



FAIRFAX COUNTY

BOARD OF ZONING APPEALS

PUBLIC HEARING DATE: July 27, 2016
TIME: 9:00 a. m.

V I R G I N I A

July 20, 2016

STAFF REPORT

APPEAL APPLICATION A 2015-MV-035

MOUNT VERNON DISTRICT

APPELLANT: NVIP, L.L.C.

LOCATION: 7402C Lockport Place

TAX MAP REF: 108-1 ((1)) 1H

ZONING DISTRICTS: I-4

SITE AREA: 12.04 acres

NATURE OF APPEAL: Appeal of a determination that appellant allowing the occupancy of property in the I-4 District without a valid Non-Residential Use Permit in violation of Zoning Ordinance provisions.

SDW

For information, contact the Zoning Administration Division, Department of Planning and Zoning, 12055 Government Center Parkway, Suite 807, Fairfax, Virginia 22035-5505, 703-324-1314.

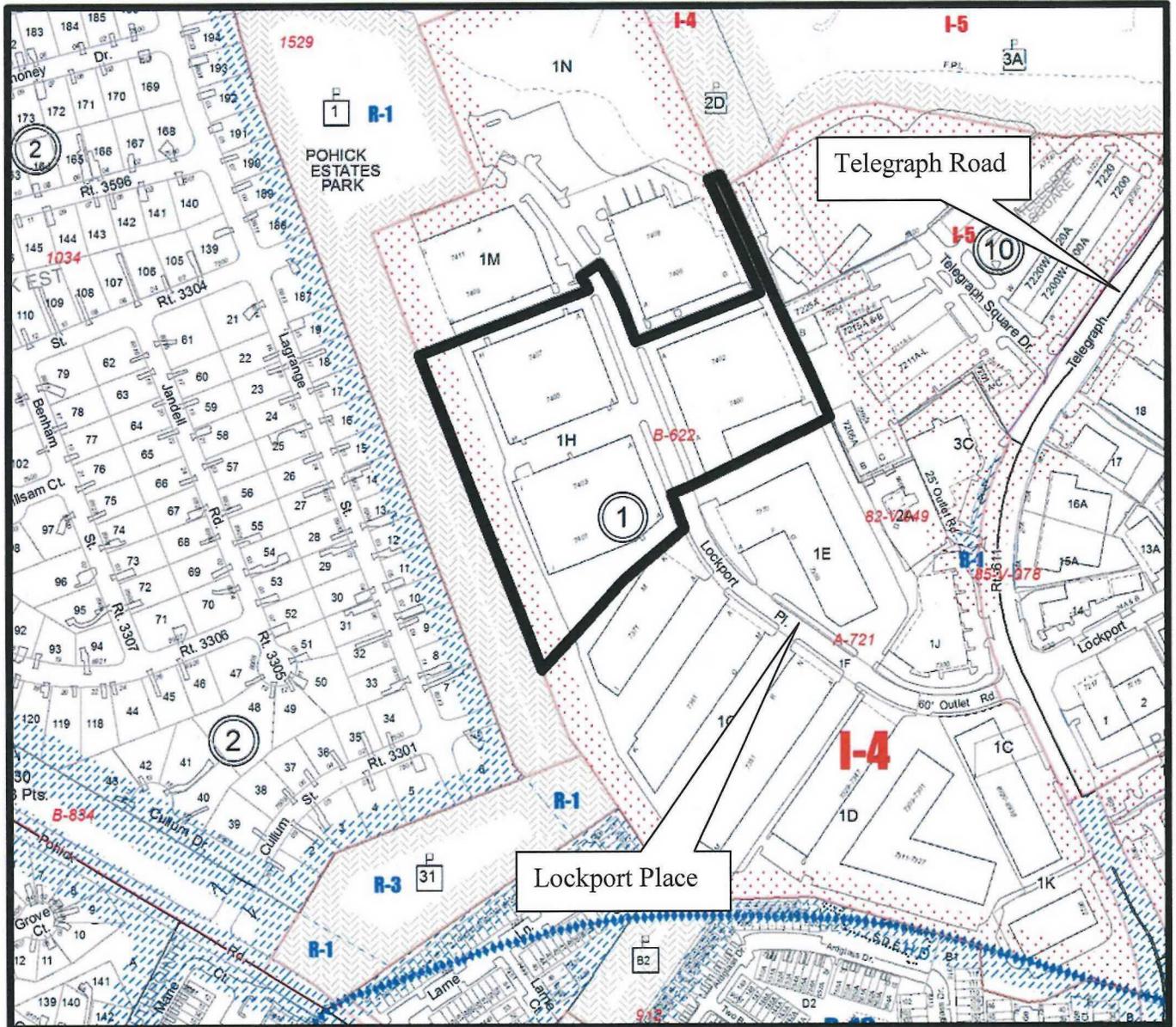


American with Disabilities Act (ADA): For special accommodations, call 703-324-1334 (TTY 711 Virginia Relay Center) seven days in advance of the meeting to make the necessary arrangements.

APPEAL APPLICATION

A 2015-MV-035

NVIP, L.L.C., A 2015-MV-035 Appl. under Sect(s). 18-301 of the Zoning Ordinance. Appeal of a determination that the appellant is allowing the occupancy of property in the I-4 District without a valid Non-Residential Use Permit in violation of Zoning Ordinance provisions. Located at 7402C Lockport Pl. on approx. 12.04 ac. of land zoned I-4. Mount Vernon District. Tax Map 108-1 ((1)) 1H.



DESCRIPTION OF APPEAL

- Appellant:** NVIP, L.L.C.
- Issue:** Appeal of a determination that appellant allowing the occupancy of property in the I-4 District without a valid Non-Residential Use Permit, in violation of Zoning Ordinance provisions.
- Property Description:** The subject property is located at 7402C Lockport Place, which is located at the northern terminus of Lockport Place, approximately 1,000 feet northwest of its intersection with Telegraph Road. The property consists of 12.04 acres zoned I-4, Medium Intensity Industrial District, and is developed with a one-story building containing approximately 81,600 square feet. A copy of the zoning map sheet showing the subject property is provided on the previous page.
- Appellant's Position:** The appellant's application and basis for appeal are set forth in Attachment 1.

ZONING ORDINANCE PROVISIONS

The provisions of the Zoning Ordinance which are germane to this appeal are listed below. The complete text of these provisions is enclosed as Attachment 2.

- Par. 10 of Sect. 2-302, Permitted Uses, Minimum off-street parking and loading spaces required
- Sect. 18-701, Permit Required for Occupancy or Use
- Sect. 20-300, Definitions of WAREHOUSING ESTABLISHMENT and SCHOOL OF SPECIAL EDUCATION

BACKGROUND

- Site Plan #4707-SP-B-1, entitled "Site and Grading Plan, Phase Four, Northern Virginia Industrial Park," was approved on May 30, 1984 for three, one-story warehouse buildings.
- On April 1, 2014, an anonymous complaint was received by the Department of Code Compliance (DCC), alleging that warehouse space was being used as a gym/fitness facility consisting of approximately 15,000 square feet with limited parking.

- On April 3, 2014, a DCC Investigator inspected the site. The investigation revealed that Non-Residential Use Permit #132520107 has been issued to "Lorton CrossFit" on September 9, 2013, for a Warehousing Establishment, however "Lorton CrossFit" was not operating as a warehousing establishment and; therefore, the Non-RUP is not valid. The inspection showed that the property was being used daily for fitness classes, and included large open areas for classes, as well as fitness equipment for use during the classes. Therefore, it was determined that the use of the property is a School of Special Education, as defined in Article 20 of the Zoning Ordinance. The DCC Investigator spoke with Ms. Sandra Papson, the property manager regarding the incorrect use stated on the Non-RUP and provided Ms. Papson with a list of uses permitted in the I-4 District so she could ensure all future leases are to businesses that are permitted in the I-4 District. Schools of special education are a permitted use in the I-4 District, but have a different parking requirement. A copy of Non-Residential Use Permit #132520107 is provided in Attachment 3.
- On April 8, 2014, a Notice of Violation was issued to AP Adler NVIP, L.L.C., who was the property owner at that time, for being in violation of Sect. 18-701 of the Zoning Ordinance for occupying the subject property without having obtained a valid Non-Residential Use Permit. DCC staff advised the property owner to clear the violation within thirty days of the date of the NOV by either vacating the premises or obtaining a Non-RUP for the correct use.
- On July 8, 2014, a "Use Determination" letter was issued to Ms. Lorri Krappweis in response to a written inquiry received by staff on June 20, 2014, asking whether conducting group fitness classes at the subject property would be deemed a private school of special education. The written inquiry indicated that each of the classes offered had 10 to 20 adult attendees, and approximately 6 classes were offered throughout the day to adults. The letter indicated that kids/youth classes were also offered for children between the ages of 5 and 12 years old. The use determination letter issued by staff stated that based on the information provided, the use is a private school of special education. A copy of the use determination letter is provided in Attachment 4.
- On December 4, 2014, a follow up inspection of the subject property was conducted, which revealed that Lorton CrossFit was still operating on the property without a valid Non-RUP for the school of special education use.
- On April 13, 2015, the DCC Investigator re-inspected the site prior to a scheduled court hearing for the violations on the property and determined that Lorton CrossFit was still operating on the site without a valid Non-RUP. The owner of Lorton CrossFit, Mr. Steve Reggio stated that the property manager for Adler Properties would be obtaining the Non-RUP. However, the property manager informed DCC staff that they would not be able to submit the required parking study prior to the pending court hearing.
- On October 16, 2015, another inspection was conducted, and Lorton CrossFit was still operating on the site without a valid Non-RUP. A parking study was submitted by the owner for the subject property in June of 2015, but was disapproved by the Department of Public Works and Environmental Studies (DPWES) due to insufficient information and required site improvements.

- On November 2, 2015, the subject property was conveyed to NVIP, L.L.C. by a deed recorded in the Fairfax County land records at Deed Book 24350, Page 1622. A copy of the deed is provided in Attachment 5.
- On November 17, 2015, the DCC Investigator inspected the site once again. The investigation revealed that Lorton CrossFit was still operating on the subject property without a valid Non-RUP.
- On November 25, 2015, a Notice of Violation was issued in the name of the new owners, NVIP, L.L.C. for being in violation of Sect. 18-701 of the Zoning Ordinance for occupying the subject property without having obtained a valid Non-Residential Use Permit. DCC staff advised the appellant to clear the violation within thirty days of the date of the NOV by either vacating the premises or obtaining the corrected Non-RUP. A copy of this NOV is provided in Attachment 1.
- On December 23, 2015, the appellant filed an appeal of the NOV; it was accepted on February 9, 2016 and initially scheduled for public hearing on May 4, 2016. On April 18, 2016, the appellant submitted a request to administratively move the public hearing to allow time for the appellant to submit a parking tabulation to the Department of Public Works and Environmental Services (DPWES), in order to obtain a Non-RUP for a school of special education at the subject property. The public hearing was rescheduled to July 27, 2016.

ZONING ADMINISTRATOR'S POSITION

This is an appeal of a determination that the appellant is allowing the occupancy of property in the I-4 District without a valid Non-Residential Use Permit (Non-RUP), in violation of Zoning Ordinance provisions.

County records indicate that on September 9, 2013, a Non-Residential Use Permit was issued to "Lorton CrossFit" for a warehousing establishment. Article 20 of the Zoning Ordinance defines a warehousing establishment as follows:

WAREHOUSING ESTABLISHMENT: A building used primarily for the holding or storage of goods and merchandise. For the purpose of this Ordinance where a warehousing establishment is permitted a MINI-WAREHOUSING ESTABLISHMENT shall also be permitted.

As described in the background, the space occupied by Lorton CrossFit is an open warehouse space with weights, cardio equipment and other fitness training equipment (See Inspection Photos provided in Attachment 6). According to the Lorton CrossFit website, Lorton CrossFit offers high intensity fitness instruction in a class environment. Multiple classes with up to 20 people are offered throughout the day between 6 AM and 8 PM Monday, Wednesday, Thursday and Friday, between 6 AM, and 8 PM on Tuesdays, between 5 AM and 11 AM on Saturday, and 9 AM and 11 PM on Sunday. A use determination letter was issued by staff on July 8, 2014 that stated the use is a school of special education, which is defined in the Zoning Ordinance as follows:

SCHOOL OF SPECIAL EDUCATION: A school primarily devoted to giving instruction in vocational, professional, musical, dramatic, artistic, terpsichorean, linguistic, scientific, religious, or other special subjects, but not including (a) a child care center or home child care facility; or (b) a riding school, however designated.

The appellant claims that the issuance of the Non-RUP #132520107 to Lorton CrossFit provides evidence that the business was legally established at the subject property. However, based on the determination that the use at the subject property is operating as a school of special education and does not constitute a warehouse establishment, it is not operating in accordance with the Non-RUP, which was issued for a warehousing establishment. The business on the property is therefore operating without a valid Non-RUP, in violation of Sect. 18-701 of the Zoning Ordinance which states that “(n)o occupancy or use shall be made of any structure hereinafter erected or of any premises hereinafter improved, and no change in use shall be permitted, unless and until a Residential or Non-Residential Use Permit has been approved in accordance with the provisions of this Part.”

While both a warehousing establishment and a school of special education are uses permitted by right in the I-4 District, in order to obtain a Non-RUP for any use in the district it must be demonstrated that adequate parking is provided at the subject property, in accordance with Par. 10 of Sect. 2-302 of the Zoning Ordinance and the minimum required parking standards contained in Article 11 of the Zoning Ordinance. The minimum required parking for a warehousing establishment is “one space per 1.5 employees on major shift, plus one space per company vehicle, plus sufficient space to accommodate the largest number of visitors that may be expected at any one time, but with a minimum of one space per 1000 square feet of gross floor area.” However, the minimum required parking for a school of special education is “two spaces per each three employees, plus a sufficient number of spaces to accommodate all persons who may be at the establishment at any one time under normal operating conditions.” The appellant has not provided enough information for staff to determine the specific minimum required parking for the school of special education as it is operating on the site, which is affected by numerous factors such as class size, overlapping classes, and number of employees on site at any one time. In general, the minimum required parking rate for the school of special education is likely greater than the minimum required parking rate for a warehouse establishment at this location. Since it has been determined that the use is a school of special education, the appellant must demonstrate that adequate parking can be provided for a use of special education at the subject property, or must relocate the school to another location where a school of special education is permitted and adequate parking can also be provided.

The appellant stated in their appeal application that they were seeking the opportunity to pursue remedial actions to correct the violation. In April of 2014, the owner of Lorton CrossFit, Mr. Steve Reggio informed DCC staff that the property manager for Adler Properties was pursuing a valid Non-RUP for a school of special education at the subject property. In order to obtain a valid Non-RUP for the property, a parking tabulation is required, to ensure that adequate parking is provided at the site, in accordance with Par. 10 of Sect. 2-302 of the Zoning Ordinance. A parking study was submitted to the Department of Public Works and Environmental Services (DPWES) in June of 2015, but was disapproved due to insufficient information regarding meeting the parking required on the property, and required site improvements. On April 18,

2016, after receiving the public hearing date for the new NOV issued to the property owner, the appellant submitted a request to administratively move the appeal public hearing to allow them time to submit a revised parking tabulation, in order to obtain a Non-RUP for a school of special education at the subject property. However, a revised parking tabulation has not been submitted or approved, and Lorton CrossFit is continuing to operate on the property without a valid Non-RUP, in violation of Sect. 18-701 of the Zoning Ordinance.

CONCLUSION

In conclusion, CrossFit Lorton was issued a Non-RUP for a warehousing establishment on September 9, 2013. It is not clear what information was provided at the time of the issuance of the Non-RUP. However, repeated inspections of the subject property have revealed that the subject property is not operating in accordance with the definition of a warehousing establishment, and is in fact, operating as a school of special education. Therefore the business is operating on the site without a valid Non-Residential Use Permit for the use in violation of Zoning Ordinance provisions. The appellant has indicated that they are pursuing to remedy the violation by obtaining a Non-RUP for a school of special education and has been given ample time to do so, however a valid Non-RUP has not been obtained and the use continues to operate in violation of Sect. 18-701. Staff therefore recommends that the BZA uphold the determination of the Zoning Administrator as set forth in the Notice of Violation dated November 25, 2015.

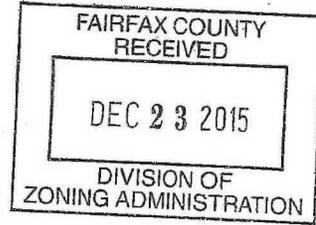
ATTACHMENTS:

1. Appellant's application and basis for appeal
2. Zoning Ordinance provisions
3. Non-RUP issued to CrossFit Lorton for Warehousing Establishment
4. Use Determination Letter issued July 8, 2014
5. Deed conveying property to NVIP, L.L.C.
6. Photographs from inspections of the subject property



COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX
APPLICATION FOR APPEAL

Please type or
Print in Black Ink



APPLICATION NO. A 2015-MV-035
(Assigned by Staff)

NAME OF APPELLANT: NVIP, L.L.C.

NATURE OF THE APPEAL:

Appeal of violation dated November 25, 2015 issued by Peggy Delean, Code Compliance Investigator, to NVIP, L.L.C. The Appellant is filing this appeal to the notice of violation as it may have been issued in error based on improper interpretation of the Zoning Ordinance. The Appellant requests a stay of enforcement in conjunction with the appeal to allow for further research, discussion with County Staff, and determination of any remedial actions necessary, if any.

DATE OF ORDER, REQUIREMENT, DECISION, DETERMINATION OR NOTICE OF VIOLATION WHICH IS SUBJECT TO THE APPEAL November 25, 2015

HOW IS THE APPELLANT AN AGGRIEVED PERSON?:

NVIP, L.L.C. is the title owner of the subject property and is therefore an aggrieved person.

IF APPEAL RELATES TO A SPECIFIC PROPERTY, PROVIDE THE FOLLOWING INFORMATION:

POSTAL ADDRESS OF PROPERTY: 7402C Lockport Place, Lorton, Virginia 22079

TAX MAP DESCRIPTION: 108-1 ((01)) 0001H

NVIP, L.L.C. by: G. Evan Pritchard, Attorney/Agent

Type or Print Name of Appellant or Agent

Signature of Appellant or Agent

Walsh, Colucci, Lubeley & Walsh, P.C., 2200 Clarendon Blvd., Suite 1300, Arlington, Virginia 22201

Address

(703) 528-4700

Telephone No: Home

Work

Cell

Please type or print name, address, and phone number of contact person if different from above:

DO NOT WRITE IN THIS SPACE

Subdivision Name: Pohick Church

Total Area (Acres/Square Feet): 524,497 sq. ft. / 12.04 acres

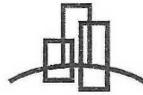
Present Zoning: F-4

Supervisor District: Mt Vernon

Date application received: 12/23/15

Application Fee Paid: \$ 600.00

Date application accepted: 2/9/16



**WALSH COLUCCI
LUBELEY & WALSH PC**

G. Evan Pritchard
(703)528-4700 Ext. 5417
gepritchard@thelandlawyers.com

December 23, 2015

Via Hand Delivery

Leslie Johnson, Zoning Administrator
Zoning Administration Division
Department of Planning and Zoning
12055 Government Center Parkway, Suite 807
Fairfax, Virginia 22035

Kathleen Knoth, Clerk
Board of Zoning Appeals
Zoning Evaluation Division
Department of Planning and Zoning
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035

Re: Appeal of Notice of Violation dated November 25, 2015
7402C Lockport Place, Lorton, Virginia 22079
Fairfax County Tax Map Reference: 108-1 ((01)) 0001H
Appellant: NVIP, L.L.C.

Dear Ms. Johnson and Ms. Knoth:

A Fairfax County Notice of Violation dated November 25, 2015 (the "Notice of Violation"), a copy of which is attached, was issued regarding the Non-Residential Use Permit ("Non-RUP") approved in connection with the "Lorton CrossFit" business on the Subject Property. Please accept the following information as grounds for an appeal in accordance with Fairfax County Zoning Ordinance Section 18-304, and applicable state regulations.

Inspection of the Subject Property indicated that a "CrossFit" business has been established on the Subject Property. The Notice of Violation states that the Non-RUP approved for the CrossFit business was issued for a "Warehousing Establishment," as defined in the Fairfax County Zoning Ordinance. The Notice of Violation further states that the CrossFit business does not meet the definition of a "Warehouse Establishment" and that the Non-RUP for the business is therefore invalid.

NVIP, L.L.C. is the title owner of the Subject Property. As the owner of the Subject Property, the Appellant is an aggrieved party. The CrossFit business has been operating on the Subject Property since 2013, pursuant to the Non-RUP issued on September 9, 2013. The

ATTORNEYS AT LAW

703 528 4700 • WWW.THELANDLAWYERS.COM
2200 CLARENDON BLVD. • SUITE 1300 • ARLINGTON, VA 22201-3359

LOUDOUN 703 737 3633 • WOODBRIDGE 703 680 4664

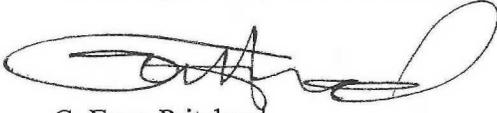
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issuance of a Non-RUP provides evidence that the business was legally established on the Subject Property. The purpose of this appeal is to preserve the Appellant's rights and allow time for additional investigation regarding the establishment of the uses of the Subject Property. The Appellant further seeks the opportunity to pursue remedial actions to correct the violation, if necessary. I ask that enforcement of the zoning violation be stayed until further research can be pursued and discussed with County staff. Should a consensus be reached, this appeal may be withdrawn.

Please do not hesitate to contact me if you have any questions regarding this appeal, or if I can provide you with any additional information. I reserve the right to enter additional materials into the record prior to and during the public hearing. I appreciate your cooperation and assistance.

Very truly yours,

WALSH, COLUCCI, LUBELEY & WALSH, P.C.

A handwritten signature in black ink, appearing to read "G. Pritchard", written over a horizontal line.

G. Evan Pritchard

Enclosures

cc: John Dalton
Inda Stagg



County of Fairfax, Virginia

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

NOTICE OF VIOLATION Fairfax County Zoning Ordinance

DATE OF ISSUANCE: November 25, 2015

METHOD OF SERVICE: CERTIFIED MAIL #7015 1730 0000 7656 9496

LEGAL NOTICE ISSUED TO: NVIP, L.L.C.
Corporation Service Company, Registered Agent

ADDRESS: Bank of America Center, 16th Floor
1111 East Main St.
Richmond, VA 23219

LOCATION OF VIOLATION: 7402C Lockport Pl.
Lorton, Virginia 22079-1536

TAX MAP REF: 1081 01 0001H

ZONING DISTRICT: I-4

CASE #: 201201126 **SR #:** 103277

POTENTIAL CIVIL PENALTIES UNDER ZONING ORDINANCE

§ 18-903(1):	Zoning Violation	First Offense	Each Subsequent Offense
	§18.701	\$ 200.00	\$ 500.00
	TOTAL:	\$ 200.00	\$ 500.00

Dear Responsible Party:

An inspection of the above referenced property on November 17, 2015, revealed the following violation of the Fairfax County Zoning Ordinance:

§ 18-701 Non Residential Use Permit:

County records show that Non-Residential Permit #132520107 was issued to "Lorton CrossFit" on September 9, 2013, for a Warehousing Establishment. A warehousing establishment is defined in Article 20 of the Zoning Ordinance as:

Department of Code Compliance
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia 22035-5508
Phone 703-324-1300 Fax 703-324-9346
www.fairfaxcounty.gov/code

NVIP, L.L.C.
Corporation Service Company, Registered Agent
November 25, 2015
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WAREHOUSING ESTABLISHMENT: A building used primarily for the holding or storage of goods and merchandise. For the purpose of this Ordinance where a warehousing establishment is permitted a **MINI-WAREHOUSING ESTABLISHMENT** shall also be permitted.

The inspection determined that "Lorton CrossFit" does not meet the definition of a warehousing establishment and; therefore, the permit is not valid. Furthermore, the inspection determined that the use of the property is a School of Special Education which is defined in Article 20 of the Zoning Ordinance as:

SCHOOL OF SPECIAL EDUCATION: A school primarily devoted to giving instruction in vocational, professional, musical, dramatic, artistic, terpsichorean, linguistic, scientific, religious, or other special subjects, but not including (a) a child care center or home child care facility; or (b) a riding school, however designated.

Thus, "Lorton CrossFit" is occupying the above-referenced property without having obtained a valid Non-Residential Use Permit (Non-RUP). Therefore, you are in violation of Sect. 18-701 of the Fairfax County Zoning Ordinance which states:

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

You are hereby directed to clear this violation within **thirty (30) days** of the date of this Notice. Compliance can be accomplished by either vacating the premises or obtaining the required Non-RUP within **thirty (30) days** of the date of this Notice.

Specific instructions and requirements relative to this permit can be obtained by contacting the Zoning Permit Review Branch, 12055 Government Center Parkway, Fairfax, Virginia, telephone 703-222-1082, between the hours of 8:00 A.M. and 4:00 P.M., Monday through Friday.

A follow-up inspection will be made at the expiration of the time period outlined in this Notice. Failure to comply with the notice will result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance which can result in court ordered sanctions or civil penalties.

NVIP, L.L.C.
Corporation Service Company, Registered Agent
November 25, 2015
SR 103277
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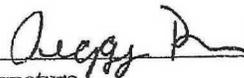
Civil penalties may be ordered in the amount of \$200.00 for each violation of the Zoning Ordinance cited herein for the first violation and \$500.00 for each violation of the Zoning ordinance cited herein for any subsequent violation, in accordance with Zoning Ordinance §18-903(1).

You may have the right to appeal this Notice of Zoning Violation within thirty (30) days of the date of this letter in accordance with Sec. 15.2-2311 of the Code of Virginia. This decision shall be final and unappealable if it is not appealed within such thirty (30) days. Should you choose to appeal, the appeal must be filed with the Zoning Administrator and the Board of Zoning Appeals (BZA) in accordance with Part 3 of Article 18 of the Fairfax County Zoning Ordinance. Those provisions require the submission of an application form, a written statement setting forth the decision being appealed, the date of decision, the grounds for the appeal, how the appellant is an aggrieved party, any other information that you may wish to submit and a \$600.00 filing fee. Once an appeal application is accepted, it will be scheduled for public hearing and decision before the BZA. For information regarding an appeal contact:

Zoning Administration Division
12055 Government Center Parkway, Suite 807
Fairfax, Virginia 22035
Office: (703)324-1314
Information and forms can also be obtained at <http://www.fairfaxcounty.gov/dpz/bza/appeals/>.

If you have questions, would like to schedule an appointment to meet with an investigator, or schedule a follow up inspection, please contact me directly at (703)324-1330. For any other questions, contact our main office at (703)324-1300.

LEGAL NOTICE ISSUED BY:



Signature

Peggy Delean
Code Compliance Investigator
Margaret.delean@fairfaxcounty.gov
(703)324-1330

ZONING ORDINANCE PROVISIONS

2-302 Permitted Uses

10. No structure shall hereafter be built or moved, and no structure or land shall hereafter be used or occupied unless the minimum off-street parking and loading spaces required by Article 11 are provided. The off-street parking and loading regulations for any expansion or enlargement of a structure or use already established on the effective date of this Ordinance shall be in accordance with the provisions of Article 11.

18-701 Permit Required for Occupancy or Use

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

PART 3 20-300 DEFINITIONS

SCHOOL OF SPECIAL EDUCATION: A school primarily devoted to giving instruction in vocational, professional, musical, dramatic, artistic, terpsichorean, linguistic, scientific, religious, or other special subjects, but not including (a) a child care center or home child care facility; or (b) a riding school, however designated.

WAREHOUSING ESTABLISHMENT: A building used primarily for the holding or storage of goods and merchandise. For the purpose of this Ordinance where a warehousing establishment is permitted a MINI-WAREHOUSING ESTABLISHMENT shall also be permitted.

COUNTY OF FAIRFAX
Department of Planning and Zoning
Zoning Administration Division
NON-RESIDENTIAL USE PERMIT

THIS PERMIT SHALL BE CONSPICUOUSLY POSTED AT ALL TIMES IN THE ESTABLISHMENT

Non-RUP #: 132520107

Issued September 09, 2013

Tenant Name: **LORTON CROSSFIT**
Address: 7402C LOCKPORT PL

Bldg: NA

Floor: NA

Suite #: NA

LORTON VA 22079-1536

Tax Map: 1081 01 0001H

Square Footage: 15730

Use: WAREHOUSING ESTABLISHMENT

Must comply with Zoning Case No. :

Const. Type Use Grp
ISIS ISIS

Building Permit No.: 060541800

Additional Building Permit No.: N/A

This Non-Residential Use Permit is issued subject to the following limitations and conditions: WAREHOUSE WITH ASSOCIATED OFFICE FOR UNITS A-D



Jessie B Johnson

Zoning Administrator

Note: Occupancy approval subject to final inspection by the Fairfax County Fire Marshal's office. Please call 703 246-4849 to schedule final occupancy inspection.
This permit does not take the place of any license or other permit required by law. Any change in the use, occupancy or proprietorship, or any enlargement or expansion of the premises for which this permit is issued shall require the application and approval of a new Non-Residential Use Permit.

Printed on 09/09/2013



County of Fairfax, Virginia

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

July 8, 2014

Ms. Lorri Krappweis
13216 Wrenn House Lane
Herndon, VA 20171

Re: Private School of Special Education for Crossfit Lorton
7402C Lockport Place
Tax Map Ref: 108-1 ((01)) 1H
Zoning District: I-4

Dear Ms. Krappweis:

This is in response to your written inquiry received on June 20, 2014 requesting a determination as to whether conducting a group fitness classes from the referenced property is deemed a private school of special education. In the email enclosed with your written request it is indicated that each class has 10 to 20 adult attendees, and 6 classes are offered throughout the day for adults and classes are offered for kids/youth athlete program where 5 to 10 children between age 5 to 12 years old attend. The hours of operations for adult classes are at 6:00AM, 9:30AM, 12:00PM, 5:00PM, 6:00PM, and 7:00PM; and, the hours of operation for kids classes are at 9:30AM and 5:00PM. There are up to 2 Coaches during class hours and the business is not open outside of these class hours. It is also indicated that the floor plan of the referenced property includes the main area – open space for exercise, kid's area, 90 foot by 30 foot turf area, storage area, and office/lounge area. There is no change to the structure of the building and the office space already existed. It is further indicated that based on the lease agreement, there are 22 dedicated parking spaces for the business; and, because the primary business is before and after normal business hours, parking throughout the complex is readily available and there is a street parking.

Based on the provided information, the proposed use is deemed a private school of special education. A school of special education is defined in Article 20 of the Zoning Ordinance as follows:

SCHOOL OF SPECIAL EDUCATION: A school primarily devoted to giving instruction in vocational, professional, musical, dramatic, artistic, terpsichorean, linguistic, scientific, religious, or other special subjects, but not including (a) a child care center or home child care facility; or (b) a riding school, however designated.

A private school of special education is a permitted use in I-4, Medium Intensity Industrial Zoning District. As such, the use is permitted at the referenced property.

Department of Planning and Zoning
Zoning Administration Division
12055 Government Center Parkway, Suite 807
Fairfax, Virginia 22035-5505
Phone 703-324-1374 FAX 703-803-6372
www.fairfaxcounty.gov/dpz/



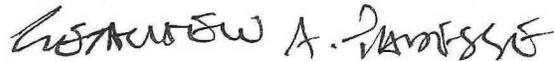
7402C Lockport Place
July 8, 2014
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Please note there are other zoning and building requirements that need to be followed prior to establishing the private school of special education at a the referenced location. Any interior or exterior structural alteration may require a building permit. Information pertaining to building permits is available from the Department of Public Works and Environmental Services (DPWES) at 703-222-0801. A change in use and/or changes to the site may require site plan and/or parking tabulation approval. Site plan and parking tabulation information is available from DPWES at 703-324-1575. Once all other zoning and building requirements have been satisfied, pursuant to Section 18-702 of the Zoning Ordinance, the issuance of a Non-Residential Use Permit (Non-RUP) is required prior to occupancy. For more information on obtaining a Non-RUP, please contact the Zoning Permit Review Branch at 703-222-1082.

This determination is based upon the facts presented in your request letter and the applicable Fairfax County zoning Ordinance Provisions in effect as of the date of this letter. If the facts as presented change or if the applicable provisions of the Zoning Ordinance change subsequent to the issuance of this determination, the determination may be subject to modification.

I trust that this letter satisfactorily responds to your request. Should you have any additional questions, please feel free to contact me at 703-324-1314.

Sincerely,



Getachew A. Tadesse
Assistant to the Zoning Administrator

cc: Gerald W. Hyland, Supervisor, Mount Vernon District
Leslie B. Johnson, Zoning Administrator
Michelle M. O'Hare, Deputy Zoning Administrator, Ordinance Administration Branch
Diane E. Johnson-Quinn, Deputy Zoning Administrator, for Zoning Permit Review Branch
AP ADLER NVIP LLC, c/o Area Property Partners,
2 Manhattanville Road, Purchase, NY 10577

Tax Parcel No. 108-1-01-0001C
108-1-01-0001D
108-1-01-0001E
108-1-01-0001F
108-1-01-0001G
108-1-01-0001H
108-1-01-0001J
108-1-01-0001K
108-1-01-0001M
108-1-01-0001N
108-1-01-0003C

Assessed Value: \$64,941,890.00 Consideration: \$86,500,000.00

NOTES TO THE CLERK: This Deed was prepared outside the Commonwealth of Virginia and will be insured by Chicago Title Insurance Company.

THIS INSTRUMENT WAS PREPARED BY:

Richard F. Levin, Esq.
Grossberg Yochelson Fox & Beyda LLP
1200 New Hampshire Avenue, N.W.
Suite 555
Washington, DC 20036

UPON RECORDING RETURN TO:

Chicago Title Insurance Company
711 Third Avenue – Suite #500
New York, N.Y. 10017
Attention: Alecia Farquharson

SUBMITTED FOR ELECTRONIC RECORDING BY:
Commonwealth Land Title Insurance Company
Fidelity National Title Insurance Company
1015 15th Street, N.W., Suite 300
Washington, DC 20005
File No. DPN: 15-001929 2 of 3

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED is made as of this 2nd day of November, 2015, from AP ADLER NVIP LLC (the "Grantor"), a Delaware limited liability company, whose address is c/o ARES Management, LLC, 245 Park Avenue, 42nd Floor, New York, N.Y. 10167, Attention: Grace Omoto to NVIP, LLC, a Delaware limited liability company (the "Grantee"), whose address is c/o MidAtlantic Realty Partners, LLC, 3050 K Street, N.W., Suite 125, Washington, DC 20007.

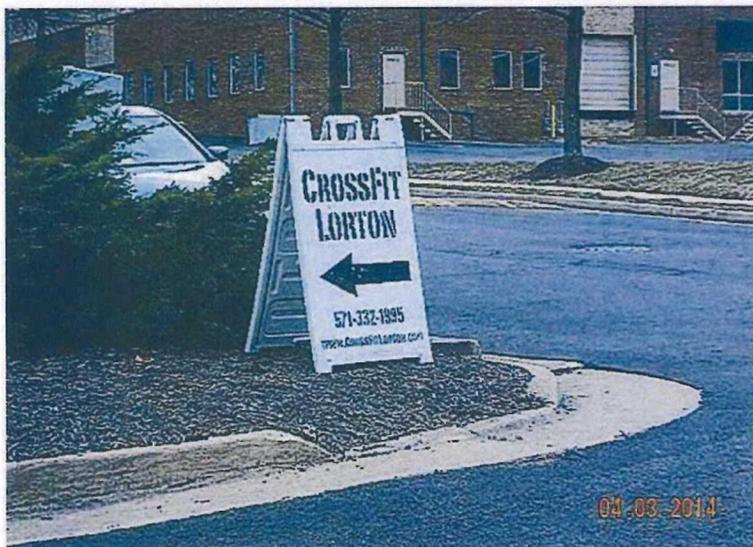
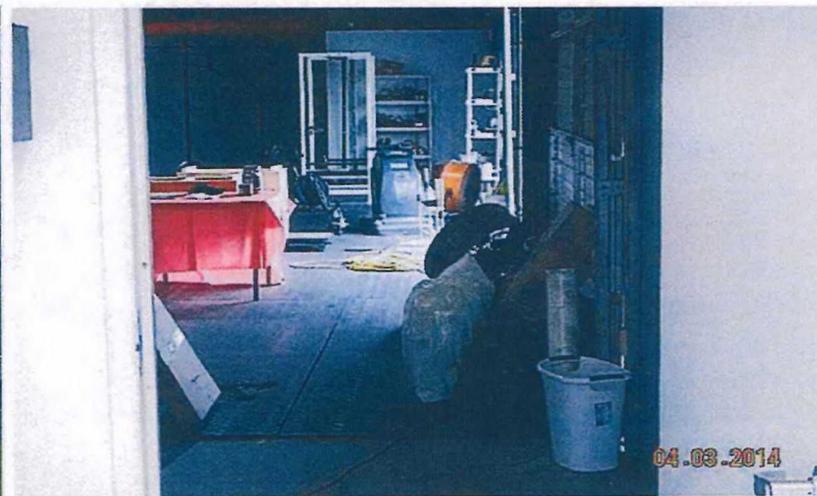
WITNESSETH:

THAT, for and in consideration of the sum of TEN DOLLARS (\$10.00), and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby grant, bargain, sell and convey, with Special Warranty of Title, unto Grantee and its successors and assigns, all that certain parcel of land situated in the County of Fairfax, Commonwealth of Virginia (the "Real Property"), and being more particularly described in Exhibit A attached hereto and made a part hereof by this reference.

TO HAVE AND TO HOLD, the Real Property, together with all rights, privileges, and advantages thereunto belonging or appertaining to Grantee, its successors and assigns, forever, and Grantor does hereby bind itself, its successors and assigns, to WARRANT AND FOREVER DEFEND all and singular the title to the Property unto said Grantee, its successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof by, through, or under Grantor but not otherwise.

This conveyance is made subject to easements, conditions, encumbrances and restrictions of record insofar as they may lawfully affect the Real Property.

Lorton CrossFit Site Inspection Photos
Weights & Cardio Equipment and Training Area



Lorton CrossFit Site Inspection Photos
Weights & Cardio Equipment and Training Area

