



Docket Item #9

Special Use Permit #2013-0039
111 South Payne Street – Gelato Shop

Application	General Data	
Consideration of a Special Use Permit request to operate a gelato shop (restaurant).	Planning Commission Hearing:	September 3, 2013
	City Council Hearing:	September 21, 2013
Address: 111 South Payne Street	Zone:	CD / Commercial Downtown
Applicant: Benjamin and Perla Umansky	Small Area Plan:	Old Town

Staff Recommendation: APPROVAL subject to compliance with all applicable codes and ordinances and the recommended permit conditions found in Section III of this report.

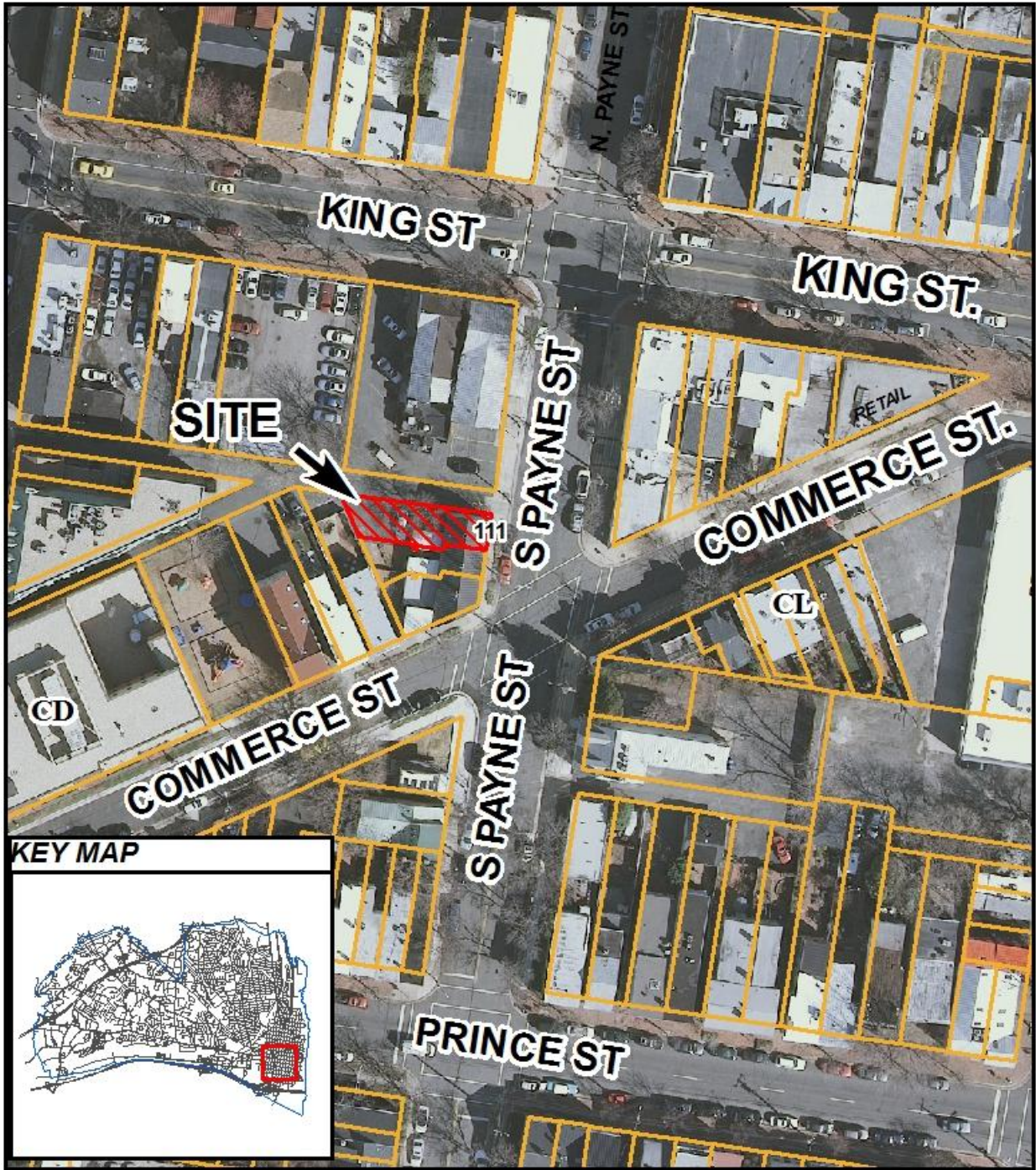
Staff Reviewers: Nathan Randall nathan.randall@alexandriava.gov

PLANNING COMMISSION ACTION, SEPTEMBER 3, 2013: On a motion by Mr. Wagner, seconded by Ms. Lyman, the Planning Commission recommended approval of the request, with an amendment to Condition #2 and subject to compliance with all applicable codes, ordinances and staff recommendations. The motion carried on a vote of 6 to 1, with Mr. Dunn voting no.

Reason: The majority of the Planning Commission agreed with the staff analysis and with the applicant's updated request for a later closing hour for outdoor dining seats during its peak season.

Speakers:

David Umansky, representing the applicants, spoke in favor of the request. He asked for an amended outdoor closing hour from May 31st – September 30th of 10 p.m. Sunday – Thursday and 11 p.m. Friday and Saturday.



KEY MAP



SUP #2013-0039
111 S. Payne St.

9/3/2013 N



I. DISCUSSION

The applicants, Benjamin and Perla Umanksy, request Special Use Permit approval to operate a gelato shop (restaurant) at 111 South Payne Street.

SITE DESCRIPTION

The subject property is one lot of record with 19 feet of frontage on South Payne Street, approximately 74 feet of depth, and a lot area of 1,371 square feet. The lot is developed with a two-story townhouse building which was previously used as a residence.



The property is surrounded by a mix of commercial and residential uses. The Pines of Florence restaurant and second-floor residential apartment, as well as a nonconforming automobile sales business all are located to the north on King Street. A dry cleaning pick-up/drop-off business is located to the east across South Payne Street. Residential uses are located to the south, including two units within the same townhouse string as the subject property, and single-family dwellings facing Commerce Street. The Icehouse building, the owner of which received soon-to-expire SUP approval in 2012 to open a similar gelato shop, is also located to the south.

PROPOSAL

The applicants propose to operate a 482 square-foot gelato shop on the first floor of the subject building. Gourmet gelato and ice cream will be produced on-site and sold to carry-out and dine-in customers. Coffee and other dessert items such as cakes and pastries, which will be produced off-site, will also be sold. A total of 34 seats are proposed, including 18 outdoor seats to be located in a fenced area behind the building. No alcohol or live entertainment is proposed. Additional elements of the applicant's proposal are as follows:

Hours of Operation: 11 a.m. – 11 p.m. daily (May 1st – September 30th)
 11 a.m. – 10 p.m. Monday-Thursday (October 1st – April 30th)
 11 a.m. – 11 p.m. Friday-Sunday (October 1st – April 30th)

Number of Seats: 16 indoor seats
 18 outdoor seats
 34 total seats

<u>Type of Service:</u>	Dine-in and carry-out
<u>Customers:</u>	Approximately 50 customers each day
<u>Employees:</u>	Up to four employees
<u>Alcohol:</u>	No alcohol is proposed
<u>Entertainment:</u>	No live entertainment is proposed
<u>Delivery:</u>	Pedestrian delivery service (only) is proposed
<u>Noise:</u>	Minimal noises from production equipment, which are only expected to operate from 8 a.m. to 8 p.m., are expected.
<u>Odors:</u>	No offensive odors are expected from the use.
<u>Trash/Litter:</u>	Typical restaurant trash will be collected from the site daily.

ZONING/MASTER PLAN DESIGNATION

The property is located in the CD / Commercial Downtown zone. Section 4-503(W) of the Zoning Ordinance allows a restaurant in the CD zone only with Special Use Permit approval. Restaurants are not eligible for Administrative SUP approval in the CD zone.

The property is also located within the Old Town Small Area Plan, which designates the site for commercial uses.

PARKING

The subject property is located within the Central Business District (CBD). According to Section 8-300 (B) of the Zoning Ordinance, restaurants located within the CBD are exempt from parking requirements. The applicants have the use of three parking spaces, one of which is expected to be used as a loading space, which are located toward the rear of their property and are accessed from the adjacent alley.

II. STAFF ANALYSIS

Staff does not object to the applicant's request to operate a gelato shop in this location. Although the proposed location is immediately adjacent to residences, and shares a wall with a residential unit, all of the properties in the area are commercially-zoned. The gelato shop is expected to be less intense compared to many other area restaurants given its small size and the absence of alcohol and live entertainment. The proposal is also consistent with the Old Town Restaurant Policy, which requires a review of the restaurant's potential impact on the surrounding neighborhood regarding matters such as parking, alcohol and late-night hours, litter, and a diversity of uses.

Parking

Although some potential exists for increased competition for parking spaces in the neighborhood as a result of the gelato shop, the overall parking demand from the use is expected to be low. Like other ice-cream shops, the current proposal is largely pedestrian-oriented and it is likely that many of its customers are tourists or nearby workers or residents who will walk to the site. The proposed business is also small in size, with less than 500 square feet of space and only 34 seats. Eighteen of those seats will be outside and typically seasonal. The applicant also has the use of three on-site parking spaces, which will be used by employees and for loading/unloading, which is somewhat uncommon in Old Town. Staff has also included Condition #14 to require the applicant to post information in the restaurant and on its website about off-street parking and public transportation.

Litter

Generally speaking, a gelato or ice cream shop includes a significant carry-out business with an increased potential for litter impacts from napkins and food containers. Staff has therefore included special condition language, also included in the Icehouse SUP approval, requiring at least one garbage can to be placed inside the restaurant and one can to be placed in the outdoor dining area for customer use (Condition #10). The applicants have stated in their application that they already plan to place these cans at their business. In addition, the inclusion of standard condition language requiring the applicant to pick up litter on and around the premises (Condition #20) should sufficiently address the matter.

Diversity of Uses

Staff does not believe that the proposal will negatively impact the balance of uses in the area. Although other restaurants are located nearby on King Street, no other restaurants are currently open in the vicinity of South Payne and Commerce Streets. The proposal appears to add a degree of diversity to the existing office, personal service, and residential uses nearby.

Alcohol/Late Night Hours

The Old Town Restaurant Policy contemplates the possibility that a combination of late night hours and alcohol could generate impacts on neighboring residences. In this case, the applicants are not proposing any alcohol or live entertainment. Although staff has concern about the outdoor dining closing hour for other reasons, the proposed (indoor) closing hour of 11 p.m. should not create alcohol/late night impacts as contemplated in the Policy.

In addition to its review of the Old Town Restaurant Policy, staff has also considered the potential impact of the outdoor dining on nearby residences. The uncommon placement of the outdoor dining behind the restaurant and the resulting close proximity (between 10 and 30 feet) of the area to nearby residential backyards, which are typically quieter and more private compared to areas in front of buildings, creates an increased potential for light and noise impacts. In response to these concerns, the applicants reiterated that the outdoor dining will be buffered by the presence of a fence and by a one-story extension behind the main building. They also volunteered to lower the number of outdoor seats from the originally-requested 24 down to 18 and to limit the overall closing hour of the gelato shop to 11 p.m. on weekends throughout the year.

Staff has incorporated the reduced overall closing hour, reduced seating, and presence of fencing as recommended conditions in this report (Conditions #2, #3, and #8 respectively). However, it believes that limitations on lighting and an earlier outdoor dining closing hour are also warranted to further reduce potential impacts. Condition #9 stipulates that all lighting in the outdoor dining area must be downward-shielded and high-level placement of said lighting should be avoided. A closing hour of 9 p.m., daily and year-round, for the outdoor dining area is also recommended in Condition #2 to reduce potential impact of excessive customer noise late in the evening. Although the nearby Icehouse gelato shop was approved with an 11 p.m. closing hour for both indoor and outdoor dining, its outdoor dining was proposed to be located in front of the building where a greater level of activity is typically expected. The outdoor seating proposed in that case was also farther away from nearby residences, separated by either Icehouse building itself or the width of Commerce Street.

On balance, staff believes that the restaurant proposal is reasonable and consistent with the Old Town Restaurant Policy. Subject to the conditions contained in Section III of this report, staff recommends approval of the Special Use Permit request.

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 corporation in which the applicant has a controlling interest. (P&Z)
2. **CONDITION AMENDED BY PLANNING COMMISSION:** The hours of operation of the inside portion of the restaurant shall be limited to between 11 a.m. and 11 p.m., seven days/week. For inside seating, food and beverages ordered before ~~12 midnight~~ 11 p.m. daily may be served, but no new patrons may be admitted and all patrons must leave by 12 midnight daily. From October 1st to May 30th, the hours of operation for the outdoor seating shall be limited to between 11 a.m. and 9 p.m. seven days/week. From May 31st to September 30th, the hours of operation for the outdoor seating shall be limited to between 11 a.m. and 10 p.m. Sunday-Thursday and between 11 a.m. and 11 p.m. Friday and Saturday. The outdoor dining area shall be cleared of all customers by 9 p.m. from October 1st – May 30th, by 10 p.m. Sunday-Thursday from May 31st – September

30th, and by 11 p.m. Friday and Saturday from May 31st – September 30th, and shall be cleaned and washed at the close of each business day that it is in use. (P&Z) (PC)

3. The maximum number of indoor seats at the restaurant shall be 16. The maximum number of outdoor seats at the restaurant shall be 18. The outdoor seating area shall not include advertising signage, including on umbrellas. (P&Z)
4. The applicant shall post the hours of operation at the entrance of the business. (P&Z)
5. No live entertainment shall be permitted either inside the restaurant or in the outdoor dining area. (P&Z)
6. Delivery of food or beverages to customers shall be limited to pedestrian deliveries only. (P&Z)
7. No alcohol sales shall be permitted at the restaurant. (P&Z)
8. The applicant shall install fencing to enclose the outdoor dining area to the satisfaction of the Director of Planning & Zoning. (P&Z)
9. All lighting installed for use within the outdoor dining area shall be downward-shielded and its placement shall avoid the use of high-level locations to the satisfaction of the Director of Planning & Zoning. (P&Z)
10. The applicant shall provide at least one garbage can inside the building and at least one garbage can outside the building for customer use. (P&Z)
11. 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 to prevent the underage sale of alcohol. (P&Z)
12. No food, beverages, or other material shall be stored outside. (P&Z)
13. Trash and garbage shall be placed in sealed containers which do not allow odors to escape and shall be stored inside or in closed containers which do not allow invasion by animals. No trash or debris shall be allowed to accumulate on site outside of those containers. (P&Z)
14. The applicant shall direct patrons to the availability of parking at nearby public garages and shall provide information about off-street parking and alternative forms of transportation to access the location of the restaurant, via print and electronic promotional materials, posting on the restaurant website, and other similar methods. (P&Z)
15. All loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (T&ES)
16. The applicant shall require its employees who drive to use off-street parking and/or

provide employees who use mass transit with subsidized bus and rail fare media. The applicant shall also post DASH and Metrobus schedules on-site for employees. (T&ES)

17. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES)
18. The applicant shall control cooking odors, smoke and any other air pollution from operations at the site and prevent them from becoming a nuisance to neighboring properties, as determined by the Department of Transportation & Environmental Services. (T&ES)
19. Supply deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (T&ES)
20. Litter on the site and on public rights-of-way and spaces adjacent to or within 75 feet of the premises shall be picked up at least twice a day and at the close of business, and more often if necessary, to prevent an unsightly or unsanitary accumulation, on each day that the business is open to the public. (T&ES)
21. All waste products including but not limited to organic compounds (solvents), shall be disposed of in accordance with all local, state and federal ordinances or regulations. (T&ES)
22. The applicant shall contact the Community Relations Unit of the Alexandria Police Department at 703-746-6838 regarding a security survey for the business and a robbery readiness program for all employees. (Police)
23. The Director of Planning and Zoning shall review the Special Use Permit after it has been operational for one year, 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 zoning 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)

STAFF: Karl Moritz, Deputy Director, Department of Planning and Zoning;
Nathan Randall, 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.

CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services

- R-1 Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES)
- R-2 All waste products including but not limited to organic compounds (solvents), shall be disposed of in accordance with all local, state and federal ordinances or regulations. (T&ES)
- R-3 The applicant shall control cooking odors, smoke and any other air pollution from operations at the site and prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the Department of Transportation & Environmental Services. (T&ES)
- R-4 Supply deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (T&ES)
- R-5 All loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (T&ES)
- R-6 Litter on the site and on the public rights-of-way and spaces adjacent to or within 75 feet of the premises shall be picked up at least twice a day and at the close of business, and more often if necessary, to prevent an unsightly or unsanitary accumulation, on each day that the business is open to the public. (TES)
- R-7 The applicant shall require its employees who drive to use off-street parking and/or provide employees who use mass transit with subsidized bus and rail fare media. The applicant shall also post DASH and Metrobus schedules on-site for employees. (T&ES)
- C-1 The applicant shall comply with the City of Alexandria's Noise Control Code, Title 11, Chapter 5, which sets the maximum permissible noise level as measured at the property line. (T&ES)
- C-2 The applicant shall comply with the City of Alexandria's Solid Waste Control, Title 5, Chapter 1, which sets forth the requirements for the recycling of materials (Sec. 5-1-99).

In order to comply with this code requirement, the applicant shall provide a completed Recycling Implementation Plan (RIP) Form within 60 days of City Council approval. Contact the City's Recycling Program Coordinator at (703) 746-4410, or via e-mail at commercialrecycling@alexandriava.gov, for information about completing this form. (T&ES) (SUP2011-000020)

Code Enforcement

F-1 No comments received

Health

Food Facility

1. An Alexandria Health Department Permit is required for all regulated facilities. A permit shall be obtained prior to operation, and is not transferable between one individual or location to another.
2. Plans shall be submitted to the Health Department through the Multi-Agency Permit Center. Plans shall be submitted and approved by the Health Department prior to construction. There is a \$200 plan review fee payable to the City of Alexandria.
3. Plans shall comply with Alexandria City Code, Title 11, Chapter 2, The Food and Food Handling Code of the City of Alexandria. Plans shall include a menu of food items to be offered for service at the facility and specification sheets for all equipment used in the facility, including the hot water heater.
4. Facilities engaging in the following processes may be required to submit a HACCP plan: Smoking as a form of food preservation; curing foods; using food additives to render food non-potentially hazardous; vacuum packaging, cook-chill, or sous-vide; operating a molluscan shellfish life-support system; and sprouting seeds or beans.
5. A Certified Food Manager shall be on duty during all operational hours.
6. The facility shall comply with the Virginia Indoor Clean Air Act and the Code of Alexandria, Title 11, Chapter 10, Smoking Prohibitions.
7. Wood flooring in eating areas shall be finished in a manner that is smooth, durable, easily-cleanable, and non-absorbent. In many cases, original wooden flooring in historical structures may not be suitable for food service facilities.

Parks and Recreation

F-1 No comments received

Police Department

- R-1 The applicant is to contact the Community Relations Unit of the Alexandria Police Department at 703-746-6838 regarding a security survey for the business.
- R-2 The applicant is to contact the Community Relations Unit of the Alexandria Police Department at 703-746-6838 regarding a robbery readiness program for all employees.



APPLICATION

SPECIAL USE PERMIT

SPECIAL USE PERMIT # 2013-00039

PROPERTY LOCATION: 111 S Payne Street Alexandria VA 22314

TAX MAP REFERENCE: 074.01-02-12 **ZONE:** CD

APPLICANT:

Name: Benjamin Umansky and Perla Umansky

Address: 111 S Payne Street Alexandria VA 22314

PROPOSED USE: Gelato shop / cafe

THE UNDERSIGNED, hereby applies for a Special Use Permit in accordance with the provisions of Article XI, Section 4-11-500 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 staff and Commission Members to visit, inspect, and photograph the building premises, land etc., connected with the application.

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 IV, Section 4-1404(D)(7) 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 Director of Planning and Zoning 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.

Benjamin & Perla Umansky

Benjamin Perla Umansky 6-24-13
Signature Date

Print Name of Applicant or Agent

12766 Alder Woods Dr.

(571) 215-5215

Mailing/Street Address

Telephone # Fax #

Fairfax VA 22033

benumansky@cox.net

City and State Zip Code

Email address

ACTION-PLANNING COMMISSION: _____	DATE: _____
ACTION-CITY COUNCIL: _____	DATE: _____

SUP # 2013-00039

PROPERTY OWNER'S AUTHORIZATION

As the property owner of 111 S Payne St. Alexandria VA 22314, I hereby
(Property Address)
grant the applicant authorization to apply for the Gelato production and sale use as
(use)
described in this application.

Name: Benjamin and Perla Umansky

Phone (571) 215-5215

Please Print
Address 12766 Alder Woods Dr. Fairfax VA 22033

Email benumansky@cox.net

Signature: *Benjamin Umansky*

Date: 6-24-13

1. Floor Plan and Plot Plan. As a part of this application, the applicant is required to submit a floor plan and plot or site plan with the parking layout of the proposed use. The SUP application checklist lists the requirements of the floor and site plans. The Planning Director may waive requirements for plan submission upon receipt of a written request which adequately justifies a waiver.

Required floor plan and plot/site plan attached.

Requesting a waiver. See attached written request.

2. The applicant is the (check one)

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 or owner, unless the entity is a corporation or partnership, in which case identify each owner of more than ten percent.

Benjamin and Perla Umansky / Old Town Artisan Gelato LLC

12766 Alder Woods Dr. Fairfax VA 22033

100% ownership

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OWNERSHIP AND DISCLOSURE STATEMENT

Use additional sheets if necessary

1. Applicant. 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. The term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

Name	Address	Percent of Ownership
¹ B. & P. Umansky	12766 Alder Woods Dr	100%
² B. & P. Umansky		
³ B. & P. Umansky		

2. Property. State the name, address and percent of ownership of any person or entity owning an interest in the property located at 111 S Payne Street Alexandria VA 22314 (address), unless the entity is a corporation or partnership, in which case identify each owner of more than ten percent. The term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

Name	Address	Percent of Ownership
¹ B. & P. Umansky	12766 Alder Woods Dr	100%
² B. & P. Umansky		
³ B. & P. Umansky		

3. Business or Financial Relationships. Each person or entity indicated above in sections 1 and 2, with an ownership interest in the applicant or in the subject property are require to disclose any business or financial relationship, as defined by Section 11-350 of the Zoning Ordinance, existing at the time of this application, or within the 12-month period prior to the submission of this application with any member of the Alexandria City Council, Planning Commission, Board of Zoning Appeals or either Boards of Architectural Review. All fields must be filled out completely. Do not leave blank. (If there are no relationships please indicated each person or entity and "None" in the corresponding fields).

For a list of current council, commission and board members, as well as the definition of business and financial relationship, [click here](#).



Name of person or entity	Relationship as defined by Section 11-350 of the Zoning Ordinance	Member of the Approving Body (i.e. City Council, Planning Commission, etc.)
¹ B. & P. Umansky	12766 Alder Woods Dr	
² B. & P. Umansky		
³ B. & P. Umansky		

NOTE: Business or financial relationships of the type described in Sec. 11-350 that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings.

As the applicant or the applicant's authorized agent, I hereby attest to the best of my ability that the information provided above is true and correct.

6-24-13
Date

Benjamin and Perla Umansky
Printed Name

 
Signature

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? *N/A*

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.

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. The description should fully discuss the nature of the activity. (Attach additional sheets if necessary.)

This Special Use Permit is being requested to the Planning Commission and City Council to operate a high quality artisan gelato store on the first level of 111 S Payne Street, Alexandria VA 22314.

Background information

Benjamin and Perla Umansky have established Old Town Gelato LLC in their continuing efforts to own and operate a gelato store. They have been developing their own recipe for the past 8 years in their own home utilizing a small professional batch freezer. Ben and Perla have taken gelato classes both in the United States and Argentina. During this time they met Maestro Oscar Luque, a well known and renowned gelato chef in Argentina. Maestro Luque will be serving as the Old Town Artisan Gelato advisor perfecting the recipes used by Mr. and Mrs. Umansky in their gelato preparation. They have successfully formulated recipes that can be consumed by lactose intolerant patrons in addition to offering sugar-free gelatos. Old Town Gelato LLC will be serving these specialty gelatos in addition to regular high quality gelatos, cakes, pastries and coffees. Only the gelatos will be produced at the Alexandria location.

This entrepreneurship will be a family run operation: Perla Umansky, a teacher, will be serving as the General Manager coordinating all the aspects of the business. Ben Umansky, a chemical engineer, will be defining the formulations and will have direct impact in the production area. Mark Umansky, holds a degree in mechanical engineering, and will be in charge of equipment reliability and maintenance while David Umansky, who holds a degree in finance, will be in charge of the marketing, accounting and finances of the store.

Customer accommodation and production location

There will be two seating areas for patrons. One being indoors which will accommodate 16 people (4 tables with 4 chairs each; wooden material); and the second, being outdoors where the current patio stands and will have capacity for 24 people (6 tables with 4 chairs each; metallic material). ~~The gelato production area will have to windows to allow customers sitting in the outdoor patio to view the gelato production as it occurs, creating a more value added experience.~~

~~All production equipment (1 batch freezer, 1 mix treatment machine, 1 refrigerator, and 1 freezer) will be located where the current kitchen of the townhouse is located. All equipment will be placed against the wall closest to the utilities closet; this wall is not shared by abutting properties. Noise will not represent a problem: the store production equipment will only be operated during daytime hours of 8AM to 8PM, ensuring additional consideration for neighboring properties. The second floor will be used as offices for the store and it will not be separated from the store operation.~~

Gelato formulations

Gelatos and ice cream are a mixture of three major components. Ice crystals (water), air, and fat (milk). It is fascinating that ~~a food that is enjoyed by so many people appears to be so simple, is actually so complex. A typical gelato formulation has the following components: fat, milk-solid (contains no fat), sweeteners, stabilizers, emulsifiers and raw materials. The optimum combination of these components, provides the gelato with the taste, whipping consistency, smoothness and richness that people enjoy. Additionally, the stabilizers delay the formation of large ice crystals. The emulsifiers help to stabilize the gelato providing a smoother texture and consistency. Each recipe requires technical knowledge and many hours of laboratory testing so the final product can reach the customer with a natural taste, flavor and color.~~ ~~All formulations used in our store will not contain artificial flavors, and for this reason, our products can be included in what is defined as Category I by the International Ice Cream Association. In addition, our products will use organic ingredients from producers located in our surrounding area, such as fruits, eggs and milk.~~

USE CHARACTERISTICS

4. The proposed special use permit request is for (check one):
 a new use requiring a special use permit,
 an expansion or change to an existing use without a special use permit,
 an 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).
On average, 50 patrons per hour

B. How many employees, staff and other personnel do you expect?
 Specify time period (i.e., day, hour, or shift).
Up to 4 employees for production/operating purposes (8AM - close); production only occurs 8AM to 8PM.

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

Day: <u>Monday-Thursday (May 1st - September 31st)</u>	Hours: <u>11AM- 11PM</u>
<u>Friday - Sunday (May 1st - September 30th)</u>	<u>11AM - 12 AM</u>
<u>Monday-Thursday, Sunday (October 1st - April 30th)</u>	<u>11AM - 10PM</u>
<u>Friday, Saturday (October 1st - April 30th)</u>	<u>11AM - 11PM</u>

7. Please describe any potential noise emanating from the proposed use.
 A. Describe the noise levels anticipated from all mechanical equipment and patrons.
-Production equipment doesn't operated more than 10 minutes per batch and only produces as much noise as a standard hair-drier or blender.

B. How will the noise be controlled?
Production equipment will only be operated between 8AM and 8PM. The equipment will be against the wall closest to the empty space between 111 & 113 S Payne. (See plot map for reference). There will be no live music or entertainment.

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

No offensive odors.

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? (i.e. office paper, food wrappers)
Food wrappers, containers, plastic jugs, plastic silverware, cardboard or styrofoam cups

B. How much trash and garbage will be generated by the use? (i.e. # of bags or pounds per day or per week)
Up to 4 bags (33 gallon bag) of trash per day, 1 recycling load.

C. How often will trash be collected?
Trash will be collected daily.

D. How will you prevent littering on the property, streets and nearby properties?
Easily accessible garbage cans located in both seating and production areas.

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

[] Yes. [x] No.

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

N/A

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:

N/A

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

Employees will receive safety and ice cream operation training (equipment operation, equipment cleaning process, gelato preparation/components, business opening/closing procedures). Work procedures for each activity will be explicitly written and displayed for employee reference.

ALCOHOL SALES

13.

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

Yes No

If yes, describe existing (if applicable) and proposed alcohol sales below, including if the ABC license will include on-premises and/or off-premises sales.

N/A

PARKING AND ACCESS REQUIREMENTS

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

- 2 employ Standard spaces
- _____ Compact spaces
- _____ Handicapped accessible spaces.
- 1 loading Other.

<p>Planning and Zoning Staff Only</p> <p>Required number of spaces for use per Zoning Ordinance Section 8-200A _____</p> <p>Does the application meet the requirement?</p> <p style="text-align: center;">[] Yes [] No</p>
--

B. Where is required parking located? (check one)

- on-site
- [] off-site

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

N/A

PLEASE NOTE: 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.

C. 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.

Parking reduction requested; see attached supplemental form

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

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

<p>Planning and Zoning Staff Only</p> <p>Required number of loading spaces for use per Zoning Ordinance Section 8-200 _____</p> <p>Does the application meet the requirement?</p> <p style="text-align: center;">[] Yes [] No</p>

18
18

B. Where are off-street loading facilities located? N/A

C. During what hours of the day do you expect loading/unloading operations to occur?
7AM-11AM

D. How frequently are loading/unloading operations expected to occur, per day or per week, as appropriate?
Daily

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?
Street access is adequate and no new improvements are necessary to minimize impact of traffic flow

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? N/A square feet.

18. What will the total area occupied by the proposed use be?
482 sq. ft. (existing) + 0 sq. ft. (addition if any) = 482 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: _____
 an office building. Please provide name of the building: _____
 other. Please describe: 111 S Payne which share a single wall with neighborng property 113 S Payne.

End of Application

10/19
HT

SUP # 2013-00039
Admin Use Permit # _____



SUPPLEMENTAL APPLICATION

RESTAURANT

All applicants requesting a Special Use Permit or an Administrative Use Permit for a restaurant shall complete the following section.

- How many seats are proposed?
Indoors: 16 Outdoors: 24 Total number proposed: 40
- Will the restaurant offer any of the following?
Alcoholic beverages (**SUP only**) _____ Yes No
Beer and wine — on-premises _____ Yes No
Beer and wine — off-premises _____ Yes No
- Please describe the type of food that will be served:
Gelato, ice cream, cakes, pastries, other desserts and coffee. All gelatos and ice cream will be produced on-site while all other dessert will be produced off-site from other recognized producers.
- The restaurant will offer the following service (check items that apply):
 table service bar carry-out delivery
- If delivery service is proposed, how many vehicles do you anticipate? None- restricted to walking distance
Will delivery drivers use their own vehicles? _____ Yes No
Where will delivery vehicles be parked when not in use?
N/A
- Will the restaurant offer any entertainment (i.e. live entertainment, large screen television, video games)?
 Yes No
If yes, please describe:
N/A

Parking Impacts. Please answer the following:

1. What percent of patron parking can be accommodated off-street? (check one)
 100%
 75-99%
 50-74%
 1-49%
 No parking can be accommodated off-street

2. What percentage of employees who drive can be accommodated off the street at least in the evenings and on weekends? (check one)
 All
 75-99%
 50-74%
 1-49%
 None

3. What is the estimated peak evening impact upon neighborhoods? (check one)
 No parking impact predicted
 Less than 20 additional cars in neighborhood
 20-40 additional cars
 More than 40 additional cars

Litter plan. The applicant for a restaurant featuring carry-out service for immediate consumption must submit a plan which indicates those steps it will take to eliminate litter generated by sales in that restaurant.

Alcohol Consumption and Late Night Hours. Please fill in the following information.

1. Maximum number of patrons shall be determined by adding the following:
- _____ Maximum number of patron dining seats
+ _____ Maximum number of patron bar seats
+ _____ Maximum number of standing patrons
= _____ Maximum number of patrons

2. 4 _____ Maximum number of employees by hour at any one time

3. Hours of operation. Closing time means when the restaurant is empty of patrons. (check one)
 Closing by 8:00 PM
 Closing after 8:00 PM but by 10:00 PM
 Closing after 10:00 PM but by Midnight
 Closing after Midnight

4. Alcohol Consumption (check one)
 High ratio of alcohol to food
 Balance between alcohol and food
 Low ratio of alcohol to food

111 S Payne Street



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111 South Payne Street, Alexandria VA 22314
Old Town Artisan Gelato LLC
Benjamin and Perla Umansky
Lot 503: 1371 Square Feet--Two Floors(Interior): 880 square feet
Tax Map: 074.01-02-12

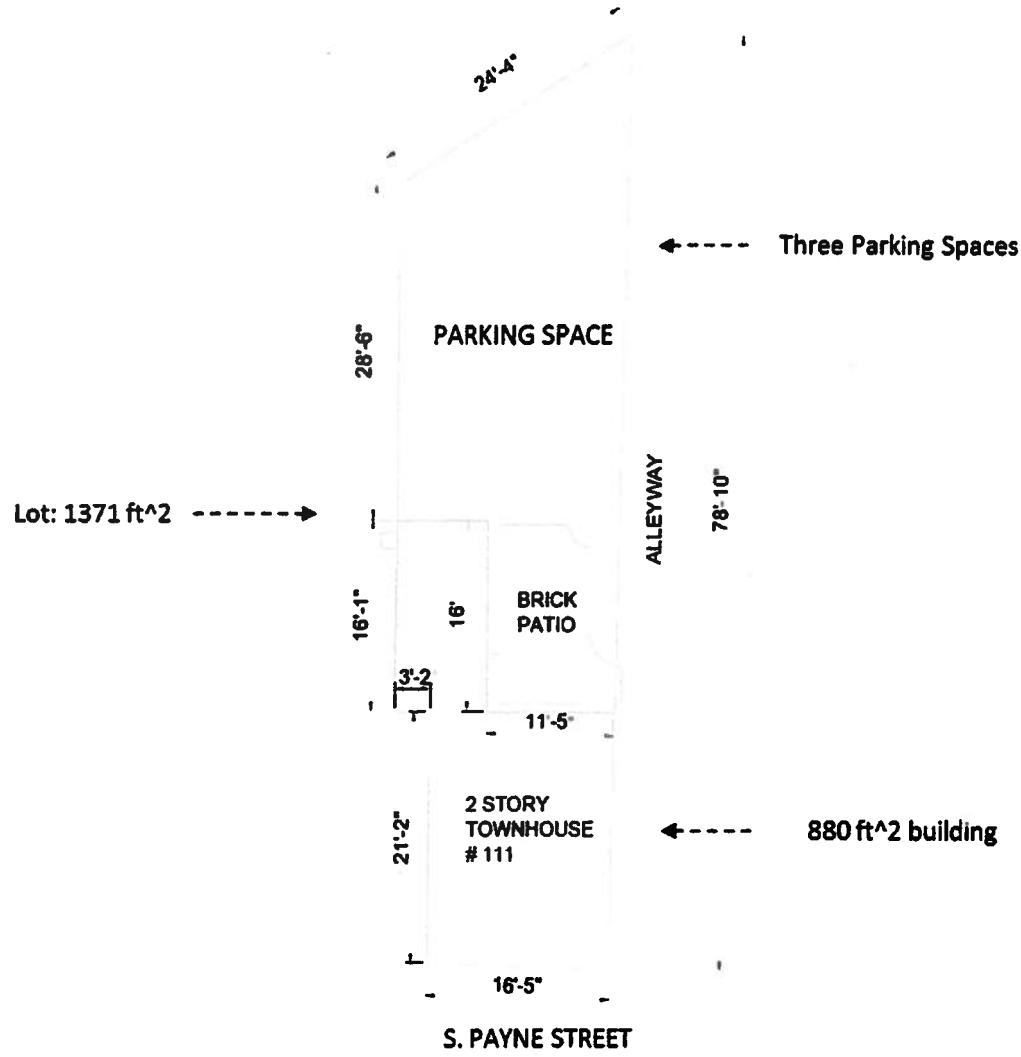


23
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111 South Payne Street, Alexandria

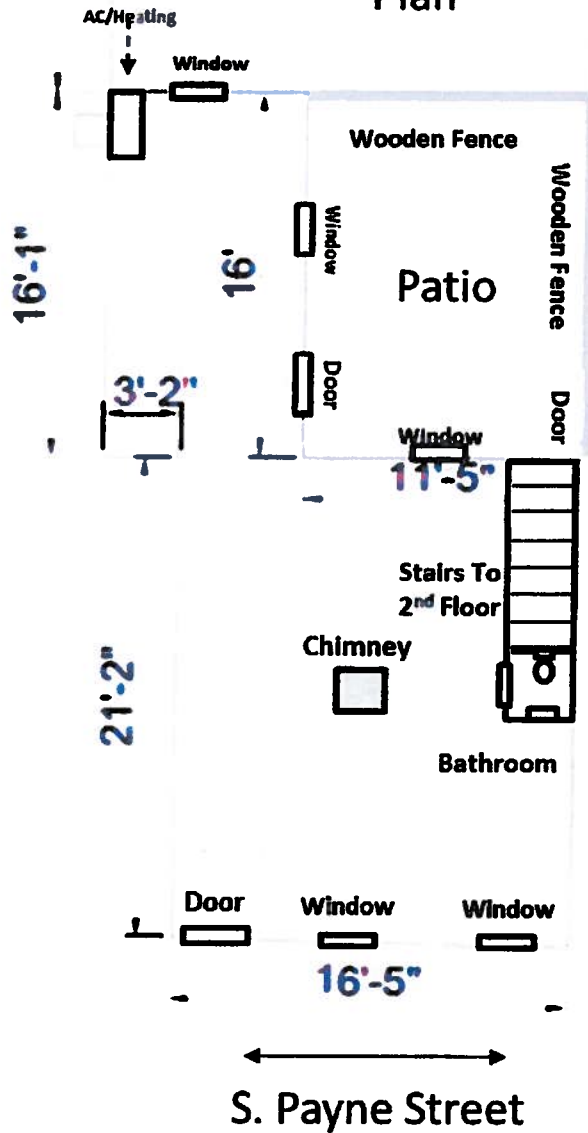
Existent First Floor Plot Plan View

Tax Map: 074.01-02-12

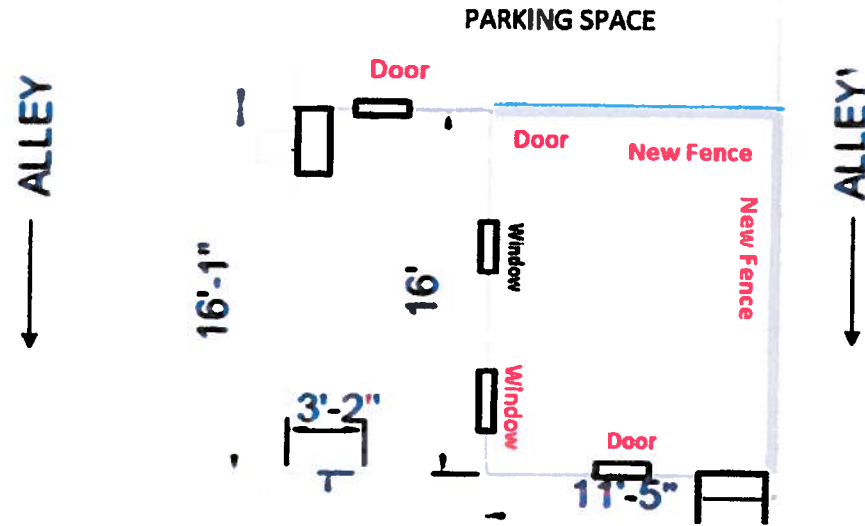


24 24

Existent First Floor Plot Plan



Proposed First Floor Changes

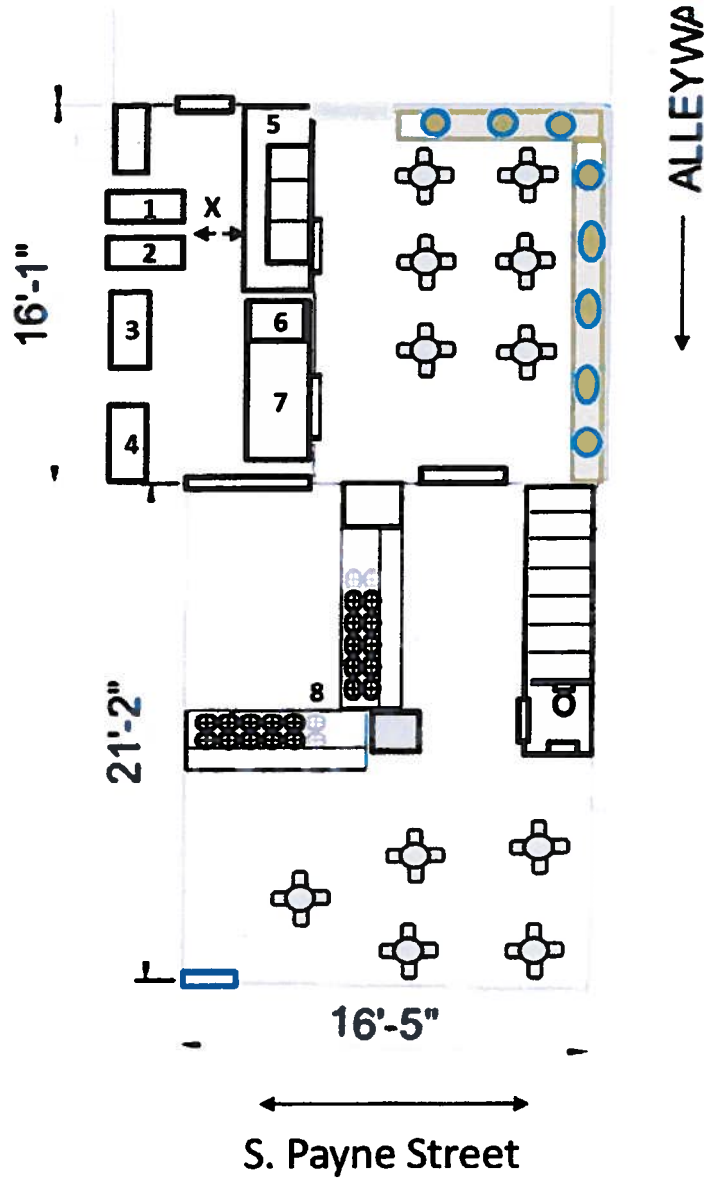


Summary of Proposed Changes

- New fence
 - Move fence door to back rather than in the alley
- New siding in the back of the building
- Replace two windows with doors in the back and rear of the building
- Replace the kitchen door leading to the patio with a window
- Building will maintain its current 880 square feet

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Proposed Gelato Facilities Plot Plan



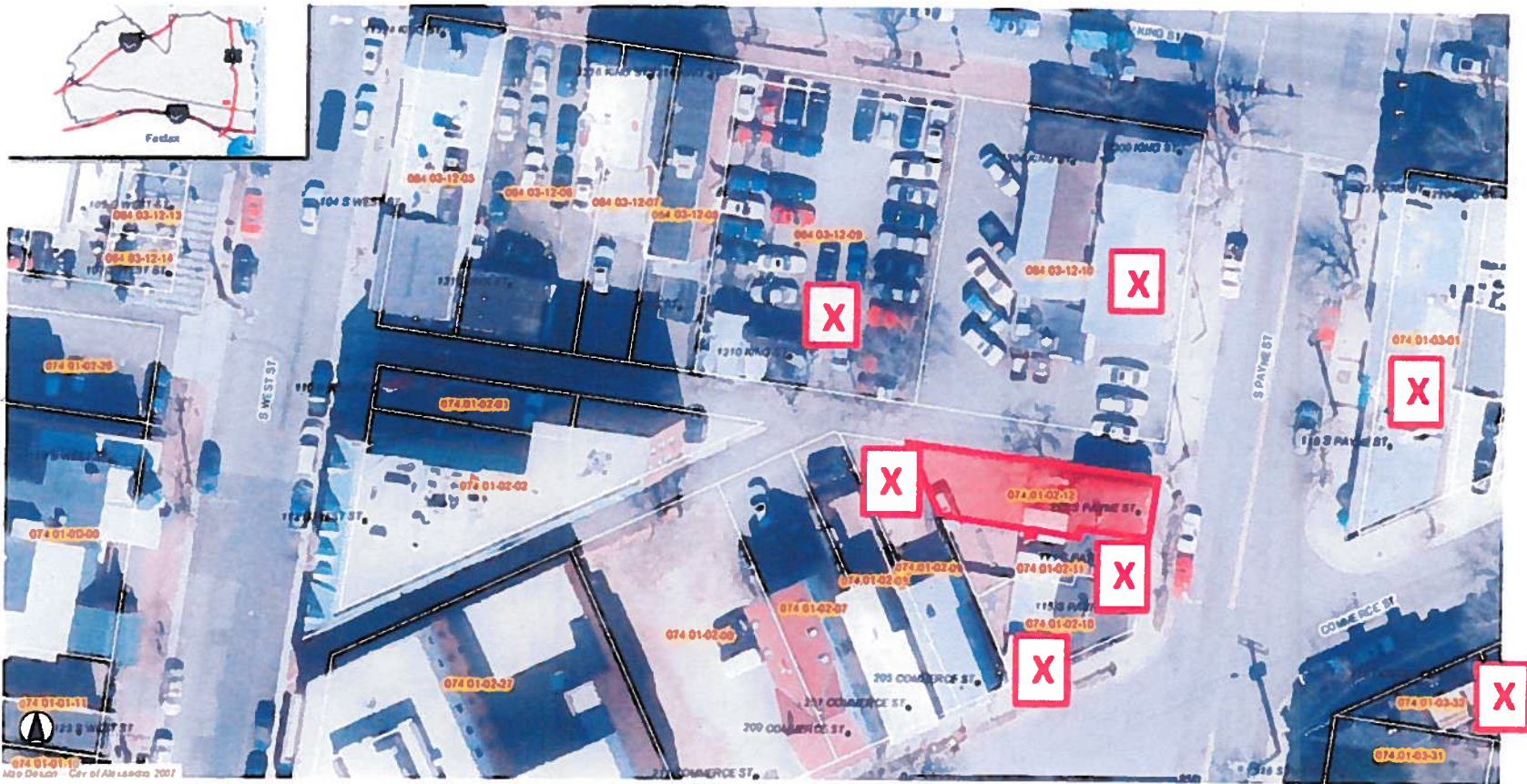
- 1. Batch Freezer
 - 2. Mix Treatment Machine
 - 3. Refrigerator
 - 4. Blast Freezer/Freezer
 - 5. Stainless Steel Counter w/ 3 Sinks
 - 6. Stove (Two Burners)
 - 7. Stainless Steel Table
 - 8. Gelato Cabinets (Pozetti 'sType)
- X: Length 3 feet (minimum)

- Bushes / Trees
- Tables & Chairs (1 unit)

*Equipment and all figures are to scale

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Subject site and abutting Properties For 111 S. Payne Street, Alexandria (Seven Properties)

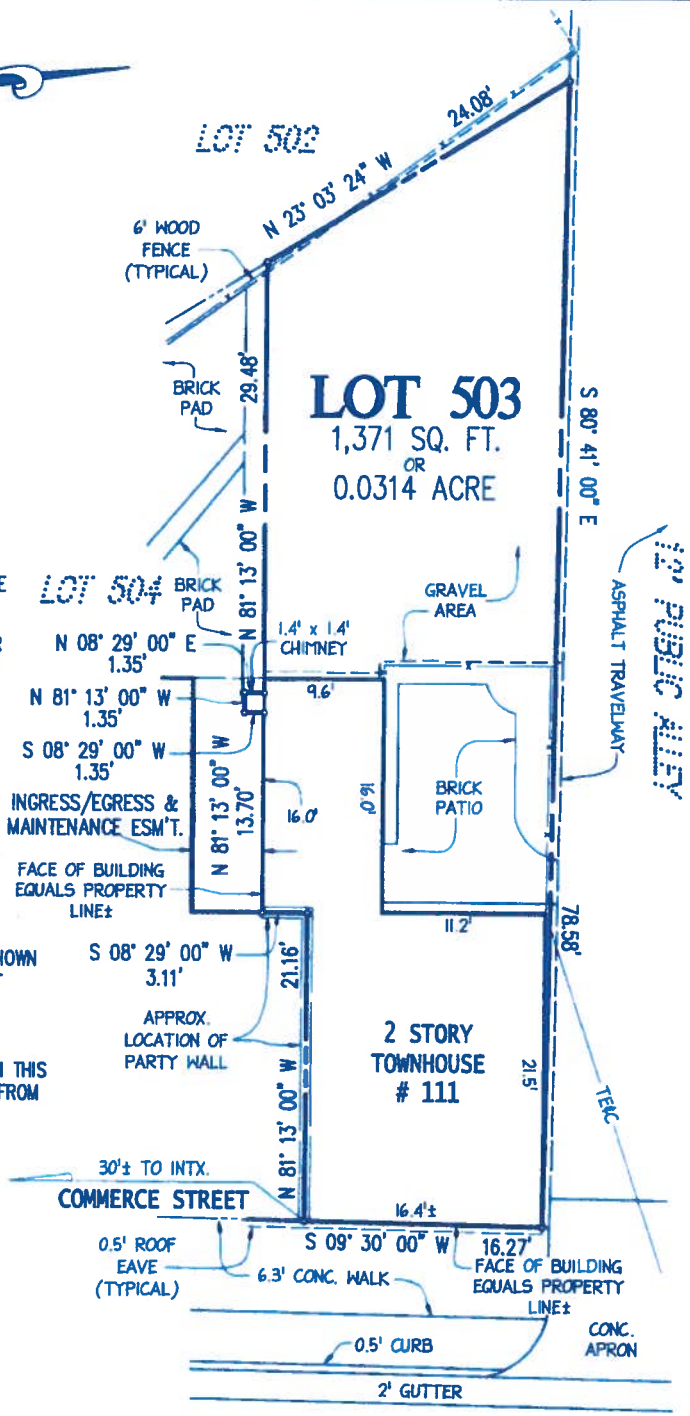


4/27



NOTES:

- 1) THIS PLAT HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND DOES NOT THEREFORE NECESSARILY INDICATE ALL ENCUMBRANCES ON THE PROPERTY.
- 2) THE LOT SHOWN HEREON APPEARS TO PLOT IN FLOOD ZONE "X" AREA DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN, AS SHOWN ON F.E.M.A. MAP# 5115590041E EFFECTIVE DATE: JUNE 16, 2011
- 3) THIS SURVEY WAS NOT PREPARED FOR CONSTRUCTION PURPOSES. (INCLUDING FENCES)
- 4) LOCATION OF FENCES (IF ANY) ARE APPROXIMATE AND DO NOT CERTIFY TO OWNERSHIP.
- 5) THE PROPERTY SHOWN ON THIS PLAT IS LOCATED BY MAP BLOCK LOT # 074.01-02-12
- 6) PROPERTY CORNERS NOT SET PER WAIVER REQUEST.
- 7) EASEMENTS, B.R.L.S & MERIDIAN, IF SHOWN HEREON, ARE AS DELINEATED ON PLAT RECORDED IN DEED BOOK 1342, PAGE 1774 (UNLESS NOTED OTHERWISE).
- 8) NO CORNER MONUMENTATION FOUND IN THIS AREA. BOUNDARY LINES ESTABLISHED FROM EXISTING PHYSICAL EVIDENCE.



SOUTH PAYNE STREET
(VARIABLE WIDTH)

HOUSE LOCATION SURVEY
LOT 503
RECKER
CITY OF ALEXANDRIA, VIRGINIA

LEGEND:

- I.P.F. DENOTES IRON PIPE FOUND
- X- DENOTES FENCE LINE
- T,E&C- DENOTES OVERHEAD TELEPHONE, ELECTRIC, AND CABLE LINES

B.W. SMITH AND ASSOCIATES, INC.				FIELD CREW: J. SEEGER	
PROFESSIONAL LAND SURVEYING MANASSAS, VIRGINIA (703) 368-5866 1(800) 682-0996					
				JOB# 20130527	
DFT: B.G.T.	CHK: M.K.S.	NO TITLE REPORT FURNISHED	SCALE= 1" = 10'	DATE: 3/11/13	

4229

Ben Umansky

From: "Joseph Y. Bouchentouf" <joseph@condo1.com>
Date: Monday, June 17, 2013 12:50 PM
To: "Ben Umansky" <benumansky@cox.net>
Subject: RE: Special Use Permit for 111 S Payne Street, Alexandria VA

Hi Mr. Umansky,

The owners of KiTo LLC have asked me to let you know that they have no problem with your plans and are wishing you much success.

Sincerely,

Joseph Bouchentouf. Realtor
Director of Leasing & Property Manager
Condo 1, Inc.
3240 Wilson Blvd., Suite #120
Arlington, VA 22201
Direct: 703-651-6778
Office: 703-228-9007 ext. 203
Fax: 703-636-3314
Joseph@condo1.com
www.condo1.com

From: Ben Umansky [mailto:benumansky@cox.net]
Sent: Friday, June 14, 2013 5:25 PM
To: Joseph Y. Bouchentouf
Subject: Re: Special Use Permit for 111 S Payne Street, Alexandria VA

Dear Mr. Bouchentouf,

Thanks for the email. We are expecting the respond from the owners soon since we need to present the SUP papers by Jun 25th.

Thanks for the help,

Best Regards,
Ben & Perla Umansky
12766 Alder Woods Dr.
Fairfax, VA 22033
(571) 215-5215 (cell)

From: [Joseph Y. Bouchentouf](mailto:Joseph.Y.Bouchentouf)
Sent: Friday, June 14, 2013 8:40 AM
To: benumansky@cox.net
Subject: Re: Special Use Permit for 111 S Payne Street, Alexandria VA

Hi Mr. Umansky,

I forwarded your email to the owners, they wanted to once again congratulate you on your purchase and said that they will contacting you directly.

Sincerely,

Joseph Bouchentouf. Realtor
Director of Leasing & Property Manager
Condo 1, Inc.
3240 Wilson Blvd., Suite #120
Arlington, VA 22201
Direct: 703-651-6778
Office: 703-228-9007 ext. 203
Fax: 703-636-3314
Joseph@condo1.com
www.condo1.com

----- Reply message -----

From: "Ben Umansky" <benumansky@cox.net>
To: "Joseph Y. Bouchentouf" <joseph@condo1.com>
Subject: Special Use Permit for 111 S Payne Street, Alexandria VA
Date: Thu, Jun 13, 2013 8:45 pm

Dear Mr. Bouchentouf,

My name is Benjamin Umansky and I am writing to you in reference to the property that my wife and I bought, 111 S Payne Street, Alexandria VA from KITO LLC in March 2013.

As part of the process to obtain a Special Use Permit (SUP), I need to reach out to the owners of any abutting property. I was referred to you by an urban planner within the Department of Planning and Zoning for Old Town Alexandria.

We will be requesting to operate an ice cream store. The production and sale would occur at this property. The equipment (1 blender, 1 batch-mixer, 1 freezer and 1 refrigerator) necessary for production would only be operated between 8AM-8PM. The equipment will not be against the wall of the abutting property, but will be placed where the current patio stands; a new room will be constructed to accommodate the equipment.

After this initial contact, we will be mailing you a Notice of Public Hearing, in which the city council will host a hearing to approve the SUP. As your neighbor, I would like to hear your initial thought in regards to the opening of an ice cream store so we can continue to move forward in this process.

I would appreciate it if you can forward this email to Kimber Siteman Hyken and Thomas Meyer, owners of KITO LLC. If you need any additional information please feel free to contact me, My phone number is (571) 215-5215.

I look forward to hearing from you.

Best Regards,
Ben & Perla Umansky

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6/24/2013

Nathan Randall

From: Ben Umansky <benumansky@cox.net>
Sent: Sunday, August 04, 2013 1:59 PM
To: Nathan Randall
Cc: David Umansky
Subject: 111 S. Payne Street SUP
Attachments: Townhouse modifications _111_S_Payne.pptx

Follow Up Flag: Follow up
Flag Status: Completed

Dear Nathan,

Thank you for reaching out over the phone this past Friday to express your concerns. I'd like to send you an email to ensure that I can touch on everything we discussed point by point.

After discussing with my wife and son what we are presenting to the Planning Commission and BAR, we decided that it is necessary to request the use of the patio. Because the patio is isolated between the alley and our building (current kitchen), it will not pose noise disruption to the neighbors. Per your request, we contacted KITO LLC (our closest neighbor) and they gave us their blessing prior to submitting the SUP forms to operate a gelato shop.

To alleviate your concerns further, we decided to reduce the number proposed outdoor seating from 24 to 18 and we also reevaluated our proposed hours of operation. We are now proposing to reduce the operations of the store from Friday - Sunday (May 1st - September 30th) until 11 PM (instead of 12 AM), during summer months. I have listed the final requested hours below as a reference.

- Monday through Sunday: 11AM – 11PM (May 1st- September 31st)
- Monday through Thursday: 11AM –10PM (October 1st – April 30th)
- Friday through Sunday: 11AM-11PM (October 1st –April 30th)

Other steps we have taken to ensure that neighboring properties are minimally disturbed are the hours in which the gelato production would occur, from 8AM to 8PM. Additionally, as stated on our SUP documentation, we are not requesting any major modifications to the given property. We are requesting the use of an extra backdoor (for unloading materials) a window on the patio, so that patrons can view ice cream production first-hand, and new siding and fence, so that the patio exit does not lead people directly into the alley, which we thought would be a safety hazard. We believe these modifications will add more value to neighborhood to make the general property be more appealing. I have attached the current and proposed views from the alley and back portion of our property; this file is only a portion of the documentation that we will submit to the BAR by August 11th, for the BAR hearing September 11th, as indicated by Stephanie.

I believe that most of these ideas are also described in the narrative portion of the SUP, but please let me know if you request any clarification. We are convinced that everything being proposed would ensure the best possible experience for customers, least amount of noise for the abutting properties, and ensuring that the business is still profitable to justify our investment.

Please let me know what you think regarding these changes and if you have any further concerns. Reaching out via email would be my preferred method of communication.

Regards,
Ben

SUP Hearing Statement

Mister/Madam Chair and members of the commission, after working extensively on the Special Use Permit with my parents, I want to start by saying we are very grateful for the opportunity and the recommendation of staff approval to open Old Town Artisan Gelato.

We are very pleased with the work of Planning Commission and their willingness to work with us, in particular with respect to adjusting the proposal so that Old Town Artisan Gelato will be able to offer outdoor seating. However, we would like to bring a few of the staffs concerns and recommendations regarding the back patio to the attention of the commission.

In light of the Staff's concerns, we are again modifying our request so that our hours of outdoor operation would be consistent with seasonal expectations, be as follows:

- Summer hours (May 31st- September 30th)
 - Sunday – Thursday; 11AM – 10PM
 - Friday – Saturday; 11AM – 11PM
- Winter hours (October 1st – May 30th)
 - Sunday – Saturday; 11AM-9PM
- Please note that overall store hours (indoor) would remain as originally recommended by the staff (11PM)

With respect to the concerns regarding noise and light, we want to state that customers will not be entering or exiting through the patio either, but only in the case of emergencies.

As the staff analysis is heavily emphasized on the comparison to surrounding proposals, we also would like to compare these as well.

The Ice House proposal was granted approval for 37 outdoor seats with year-round hours lasting until 11PM. The restaurant next door, Pines of Florence, was approved to operate until 10PM, with parking for 11 cars and no outdoor seats. The seating for the Ice House would be located in the front of their property, without a fence and still within close proximity of multiple residentially occupied houses. The unenclosed Ice House Patio, would have allowed light and sound to travel unimpeded to neighboring properties, as referenced in the images below.

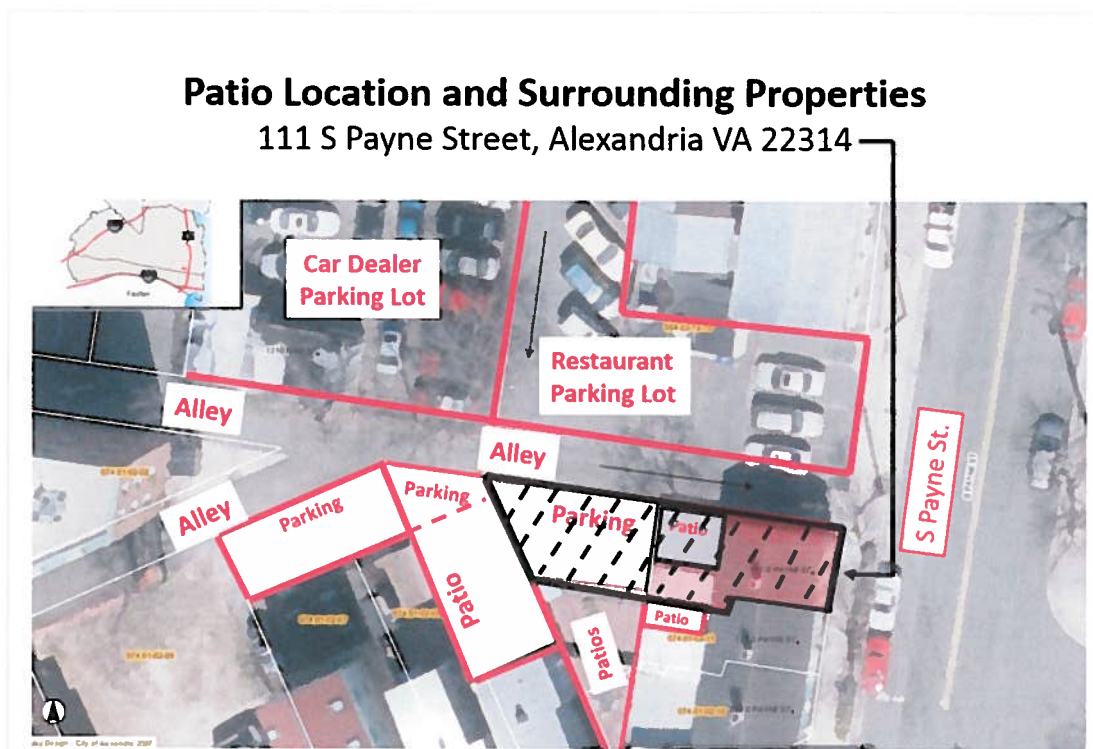
Our proposal has several advantages over the Ice House proposal with respect to evening hour operations, and in our opinion would create less risk of undue impact onto neighbors during this time. First, the enclosed space is less likely to encourage boisterous behavior and unregulated "outdoor voices." While the Ice House arrangement allowed for interaction between customers and others on the street, the Old Town Artisan Gelato outdoor seating will by its layout be more intimate for the customers, and thus quieter.

The staff analysis may have permitted the Ice House layout to create noise in the evening on the grounds that front-lawn seating, and a greater level of activity, is considered "expected" in Old Town Alexandria. That, however, does not change the fact that the Ice House layout, with more than double the seating, and no noise obstruction would certainly be expected to produce significantly more evening noise than the smaller, largely obstructed, rear patio proposed by Old Town Artisan Gelato.

Furthermore, we do believe that the expectation of activity at the site of both shops' patios are comparable, despite the back vs. front difference. This is because our patio is isolated by our kitchen and currently faces an alley and the parking lot of the restaurant at 1300 Kings St. This means that the residents of neighboring buildings, face an unobstructed line of sight and sound from the rear portions of their property, and can also reasonably expect the noise related to car doors opening and shutting, engines being turned off and on, and car lights facing their property directly as they enter the parking lot, through and after 10PM.

The addition of an obstructed patio in the proposed location is simply not likely to create more noise at any point in time when people would typically be expected to be out as pedestrians on the sidewalks and front patios of Old Town Alexandria. Therefore, despite the assertion that the proposed location for the Old Town Artisan Gelato patio is not a "common" location, we do not believe it should any cause for concern or should be a justification for limiting our outdoor hours of operation.

The unintended consequences of limiting our outdoors hours of operation, has the potential for a decrease in sales. We are not opposed to the approved hours that were granted to the Ice House or Pines of Florence, and do believe they are justified, we do however ask that we received similar consideration by the commission for our shop. Thank you.



-Above image showing our patio (shaded gray under black stripes); is isolated from abutting properties because of established kitchen and alley.



-Above image showing the unobstructed patio of the ice house and its neighboring properties.



-Above image showing the approximate size comparison of proposed outdoor seating for both shops.