community Services Area  
Planning & Development Services Unit  
301 E. Huron St, P.O. Box 8647, Ann Arbor, Michigan 48107-8647  
www.a2gov.org  
1-734-794-6263

---

February 9, 2018

Mr. Mark G. Messmore  
106 E. Liberty Street  
Suite 120  
Ann Arbor, MI 48104

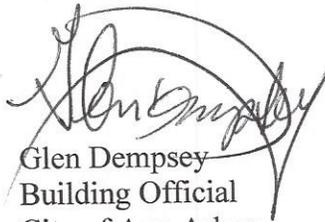
RE: La Taqueria - 106 E. Liberty Street, Suite 120

Dear Mr. Messmore:

Please consider this as an invitation to attend the Ann Arbor Building Board of Appeals meeting for your Appeal Hearing for 106 E. Liberty Street Ann Arbor, Michigan.

The meeting will take place on Thursday, February 15, 2018 at 1:30 PM on the second floor of City Hall in the Council Chambers. Please bring materials and interested parties to the meeting if needed.

Sincerely,



Glen Dempsey  
Building Official  
City of Ann Arbor  
Gdempsey@a2gov.org

Cc: Kristen D. Larcom – Senior Assistant City Attorney  
Lisha Turner-Tolbert – Project and Programs Manager

**Dempsey, Glen**

---

**To:** Mark Messmore  
**Cc:** Turner-Tolbert, Lisha; Larcom, Kristen  
**Subject:** 106 E Liberty Street  
**Attachments:** Scan0058.pdf

Mr. Messmore,

Please see the attached letter in reference to the Building Board of Appeals Hearing on February 15, 2018. If you have any questions please let me know.

Thank you,

Glen Dempsey  
Building Official  
City of Ann Arbor