

**MEMORANDUM**

DATE: NOVEMBER 29, 2016

TO: CHAIRWOMAN AND MEMBERS  
OF THE PLANNING COMMISSION

FROM: KARL MORITZ, DIRECTOR,  
DEPARTMENT OF PLANNING & ZONING

SUBJECT: REVISIONS TO DOCKET ITEMS #6  
(SUP#2016-0041, 1400 Duke Street)

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This memorandum provides updated information regarding SUP#2016-0041, a request for a 114-seat restaurant with a 10-space parking reduction at 1400 Duke Street. The Planning Commission deferred its review from the November hearing to provide an opportunity for the applicant, J&S Restaurant, LLC, and Shiloh Baptist Church representatives to discuss the possibility of mutually acceptable adjustments to the restaurant and the parking reduction proposals. The attorneys for the applicant and the church provided summaries of the meeting outcome, and these are attached.

As a result of the meeting, the applicant agreed to withdraw the request for live entertainment which would potentially limit noise impacts and late-night activity in the neighborhood. The Special Use Permit Condition 7, regulating live entertainment, would be deleted from the report as referenced below. All other characteristics of the restaurant operation, including the number of seats, hours of operation, and customer delivery, remain unchanged.

According to the church attorney, church representatives expressed concerns related to on-premises alcohol sales, the loss of shared parking, and parking lot traffic during the meeting. In particular, church representatives requested that the applicant, who is also the property owner of 1400 Duke Street, allow the church access to 23 spaces it had previously used on evenings and weekends when not in use by the existing office tenant. The applicant confirmed that it wanted to maintain these spaces for the restaurant use.

The church does not need access to the 23 spaces to remain compliant with its SUP (#2003-0099) as the church exceeds the SUP requirement to provide a minimum of 130 parking spaces for congregants. Additionally, site visits during a few Sunday services have indicated that parking spaces are available in the church's designated parking areas during these times. While a SUP cannot mandate that a proposed land use share its private parking spaces with uses not located on the property, staff understands that the Planning Commission may consider other options to reduce restaurant impacts on the Round House Square site, such as a reduction in seats or hours of operation as well as minimizing the number of spaces approved for the parking reduction.

Traffic flow and lighting within the Round House Square parking lot does not appear to have been discussed at the meeting given that all property owners were not present. These topics could

be coordinated with church representatives, the applicant, and the 12 office condominium owners located at 1420 Duke Street at a later date.

Staff continues to recommend approval of SUP#2016-0041 subject to the SUP conditions that appear in the report with the deletion of Condition 7 as follows:

7. **CONDITION DELETED BY STAFF:** ~~Limited, live entertainment may be offered, and must comply with the city's noise ordinance. No outdoor speakers shall be permitted. No amplified sound shall be audible at the property line. No admission or cover fee shall be charged. All entertainment shall be subordinate to the principal function of the restaurant as an eating establishment. Any advertising of the entertainment shall reflect the subordinate nature of the entertainment by featuring food service more prominently than entertainment. (P&Z)~~

**From:** David Chamowitz [<mailto:dchamowitz@chamlaw.com>]  
**Sent:** Monday, November 21, 2016 12:41 PM  
**To:** Ann Horowitz  
**Subject:** 1400 Duke Update

Hi Ann,

As you are aware, and on the recommendation of the Planning Commission, Jerry Pnevmatikatos and I met with three representatives of the Shiloh Baptist Church and their lawyer, Jonathan Rak, regarding the application for a restaurant Special Use Permit at 1400 Duke Street. As a result of that meeting, I have the following to report.

For the record, of course, the Applicant for the restaurant SUP is J&S Restaurant, LLC, and the application site is solely a portion of the premises at 1400 Duke Street. But, as you know, Jerry owns and controls several other properties in the immediate vicinity.

- 1) Despite his disappointment with the Church's opposition to the application, Jerry will continue allowing the Church to use 60 spaces at the daycare center across the parking lot at 1412 and 1416 Duke, as he has for several years. In fact, if the Church provides a written agreement to formalize the current verbal arrangement, Jerry will review it.
- 2) Until the restaurant opens, the Church may use the parking spaces controlled by the Applicant at 1400 Duke that are available and not otherwise occupied by construction vehicles or others.
- 3) In order to alleviate the Church's concerns about the diner becoming a "nightclub", the Applicant will withdraw its request for live entertainment.
- 4) Unfortunately, the Applicant cannot remove its request for alcohol, or permit the Church to use the restaurant's parking once the restaurant opens, since it is the Applicant's goal and the goal of every small business to be successful enough to need it.

Ultimately, this application must be judged on its merits and an assessment of urban planning principles, not the subjective views of any individual neighbor, or based on property rights considerations. On that basis, we appreciated your and your department's analysis and professional opinion in having made a recommendation of approval of the application.

Thank you,

--Dave

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David L. Chamowitz  
Chamowitz & Chamowitz, P.C.  
118 N. Alfred St.  
Alexandria, VA 22314  
(703) 548-0110 phone  
(703) 836-8857 fax  
[dchamowitz@chamlaw.com](mailto:dchamowitz@chamlaw.com)

**From:** Griffith, Janet Fleck [<mailto:JGriffith@mcguirewoods.com>]  
**Sent:** Monday, November 21, 2016 9:28 AM  
**To:** Ann Horowitz  
**Cc:** Rak, Jonathan P.  
**Subject:** Re: 1400 Duke Street SUP meeting summary

Hi Ann,

Below is Jonathan's recap of the meeting with Jerry.

David Chamowitz invited us to meet with him and Jerry Pnevmatikatos at his office on November 16. Rev. Heatley, Helen Dortch and Carolyn Williams attended with me. David welcomed us to the meeting and asked what we would like to propose. The Shiloh representatives explained their concerns about alcohol, parking, traffic, etc., but neither David nor Jerry offered any limitations on their proposal. Rev. Heatley asked whether they could offer any cooperation on parking, such as allowing Shiloh members to use some of the Delta Bridge spaces on weekends or evenings. Jerry replied that once the restaurant opens he will not allow any church parking on his spaces. In response to Carolyn's question, he clarified that the church can use the "Bluebird" spaces for which they have a written license agreement. Carolyn explained that they did not have Jerry's signature on the agreement. Jerry replied that it doesn't matter because the agreement is only month to month. David said that they will enforce the parking signs by towing restaurant patrons who park in church spaces. Jerry clarified this statement by adding "and vice versa". When it was clear that David and Jerry were not offering any compromises or revisions to their application, the Shiloh reps ended the meeting.

Please let me know if you need anything more.

Janet

Sent from my iPhone

## RE: 1400 Duke Street SUP

SUP2016-0041  
Additional Materials  
12/5/16

David Chamowitz <dchamowitz@chamlaw.com>

Mon 12/5/2016 4:55 PM

To: PlanComm <PlanComm@alexandriava.gov>;

Cc: Ann Horowitz <ann.horowitz@alexandriava.gov>; Alex Dambach <alex.dambach@alexandriava.gov>;

Dear Chairman Lyman and Members of the Planning Commission:

We were pleased to meet with members of the Shiloh Baptist Church and their counsel regarding our restaurant application.

In order to assuage the Church's concern about the nature of the restaurant, we have withdrawn our request for live entertainment. Additionally, we have offered to allow the Church to use the Applicant's available parking from now until the restaurant opens for business.

I understand you have received the Memorandum circulated by Planning & Zoning Staff in which they restate their recommendation of approval of our application. Attached to that Memo are notes regarding the above-referenced meeting submitted by Jonathan Rak and me.

I look forward to your consideration of our application tomorrow night. Please do not hesitate to contact me by email or telephone with any questions between now and the hearing.

Warm Regards,

--Dave

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**From:** David Chamowitz  
**Sent:** Monday, October 31, 2016 5:05 PM  
**To:** PlanComm@alexandriava.gov  
**Cc:** Ann Horowitz; Alex Dambach  
**Subject:** 1400 Duke Street SUP

Dear Chairman Lyman and Members of the Planning Commission:

My name is David Chamowitz, and I'll be before you tomorrow night on Docket Item #3, a request for a Special Use Permit for a restaurant at 1400 Duke Street.

As you may be aware, Restaurant SUPs can be approved administratively for a property in the OCM-50 zone, and that was how we initially applied back in June. We understand the Shiloh Baptist Church objected, and P&Z Director Karl Moritz determined that the matter should go to hearing. We revised our application and resubmitted for a full SUP.

We are very pleased to have a Staff Report recommending approval of the application, and want to point out that we worked with Staff and voluntarily reduced the number of seats in the application from 140 to 114, which is the request before you now.

I am aware that there are still concerns among the members of the Church related to the service of alcohol in connection with a restaurant, and the request for a parking reduction.

First, to clarify the parking matter: While the Application involves a request for a parking reduction, it is in some sense a technical parking reduction, as opposed to a practical one. Of the 46 spaces in the parking lot on this parcel, the Applicant controls 28, which is .5 spaces (one half of a space) less than the Zoning Ordinance would require for our requested 114 seats. I understand that Planning & Zoning has a particular way of attributing spaces from a zoning perspective, but as a matter of actual availability, the Applicant's lease gives it and its customers the exclusive right to the 28 spaces shown on our application materials.

I would also point out that if this application were on the other side of Duke Street -- literally the other side of the centerline of the street -- the restaurant would be totally exempt from having to provide any parking whatsoever, by virtue of being in the Central Business District under 8-300 of the Zoning Ordinance. There would be a zero space requirement. And we are providing 28 spaces.

Secondly, as to the proximity of other uses to the Church: Old Town is a dense, compact, urban area. It is the nature of the community here that different uses coexist. More specifically, if putting restaurants near churches and daycare centers is problematic, we in Alexandria have a great many problems on our hands.

Just to give a few examples.

Christ Church is a half block from the heart of King Street, with countless restaurants nearby.

Washington Street United Methodist is even closer than that; Cosi used to serve alcohol one door away, and Nando's still does immediately adjacent to the rear of the WSUMC.

The Downtown Baptist Church is across the street from Society Faire.

Beulah Baptist Church is across the street on the same block as Trattoria da Franco.

The Shiloh Baptist Church, and of course the site of our application, are right now approximately a block and a half from LaPorta's, and maybe two blocks from Table Talk and O'Shaughnessy's Pub, which has been there for decades, formerly as the Laughing Lizard Lounge. All serve alcohol, for it is of course an unusual restaurant indeed which does not.

Jerry and Susan Pnevmatikatos themselves own a successful daycare center right in the Roundhouse Square complex, as well as two other office units there. They will be responsible for the operation of the restaurant, and obviously have vested interests in the manner in which it is run and the behavior of its customers.

We would ask for your recommendation of approval of our application. Please let me know if you have any concerns that I can address between now and the hearing, or indeed tomorrow night. I look forward to the opportunity.

--Dave

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**CITY OF ALEXANDRIA**  
**SERVICE REQUEST**  
**PLZ Council Request**

12/06/2016

SUP2016-0041  
Additional Materials  
12/6/16

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**REQUESTID:** 110188

**PRIORITY:** 3

**PROBLEMCODE:** PLZ\_COUNCIL

**SUBMITTO:** PLZ, PLAN\_COMMISSION

**DESCRIPTION:** PLZ Council Request

**INITIATEDBY:** API, SR

**PROBADDRESS:**

**PRJCOMPLETEDATE:** 12/13/2016

**DATETIMEINIT:** 12/05/2016

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**CALLER(S) INFORMATION:**

CELLPHONE

**FIRSTNAME** BEVERLY

**HOMEPHONE** 646 620 1816

**LASTNAME** MALONE

**WORKPHONE**

**ADDRESS**

**EMAIL** CEO@NLN.ORG

**CELL PHONE**

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**QUESTION:**

**ANSWER:**

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**COMMENTS:**

By API, SR: 12/5/2016 1:47:10 PM

This is a "public" request. Information may be provided to anyone who requests it.

By API, SR: 12/5/2016 1:47:10 PM

I am a member of Shiloh Baptist Church and I have concerns about the recent proposal to build a restaurant near 1400 Duke Street. The additional traffic, both foot and automobile, with associated potentially unruly behavior, could be disruptive to our church services and the church community. I speak strongly against this proposal.

By DELGADO, ROCIO: 12/5/2016 2:09:58 PM

Dear Beverly Malone,

Thank you for contacting the City of Alexandria. Thank you for taking the time to share your comments with the City Council. I've forwarded your comments to the Department of Planning & Zoning for review and a response.

By Carter, Barbara: 12/6/2016 11:21:31 AM

Assigned to Krissy. Please respond by December 13.

## Fwd: Docket Number 6 SUP 2016-0041 December 6, 2016

halan YOUNG <[halan.young@icloud.com](mailto:halan.young@icloud.com)>

Tue 12/6/2016 1:26 PM

To: PlanComm <[PlanComm@alexandriava.gov](mailto:PlanComm@alexandriava.gov)>;

Begin forwarded message:

**From:** halan YOUNG <[halan.young@icloud.com](mailto:halan.young@icloud.com)>

**Subject:** Docket Number 6 SUP 2016-0041 December 6, 2016

**Date:** December 6, 2016 at 1:15:10 PM EST

**To:** [planncomm@alexandriava.gov](mailto:planncomm@alexandriava.gov)

**Cc:** [Karl.moritz@alexandria.gov](mailto:Karl.moritz@alexandria.gov), [tgheatley@shiloh-bc.org](mailto:tgheatley@shiloh-bc.org), [Ann.horowitz@alexandria.Va.gov](mailto:Ann.horowitz@alexandria.Va.gov), [yvonneweightcallahan@gmail.com](mailto:yvonneweightcallahan@gmail.com),  
Russell George <[jrussellgeorge@comcast.net](mailto:jrussellgeorge@comcast.net)>, Charlie Huettner <[huettner@comcast.net](mailto:huettner@comcast.net)>, Kathy Huettner  
<[thehuettners@comcast.net](mailto:thehuettners@comcast.net)>, Sharon Bob-Young <[sharon.bob@ppsv.com](mailto:sharon.bob@ppsv.com)>

Dear Chairwoman Lyman and Members of the Planning Commission:

My wife, Sharon, and I reside at 229 S. Payne Street, formerly known as 1301 Duke Street, which is located at the northwest corner of Duke and Payne Streets. I have owned our home since 1977.

This email is in opposition to the above application. The reason for this email rather than a first class mail, which is what I would have preferred, is that I just learned of this application. Further, my wife and I are attending a dinner tonight in Philadelphia given by the University of Pennsylvania Medical School honoring benefactors and professors holding endowed chairs, one of which is the Ann B. Young Assistant Professorship in Cancer Research that was founded by my father in memory of my mother who died of colon cancer.

My prior commitment explains the reason why I will be unable to attend tonight's Planning Commission meeting.

Parking in this neighborhood is at a premium. My wife and I are constantly looking for available street parking. The request to reduce parking requirements will exacerbate an existing intolerable situation.

I recall when I moved into my home, Round House Square was represented to be for offices and small businesses. As a matter of fact, and as I type this on my way to catch a train, I believe City records will reflect that 1400 Duke Street originally housed a carpet store. I visited that warehouse type premises, and, as one would expect, there were many rolls of carpets and very few in employees. No one ever anticipated a restaurant and all the attendant problems affiliated with having one, such as use such as parking and rodent infestation.

As you can imagine over the years there were many controversial issues that arose that would have had an adverse impact on the neighborhood. What immediately comes to mind is when the City applied for a drug rehabilitation center at Roundhouse Square. At the time, the planning office recommended approval of the application, despite vehement objections by the neighbors including, Shiloh Baptist Church, which is located in its historic sanctuary across the street. Notwithstanding, City Council was set to approve the drug rehabilitation facility when the undersigned received a telephone call from Lee A. Earl, then Senior Pastor of the Shiloh Baptist Church, saying that if the undersigned would support the use of the property by Shiloh, it would enter into lease negotiations with the owner of the building. In addition to the drug rehabilitation center being inappropriate and quite frankly dangerous, there were violations of the City Code, as evidenced by the then City Attorney who said, "Alan, don't you understand that when the City wants to advance its cause it will bend [break] the rules."

Notwithstanding all the roadblocks, that is the short version of why the Shiloh Baptist Church is now located in Round House Square.

My wife and I again wish to partner with Shiloh Baptist Church in its opposition to the applicant because the proposed use is inappropriate for the original intended use of those premises and the other reasons set forth herein.



As mentioned from the outset, it is with regret that I did not know of this matter earlier so that I could have contacted people in the neighborhood who would have had the opportunity to oppose the application in writing and or preferably in person.

Respectfully submitted,

H. Alan Young



**CITY OF ALEXANDRIA**  
**SERVICE REQUEST**  
**PLZ Council Request**

12/06/2016

SUP2016-0041  
Additional Materials  
12/6/16

**REQUESTID:** 110265

**PRIORITY:** 3

**PROBLEMCODE:** PLZ\_COUNCIL

**SUBMITTO:** PLZ, PLAN\_COMMISSION

**DESCRIPTION:** PLZ Council Request

**INITIATEDBY:** API, SR

**PROBADDRESS:**

**PRJCOMPLETEDATE:** 12/13/2016

**DATETIMEINIT:** 12/06/2016

**CALLER(S) INFORMATION:**

CELLPHONE

**FIRSTNAME**

**HOMEPHONE**

**LASTNAME** UNKNOWN

**WORKPHONE**

**ADDRESS**

**EMAIL** CWTERRY02@GMAIL.COM

**CELL PHONE**

**QUESTION:**

**ANSWER:**

**COMMENTS:**

By API, SR: 12/6/2016 12:47:13 PM

This is a "public" request. Information may be provided to anyone who requests it.

By API, SR: 12/6/2016 12:47:13 PM

Dear City Council:

Please reconsider approving the special use permit (SUP) for 1400 Duke Street as it is incompatible with the surrounding properties. Here are my expressed concerns as listed below:

(1) Parking lot congestion

\*Will create congestion and confusion in an already busy parking lot.

\*Parking lot is contiguous and shared among many property owners.

\*Restaurant and Church's peak hours are similar. Therefore, parking will become further congested and the ingress and egress of parking area could become difficult.

\*A restaurant is a business that will attract a denser ratio of people / square foot of space. This translates into more cars coming to the site

as opposed to an institutional or business use.

\*Difficulty finding a parking space could decrease attendance at the Church.

(2) Alcohol consumption

\*Serious safety concerns about restaurant patrons consuming alcohol because the parking area, drive aisles and ingress / egress are

shared with a Church and daycare centers.

\*Children and families are often walking in the parking lot.

(3) Inconsistent Use

\*This is not the restaurant / retail area of Old Town.

\*Area mostly consists of office, institutional and some residential.

Shiloh Baptist Church Member since 2001.

By DELGADO, ROCIO: 12/6/2016 12:56:11 PM

Dear Customer,

Thank you for contacting the City of Alexandria. Thank you for taking the time to share your comments with the City Council. I've forwarded your comments to the Department of Planning & Zoning/Office of the Director for review and a response.

By Carter, Barbara: 12/6/2016 2:24:01 PM

Assigned to Krissy. Response due: December 13.

CWTERRY02@GMAIL.COM