

EXHIBIT NO. 1

3
4-22-06

Docket Item #3
SPECIAL USE PERMIT #2006-0009

Planning Commission Meeting
April 4, 2006

ISSUE: Consideration of a request for a special use permit to amend the hours of a movie theater.

APPLICANT: Regal Entertainment Group
by John H. Boggs

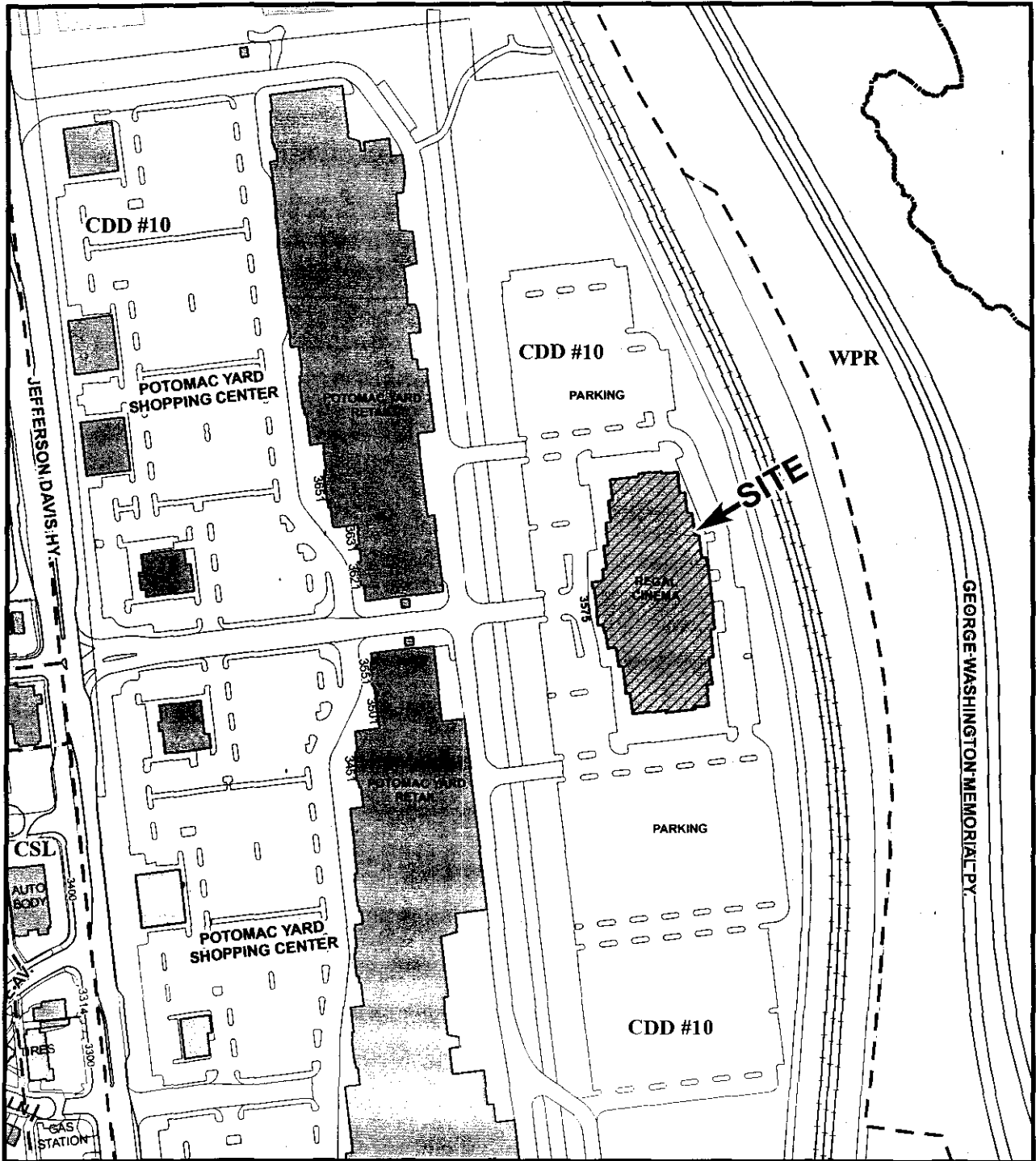
LOCATION: 3575 Jefferson Davis Highway

ZONE: CDD-1/Coordinated Development District

PLANNING COMMISSION ACTION, APRIL 4, 2006: By unanimous consent, the Planning Commission recommended approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendations.

Reason: The Planning Commission agreed with the staff analysis.

STAFF RECOMMENDATION: Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the recommended permit conditions found in Section III of this report.



SUP #2006-0009

04/04/06



I. DISCUSSION

REQUEST

The applicant, Regal Entertainment Group, requests special use permit approval to change the hours of operation at an existing movie theater (amusement enterprise) located at 3575 Jefferson Davis Highway.

SITE DESCRIPTION

The Potomac Yard Center occupies the northern 69 acres of Potomac Yard, the portion stretching from Four Mile Run south along Jefferson Davis Highway almost to the intersection of East Glebe Road. The movie theater building is located at the eastern portion of the property, and consists of 83,000 square feet. The entrance to the theater lobby is on axis with the shopping center's main entrance drive.



BACKGROUND

On June 14, 1997, City Council granted Special Use Permit #97-0050 allowing the operation of an amusement enterprise (movie theater) at the subject property. Subsequently, on September 12, 1998, City Council granted Special Use Permit #98-0086 amending the original special use permit to allow a restaurant with alcoholic beverages. On November 13, 1999, City Council approved a review of the movie theater (SUP#99-0119). While there were some compliance issues after the theater first opened, including security issues, staff is not aware of issues with the conditions of the SUP since the last review in 1999, until a recent inspection that resulted in the filing of this application.

As part of the three-year SUP enforcement program, staff visited the theater in December 2005, and found violations to Condition #3 with movies starting prior to 11:00 a.m., and Condition #4 requiring that no shows start after 11:30 p.m. Sunday through Thursday and 12:00 midnight on Friday and Saturday. The applicant filed this application to amend the opening hours, and since the inspection has ceased offering shows later than the requirement.

PROPOSAL

The applicant proposes to amend the hours of operation. The requested change is as follows:

Existing Hours

11:00 a.m. to 2:30 a.m.

Proposed Hours

10:00 a.m. to 2:30 a.m.

The applicant proposes the earlier hours only during summer hours, Thanksgiving week, winter break and special events. No other changes are proposed to the operation.

PARKING

Parking for the movie theater was approved under Site Plan #95-0020. A 3,389 seat theater requires 847 parking spaces. The parking lot serving the theater building contains 1,312 parking spaces.

ZONING/MASTER PLAN DESIGNATION

The center was developed pursuant to the underlying zoning of the Potomac Yard Coordinated Development District (CDD) Zone: CSL, Commercial Service Low and I, Industrial. Section 4-1203(A.1) of the I zone permits a theater (amusement enterprise) subject to special use permit approval.

The proposed use is consistent with the Potomac Yard/Potomac Greens Small Area Plan chapter of the Master Plan which designates the property for commercial use.

II. STAFF ANALYSIS

Staff does not object to the proposed change of hours to allow the theater to open one hour earlier. Potential impacts from this change are negligible. Because of the negligible impacts, while the applicant has requested the extended hours only during certain times of the year, staff recommends the hour earlier opening daily. The Police have no objections to the operation or proposed change of hours. Staff recommends maintaining all of the previously approved conditions, including requiring an off-duty police officer on the premises after 5:00 p.m. While the applicant has requested the earlier hours only during certain times of the year, staff finds that it is reasonable to allow the requested hours on a daily basis. Staff recommends a one year review to ensure no issues arise.

With these conditions, staff recommends approval of the special use permit.

III. RECOMMENDED CONDITIONS

Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the following conditions:

1. The special use permit shall be granted to the applicant only or to any business or entity in which the applicant has a controlling interest. (P&Z) (SUP# 97-0050)
2. Condition deleted. (SUP# 98-0086)

3. **CONDITION AMENDED BY STAFF:** Hours of operation at the theater shall be limited to between ~~11:00~~ 10:00 A.M. and 2:30 A.M., daily. (P&Z) (~~SUP# 97-0050~~)
4. No shows shall start after 11:30 P.M. and up to 12:00 Midnight on Friday, Saturdays, evenings before Holidays and Holiday evenings upon notification to the Police Department. (Police) (PC) (SUP# 97-0050)
5. Video games shall be limited to the use of movie patrons. (Police) (SUP# 97-0050)
6. Video games shall be located against a wall, illuminated to five foot candles minimum, maintained. (Police) (SUP#99-0119)
7. To prevent the movie theater from becoming a video arcade, the front doors shall be locked from the outside and the video games shall be turned off at the start of the last show. (PC) (SUP# 97-0050)
8. To limit access and control trespassers and for employee safety and robbery prevention, closed circuit television or designated employees shall monitor all side exits. (Police) (SUP# 97-0050)
9. Signs shall be posted that read: "No trespassing or loitering unless conducting business with the theater." (Police) (SUP# 97-0050)
10. Parking lots and sidewalks shall be illuminated to two foot candles, minimum maintained. (Police) (SUP# 97-0050)
11. The applicant shall contact the Alexandria Police Department for a security survey and robbery awareness for all employees. (Police) (SUP# 97-0050)
12. The applicant shall use off-duty police officers on the inside of the theater, and on the outside of the theater, including the parking lot, every night from 5:00 p.m. until one-half hour after closing. (PC) (SUP#99-0119)
13. No alcoholic beverages shall be served, except that alcoholic beverages may be served in an area known as the VIP Lounge and restricted reserved Mezzanine seating and restricted to those who purchase a special ticket for admittance to those areas. No alcoholic beverage may be carried out of the restricted areas. (P&Z) (SUP# 98-0086)

14. In the event that public safety becomes a concern, the Chief of Police may request that this special use permit be redocketed for consideration of additional conditions related to public safety. If an ongoing security problem exists, the Chief of Police has the emergency authority to direct the applicant to provide additional security. If the additional security measures are still not sufficient to resolve the problem, the Chief of Police may deploy police resources until the situation is resolved. The City may bill the applicant for the cost of police resources if it is considered beyond normal police services. (CC) (SUP# 98-0086)
15. Any rentals of the VIP lounge or the mezzanine seating or any private receptions or parties, etc., shall be considered a special event and must be coordinated with the Special Events Coordinator of the Alexandria Police Department. (Police) (SUP 98-0086)
16. Condition deleted. (SUP# 99-0119).
17. **CONDITION AMENDED BY STAFF:** The Director of Planning and Zoning shall review the special use permit ~~one year six months~~ from approval and shall docket the matter for consideration by the Planning Commission and City Council if (a) there have been documented violations of the permit conditions which were not corrected immediately, constitute repeat violations or which create a direct and immediate adverse impact on the surrounding community;, (b) the director has received a request from any person to docket the permit for review as the result of a complaint that rises to the level of a violation of the permit conditions, or (c) the director has determined that there are problems with the operation of the use and that new or revised conditions are needed. (P&Z) (SUP#99-0119)
18. The owners of the theater are required to schedule a meeting with the Police Chief or his designee on a monthly basis to discuss the security issues at the theater. (Police) (SUP#99-0119)
19. That the VIP restaurant/lounge portion of the theater hours of operation shall be 11:00 a.m. to 2:00 a.m. (CC) (SUP# 98-0086)
20. **CONDITION ADDED BY STAFF:** The applicant shall encourage its employees to use mass transit or to carpool when traveling to and from work, by posting information regarding DASH and METRO routes, the location where fare passes for transit are sold, and advertising of carpooling opportunities. (P&Z)

21. **CONDITION ADDED BY STAFF: The applicant shall conduct employee training sessions on an ongoing basis, including as part of any employee orientation, to discuss all SUP provisions and requirements, and on how to prevent underage sales of alcohol. (P&Z)**

22. **CONDITION ADDED BY STAFF: Applicant shall contribute \$500.00 to the Streetscape Beautification Fund for the installation of litter receptacles along the public right-of-ways. Monetary contribution to be submitted to the Department of T&ES, Engineering Division, Room 4130, 301 King Street within 60 days of City Council approval. (T&ES)**

STAFF: Eileen Fogarty, Director, Department of Planning and Zoning;
Richard Josephson, Deputy Director;
Valerie Peterson, Urban Planner.

Staff Note: In accordance with section 11-506(c) of the zoning ordinance, construction or operation shall be commenced and diligently and substantially pursued within 18 months of the date of granting of a special use permit by City Council or the special use permit shall become void.

IV. CITY DEPARTMENT COMMENTS

Legend: C - code requirement R - recommendation S - suggestion F - finding

Transportation & Environmental Services:

- R-1 Applicant shall contribute \$500.00 to the Streetscape Beautification Fund for the installation of litter receptacles along the public right-of-ways. Monetary contribution to be submitted to the Department of T&ES, Engineering Division, Room 4130, 301 King Street within 60 days of City Council approval.

Code Enforcement:

- F-1 No Comment

Health Department:

- C-1 An Alexandria Health Department Permit is required for all regulated facilities.
- C-2 Permits are non-transferable.
- C-3 This facility must meet current Alexandria City Code requirements for food establishments. A "Change of Ownership Inspection" has been completed by Environmental Health.
- C-4 If changes to the facility are to be done, five sets of plans must be submitted to and approved by this department prior to construction. Plans must comply with the Alexandria City Code, Title 11, Chapter 2, Food and Food Establishments. There is a \$135.00 fee for review of plans for food facilities.
- C-5 Permits must be obtained prior to operation.
- C-6 The facility must comply with the Alexandria City Code, Title 11, Chapter 10, Smoking Prohibitions.
- C-7 Certified Food Managers must be on duty during all hours of operation.
- F-1 This facility is currently operating as Regal Cinemas Potomac Yard without a valid Alexandria Health permit that will be issued to Regal Entertainment Group when remaining outstanding violations are corrected.

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R-1 Provide a list of foods to be handled at this facility to the Health Department prior to opening.

Police Department:

F-1 The Police Department had no objections to the extension of the theater hours changing from 11:00 am to 10:00 am.

APPLICATION for SPECIAL USE PERMIT # ~~99-0119~~
2006-0009

APR

[must use black ink or type]

PROPERTY LOCATION: 3575 Jefferson Davis Hwy, Alexandria, VA 22305

TAX MAP REFERENCE: 016.02-01-01 ZONE: CDD-18

APPLICANT Name: REGAL ENTERTAINMENT GROUP

Address: 7132 REGAL LANE KNOXVILLE TN 37918

PROPERTY OWNER Name: McCaffery Interests

Address: 3671 Jefferson Davis Hwy, Alexandria, VA 22305

PROPOSED USE: Amusement Enterprise (Theatre)

THE UNDERSIGNED hereby applies for a Special Use Permit in accordance with the provisions of Article XI, Section 11-500 of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

THE UNDERSIGNED, having obtained permission from the property owner, hereby grants permission to the City of Alexandria to post placard notice on the property for which this application is requested, pursuant to Article XI, Section 11-301(B) of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

THE UNDERSIGNED hereby attests that all of the information herein provided and specifically including all surveys, drawings, etc., required to be furnished by the applicant are true, correct and accurate to the best of their knowledge and belief. The applicant is hereby notified that any written materials, drawings or illustrations submitted in support of this application and any specific oral representations made to the Planning Commission or City Council in the course of public hearings on this application will be binding on the applicant unless those materials or representations are clearly stated to be non-binding or illustrative of general plans and intentions, subject to substantial revision, pursuant to Article XI, Section 11-207(A)(10), of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

JOHN H. BOGGS
Print Name of Applicant or Agent


Signature

3575 Jefferson Davis Hwy
Mailing/Street Address

(703) 739-4055 (703) 739-4050
Telephone # Fax #

Alexandria, VA 22305
City and State Zip Code

2006 3 17 2006
Date

DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY

Application Received: _____ Date & Fee Paid: _____ \$ _____

ACTION - PLANNING COMMISSION: _____

ACTION - CITY COUNCIL: _____

Special Use Permit # ~~99-0119~~
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All applicants must complete this form. Supplemental forms are required for child care facilities, restaurants, automobile oriented uses and freestanding signs requiring special use permit approval.

1. The applicant is (check one) the Owner Contract Purchaser
 Lessee or Other: _____ of the subject property.

State the name, address and percent of ownership of any person or entity owning an interest in the applicant, unless the entity is a corporation or partnership in which case identify each owner of more than ten percent.

Regal Entertainment Group
7132 Regal Lane
Knoxville, TN 37918
100%

If property owner or applicant is being represented by an authorized agent such as an attorney, realtor, or other person for which there is some form of compensation, does this agent or the business in which the agent is employed have a business license to operate in the City of Alexandria, Virginia?

- Yes. Provide proof of current City business license
 No. The agent shall obtain a business license prior to filing application, if required by the City Code.
2. Submit a floor plan and a plot plan with parking layout of the proposed use. One copy of the plan is required for plans that are 8½" x 14" or smaller. Twenty-four copies are required for larger plans or if the plans cannot be easily reproduced. The planning director may waive requirements for plan submission upon receipt of a written request which adequately justifies a waiver. This requirement does not apply if a Site Plan Package is required.

NARRATIVE DESCRIPTION

3. The applicant shall describe below the nature of the request in detail so that the Planning Commission and City Council can understand the nature of the operation and the use, including such items as the nature of the activity, the number and type of patrons, the number of employees, the hours, how parking is to be provided for employees and patrons, and whether the use will generate any noise. (Attach additional sheets if necessary)

Request Hours of Operation be modified to
read " Hours of operation at the theatre shall
be limited to between 10:00 AM and 2:30 AM,
daily."

The extra hour will be limited to Memorial
Day Weekend through Labor Day, Thanksgiving
week, Winter Break and Special Events.

USE CHARACTERISTICS

4. The proposed special use permit request is for: (check one)

- a new use requiring a special use permit,
- a development special use permit,
- an expansion or change to an existing use without a special use permit,
- expansion or change to an existing use with a special use permit,
- other. Please describe: _____

5. Please describe the capacity of the proposed use:

A. How many patrons, clients, pupils and other such users do you expect? Specify time period (i.e., day, hour, or shift).

This will increase the number of patron by approx.
50 on a daily average.

B. How many employees, staff and other personnel do you expect? Specify time period (i.e., day, hour, or shift).

This will add 1 hour to approximately 2 employee
shifts. It will not require additional employees.

6. Please describe the proposed hours and days of operation of the proposed use:

Day:
Sunday - Thursday
Friday - Saturday

Hours:
10:00 AM - 1:00 AM
10:00 AM - 2:30 AM

7. Please describe any potential noise emanating from the proposed use:

A. Describe the noise levels anticipated from all mechanical equipment and patrons.

None

B. How will the noise from patrons be controlled?

Through security procedures already in place.

8. Describe any potential odors emanating from the proposed use and plans to control them:

None

9. Please provide information regarding trash and litter generated by the use:

A. What type of trash and garbage will be generated by the use?

Trash will be no more than current and will be controlled as it currently is

B. How much trash and garbage will be generated by the use?

10-20 pounds

C. How often will trash be collected?

Weekly from current compactor.

D. How will you prevent littering on the property, streets and nearby properties?

Through the same constant awareness

Special Use Permit # ~~99-0119~~
2006-0009

10. Will any hazardous materials, as defined by the state or federal government, be handled, stored, or generated on the property?

Yes. No.

If yes, provide the name, monthly quantity, and specific disposal method below:

11. Will any organic compounds, for example paint, ink, lacquer thinner, or cleaning or degreasing solvent, be handled, stored, or generated on the property?

Yes. No.

If yes, provide the name, monthly quantity, and specific disposal method below:

12. What methods are proposed to ensure the safety of residents, employees and patrons?

Management and staff training. Mall security,
and Alexandria Police Officers

ALCOHOL SALES

13. Will the proposed use include the sale of beer, wine, or mixed drinks?

Yes. No.

If yes, describe alcohol sales below, including if the ABC license will include on-premises and/or off-premises sales. Existing uses must describe their existing alcohol sales and/or service and identify any proposed changes in that aspect of the operation.

PARKING AND ACCESS REQUIREMENTS

14. Please provide information regarding the availability of off-street parking:

A. How many parking spaces are required for the proposed use pursuant to section 8-200 (A) of the zoning ordinance?

B. How many parking spaces of each type are provided for the proposed use:

2500 Standard spaces

0 Compact spaces

22 Handicapped accessible spaces.

2 Other.

C. Where is required parking located? on-site off-site (check one)

If the required parking will be located off-site, where will it be located:

Pursuant to section 8-200 (C) of the zoning ordinance, commercial and industrial uses may provide off-site parking within 500 feet of the proposed use, provided that the off-site parking is located on land zoned for commercial or industrial uses. All other uses must provide parking on-site, except that off-street parking may be provided within 300 feet of the use with a special use permit.

D. If a reduction in the required parking is requested, pursuant to section 8-100 (A) (4) or (5) of the zoning ordinance, complete the PARKING REDUCTION SUPPLEMENTAL APPLICATION.

15. Please provide information regarding loading and unloading facilities for the use:

A. How many loading spaces are required for the use, per section 8-200 (B) of the zoning ordinance? 7

B. How many loading spaces are available for the use? 1

C. Where are off-street loading facilities located? The rear of the theatre.

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D. During what hours of the day do you expect loading/unloading operations to occur?
Between 10:00 AM and 6:00 PM

E. How frequently are loading/unloading operations expected to occur, per day or per week, as appropriate?
2 times per week

16. Is street access to the subject property adequate or are any street improvements, such as a new turning lane, necessary to minimize impacts on traffic flow?
Adequate

SITE CHARACTERISTICS

17. Will the proposed uses be located in an existing building? Yes No
Do you propose to construct an addition to the building? Yes No
How large will the addition be? _____ square feet.

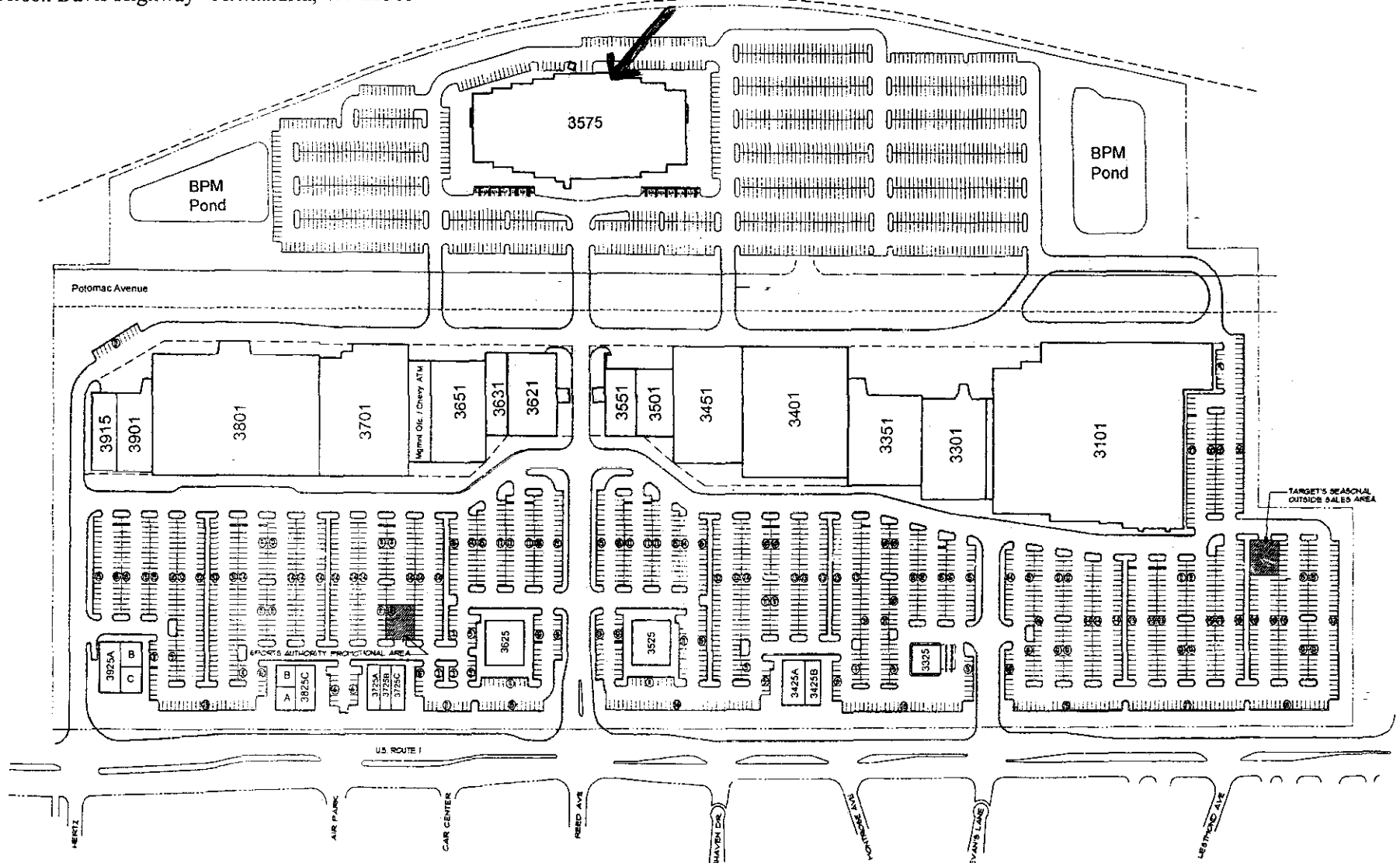
18. What will the total area occupied by the proposed use be?
_____ sq. ft. (existing) + _____ sq. ft. (addition if any) = _____ sq. ft. (total)

19. The proposed use is located in: (check one)
 a stand alone building a house located in a residential zone a warehouse
 a shopping center. Please provide name of the center: Potomac Yard
 an office building. Please provide name of the building: _____
 other, please describe: _____

POTOMAC YARD CENTER

Jefferson Davis Highway - Alexandria, VA 22305

REGAL CINEMAS



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Target	3101	Rack Room Shoes	3551	AT&T Wireless	3725-C
Staples	3301	Hoyt's Cinema	3575	Shoppers Food Warehouse	3801
Baskin Robbins	3325	Old Navy	3621	Starbucks	3825-A
PetsMart	3351	Hops Restaurant	3625	Subway	3825-B
Best Buy	3401	Hallmark Creations	3631	Men's Wearhouse	3825-C
IHOP	3425-A	Barnes & Noble	3651	Pier 1 Imports	3901
Children's Place	3425-B	Chevy Chase (ATM)	3671	Thomasville Furniture	3915
TJ Maxx	3451	Sports Authority	3701	Hollywood Video	3925-A
Dress Barn	3501	Rockaway Bedding	3725-A	Haircuttery	3925-B
Don Pablos	3525	Vitamin Shoppe	3725-B	Potomac Yard Cleaners	3925-C

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