



DOCKET ITEM #4

Encroachment #2014-0002

115-117 King Street – Landini’s Restaurant

Application	General Data	
Request: Consideration of a request for an encroachment into the public right-of-way.	Planning Commission Hearing:	April 1, 2014
	City Council Hearing:	April 12, 2014
Address: 115-117 King Street	Zone:	KR/King Street Urban Retail
Applicant: Noe Landini	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, APRIL 1, 2014: On a motion by Vice Chairman Dunn, seconded by Commissioner Lyman, the Planning Commission recommended approval of the request subject to compliance with all applicable codes, ordinances and staff recommendations. The motion carried on a vote of 7 to 0.

Reason: The Planning Commission agreed with the staff analysis.

Speakers:

Franco Landini, representing the applicant, spoke in favor of the encroachment request.

Phillip Matyas, North Pitt Street, asked the Commission to deny the request. He noted the zoning violation from last summer, when roll down shades were used, and raised concern that approval of this proposal reward the applicant for its previous violation.



ENC #2014-0002
115 & 117 King Street



I. DISCUSSION

The applicant, Noe Landini, requests approval of an encroachment ordinance for new awnings at 115-117 King Street.

SITE DESCRIPTION

The property in question is the right-of-way located directly in front of 115-117 King Street, a three-story historic building which houses a portion of Landini Brothers restaurant. The restaurant operation also includes the second and third floors of 113 King Street immediately next-door.

The surrounding area along and near King Street is comprised of a mix of commercial and residential uses, including other restaurants and retail shops, as well as the Torpedo Factory Condominium located directly to the northeast of the restaurant.



BACKGROUND

A restaurant has operated at the site since 1976 and has expanded several times since then. Most recently, in 2009, City Council approved SUP#2009-0020 to expand the restaurant onto the second and third floors of 113 King and the third floor of 115 King. A members-only club was established in a portion of the restaurant expansion. The restaurant has also participated in the King Street Outdoor Dining program for many years.

In early summer 2013, the applicant affixed retractable white roller shades beneath the valances of the two existing fixed, fabric awnings to provide his customers relief from direct sun exposure. The shade's material mostly obscured customers from being viewed from the sidewalk and essentially privatized the outdoor dining area in violation of City Code, the King Street Outdoor Dining Guidelines, and Board of Architectural Review requirements. Staff issued a warning notice and required the applicant to stop using the shades. It also monitored the site as part of the enforcement initiative and encouraged the applicant to submit a new awning scheme for Board of Architectural Review approval that would adequately shade his customers without the use of the retractable shades. The Old & Historic Alexandria Board approved new awnings for this purpose in January 2014, but these awnings are larger and extend 1.5 feet further into the right of way than is normally permitted.

PROPOSAL

The applicant requests approval of an encroachment onto the public right-of-way for three replacement awnings to be installed on the front building wall of 115-117 King Street. The purpose of the new south-facing awnings and their specific width is to provide adequate shade for restaurant customers seated in the outdoor dining area. The awnings will not extend any further into the street than the existing, approved outdoor dining barrier. They will extend a total of 5.5 feet into the public right-of-way with a total length of up to 60.83 feet. The total area of the requested encroachment is approximately 335 square feet.

CITY CODE / ZONING / MASTER PLAN

City Code Section 5-2-29(d) allows awnings to extend up to four feet into the public right-of-way in certain circumstances with no special approval required. Approval of a separate encroachment ordinance is required to install the proposed awnings, however, given that they extend an additional 1.5 feet into the public right-of-way than is otherwise allowed.

The subject property is located in the KR/King Street Retail Zone. The restaurant use at the site is consistent with the Old Town Small Area Plan chapter of the Master Plan which designates the property for commercial use.

II. STAFF ANALYSIS

Staff supports the applicant's proposal. Although the request has come about as a result of an enforcement initiative, staff believes the applicant's concerns about sun exposure in the outdoor dining area are legitimate. Obscuring outdoor dining on public rights-of-way, however, runs contrary to the planning goals that the King Street Outdoor Dining Program intends to achieve such as providing visual interest and activity for pedestrians. It is pleased that the currently-proposed solution has emerged as a compromise in which the applicant achieves its goal without privatizing the outdoor dining area.

The proposed encroachment of the awnings into the right-of-way, although 5.5 feet in total, amounts to only an additional 18 inches beyond what is routinely allowed by City Code without special approval. They will also extend no further into the sidewalk than the existing outdoor dining area which is an important consideration for pedestrians walking along this busy section of lower King Street.

Subject to the conditions contained in Section III of this report, staff recommends approval of the encroachment request.

III. STAFF RECOMMENDATION

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

1. The applicant (and his successors, if any) must obtain and maintain a policy of general liability insurance in the amount of \$1,000,000, which will indemnify the applicant (and his /her successors, if any) and the City of Alexandria, as an additional named insured, against all claims, demands, suits, etc., and all costs related thereto, including attorney fees, relating to any bodily injury or property damage which may occur as a result of the granting of this encroachment. (T&ES)
2. Neither the City nor any Private utility company will be held responsible for damage to the private improvements in the public right-of-way during repair, maintenance or replacement of any utilities that may be located within the area of the proposed encroachment. (T&ES)
3. In the event the City shall, in the future, have need for the area of the proposed encroachment, the applicant shall remove any structure that encroached into the public right-of-way, within 60 days, upon notification by the City. (T&ES)

STAFF: Alex Dambach, Division Chief, Planning and Zoning;
Nathan Randall, Urban Planner.

CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services:

- F-1 T&ES supports the proposed encroachment.
- R-1 The applicant (and his/her successors, if any) must obtain and maintain a policy of general liability insurance in the amount of \$1,000,000, which will indemnify the applicant (and his /her successors, if any) and the City of Alexandria, as an additional named insured, against all claims, demands, suits, etc., and all costs related thereto, including attorney fees, relating to any bodily injury or property damage which may occur as a result of the granting of this encroachment. (T&ES)
- R-2 Neither the City nor any Private utility company will be held responsible for damage to the private improvements in the public right-of-way during repair, maintenance or replacement of any utilities that may be located within the area of the proposed encroachment. (T&ES)
- R-3 In the event the City shall, in the future, have need for the area of the proposed encroachment, the applicant shall remove any structure that encroached into the public right-of-way, within 60 days, upon notification by the City. (T&ES)

Code Enforcement:

- F-1 No comments received

Health Department:

- F-1 No comments received

Police Department:

- F-1 No comments received

Fire Department:

- C-1 Design and construction of the frame and canopy materials shall meet the requirements of the 2009 edition of the Virginia Construction Code, section 3105.
- C-2 If permanent or portable heating devices are installed, they shall be sufficiently away from the canopy material and placed in a manner that does not create a fire hazard nor block egress from the building or exterior seating area.

**APPLICATION****ENCROACHMENT**

ENC#

2014-0002**PROPERTY LOCATION:** 115 & 117 King Street**TAX MAP REFERENCE:** 075.01-03-04 , 075.01-03-05 **ZONE:** KR**APPLICANT****Name:** Noe Landini
Address: 115 King Street**PROPERTY OWNER****Name:** 117 King Street LLC (Noe Landini)
Address: 115 King Street**PROPOSED USE:** Existing restaurant facade: We want to replace the existing awning with a slightly larger awning that will provide relief from sun exposure to our customers. THE REQUESTED AWNING WILL EXTEND SLIGHTLY FURTHER OUTWARD FROM THE BUILDINGS.**INSURANCE CARRIER** (copy attached) _____ **POLICY #** _____

A certificate of general liability insurance in the amount of \$1,000,000 which will indemnify the owner and names the city as an additional insured must be attached to this application.

☒ **THE UNDERSIGNED** hereby applies for an Encroachment Ordinance in accordance with the provisions of Section 8-1-16 and Sections 3-2-82 and 85 of the Code of the City of Alexandria, Virginia.☐ **THE UNDERSIGNED** hereby applies for an Administrative Use Permit in accordance with the provisions of Article VI, Section 6-600 of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.☐ **THE UNDERSIGNED**, having obtained permission from the property owner, hereby grants permission to the City of Alexandria to post placard notice on the property for which this application is requested, pursuant to Article XI, Section 11-301 (B) of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.☐ **THE UNDERSIGNED** also attests that all of the information herein provided and specifically including all surveys, drawings, etc., required of the applicant are true, correct and accurate to the best of their knowledge and belief.NOE LANDINI
Print Name of Applicant or Agent
115 KING ST.
Mailing/Street Address
ALEXANDRIA VA 22314
City and State **Zip Code**[Signature]
Signature
571 288 7613 703 549 3596
Telephone # **Fax #**
NOE@NOELANDINI.COM
Email address1.5.14
Date**Application Received:** _____ **Date and Fee Paid: \$** _____
ACTION - PLANNING COMMISSION: _____ **ACTION - CITY COUNCIL:** _____

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.	NOE LANDINI	115 KING ST.	50
2.	FRANCO LANDINI	115 KING ST.	50
3.			

2. Property. State the name, address and percent of ownership of any person or entity owning an interest in the property located at 115 + 117 KING ST. (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.	NOE LANDINI	117 KING ST.	50
2.	FRANCO LANDINI	117 KING ST.	50
3.	RAY LOTTO	115 KING ST.	100

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 required 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 indicate 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.			
2.			
3.			

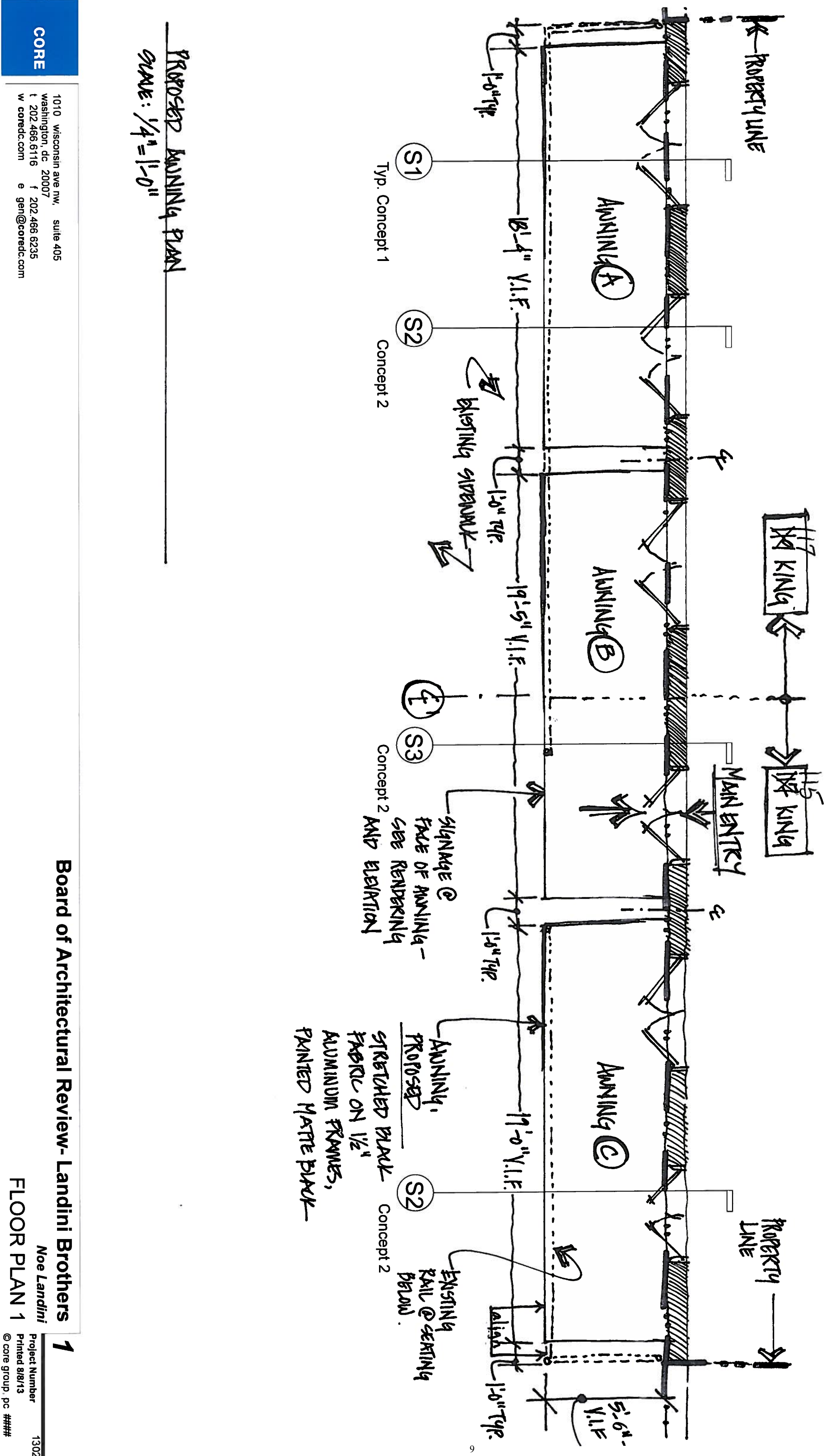
NOTE: Business or financial relationships of the type described in Sec. 11-350 that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings.

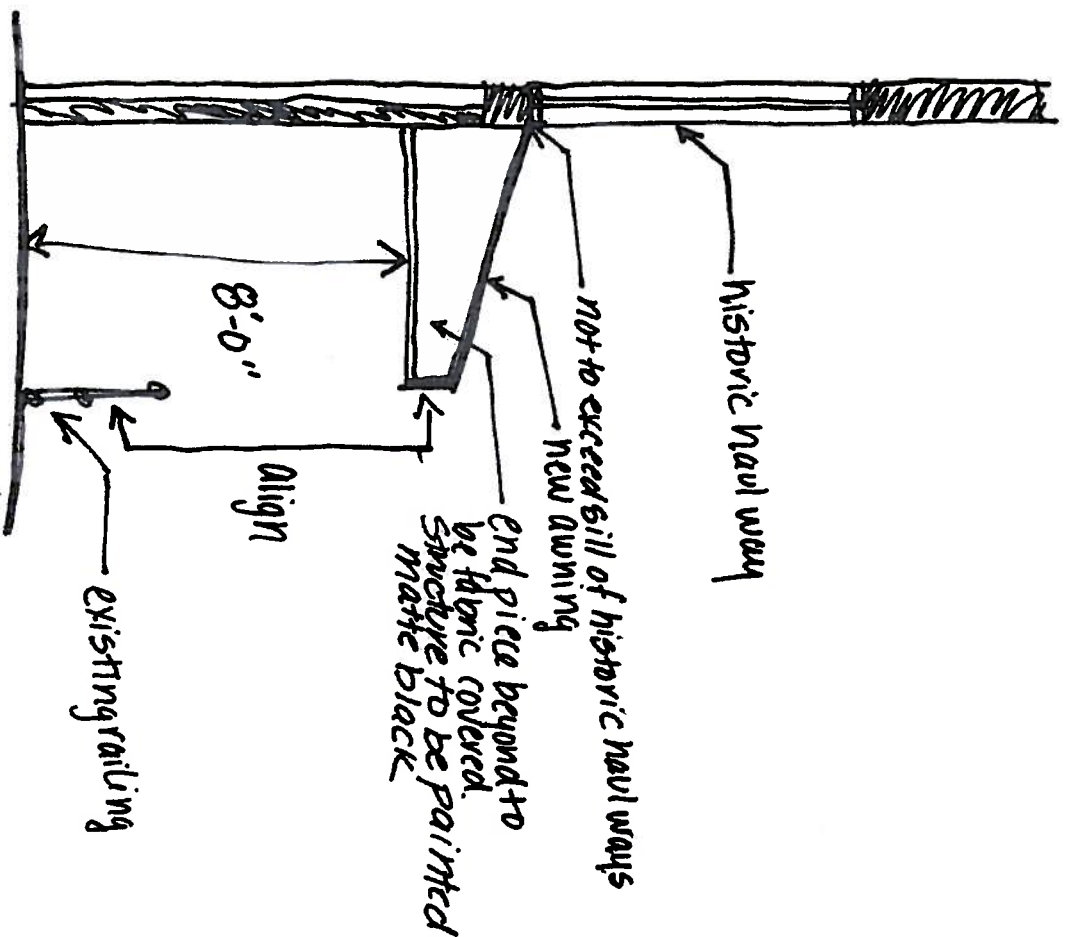
As the applicant or the applicant's authorized agent, I hereby attest to the best of my ability that the information provided above is true and correct.

1.5.14
Date

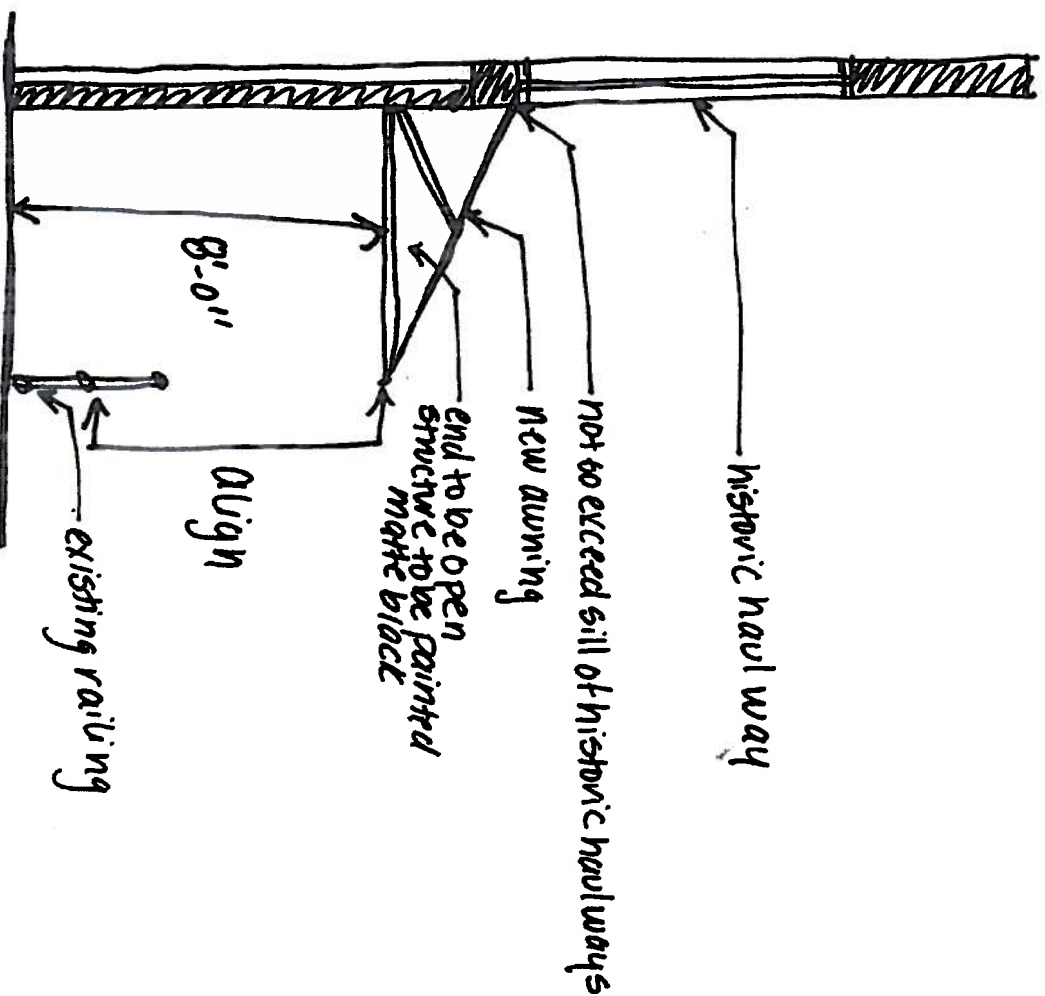
NOE LANDINI
Printed Name


Signature

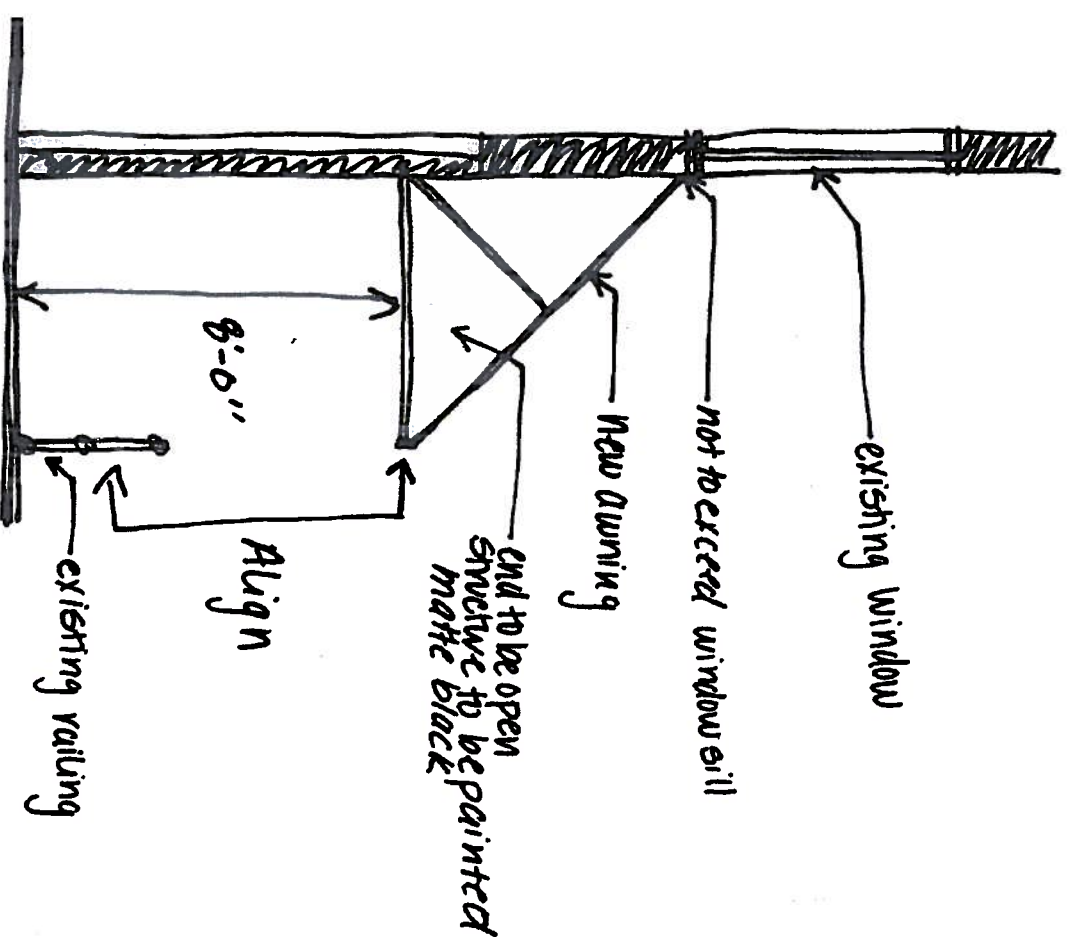




S1 Proposed Concept 1 Section A-C

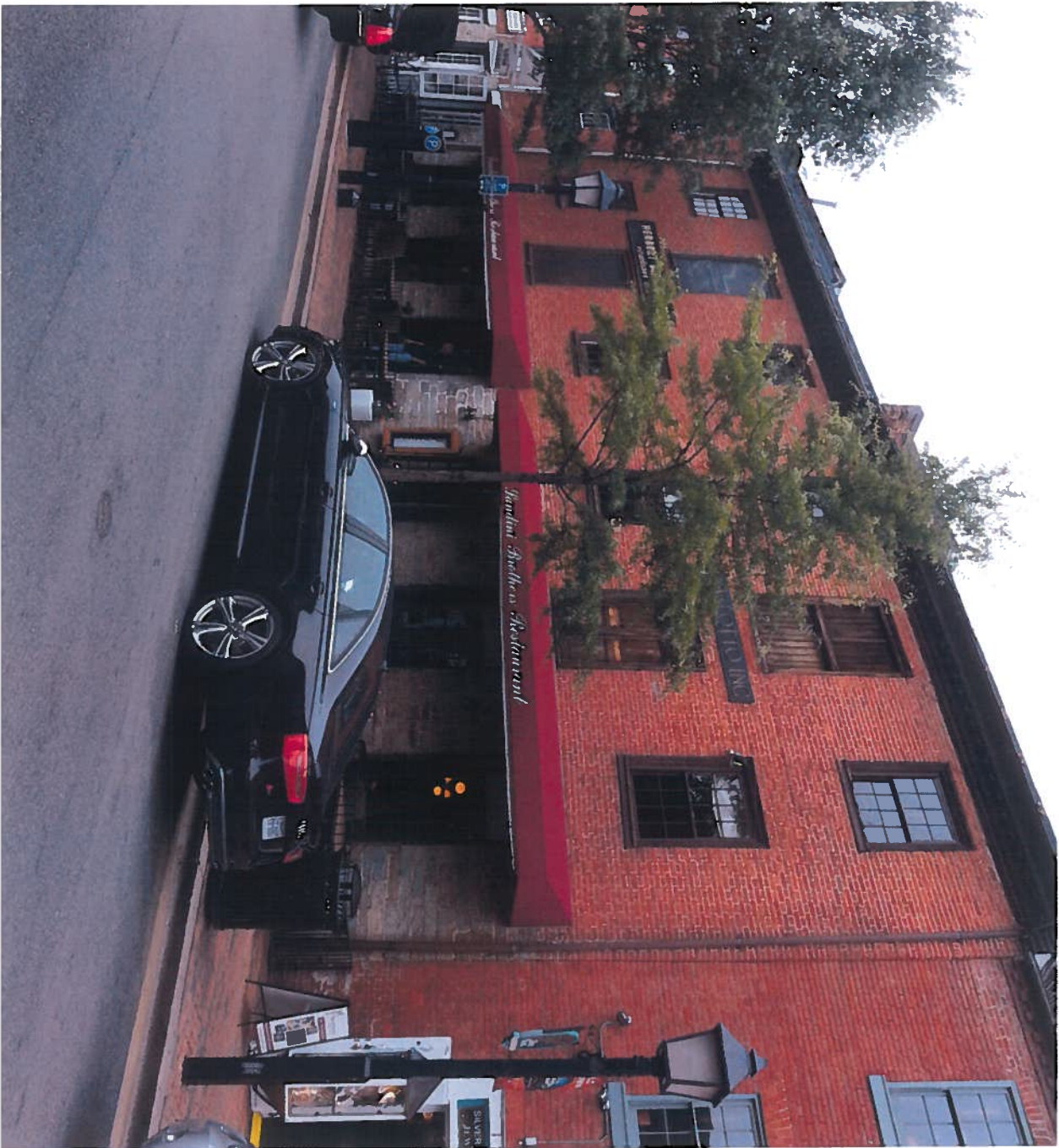


S2 Proposed Concept 2 Section (@ Haul Way)
Typ. @ Awning B

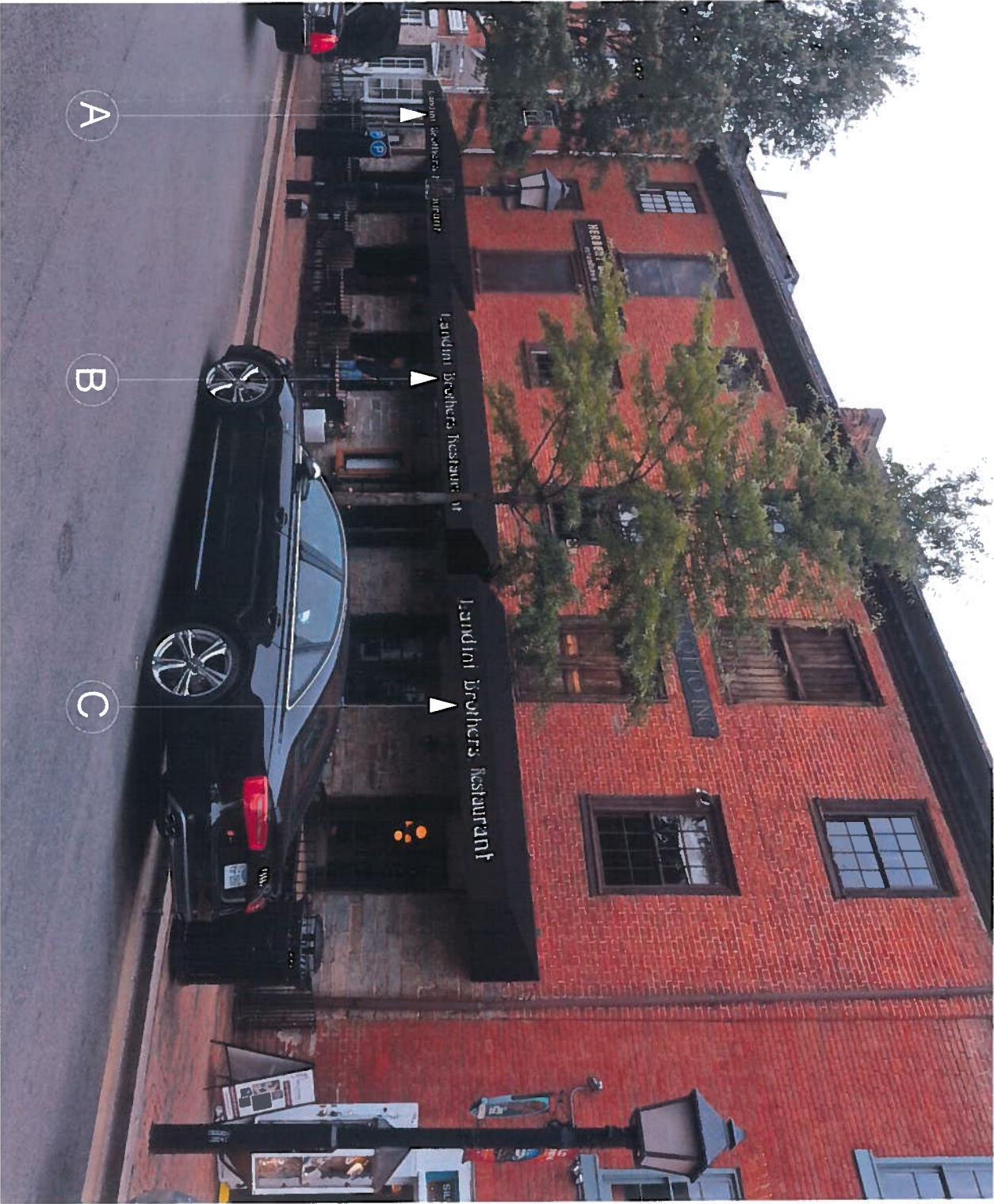


S3 Proposed Concept 2 Section (@ Windows)
Typ. @ Awnings A & C

Existing

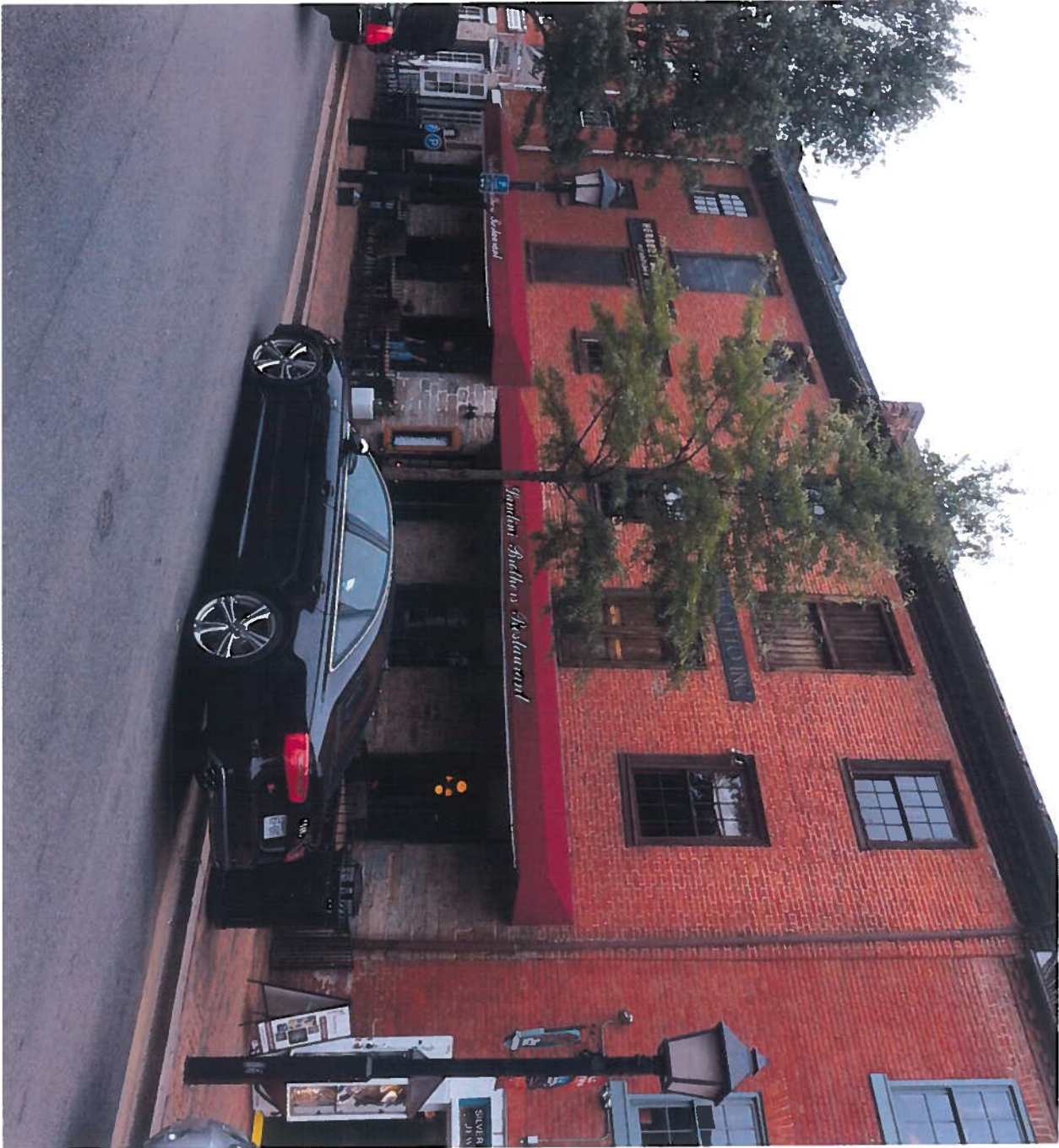


Proposed

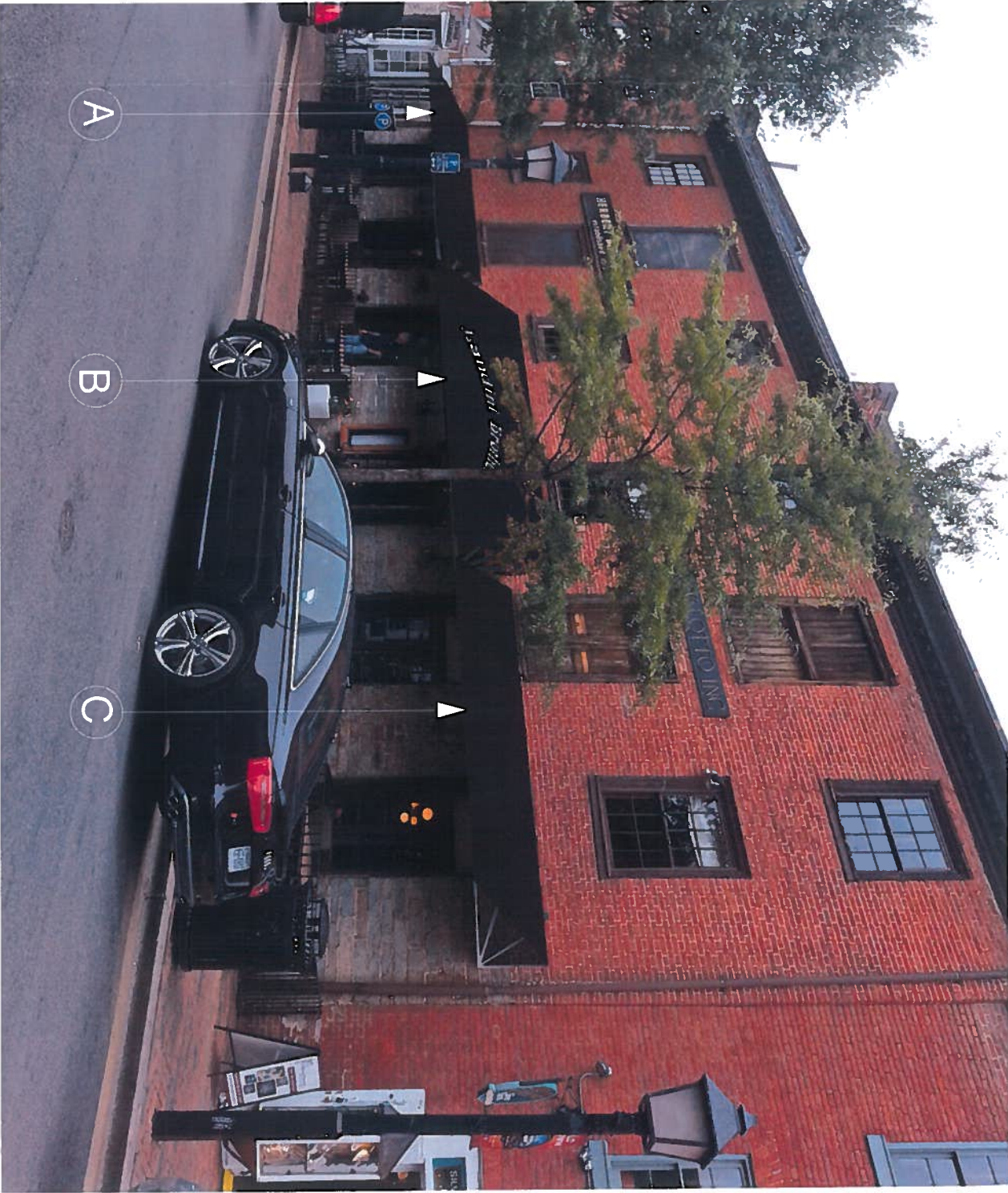


- Notes:
1. Provide Three (3) Awnings. Awnings to be black stretched fabric mounted to 1 1/2" aluminum framing, painted matte black. End of awning to be covered. See plan for dimensions.
 2. Awning fascia to be similar to existing. Each to receive signage as depicted. Fascia not to project beyond rail @ outdoor seating.
 3. Awnings to be aligned @ upper & lower most point. Uppermost point to be below under historic haul way doors. Lowermost point to be 8'-0" minimum.

Existing



Proposed



Notes:

1. Provide Three (3) Awnings. Awnings to be black stretched fabric mounted to 1 1/2" aluminum framing, painted matte black. End of awning to be exposed. See plan for dimensions.
2. Awning fascia to be similar to existing. Central awning B to receive signage as depicted. Fascia not to project beyond rail @ outdoor seating.
3. Awnings A & C to be aligned @ upper & lower most point. Uppermost point to be below under historic haul way doors. Awning B to be raised, not to exceed lowermost point @ 2nd story window sill. Awning height approximately 6'-0" . Lowermost point to be 8'-0" minimum.

Submitted at 4-1-14
PC hearing
Landini's
Illegal
Awning

To: Perry + Zoning -

1. With the two options Staff is still supporting, they are setting a very, very, very bad precedent for significant encroachment into the public space in the historic district – one that will be followed by other business, one where flagrant violations of our city code and guidelines are rewarded, in Landini's case here, with options to waive, except and override the very codes designed for exact historic purpose.
2. There is no 3rd option by Staff noting that there be no change, but allowing for review and approval of new lettering dimensions to occupy the pre-existing placement.
3. There is no 4th option to deny the application in it's entirety recognizing that it is just WRONG to openly and willfully violate provisions of the city's sign code and historic and open dining guidelines and then be rewarded with over 100 square feet of advertising awning space
4. There is no 5th option that might even be more beneficial To Landini's marketing then this billboard of an awning --- they are called sunglasses. Landini's can by in bulk printed

with whatever marketing they desire and hand them out when needed.

5. There is no recommendation that Landini's be fined for flagrantly violating the provisions for months after being notified by Planning and Zoning and Code Enforcement
6. There are no specific dimensions of the wording/sign design on the awning , something I would suggest is part of the essence for creating a BAR to protect historic property – not an item to be approved by a staffer away from public review.
7. There isn't a way to identify and ensure that the tables will block less of the sidewalk than they currently do, as suggested, there may be, over time, an even great^{er} effort to encroach into the additional 1 ½ foot extension.
8. Over 100 square feet more (than pre-existing block coverage) of the historic warehouse will be removed from the public's street view – this criteria -- not blocking the public view— is a criteria over past decades often used by BAR for denial of past applicants for changes to residential and commercial properties.
9. The application of the historic district guidelines need to be as robust for business district as for the residential historic areas if we are to maintain historic integrity and have a vibrant historic, non-Coney Island presence.

I am not anti-business ----

Just more property taxpayer, resident, historic-centric than
tourist-centric ----

Especially since 67% of our budget is made up from property
owner's taxes and only 33% from business taxes ----

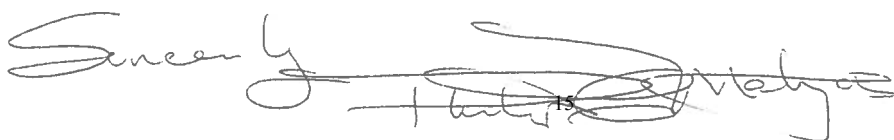
In search of historic preservation before it is relegated to panels
along a boardwalk ----

You know the Virginia Plan designed by Washington, Mason,
Jefferson, and others became the basis for our Constitution.
We should treat this street, and neighboring streets that our
founding fathers walked on and gave their blood for -- and that
you and I walk on -- with much historic attention and high
regard, even reverence, so that 100 years from today other
Americans, young and old, mothers and fathers from all parts
of the country, may walk these streets and sidewalks with a
sense of historic beauty, awe and pride.

To that end I request you deny this application in its entirety ----

Save Historic Presence and Integrity, Maximize open sidewalk
space and don't reward a good neighbor for doing bad things.

Let the customers wear sunglasses.

Sincerely,
Anthony S. Velazquez