

MEMORANDUM

TO: Planning Board

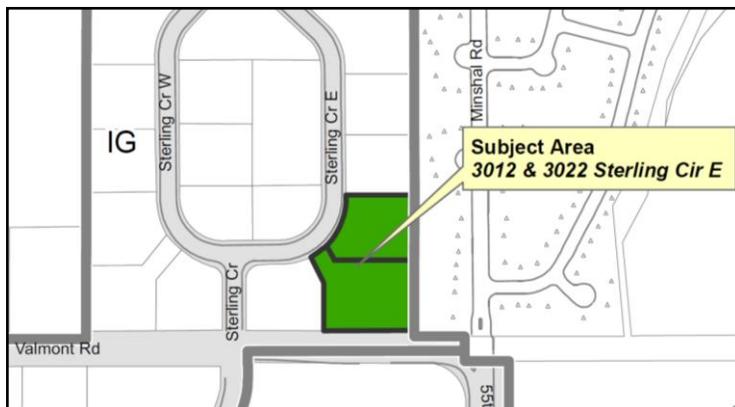
FROM: Elaine McLaughlin, Case Manager

DATE: May 18, 2015

SUBJECT: **Call Up Item:** Approval of a Use Review for an Indoor Recreation Facility located at 3012 and 3022 E, Sterling Circle LUR2015-00019 for expansion of the Frequent Flyers Aerial Dance Studio into a space located in a building across the access drive from the existing studio, for a total of 6,727 square feet.

Attached is a Use Review disposition of approval for the proposed expansion of the Frequent Flyers Production, Inc., an aerial dance studio company currently located in the Valmont Industrial Park at 3022 E. Sterling Circle into a second space located in a separate building across the access drive from the existing studio, at 3022 E. Sterling Circle. Staff finds the application for the proposed expansion meets the Use Review criteria of section 9-2-15(e), B.R.C 1981.

The proposed project is located in the Industrial General, IG, zoning district and requires staff-level Use Review for a dance studio that is qualified as "indoor recreation facility" under Chapter 9-16, B.R.C. 1981. The types of permitted uses that are permitted by-right in an IG zoning district include small theaters rehearsal space, animal kennels, animal hospitals and veterinarians, printers/binders, manufacturing uses above and below 15,000 square feet, equipment repair, cleaning and laundry plants.



Background. In 2009, the dance studio was approved for a 3,944 square foot studio in 3022 E. Sterling Circle in the Valmont Industrial Park. The hours of operation were approved from 9:00 a.m. until 9:00 p.m. seven days per week, with classes at varying times within that window. The applicant is requesting additional studio space within the building located across the drive aisle in a



space that is 2,783 square feet, for a combined total studio space requested of 6,727 square feet. The relationship of the two spaces is shown in the aerial photo.

Management Plan. Staff approved the request for a total of 6,727 square feet of space that includes dance studio and offices for rehearsal and training functions, with no live performances held in the space. The following is the summary of the management plan which is provided in entirety in **Attachment C**:

- Hours of Operation: Offices will be open 9 am – 9 pm
- Employees: two full time; one ¾ time and three contractors
- Up to 5 classes per day at each facility including one-on-one lessons
- Maximum of up to 25 students per class, averaging 8.5.

Project Review. Staff finds the application meets the Use Review Criteria of section 9-2-15(e), B.R.C, 1981. Because the applicant has indicated that they will not be increasing the number of classes or students from the existing studio that was found to meet the criteria, the expanded space will also meet the Use Review criteria. Specifically addressing compatibility criteria, while there are no records of complaints in the past six years of operations on the site, staff requested a noise analysis to determine if any negative impacts would be created from noise or music from the new studio space. While noise levels for the IG zoning district are restricted to 80 dBA (decibels) with transition at the east property line to 55 dBA, the applicant provided the study (refer to **Attachment D**) summarized as follows:

Measurement	Location	LAeq
1	In the Dance Studio, all doors closed, approximately 15' in front of loudspeaker setup	77
2	At east property line (mobile home park)	47.8
3	Top of the adjacent stairwell to the southeast of the Dance Studio	53.4
4	Adjacent hallway to the south of the Dance Studio	45.5
5	Adjacent storage room directly west of the Dance Studio	51.1

The second measurement position 42' from the building's exterior wall, directly in front of the fence separating the property from the mobile home park. Because the Dance Studio has no exterior walls, the sound from the Studio was nearly inaudible at the property line, and the traffic from Valmont Road was the controlling noise source.

As found with the previous noise analysis, the noise levels are below both the maximum threshold for the IG zoning district as well as the adjacent residential district. Staff included a condition of approval that requires no live drumming that staff has found in previous cases caused dBA noise levels to rise significantly.

Parking: Between the two properties of 3012 and 3022 Sterling Circle there are 80 parking spaces available, along with approximately 100 on-street parking spaces on Sterling Circle. There are also existing bike racks for up to 12 bicycles on the exterior and additional bike storage within the studio spaces. Two RTD Bus Stops are located on Valmont Road serving the number 208 bus. Because the average number of students per class is eight to nine, according to the applicant, staff finds the parking to meet the specific Use Review criterion for infrastructure in the Land Use Code subsection 9-2-15(e)(4), B.R.C. 1981.

Public Comment: Public notification was sent to all of the 216 property owners within the San Lazaro Mobile Home Park as well as the other office tenants in the Valmont Industrial Park, and those across Valmont Road. There were no comments received on the proposed expansion of the aerial dance studio.

Conclusion. Staff finds that the proposed Use Review meets the relevant criteria pursuant to section 9-2-15, "Use Review," B.R.C. 1981. The proposal was **approved** by staff on **May 18, 2015** and the decision may be called up before Planning Board on or before **June 1, 2015**. There is one Planning Board hearing scheduled during the required 14 day call-up period on **May 21, 2015**. Questions about the project or decision should be directed to the Case Manager, Elaine McLaughlin at (303) 441-4130 or at mclaughline@bouldercolorado.gov

Attachments:

- A. Signed Disposition
- B. Use Review Criteria
- C. Floor Plan and Elevation
- D. Management Plan
- E. Sound Meter Analysis
- F. Decibel Level Reference Chart



CITY OF BOULDER
Planning and Development Services

1739 Broadway, Third Floor • P.O. Box 791, Boulder, CO 80306-0791
 phone 303-441-1880 • fax 303-441-3241 • web boulderplandevop.net

CITY OF BOULDER PLANNING DEPARTMENT
NOTICE OF DISPOSITION

You are hereby advised that the following action was taken by the Planning Department based on the standards and criteria of the Land Use Regulations as set forth in Chapter 9-2, B.R.C. 1981, as applied to the proposed development.

DECISION: **APPROVAL WITH CONDITIONS**
 PROJECT NAME: **3012 and 3022 E. STERLING CIRCLE USE REVIEW**
 DESCRIPTION: **USE REVIEW – 6,727 s.f. Indoor Recreational Facility
 (Frequent Flyers Productions, Inc. Aerial Dance Studio).**
 LOCATION: **3012 and 3022 E STERLING CR**
 COOR: **N05W01**
 LEGAL DESCRIPTION: **Lot 16 and Lot 17, Block 1, VALMONT INDUSTRIAL PARK,
 County of Boulder, State of Colorado**
 APPLICANT: **Phil McEvoy**
 OWNER: **Westland Development Services, Inc.**
 APPLICATION: **Use Review, LUR2015-00019**
 ZONING: **IG (Industrial – General)**
 CASE MANAGER: **Elaine McLaughlin**
 VESTED PROPERTY RIGHT: **NO; the owner has waived the opportunity to create such
 right under Section 9-2-19, B.R.C. 1981.**

FOR CONDITIONS OF APPROVAL, SEE THE FOLLOWING PAGES OF THIS DISPOSITION.

Approved On: May 18, 2015
 Date

By: 
 David Driskell, Executive Director of Community Planning and
 Sustainability

This decision may be appealed to the Planning Board by filing an appeal letter with the Planning Department within two weeks of the decision date. If no such appeal is filed, the decision shall be deemed final fourteen days after the date above mentioned.

Appeal to Planning Board expires: June 1, 2015

IN ORDER FOR A BUILDING PERMIT APPLICATION TO BE PROCESSED FOR THIS PROJECT, A SIGNED DEVELOPMENT AGREEMENT AND FINAL PLANS FOR CITY SIGNATURE MUST BE SUBMITTED TO THE PLANNING DEPARTMENT WITH DISPOSITION CONDITIONS AS APPROVED SHOWN ON THE FINAL PLANS, IF THE DEVELOPMENT AGREEMENT IS NOT SIGNED WITHIN NINETY (90) DAYS OF THE FINAL DECISION DATE, THE PLANNING DEPARTMENT APPROVAL AUTOMATICALLY EXPIRES.

Pursuant to Section 9-2-12 of the Land Use Regulations (Boulder Revised Code, 1981), the applicant must begin and substantially complete the approved development within three years from the date of final approval. Failure to "substantially complete" (as defined in Section 9-2-12) the development within three years shall cause this development approval to expire.

CONDITIONS OF APPROVAL

1. The Applicant shall ensure that the **development shall be in compliance with all plans** prepared by the Applicant on Feb. 17, 2015, and the management plan dated May 4, 2015 on file in the City of Boulder Planning Department, except to the extent that the development may be modified by the conditions of this approval. Further, the Applicant shall ensure that the approved use is operated in compliance with the following restrictions:
 - a. The studio shall be closed from 9:00 p.m. to 9:00 a.m. seven days per week.
 - b. No live drumming shall be permitted.
 - c. No performances that exceed the allowed occupancy shall be permitted.
 - d. No outdoor speakers or outdoor amplified sound shall be permitted.
 - e. Except for entry, exiting, loading and unloading equipment, exterior doors shall remain closed at all times.
 - f. The use will be operated in conformance with all City of Boulder noise standards
2. The Applicant **shall not expand or modify the approved use**, except pursuant to subsection 9-2-15(e), B.R.C 1981, Use Review criteria.
3. The applicant shall **comply with all previous conditions** contained in any previous approvals, except to the extent that any previous conditions may be modified by this approval, including, but not limited to, the following: the Development Agreement recorded at Reception No. 3064255 on March 18, 2010 in the records of the Boulder County Clerk and Recorder.

Attachment B: USE REVIEW CRITERIA

Criteria for Review: No use review application will be approved unless the approving agency finds all of the following:

_____ (1) **Consistency with Zoning and Non-Conformity:** The use is consistent with the purpose of the zoning district as set forth in [Section 9-5-2\(c\)](#), "Zoning Districts Purposes," B.R.C. 1981, except in the case of a non-conforming use;

The Industrial General (IG) zoning district is defined as,

“general industrial areas where a wide range of light industrial uses, including research and manufacturing operations and service industrial uses, are located. Residential uses and other complementary uses may be allowed in appropriate locations.”

A dance studio is qualified as an “indoor recreation facility” under the land use code Chapter 9-16, B.R.C. 1981 which requires staff-level Use Review for approval. The wide range of by-right uses in the IG zoning district include small theaters and rehearsal space, animal kennels, animal hospitals and veterinarians, printers/binders, manufacturing uses above and below 15,000 square feet, equipment repair, cleaning and laundry plants. The type of operating characteristics for the aerial dance company requires the use of very high ceiling spaces. Because Industrial spaces tend to have the ability to manage the types of equipment, such as a trapeze, the use is considered consistent with the purpose of the zoning district that recognizes “other complementary uses.”

_____ (2) **Rationale:** The use either:

_____ (A) Provides direct service or convenience to or reduces adverse impacts to the surrounding uses or neighborhood;

✓ _____ (B) Provides a compatible transition between higher intensity and lower intensity uses;

The use of the industrial space as an aerial dance studio is a lower intensity use than could be placed on the site, such as a laundry plant, animal kennel or a manufacturing use. Given the context of the studio spaces adjacent to residential the studio spaces provide a compatible transition.

_____ (C) Is necessary to foster a specific city policy, as expressed in the Boulder Valley Comprehensive Plan, including, without limitation, historic preservation, moderate income housing, residential and non-residential mixed uses in appropriate locations, and group living arrangements for special populations; or

_____ (D) Is an existing legal non-conforming use or a change thereto that is permitted under subsection (e) of this section;

✓ _____ 3) **Compatibility:** The location, size, design, and operating characteristics of the proposed development or change to an existing development are such that the use will be reasonably compatible with and have minimal negative impact on the use of nearby properties or for residential uses in industrial zoning districts, the proposed development reasonably mitigates the potential negative impacts from nearby properties;

The nature of the studios are such that they will not change the exterior appearance of the buildings. The operating characteristics would have minimal impacts on the use of nearby offices or residential uses as the only potential impact could be from noise which was determined to not create impacts of noise that rises above either the 80 dBA decibel levels permitted in the IG zoning district or above the 55 dBA decibel levels permitted at the east property line interface with residential.

√ (4) **Infrastructure:** As compared to development permitted under [Section 9-6-1](#), "Schedule of Permitted Uses of Land," B.R.C. 1981, in the zone, or as compared to the existing level of impact of a non-conforming use, the proposed development will not significantly adversely affect the infrastructure of the surrounding area, including, without limitation, water, wastewater, and storm drainage utilities and streets;

The Frequent Flyers Dance Company will be housed in two different spaces of two different buildings that already have infrastructure serving the buildings. With regard to streets and parking, between the two properties of 3012 and 3022 Sterling Circle there are 80 parking spaces available, along with approximately 100 on-street parking spaces on Sterling Circle. There are also existing bike racks for up to 12 bicycles on the exterior of the buildings and additional bike storage within the studio spaces. Two RTD Bus Stops are located on Valmont Road serving the number 208 bus. Because the maximum number of students per class, according to the applicant, is 25 and the average number of students per class is eight to nine, staff finds the parking to meet this Use Review criterion 9-2-15.

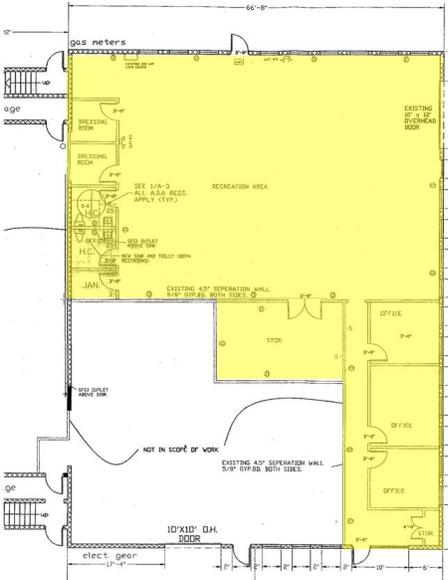
√ (5) **Character of Area:** The use will not change the predominant character of the surrounding area or the character established by adopted design guidelines or plans for the area;

The interior use will not change the predominate character of the surrounding area, which is that of an industrial office park, the Valmont Industrial Park.

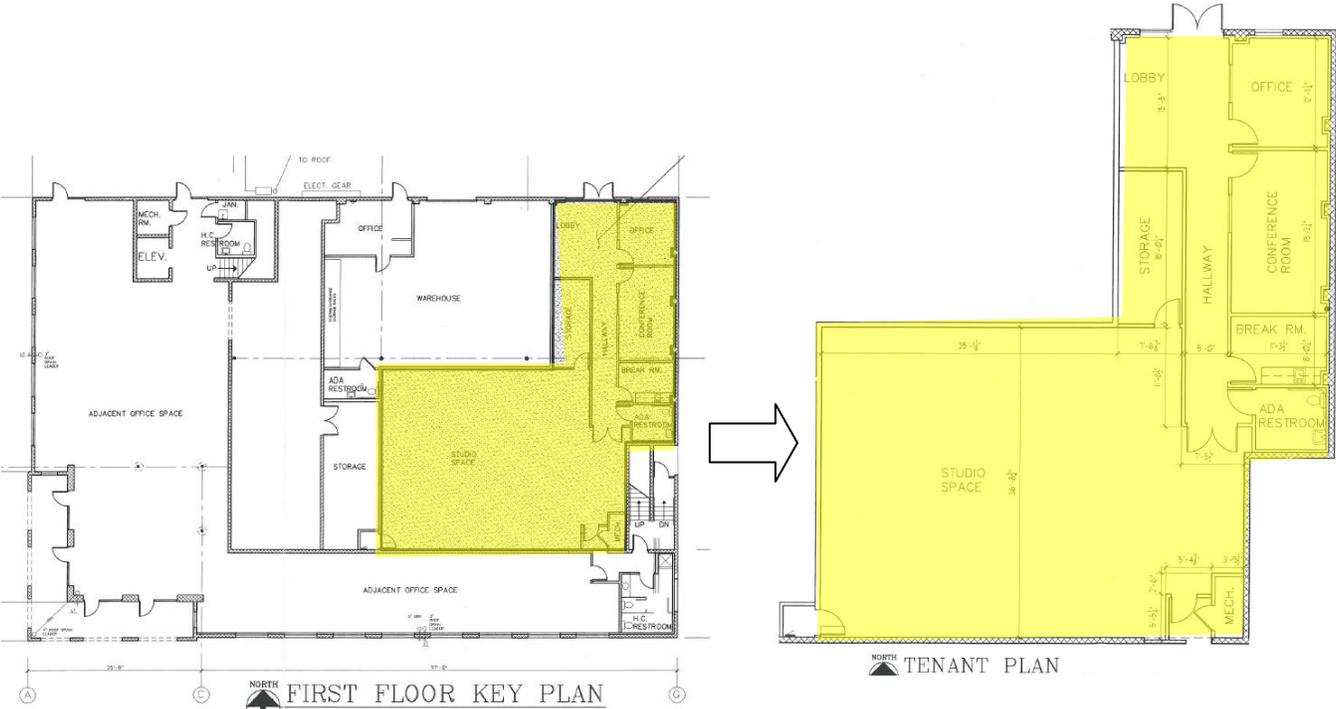
n/a (6) **Conversion of Dwelling Units to Non-Residential Uses:** There shall be a presumption against approving the conversion of dwelling units in the residential zoning districts set forth in [Subsection 9-5-2\(c\)\(1\)\(a\)](#), B.R.C. 1981, to non-residential uses that are allowed pursuant to a use review, or through the change of one non-conforming use to another non-conforming use. The presumption against such a conversion may be overcome by a finding that the use to be approved serves another compelling social, human services, governmental, or recreational need in the community including, without limitation, a use for a day care center, park, religious assembly, social service use, benevolent organization use, art or craft studio space, museum, or an educational use.

Not applicable, is not a conversion of dwelling units to non-residential uses.

3012 E Sterling Studio Floor Plan (PREVIOUSLY APPROVED STUDIO SPACE)



3012 E Sterling Studio Floor Plan (NEW ADDITIONAL SPACE)



ATTACHMENT D: Written Statement and Management Plan



May 4, 2015

To: City of Boulder Department of Planning

Dear Sir or Madam,

Frequent Flyers® Productions has signed a tentative 5-year lease, including 2,783 net square feet of demised premises located within 3012 E. Sterling Circle, Boulder, CO 80301, owned by Westland Development Corp. This letter outlines our planned activities for the rented space. We understand a Use Review approval is required.

Frequent Flyers® Productions is a 501(c)3, non-profit, aerial dance company. We currently rent from Westland Development at 3022 E. Sterling Cir., adjacent to the proposed new studio. We have been renting from Westland for 5+ years. Due to the demand of our business, we are seeking the additional studio to accommodate our rehearsals and classes. We anticipate up to 5 classes per day which includes 1 on 1 private lessons. The number of students per class ranges from 1 (private lessons) to a maximum of 25. The average is typically 8.5 students per class.

In 2009 we were approved for a Use Review for our current studio at 3022 E. Sterling Cir. and were approved. This approval allows for approximately 2,681 sq. ft. of dance studio space along with approximately 324 sq. ft. of dressing room, restroom and janitorial space. We also have 939 sq. ft. of associated office, storage and circulation area. For a total of 3,944 sq. ft. Our facility is located on Lot 16, Block 1 of the Valmont Industrial Park in a 12,299 sq. ft. building with 32 parking spaces available.

Due to the demand for our classes we would like to expand our approval to the adjacent site. Here are the planned activities for the new facility:

- Approximately 1,208 sq. ft. will be administrative offices, restroom, utility and storage space; 1,575 sq. ft. will be the rehearsal floor area. For a total area of 2,783 sq. ft.
- Hours of Operation: Offices will be open 9 am – 9 pm.
- Classes / rehearsals will not occur continuously and music / sound will not be played much of the time as instruction takes precedence over music. The nature of our classes and rehearsals requires tremendous concentration to ensure safety.
- Noise level, including music, will not exceed 55dB as measured from the outside of the building and at the east property line of the site. The nighttime decibel limits do not apply as music will only be played during the hours of operation. An updated sound test has been conducted for 3012 Sterling Circle, and is attached.

- Number of employees split between the two facilities' offices: two F/T Employees, one ¾ time employee, and 3 contractors (marketing, outreach, an education program mgmt.).
- We anticipate up to 5 classes per day at each facility which includes 1 on 1 private lessons. The number of students per class ranges from 1 (private lessons) to a maximum of 25. The average is typically 8.5 students per class. Parking will be on the street and in the spaces surrounding the building.

This location is adjacent to a bus stop on RTD Route 208 which provides transit options for employees and students who do not drive. Weekday studio activities will occur primarily from 9 AM to noon and 3:30 to 9 PM. Weekend activities will occur from 9 am to 4:30 PM on Saturdays, 3 PM – 8 PM on Sundays. The rehearsal floor area will be used to support performances that will continue to occur at the Dairy Center for the Arts and other venues, and class activities for professionals training for performances, as well as youth and adult participants. We anticipate an average of 9 people normally for rehearsals.

Thank you in advance for your advice on this matter.

Sincerely,

Nancy Smith
President
303-245-8272
frequentflyers@comcast.net

May 4, 2015

To: City of Boulder Department of Planning

Management Plan Summary
Frequent Flyers® Productions

- Hours of Operation: Offices will be open 9 am – 9 pm.
- Classes / rehearsals will not occur continuously and music / sound will not be played much of the time as instruction takes precedence over music. The nature of our classes and rehearsals requires tremendous concentration to ensure safety.
- Noise level, including music, will not exceed 55dB as measured from the outside of the building and at the east property line of the site. The nighttime decibel limits do not apply as music will only be played during the hours of operation. An updated sound test has been conducted for 3012 Sterling Circle and is attached.
- Number of employees split between the two facilities' offices: two F/T Employees, one ¾ time employee, and 3 contractors (marketing, outreach, an education program mgmt.).
- We anticipate up to 5 classes per day at each facility which includes 1 on 1 private lessons. The number of students per class ranges from 1 (private lessons) to a maximum of 25. The average is typically 8.5 students per class. Parking will be on the street and in the spaces surrounding the building. We will infrequently have up to 24 students from area schools that will be bussed to our facility.



1536 Ogden Street
Denver, CO 80218
www.dlaa.com
303.455.1900

April 30, 2015

Mr. Peter Aweida
Westland Development Services, Inc
1644 Conestoga St. #7
Boulder, Colorado 80301

RE: Aerial Dance Studio New Rehearsal Space Measurements (DLAA #15-083)

Dear Peter:

Below is a summary of the noise measurements we conducted Wednesday, April 29th, 2015, at the new Frequent Flyers Aerial Dance Studio location in Boulder, CO. Our measurements were taken to document the sound levels of the areas immediately surrounding the studio while a sound system was operating within the studio.

Procedure

There was no sound system installed in the new studio location, so the sound source consisted of two loudspeakers and an amplifier provided by D.L. Adams Associates. Pink noise was supplied to the amplifier, which was set at a volume slightly above the level expected to be used during practices in order to predict a worst-case scenario. This level was approximately the same as the in-studio level of our initial measurements conducted on October 30th, 2009 at the original Frequent Flyers location.

We measured the one minute A-weighted average sound pressure level, or LA_{EQ}, of the music track using a Type I sound level meter at five positions. We used a Larson Davis Model 831 (S/N 0001349) Type I Sound Level Meter. The microphone calibration was checked before and after the measurements, and was within +/- 0.3 dB range for acceptable calibration.

Results

Table 1 below lists the measurement locations and LA_{EQ} results for each location.

Mr. Peter Aweida
April 30, 2015
Page 2

Table 1: Measurement Location and Average Sound Levels

Measurement	Location	LA _{EQ}
1	In the Dance Studio, all doors closed, approximately 15' in front of loudspeaker setup	77
2	At east property line (mobile home park)	47.8
3	Top of the adjacent stairwell to the southeast of the Dance Studio	53.4
4	Adjacent hallway to the south of the Dance Studio	45.5
5	Adjacent storage room directly west of the Dance Studio	51.1

The second measurement position 42' from the building's exterior wall, directly in front of the fence separating the property from the mobile home park. Because the Dance Studio has no exterior walls, the sound from the Studio was nearly inaudible at the property line, and the traffic from Valmont Road was the controlling noise source.

Please let us know if you have any questions.

Sincerely,



Ian Patrick
Staff Consultant

ATTACHMENT F: Decibel Level Reference Chart

