CONSTRUCTION CODE APPEALS COMMITTEE

The Construction Code Appeals Committee meeting was held on September 3, 2015 at 4:00 p.m. with Mr. Lewis presiding until Chairman Sudler's arrival (4:09 p.m.). Mr. Koenig was present. Staff members present were Mrs. Townshend, Mr. Akers, and Ms. Devine.

AGENDA ADDITIONS/DELETIONS

Mr. Lewis moved for approval of the agenda as presented, seconded by Mr. Koenig and unanimously carried.

Appeal of Requirement for an Accessible Restroom - 1022 South Little Creek Road *(Robert H. TudorII)*

Mr. Bobby Tudor, Tudor Enterprises, LLC, introduced his sister, Ms. Linda Shufelt, and advised members that his father built a laundromat years ago, which had never really been upgraded and deteriorated to the point where the machines were basically non-functional. He explained that they took it upon themselves to remove those machines, not knowing all the in and outs, noting that they should have checked on this but did not. Mr. Tudor stated that the property sat for about two (2) or three (3) months with the anticipation of someone else coming in. He indicated that they were going to try to make a go of the laundromat, but a prospective tenant was very interested in trying to get the laudromat in order. When this individual became interested, they decided to call the City to see what would be needed, knowing that a firewall would have to be installed. Mr. Tudor stated that Mr. Greg Akers, Chief Building Inspector, came out with two (2) fire marshals, explained what was needed for the process, and stated that plans had to be drawn up.

Mr. Tudor advised members that, with the plans being drawn up, the architect mentioned a handicapped restroom. Mr. Tudor stated that a restroom was in the building, but it was not handicapped accessible. Because of the construction, cost, what had been going on, and what they had seen in other types of facilities with laundromats, they submitted an appeal to keep their public restroom but not make it handicapped accessible. Mr. Tudor explained that this was their only concern and the reason they were present.

Ms. Shufelt stated that if they made the restroom handicapped accessible, the tenant would not have room for some of the washers that needed to go in.

Mr. Tudor explained that this would not just be a matter of changing out faucets. Construction would change, since they would have to jackhammer the floor out to make the plumbing work and break out and move walls. The costs had gotten to the point where they questioned whether or not to do the project and it did not appear feasible to keep going if the handicapped restroom were required.

In response to Mr. Lewis, Mr. Tudor confirmed that the building was completely gutted out and vacant, with just walls and a floor and nothing inside.

Responding to Mr. Scott Koenig, City Manager, Mr. Tudor stated that the architect was Mr. William Byler.

Mr. Koenig questioned if accessibility was required under the code, and Mr. Akers responded that it was in this particular case.

Mr. Koenig questioned whether the code required a public bathroom for a laundromat, even a self-serve laundromat. Responding, Mr. Akers stated that with existing buildings there is a degree of flexibility that is not there with new construction. He noted that an existing building requires conditions, such as a total change in occupancy classification, which did not apply in this case. Mr. Akers stated that the extent of the renovation was another condition.

In response to Mr. Akers, Ms. Shufelt and Mr. Tudor confirmed that the majority of the space would be occupied by washers and dryers.

Mr. Akers noted that there was a single existing bathroom and expressed his opinion that the code-related work was beyond 50%, which prompted the necessity to upgrade the existing restroom to accessible.

Mr. Koenig questioned if it was a code requirement to actually have a bathroom or if they could choose not to put a bathroom in this facility. Responding, Mr. Akers stated that a bathroom would be required for the public and employees.

In response to Mr. Koenig, Mr. Tudor estimated that Mr. Byler's drawings were 90-95% complete. When Mr. Byler laid out the project for them and showed the changes needed to the restroom, they cut off everything. Mr. Tudor stated that there was no estimate for the cost of putting in the bathroom right now.

Mr. Koenig questioned whether accessible would mean fully accessible in accordance with the code or if there could be partial accessibility. Responding, Mr. Akers explained that there are different case scenarios; unfortunately, they did not apply to this space. An example would be if there was a site constraint, structural issue, or some sort of existing condition that would not permit full accessibility. However, when there is the opportunity to make the improvement and it is technically feasible, the City requires it. Mr. Akers indicated that there are existing buildings where it is not practical, but where it is, the City enforces it.

Mr. Koenig inquired what types of things must be done for an accessible bathroom versus a regular one. Responding, Mr. Akers stated that the fixtures must be American National Standards Institute (ANSI) compliant, noting that an ANSI toilet is not like a standard toilet and is 19 inches to the flood level rim, which is the top, and the handle is more functional. He indicated that it is taller, since a typical standard toilet is about 15 inches tall. Mr. Akers explained that clearances also vary, noting that the toilet must 18 inches off the finished walls and centered upon the waste trap, where the hole in the floor would be to accept the toilet. He noted that this is not for any mechanical reason but for clearances for the grab bar, which sticks out from the wall approximately 2¾ inches. Mr. Akers noted that many details apply, and staff gets them from the ANSI 117.1 standard. He advised members that the American Disabilities Act (ADA) is a federal law and staff are not federal agents.

They enforce the requirements in the building code, and this is based on a standard for the nuts and bolts of ANSI, which includes clearances and equipment.

Mr. Koenig stated his understanding that if the appeal were granted, Mr. Tudor could simply put in regular fixtures and that it was not a clearance issue, but it was technically not accessible. This was confirmed by Mr. Akers.

Mr. Koenig questioned if Mr. Tudor was saying that because of the difference in the type of fixture, they would have to jackhammer out the floor, reset the seal, etc. He asked if the resetting of the seal was the only thing that would not be compliant and if there would still be clearance for the grab bar, etc. Responding, Mr. Tudor stated that walls in the rear end of the building would have to be moved to make this work.

Mr. Akers indicated that he could not speak to this because he did not have the drawings, which were still in process.

Ms. Shufelt stated that the walls would have to be moved out toward where the washers were going to be and there would then not be clearance for the washers.

Mr. Tudor reiterated that the floors would have to be jackhammered. He indicated that the only thing they had done was removed the existing machines and they were going to be putting new machines in the same place.

Ms. Shufelt stated that washers were going to be put where washers had been and dryers where dryers had been; however, they were going to be upgraded, larger machines, which would come further out into the floor where the bathroom was.

In response to Mr. Koenig, Mr. Tudor and Mr. Shufelt confirmed that the rendering depicted the new walls and compliance with ADA.

Mr. Lewis relinquished the Chair to Mr. Sudler.

In response to Mr. Sudler regarding the nature of his appeal, Mr. Tudor stated that they were asking to keep the restroom in place without making it handicapped accessible.

Ms. Shufelt expressed their desire to have the restroom grandfathered in.

Mr. Sudler questioned what the code was at the time of construction. Responding, Ms. Shufelt indicated that it was constructed in 1974.

In response to Mr. Sudler regarding the implementation of ADA, Mrs. Ann Marie Townshend, Director of Planning and Community Development, advised members that the ADA was not passed until 1990, so ADA provisions were not incorporated into the building codes until after that time.

Mrs. Townshend explained that the issue was that there would be more than 50% of code-related renovations, which would trigger compliance with current code requirements.

Responding to Mr. Sudler as to whether he agreed that there were more than 50% code-related renovations, Mr. Tudor indicated that he did not know what 50% would be. He indicated that they would be taking machines out and replacing them with new ones, and this would basically be the extent of the project, other than adding firewall since there was not a firewall at the time it was built. Mr. Tudor advised members that some duct work had to be replaced, but the extent of the project was just upgrading machines in the same places where they were.

Mr. Sudler inquired if staff had specified to the owner if the project was within the 50% modification range. Responding, Mrs. Townshend explained that the drawings that demonstrated that accessibility was required were developed by Mr. Tudor's architect. The architect who did the plans indicated that the handicapped accessible restroom was going to be required under the building code, and the City's building inspector concurred. Mrs. Townshend stated that it was the architect's responsibility to specify if the modification was more than 50%.

At Mr. Sudler's request, Mr. Akers clarified that 50% is a judgment call that is made on site. With the number of renovations that occur, this is most often a case-by-case scenario where accessibility is either required or not required. He noted that there are typically things that staff looks for to help make that decision onsite. Mr. Akers explained that the first question is if there is a complete change in occupancy classification, which Mr. Tudor did not have since it was a laundromat before and would be a laundromat again. The second thing staff looks at is the extent of renovations.

In response to Mr. Akers, Ms. Shufelt confirmed that the space was approximately 1,200 sq. ft. and, when entering the building, dryers would be on the left.

Mr. Akers estimated that approximately 75% of the wall would be dryers and stated his belief that washers would be in the middle of the laundromat. He explained that staff would try to make a field judgment call based on that. Because it would be commercial work, the owner would have to demonstrate compliance or, if compliance could not be achieved, non-compliance must be demonstrated on plans. Mr. Akers advised members that this is where design professionals would come into play, since they have the time to pull a tape measure and do the calculations on square footage versus work area, noting that those are the kind of things that come up with in regard to the 50%. Mr. Akers indicated that if it was planned to paint the entire facility, even though this would be 100% of the work area, 0% would be code-related work. In Mr. Tudor's situation, there would be multiple dryers that have a dryer system that is commercial grade and intersects and exhausts outside the building, and commercial grade washers that produce more than a single piece of equipment would.

Mr. Sudler questioned, in Mr. Aker's professional opinion, whether there had been 50% upgrades and modifications to the dwelling. Responding, Mr. Akers stated, when all was said and done, that it would be close and this would have to be demonstrated. He indicated that he had not seen the plans yet, which had not been submitted because once the accessible restroom came into play and

they started speaking with their architect, Mr. Tudor indicated they wished to wait until they could find out whether or not they must do this. They contacted Mr. Akers to let him know what they were doing and stated their question, which was the reason for the meeting.

Noting that construction was very close to 50%, Mr. Sudler stated his understanding that they had not put in a permit for 50%. Responding, Mr. Akers indicated that they had not done this as yet, which was fine because the drawings were not complete.

Responding to Mr. Sudler, Mr. Tudor indicated that he understood a lot more now about the meaning of the 50%. He advised members that the old machines were not operable since the dryers were originals from 1970. Mr. Tudor stated that they had not known that if they had changed out one (1) or two (2) machines at a time, rather than taking them out completely, they would not be sitting here, and Mr. Akers concurred.

In response to Mr. Sudler's request to share some of his thoughts, Mr. Tudor stated that the building had been sitting there for three (3) years and they finally got somebody who was interested. However for the rent that they were getting ready to collect off the property, it was very questionable if they wanted to go through with the project due to the cost of the architect, engineering, firewall, etc., if they had to do the accessibility.

Mr. Sudler questioned if their main concern was the financial challenges of upgrading the firewall and bringing the property up to today's code. He questioned if they understood the need to be up to code today and where the City was coming from, and Mr. Tudor confirmed that he understood.

Responding to Mr. Sudler as to whether he felt this was fair and reasonable, Mr. Tudor stated he did not believe it fair and reasonable considering all of the circumstances, since all of the other laundromats in town were not accessible. He felt that it would be different if it was a brand new building; however, since it had been there since the 1970's and it was just a renovation to the machines and the things that go with it, he did not feel that it was fair.

In response to Mr. Sudler regarding an example of other laundry facilities that he felt were in the same situation but were not required to upgrade, Mr. Tudor stated that there were others that were about the same age; however, they had not done any renovations.

Mr. Sudler explained that when renovations are done, this takes the owner from a grandfathered position to a more modern position.

Mr. Tudor stated that the restroom at the facility at White Oak Road and Mitscher Road, which was formerly a Marstellar's convenience store, was basically locked and there was not even a marker or plaque for the restroom.

Ms. Shufelt stated that she went to Emerald City Wash World and asked if they had a public bathroom, and they said there was no restroom available for someone not doing their laundry.

In response to Mr. Koenig regarding how many washers were taken out, Ms. Shufelt estimated 20 or 24 and that about the same number would go back in.

In reviewing the preliminary plans prepared by Mr. Byler, Mr. Koenig stated that Page 2 showed that all of the washers would fit. Responding, Ms. Shufelt stated that the proposed tenant's drawings showed that the washers were much bigger.

Mr. Koenig noted that he was given a set of drawings and questioned which set of drawings members should review. Responding, Mr. Tudor stated that some information had not been transferred over to the architect's plans. Ms. Shufelt noted that they had stopped the project as soon as the restroom issue surfaced.

To give members an idea of the machines that were in the building, Mr. Tudor stated that they were the same type as those that members would see in their houses.

Mr. Akers explained that plans are submitted as conceptual drawings, whether for a laundromat or hotel, and typically this is done before the bidding process for materials, equipment, etc. Once that equipment is approved, then the architect will incorporate that as an addendum to the original set. Mr. Akers indicated that it is hard to forecast who is going to be awarded the bid for washers or dryers ahead of time when plans and permits are being provided for submission.

Mr. Koenig stated that an equal number of symbols were indicated on the two (2) sets of plans. The only difference was that the seating shown on the far end from the road could not be accomplished because there was a door into the bathroom. The other plan did not show any door to a bathroom, so it was Mr. Koenig's belief that the tenant did not know how that was going to be addressed, based on the drawing. Responding, Ms. Shufelt stated that after looking at the tenant's proposal for placement and speaking to Mr. Akers, they knew they had to get an architect.

Mr. Tudor stated that he was unsure where the tenant got his plot, possibly from Maytag or whomever he had been talking to. He indicated that this was the tenant's version of how he wanted the changes laid out.

Mr. Akers explained that the accessible restroom project was one (1) piece of the whole project and that when the new equipment comes, the existing duct work may or may not have to be redone, since this is intricate when all dryers are done at once. He advised members that this may or may not require a mechanical permit, etc., above and beyond a building permit. Mr. Akers noted that there is an existing wall that separates the laundry from a restaurant next door.

Ms. Shufelt stated that Unique Braids, a hair braiding enterprise is on one (1) side of the property and on the other side is a liquor store.

Mr. Akers stated that the hair braiding enterprise would be a business occupancy next to an F-1 Factory Industrial occupancy because of the equipment, etc., noting that the rating requirement of

that wall would depend on what it separates. He questioned if the building was sprinklered, and Ms. Shufelt indicated that it was not.

Mr. Akers advised members that typically the wall separating those two (2) tenant spaces would be a two (2) hour wall. He stated his belief that it was a combination of concrete masonry unit (CMU) and wood stud and drywall right now, and it would be required that the studding above the CMU be removed and probably partially framed, with a double layer of ⅝-type drywall on both sides of the wall to the gables. Mr. Akers stated that the ceiling height that would not have to be touched. He indicated that this was just an example of what was needed and that there was more involved than the accessible restroom, noting that plumbing may or may not have to be accessed inside for the new machines. Mr. Akers stated that it was too early to know, reiterating that staff did not have complete drawings.

Mr. Sudler inquired what would specifically be needed in making a decision when staff inspects it. Responding, Mr. Akers stated that, from a building code standpoint, an accessible restroom would not be required if there were site constraints, structural support, or physicality with the building that would prevent it. That would have to be demonstrated on the drawings by a professional architect who is familiar with these matters. Mr. Akers stated this was one (1) case example, and another would be if they were not proposing any change in occupancy classification. He noted that staff tries to get a significant indication one (1) way or another regarding the 50% mark.

In response to Mr. Sudler regarding the most likely outcome when renovations are 49% and not 50%, Mr. Akers stated that this is very rare, and when it gets to that point the percentage has to be demonstrated on the plans.

Mr. Sudler questioned if it would be fair to go back to the architect in regard to the City's concerns and try and decrease that 49% to a lesser rate and what the happy medium would be.

With respect to the drawings, Mr. Koenig questioned if a circle in a bathroom indicated the turning radius and amount of space needed for a wheelchair. Responding, Mr. Akers confirmed that there should be a minimum of a 60-inch circumference circle that gives the ability to spin a wheelchair. There were also requirements for the distance requirement between the sink and the toilet, the location of the grab bars to position the individual, etc.

Ms. Shufelt stated that 60 inches would be needed inside the bathroom with the fixtures in there, and this was confirmed by Mr. Akers.

Responding to Mr. Sudler regarding the distance of the toilet, Mr. Akers estimated that the distance to be 54 inches from the finished wall to the outside of the grab bar behind the toilet, noting that this was only an estimation.

Mr. Koenig questioned if there would be an employee at the location. Responding, Ms. Shufelt indicated that there would not be an employee at the location at first. Elaborating, Mr. Tudor stated that this would happen when they get a permit, but it was not needed right now.

Ms. Shufelt explained that Mr. Tudor had another laundromat in Rodney Village, and the attendant of that facility may be used to come and check on things at this location. She confirmed that this individual would not be sited at the Little Creek Road facility.

Mr. Koenig stated his understanding that the code requirement was for a bathroom available to the public to be at the location during hours of operation and they could not simply put a bathroom in and lock the door when they are not there. This was confirmed by Mr. Akers.

Mrs. Townshend explained that staff does not go out and look for non-compliance, but if a complaint were received, staff would have to address it.

Mr. Akers stated that even if staff were to respond to a complaint about another laundromat, they would not have the "teeth" as building officials to require an upgrade. He explained that there had to be something occurring with the property to generate that improvement, such as a change in occupancy classification, improvements exceeding 50%, or some act of God, such as a tree falling on the building, that requires that the building be restored.

In response to Mr. Sudler, Mr. Akers reiterated that there would be no change in usage in this case, but what had prompted the improvement was exceeding the 50% of code-related work for the tenant's space.

Responding to Mr. Sudler as to whether all were in agreement that the project was at 50%, Mrs. Townshend reiterated that Mr. Akers had not reviewed the plans, so staff was relying on the judgment of the architect who was preparing the plans. Based on the architect's evaluation of the work that was being done and requirements of the building code, he had said that the handicapped accessible bathroom was required. Mrs. Townshend did not believe that a percentage was specified. The architect's analysis of the project was that it was required, which was why he drew it on the plans.

Mr. Sudler questioned how the City assesses or obtains that 50% break and whether the architect can be required to do this. Responding, Mrs. Townshend stated that the drawings that are submitted have the code's data on them. The first assessment of whether the percentage has been exceeded is done by the architect. The building official's responsibility is to confirm that what the architect submitted was code compliant.

Mr. Sudler questioned if it would be reasonable or fair to have Mr. Byler assess the percentage of upgrade for a final decision. Responding, Mr. Koenig indicated that he was unsure if this was the biggest question in his own mind. He indicated that he did not know how what was under renovation was being defined, noting that the entire space had basically been gutted at this point.

Mr. Tudor stated that it was just the machines. Responding, Mr. Koenig stated that it looked to him that there would be some wall work, potentially bathroom work, and it was unknown if there was plumbing work.

Mr. Sudler stated that he was looking at whether the renovation was more or less than the 50% threshold, noting that the code said that this would determine if the requirements must be met. He stated that this was the margin and the scale that he would look at and say something was fair and reasonable.

In response to Mr. Koenig regarding the plans for the ceiling, Ms. Shufelt stated that there were some stained ceiling tiles that needed to be replaced; however, they would not be redoing the whole ceiling.

Mr. Sudler stated that Mr. Tudor and Ms. Shufelt needed to go back and get a professional, written statement from Mr. Byler, as an architect, in regards to whether it would be a 50% upgrade or not, and bring it back to the City.

Mr. Lewis agreed with Mr. Sudler. He questioned, with respect to the federal ADA, if something like this project would be grandfathered because the ADA took effect in 1990. Responding, Mrs. Townshend stated that the requirements would not come into play until renovations are done, as Mr. Akers had stated.

Mr. Lewis expressed his understanding that current laundromats in the City would not be in violation because they are grandfathered unless they decide to renovate, and this was confirmed by Mrs. Townshend.

Mr. Lewis questioned whether there would be a violation of the federal ADA if a waiver were granted to approve what the owners wanted to do. Responding, Mrs. Townshend explained that the International Code Council had embedded the requirements of the ADA into the building code so they could be enforced at the building code local level. She was unsure whether the City could be part of any claim of violation of the ADA.

Mr. Lewis questioned if the City would be held responsible or liable. In response, Mrs. Townshend stated that this was possible if the City granted relief from the requirement that would have brought the property into compliance. She advised members that she had not reviewed case law on how those things had played out. Mrs. Townshend advised members that a business owner came to her approximately five (5) or six (6) months ago because he had done some renovations below the 50% threshold. He asked Mrs. Townshend to provide information on how the City determined that he was below 50% and did not have to make accessible restrooms, because he had somebody who came in and threatened. She stated that there are people who go out and specifically look for non-compliance; however, she did not know the risk.

Mr. Koenig questioned if the 50% was stated in the building code, noting that he had not seen this in the paperwork provided. Responding, Mr. Akers stated that this information had not been included but offered to retrieve it. *[City Clerk's Office Note: Mr. Tudor was subsequently provided Section 405.1 Scope of the 2009 International Existing Building Code, as well as a definition of Work Area from the 2009 Existing Building Code Commentary* ***(Attachment #1)****]*. He explained that

the extent of alteration is broken down into Levels 1, 2, and 3 in the International Existing Building Code.

Referring to the email from Mr. Akers dated July 15, 2015, Mr. Koenig quoted from 2009 IEBC 310.6 Alterations, which stated "Where compliance with the section is *technically unfeasible*, the alterations shall provide access to the maximum extent technically feasible." He questioned whether they would still have to comply with the width of the door, the arm brace, or other things if there was a wall that could not be moved to get the proper distance. Responding, Mr. Akers stated that they would, noting that there are examples where this is practical and others when the strict letter cannot be achieved and it is made as accessible as is technically feasible. Mr. Akers indicated that this must be demonstrated on the plan.

Mr. Koenig questioned what Mr. Tudor was seeking relief from and whether it was from the bathroom being modified at all. Responding, Mr. Tudor stated that they would modernize the bathroom but were not anticipating moving any walls and only wanted to replace the machines. The project grew to be a "monster" with firewalls, which everyone knew must be done, and being handicapped accessible added to the cost. Mr. Tudor stated that the proposed tenant had been telling them that he would be moving machines out and that if handicapped accessibility was provided, he may not be able to access the front machines.

In response to Mr. Sudler, Mr. Tudor explained that they were just replacing machines with newer machines. Elaborating, Ms. Shufelt stated that the new machines would be larger, commercial, high-capacity machines.

Mr. Sudler questioned if they were saying that they were in disagreement with the handicapped accessibility requirement when this was not required previously and Mr. Tudor confirmed this.

In regard to the fire-rated walls, Ms. Shufelt noted that there was a liquor store on one side that had bottles floor to ceiling and the business on the other side was not a beauty parlor but a hair braiding facility. She noted that a two (2) hour firewall had been mentioned and questioned if a two (2) hour firewall could be done on the laundromat side, rather than shutting down this business owner.

Mr. Sudler suggested waiting to get the architect's professional opinion as to whether or not fire rating was needed and going from there, noting that none of those present were architects and the architect's opinion would supersede all of those in the room.

Mr. Koenig stated that the appeal was about an accessible restroom and had nothing to do with firewalls, which was beyond the discussion today. He stated that the documentation stated that the building had been vacant for three (3) years and all of the old machines had been stripped out; therefore, the use had been nonexistent for three (3) years. This was confirmed by Ms. Shufelt.

Mr. Koenig stated that the question in his mind was whether or not a handicapped accessible restroom should be required if the renovations exceed 50%. He felt that there was no need to get into the exact percentage of renovation but the question was, assuming that the renovations exceed

50%, whether a handicapped accessible bathroom was wanted. Mr. Koenig stated his understanding that they were asking simply to not require it to be handicapped accessible, and Mr. Tudor confirmed this.

Mr. Sudler stated his opinion of the need to determine whether the assessment was 50% or over. He stated that if the standard was 50%, then this should be required and it would be a done deal. If it were not 50%, then they would be grandfathered in. Mr. Sudler stated the bottom line was that this was the code.

Mrs. Townshend inquired whether Mr. Tudor and Ms. Shufelt asked Mr. Byler if there was a way to do the project without requiring a restroom when Mr. Byler presented the plans. She felt that, by virtue of him putting it on the plans that way, in his judgment it was required. Responding, Mr. Tudor stated that Mr. Byler did this on his own and he was unsure how Mr. Byler came about this. He stated that they had no further discussion with Mr. Byler when they saw it.

Mr. Lewis agreed with Mr. Sudler that the owners should go back to the architect and submit another set of plans that would specify why the issue arose and what was wrong as far as needing a handicapped restroom.

Mr. Tudor stated that he was puzzled about the 50% threshold, noting that he was basically taking out machines that were old and not working and placing new ones in their places.

Mr. Sudler recommended that they ask the architect for a written statement whether it was in the 50% category or not. If it was not 50%, then they should bring this to the Committee who would go from there and decide what to do.

Mr. Lewis agreed with Mr. Sudler.

Mr. Koenig stated that this was a facility where the public would be invited to come into and sit while they do their laundry, which he estimated would take at least one (1) hour. He felt it would be a real problem for the building owner and the business owner if they do not put in an handicapped accessible bathroom, noting that generally a disadvantaged population would use this type of facility and it would be an advantage to have a bathroom.

Mr. Sudler agreed that it was to Mr. Tudor's advantage to put in a handicapped accessible bathroom, stating, in his personal opinion, it would be desired to be able to cater to all the public.

Mr. Tudor stated that he thought they would go back and get prices to have the handicapped accessible way done, and if this were to exceed some of their figures, they would not do the project. In this way the matter would be settled.

Mr. Lewis questioned the possibility of going with smaller machines. Responding, Mr. Tudor stated that, as the owners, they would have to ask the tenant that question.

From the drawing, Mr. Koenig stated his opinion that the issue was the cost to do the renovation rather than insufficient space and Mr. Tudor concurred, noting that as a rental it would probably not be worth doing.

In response to Mr. Sudler, Ms. Shufelt stated that they had not gotten a cost in regard to a handicapped accessible bathroom but had stopped the project and come before the Committee.

Mr. Sudler questioned if this cost could be obtained for their decision-making process. He explained, as a businessperson, that it is desired to cater to all segments, and definitely the handicapped segment, since there can be a liability for not doing so. Mr. Sudler indicated that a lawsuit could be brought against them for not having a publicly accessible laundromat, which could cost more money than the City was asking them to spend.

Mr. Lewis questioned if the tenant was apt to say they did not want to rent if they went to him and explained what had to be done. Responding, Ms. Shufelt stated this could happen because the tenant was ready to spend $150,000 on machines alone, and she was unsure if he wanted to go this extra mile. She indicated that they had told him what the owner's participation would be. Mr. Tudor explained that they were sharing costs to get the project going.

In response to Mr. Sudler, Ms. Shufelt stated that they had not spoken to the tenant regarding this matter yet, noting that they wanted to appeal first.

Mr. Lewis moved to defer this matter until the City receives a written statement from the architect regarding the percentage of code-related renovations planned and a current copy of the building plans. The motion was seconded by Mr. Sudler.

In response to Mr. Sudler for his statement regarding this matter, Mr. Akers stated that he took no exception and thought this was a good call.

On a call for the question, the motion to defer this matter until the City receives a written statement from the architect regarding the percentage of code-related renovations planned and a current copy of the building plans carried unanimously.

Mr. Lewis moved for adjournment, seconded by Mr. Sudler and unanimously carried.

Meeting adjourned at 5:07 p.m.

Roy Sudler, Jr.
Chairman

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Attachment

Attachment #1 - References - 2009 International Existing Building Code and Commentary

sions of Chapter 6, Level 1 alterations. This requirement effectively compounds the requirements for someone planning to alter an existing structure. For example, if during the process of replacing the aluminum siding on a building with vinyl siding, the building owner decides to eliminate one of four windows from a room, then this project would be classified as a Level 2 alteration and would, therefore, be required to meet the provisions of Chapters 6 and 7.

SECTION 405
ALTERATION—LEVEL 3

405.1 Scope. Level 3 *alterations* apply where the *work area* exceeds 50 percent of the aggregate area of the building.

❖ Anytime the project area, as defined in Section 202, exceeds one-half of the aggregate building area, it is considered to be a Level 3 alteration and, therefore, has to meet the requirements of Chapter 8. In the code, a work area encompasses all portions of the existing building that are proposed to be reconfigured.

405.2 Application. Level 3 alterations shall comply with the provisions of Chapters 6 and 7 for Level 1 and 2 *alterations*, respectively, as well as the provisions of Chapter 8.

❖ Any project that qualifies as a Level 3 alteration project must meet all of the requirements for Chapters 6, 7 and 8.

SECTION 406
CHANGE OF OCCUPANCY

406.1 Scope. *Change of occupancy* provisions apply where the activity is classified as a *change of occupancy* as defined in Chapter 2.

❖ A change of occupancy in an existing structure may change the level of inherent hazards that the code was initially intended to address.

This is done so that the applicable code requirements adequately address the specific hazards of the new occupancy. For example, a change from an existing mercantile occupancy to a business occupancy renders all Group B provisions applicable to all portions of the structure where the occupancy has changed.

406.2 Application. Changes of occupancy shall comply with the provisions of Chapter 9.

❖ This section indicates compliance with Chapter 9 for changes of occupancy. Chapter 9 contains frequently used provisions for the application to existing structures, since the occupancy in a building or structure is often subject to change during the life of the building.

SECTION 407
ADDITIONS

407.1 Scope. Provisions for *additions* shall apply where work is classified as an *addition* as defined in Chapter 2.

❖ Any project that would increase the floor area, the number of stories in a building or the height of a structure would qualify as an addition.

407.2 Application. *Additions* to existing buildings shall comply with the provisions of Chapter 10.

❖ Additions to existing structures are specifically covered in Chapter 10 of the code.

SECTION 408
HISTORIC BUILDINGS

408.1 Scope. Historic buildings provisions shall apply to buildings classified as historic as defined in Chapter 2.

❖ The most important criterion for the application of this section is that the building must be certified as being of historic significance by a qualified party or agency. Usually this is done by a state or local authority after careful review of the historical value of the building. Most, if not all, states have such authorities, as do many local jurisdictions. The agencies with such authority can be located at the state or local government level or through the local chapter of the American Institute of Architects (AIA). Other considerations for classification as a historical building include the structural condition of the building (i.e., is the building structurally sound), its proposed use, its impact on life safety and how the intent of the code, if not the letter, will be achieved.

408.2 Application. Except as specifically provided for in Chapter 11, historic buildings shall comply with applicable provisions of this code for the type of work being performed.

❖ Chapter 11 covers the various aspects of existing historic structures and includes specific sections on repairs, fire safety, alterations, change of occupancy and structure. In the absence of any specific requirements or provisions in Chapter 11, the remainder the code is applicable to work proposed for historic buildings.

SECTION 409
RELOCATED BUILDINGS

409.1 Scope. Relocated buildings provisions shall apply to relocated or moved buildings.

❖ Any structure that is relocated or moved to a different lot or a new location on the same lot falls within the scope of Section 409.

409.2 Application. Relocated buildings shall comply with the provisions of Chapter 12.

❖ The requirements for relocated or moved buildings are found in Chapter 12 of the code.

substantial damage due to flood, fire, wind, earthquake, deterioration and other causes.

SUBSTANTIAL IMPROVEMENT. For the purpose of determining compliance with the flood provisions of this code, any *repair*, *alteration*, *addition*, or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the structure, before the improvement or *repair* is started. If the structure has sustained *substantial damage*, any repairs are considered *substantial improvement* regardless of the actual *repair* work performed. The term does not, however, include either:

1. Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the *code official* and that is the minimum necessary to assure safe living conditions, or
2. Any *alteration* of a historic structure, provided that the *alteration* will not preclude the structure's continued designation as a historic structure.

❖ One of the long-range objectives of the National Flood Insurance Program (NFIP) is to reduce the exposure of older buildings that were built in flood hazard areas before local jurisdictions adopted flood hazard area maps and regulations. Section 105.3 directs the applicant to state the valuation of the proposed work as part of the information submitted to obtain a permit. To make a determination as to whether a proposed repair, reconstruction, rehabilitation, addition or improvement constitutes substantial improvement or damage, the cost of the proposed work is to be compared to the market value of the building or structure before the work is started. In order to determine market value, the code official may require the applicant to provide such information, as allowed under Section 105.3. For additional guidance, refer to FEMA 213 and FEMA 311.

SUBSTANTIAL STRUCTURAL DAMAGE. A condition where:

1. In any story, the vertical elements of the lateral-force-resisting system have suffered damage such that the lateral load-carrying capacity of the structure in any horizontal direction has been reduced by more than 20 percent from its predamaged condition; or
2. The capacity of any vertical gravity load-carrying component, or any group of such components, that supports more than 30 percent of the total area of the structure's floor(s) and roof(s) has been reduced more than 20 percent from its predamaged condition and the remaining capacity of such affected elements, with respect to all dead and live loads, is less than 75 percent of that required by the *International Building Code* for new buildings of similar structure, purpose and location.

❖ This definition gives the specific parameters for evaluating when a building has sustained substantial structural damage. There are two separate criteria provided in the definition, either one of which will qualify a structure as being substantially damaged.

TECHNICALLY INFEASIBLE. An *alteration* of a building or a facility that has little likelihood of being accomplished because the existing structural conditions require the removal or *alteration* of a load-bearing member that is an essential part of the structural frame or because other existing physical or site constraints prohibit modification or *addition* of elements, spaces, or features that are in full and strict compliance with the minimum requirements for new construction and that are necessary to provide accessibility.

❖ This term is defined in order to provide a basis for the application of accessibility provisions to existing buildings. Bringing any given existing site or building that is altered into full compliance with all accessibility requirements applicable to new construction may require extraordinary effort because of existing physical characteristics. The code utilizes the concept of technical infeasibility to provide a basis for exceptions from strict compliance with the provisions for new construction in an existing building.

UNSAFE. Buildings, structures or equipment that are unsanitary, or that are deficient due to inadequate means of egress facilities, inadequate light and ventilation, or that constitute a fire hazard, or in which the structure or individual structural members meet the definition of "*Dangerous*," or that are otherwise *dangerous* to human life or the public welfare, or that involve illegal or improper occupancy or inadequate maintenance shall be deemed unsafe. A vacant structure that is not secured against entry shall be deemed unsafe.

❖ The term "unsafe" is defined in order to provide a basis for the code official to cause a condition that is hazardous to the health and welfare of individuals to be corrected, either by repair or demolition (see Section 115). Some unsafe buildings may be the result of unsafe or illegal occupancies. For example, prima facie evidence of an unsafe structure is an unsecured (open doors or windows) vacant structure. Because of the attractive nuisance they represent, all unsafe buildings must be either demolished or made safe and secure as deemed appropriate by the code official.

WORK AREA. That portion or portions of a building consisting of all reconfigured spaces as indicated on the construction documents. Work area excludes other portions of the building where incidental work entailed by the intended work must be performed and portions of the building where work not initially intended by the owner is specifically required by this code.

❖ This section specifically defines the area of all reconfigured spaces where work is expected to be occurring within the scope of a project. These areas are to be shown clearly on the construction documents. Incidental work areas are not required to be shown as work areas.