

***Special Use Permit #2018-0116***  
***1400 Duke Street***  
***Executive Diner***

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Application	General Data	
<b>Request:</b> Public hearing and consideration of a request to amend a restaurant special use permit (SUP#2016-0041) to add indoor and outdoor seating and to increase hours of operation	<b>Planning Commission Hearing:</b>	March 5, 2019
	<b>City Council Hearing:</b>	March 16, 2019
<b>Address:</b> 1400 Duke Street	<b>Zone:</b>	OCM (50)/Office Commercial Medium
<b>Applicant:</b> J&S Restaurant, LLC., represented by David L. Chamowitz, attorney	<b>Small Area Plan:</b>	King Street Metro/ Eisenhower Avenue

**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 Reviewer:** Ann Horowitz, [ann.horowitz@alexandriava.gov](mailto:ann.horowitz@alexandriava.gov)

**PLANNING COMMISSION ACTION, MARCH 5, 2019:** On a motion made by Commissioner Lyle and seconded by Commissioner Koenig, the Planning Commission voted to recommend approval of Special Use Permit #2018-0116 with an amendment to Condition 3, subject to compliance with all applicable codes, ordinances, and staff recommendations. The motion carried on a vote of 7-0.

**Reason:** The Planning Commission agreed with the staff analysis.

Commissioner Lyle asked about the hours of operation for nearby restaurants. Staff responded that four proximate restaurants operated between the hours of 6 a.m. and 1 a.m., daily. She suggested that the commission consider amending Condition 3 to extend the evening hour of operation from 12 midnight to 1 a.m. to allow the business owner flexibility.

Vice Chairwoman Wasowski agreed with expanding restaurant hours as it would permit the applicant to satisfy future demand for later hours without having to request an SUP amendment.

Commissioner Brown inquired if the café at the west end of the restaurant was separate from the diner. In addition, he asked staff if the outdoor dining seats would adversely impact the adjacent entrance to the daycare operation. Staff responded that the café and restaurant operation are

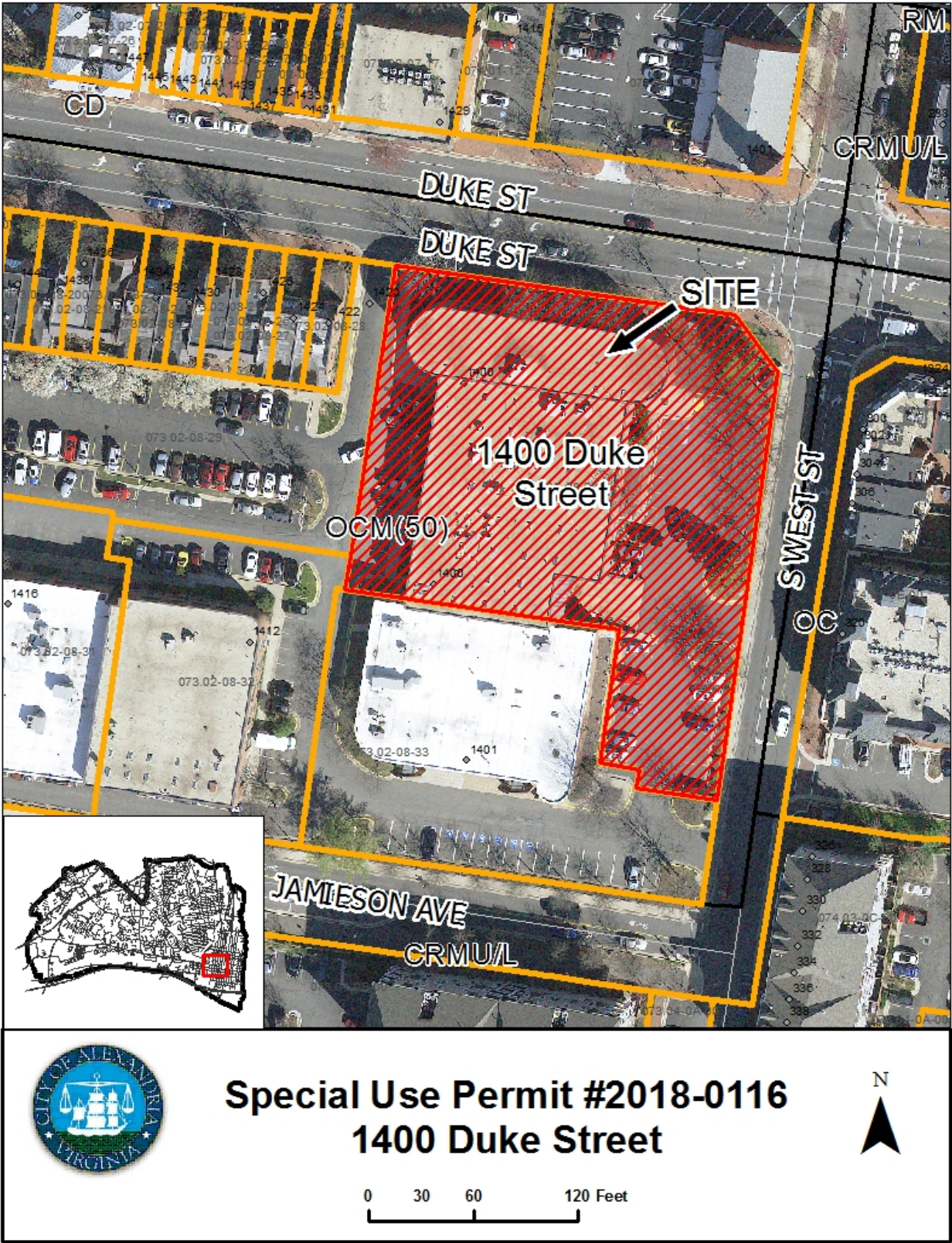
consistent with the previous SUP approval. Further, the number of outdoor seats was minimal, would be in use only on a seasonal basis, and the location of the seats provided suitable access to the daycare center entrance.

Commissioner Koenig supported the application and recommended that his fellow commissioners also consider amending Condition 3 to add one hour of operation in the morning from 6 a.m. to 5 a.m.

Chairman Macek stated his support for the application, adding that the popular restaurant has activated this section of Duke Street and is an example of a successful infill use.

Speaker:

David Chamowitz, applicant's agent, spoke in support of the application. He noted that the applicant would welcome an expansion in hours, although it may not immediately choose to operate between these hours. In response to Commissioner Brown's question, he confirmed that the café and restaurant operate as one business and patrons can freely access both through an interior door. Mr. Chamowitz also responded to a written public comment that was submitted to the commissioners about a door lock in disrepair at the adjacent daycare operation, also owned by the applicant. He stated that a repair order has been issued and that only parents have door access through a key fob.



PROJECT LOCATION MAP

## I. REPORT SUMMARY

The applicant, J&S Restaurant, LLC, represented by David Chamowitz, attorney, requests amendments to SUP #2016-0041 to increase indoor seating by 27 seats, to add eight outdoor seats and to extend morning hours of operation to 5:30 a.m., daily. The restaurant is located in the OCM (50) zone which allows for low density commercial buildings. Staff recommends approval of the SUP request with the conditions noted in the report.

### SITE DESCRIPTION

The subject site is located on one irregularly-shaped parcel of record. The corner lot has 220 feet of frontage on Duke Street, 270 feet of frontage on South West Street, and a lot depth that ranges between 190 feet and 270 feet. The lot area is 47,372 square feet and is developed with a 26,480 square foot; two story commercial building with two tenant spaces (1400 and 1400 A Duke Street). A 46-space parking lot services the building tenants. Three loading docks are located on the east side of the building.

The property at 1400 Duke Street is part of the Round House Square development that includes the connecting building at 1401 Duke Street (Shiloh Baptist Church), 1412 and 1416 Duke Street (Bluebird of Alexandria day care and private elementary school), 1420 Duke Street (12 office condominiums). A total of 169 parking spaces surround the individual buildings. Parking spaces are divided and attributed to buildings according to property boundaries. The commercial development is accessed at three points from Duke Street or South West Street (Figure 1).

The subject tenant space has frontage on Duke Street and is accessed from east and west entrances (Figure 2).



*Figure 1: Round House Square outlined in red; subject lot outlined in blue*



*Figure 2: Restaurant facade*

The tenant space at 1400A Duke Street contains offices for Delta Bridge, a commercial communications consultancy, which is located south of the proposed restaurant site. Of the 46 parking spaces included on the lot, 12 parking spaces are located on the west side of the building and 34 spaces exist to the east.

In addition to the uses at Round House Square, a mix of residential, commercial, and institutional uses surround the subject site. Residential condominiums and single family rowhouses are located to the east, south, and north. Several offices and the Residence Inn Hotel are located to the west. The Shiloh Baptist Church, the institution's historic church site, is located across Duke Street, to the north. The African American Heritage Park is located to the southwest.

### BACKGROUND

The construction of the building at 1400 Duke Street, was approved through Site Plan #78-005. Several uses have occupied the subject tenant space. TESST Electronics and Computer Institute operated at the site between 1985 and 1999 and received SUP approvals (SUP #94-0391, SUP #96-0009, and SUP #98-0035) for expansions and a parking reduction from City Council. City Council later approved SUP #2005-0074 for a day care operation and staff administratively approved SUP #2006-0068 for an expansion of the use. The day care operated at the tenant space until early 2016.

City Council approved SUP #2016-0041 on December 17, 2016 for a 6,450 square foot, 114-seat restaurant with a 10-space parking reduction for the applicant, J&S Restaurant, LLC. The hours of operation were approved as 6:00 a.m. to 12:00 midnight, daily. Two delivery vehicles associated with the restaurant and on-premises service were also approved. The restaurant opened for business in March 2018. SUP inspections were conducted and the applicant was found to be compliant with all conditions with the exception of Condition #12, requiring restaurant parking spaces to be identified by pavement markings rather than pole signs. The applicant ensured that it would replace the pole signs with pavement markings by April 2019 when weather conditions would allow for pavement painting. A complaint was relayed to the Department of Planning & Zoning in December 2018 regarding restaurant patron use of the adjacent church's parking spaces. A zoning inspector visited the site and found no violations of the SUP. Periodic staff visits have indicated that parking for the restaurant occurs on the 1400 Duke Street property.

### PROPOSAL

The applicant, J&S Restaurant, LLC, requests to amend SUP #2016-0041 to add 27 indoor seats at booths, for total of 141 seats; add eight outdoor seats outside the restaurant's west entrance; and open one-half hour earlier at 5:30 a.m., daily (Figure 3). The restaurant would continue to serve breakfast, lunch, and dinner through table-service or customer carry-out. On-premises alcohol service may be offered in the future, as approved in SUP #2016-0041.

A summary of the applicant's proposal compared with the existing restaurant approval is:

Hours of Operation:            *6 a.m. – 12 a.m., daily (existing)*  
   **5:30 a.m. – 12 a.m., daily (proposed)**

Number of Seats:                *114 indoor (existing)*  
   **141 indoor, 8 outdoor (proposed)**

The following operations and aspects of the business would continue:

Live Entertainment:            No live entertainment

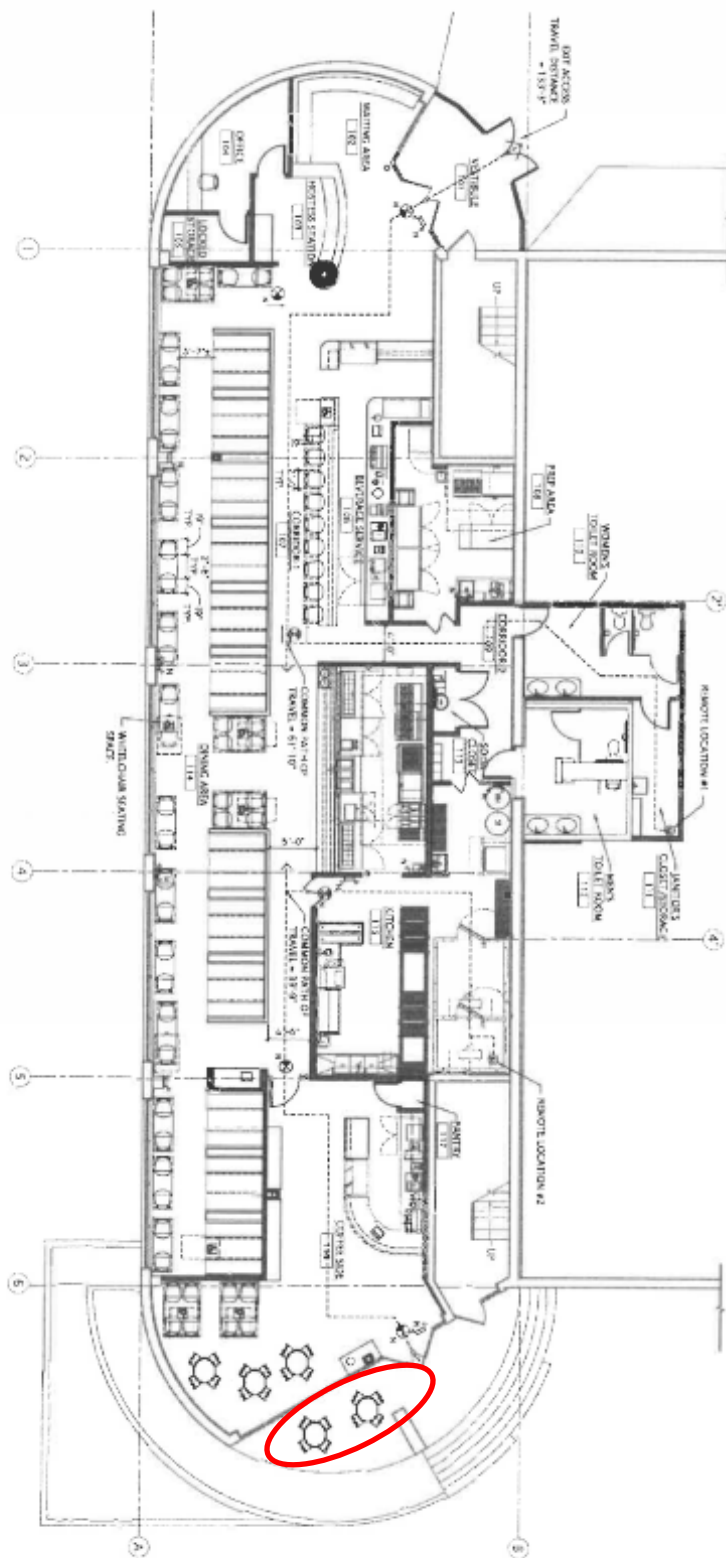
Employees:                      Up to 20 employees

Supply Deliveries:              Deliveries to the restaurant would be accommodated in the  
   applicant's parking lot

Trash/Litter:                    Approximately 55 bags of refuse a week. Garbage to be collected  
   approximately three times a week from the loading dock.  
   Employees would monitor the site for trash.

Noise:                              Not anticipated

Odors:                              Applicant expects no odors due to installed hood ventilation  
   systems



**Figure 3: Proposed seating for 141 indoor seats and eight outdoor seats (circled in red)**

### PARKING

Given the Zoning Ordinance amendments to the commercial parking regulations, approved in January 2018, the applicant no longer requires a parking reduction for the restaurant use. Section 8-200(A)(17)(a)(i) requires 6,450 square foot restaurants within the enhanced transit area to provide a minimum of seven parking spaces or one space for every 1,000 square feet. As a 20,000 square foot office use, Delta Bridge must provide .25 spaces for every 1,000 square feet or a minimum of five spaces, pursuant to Section 8-200(A)(19)(a)(i). The combined requirement of 12 parking spaces is accommodated for both uses in the shared 46-space parking lot. Section 8-200(A)(17)(c) exempts the first 20 outdoor dining seats from a parking requirement, therefore, the applicant is not required to provide parking spaces for the eight outdoor dining seats.

Should the applicant choose in the future to offer food delivery to customers using two restaurant-sponsored vehicles, as approved in SUP #2016-0041, two parking spaces would need to be dedicated to parking these vehicles.

### ZONING/ MASTER PLAN DESIGNATION

The proposed use is located in the OCM (50) zone. Section 4-903(AA) of the Zoning Ordinance requires SUP approval for restaurants that exceed the administrative SUP requirements of Section 11-513. As the restaurant proposes additional indoor seats over 100, the use requires a City Council docketed review. Although outdoor dining may be approved through an administrative SUP according to Section 4-902.1(E), the use is included in this SUP review.

The property is located within the King Street Metro/Eisenhower Avenue Small Area Plan that designates it for commercial use.

## **II. STAFF ANALYSIS**

Staff recommends approval of amendments to SUP #2016-0041 to increase indoor seating by 27, add eight outdoor seats and to increase the hours of operation to one-half hour each morning as the requests are modest in scale and are not likely to result in added impacts. Given that the restaurant has operated since March 2018 with only one comment related to parking, which staff was unable to substantiate, it believes the slight operational expansion would be reasonably accommodated at the site. Noise impacts are not expected from the outdoor dining area as the number of seats is limited and residential areas are not proximate to the business.

Conditions have been carried forward from SUP #2016-0041 with amendments to Condition 2 to represent the addition of indoor and outdoor seating and to Condition 3 for the increase in hours of operation as 5:30 a.m. to 12 midnight. Although the applicant stated that it may pursue arrangements to offer third-party delivery service to customers, Condition 6 allowing restaurant-sponsored delivery service has been maintained to provide the applicant with business flexibility.

Subject to the conditions in Section III of this report, staff recommends approval of the Special Use Permit Request.

### III. RECOMMENDED 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) (SUP#2016-0041)
2. **CONDITION AMENDED BY STAFF:** The maximum number of indoor seats shall be ~~114~~ 141. The maximum of ~~Outdoor seatings~~ is ~~not permitted~~ eight. (P&Z) (~~SUP#2016-0041~~)
3. **CONDITION AMENDED BY STAFF:** The hours of operation for indoor seating shall be ~~6:00~~ 5 a.m. to ~~12 midnight~~ 1 a.m., ~~Monday—Saturday and 6:00 a.m. to 12:00 midnight on Sundays daily.~~ Meals ordered indoors before ~~12 midnight~~ 1 a.m. may be served, but no new patrons may be admitted and all patrons must leave by ~~12 midnight~~ 1 a.m., daily. The outdoor dining area shall be closed and cleared of all customers by 12 midnight 1 a.m., daily, and shall be cleaned and washed at the close of each business day that it is in use. (P&Z) (CC) (~~SUP#2016-0041~~) (PC)
4. The applicant shall post the hours of operation at the entrance of the business. (P&Z) (SUP#2016-0041)
5. On-premises alcohol sales are permitted, consistent with a valid ABC license. Off-premises alcohol services are not permitted. (P&Z) (SUP#2016-0041)
6. Not more than two delivery vehicles used to deliver food and beverages to customers may operate from the restaurant at any one time. The applicant must park the delivery vehicles in the applicant's parking lot when they are located in the vicinity of the restaurant. (P&Z) (SUP#2016-0041)
7. Live entertainment shall be prohibited. (CC) (SUP#2016-0041)
8. Food, beverages, or other material shall not be stored outside. (P&Z) (SUP#2016-0041)
9. 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. (P&Z) (SUP#2016-0041)
10. Supply delivery vehicles shall deliver from the applicant's parking lot. No loading or unloading of vehicles shall at any time block the drive aisles of parking lots on or adjacent to the subject property. (P&Z) (CC) (SUP#2016-0041)
11. The parking lot shall be maintained in good condition and parking spaces shall be clearly striped. (P&Z)
12. All existing parking space signs and sign poles in the applicant's parking lot shall be removed and shall be replaced with pavement markings identifying parking for current tenants only. All parking spaces available to restaurant patrons shall be clearly marked.

(P&Z) (CC) (SUP#2016-0041)

13. All windows shall remain transparent. The placement or construction of items that block the visibility of the interior of the commercial space from the street and sidewalk (e.g. storage cabinets, carts, shelving, boxes, coat racks, storage bins, closets, etc.) shall be prohibited. (P&Z) (SUP#2016-0041)
14. The applicant shall remove debris and equipment from the parking area on the east side of the building. The parking lot shall not be used for storage. (P&Z) (SUP#2016-0041)
15. Kitchen equipment, including floor mats, shall not be cleaned outside, nor shall any cooking residue or wash water be washed into the streets, alleys or storm sewers. (T&ES) (SUP#2016-0041)
16. 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) (SUP#2016-0041)
17. 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) (SUP#2016-0041)
18. The use must comply with the city's noise ordinance. All loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (T&ES) (SUP#2016-0041)
19. Condition deleted. (CC) (SUP#2016-0041)
20. Chemicals, detergents or cleaners stored outside the building shall be kept in an enclosure with a roof. (T&ES) (SUP#2016-0041)
21. If used cooking oil is stored outside, the drum shall be kept securely closed with a bung when not receiving used oil, it shall be placed on secondary containment, and it shall be kept under cover to prevent rainwater from falling on it. (T&ES) (SUP#2016-0041)

22. Trash and garbage shall be stored inside or in sealed containers that do not allow odors to escape, invasion by animals, or leaking. No trash or debris shall be allowed to accumulate outside of those containers. Outdoor containers shall be maintained to the satisfaction of the Directors of P&Z and T&ES, including replacing damaged lids and repairing/replacing damaged dumpsters. (P&Z) (T&ES) (SUP#2016-0041)
23. The applicant shall require its employees who drive to work to use off-street parking. (T&ES) (SUP#2016-0041)
24. The applicant shall encourage its employees to use public transportation to travel to and from work. Within 60 days of SUP approval, the business shall contact Go Alex at [goalex@alexandriava.gov](mailto:goalex@alexandriava.gov) for information on establishing an employee transportation benefits program. (T&ES) (SUP#2016-0041)
25. The applicant shall provide information about alternative forms of transportation to access the site, including but not limited to printed and electronic business promotional material, posting on the business website, and other similar methods. Contact Go Alex at [goalex@alexandriava.gov](mailto:goalex@alexandriava.gov) for more information about available resources. (T&ES) (SUP#2016-0041)
26. The applicant shall inform customers of the location of its parking lot and prohibition on parking in spaces not labelled for restaurant parking through printed and electronic business promotional material, posting on the business website, and other similar methods. (P&Z) (CC) (SUP#2016-0041)
  - a. If determined necessary by the Directors of P&Z and T&ES and permitted by the other property owners, the applicant shall install traffic calming features in shared drive aisles used by restaurant patrons for parking lot safety, due to impacts from the use. (CC) (SUP#2016-0041)
27. Litter on the site and on public rights-of-way and spaces adjacent to or within 75 feet of the premises shall be monitored and picked up at least twice during the day and at the close of the business, and more often if necessary, to prevent an unsightly or unsanitary accumulation, on each day that the business is in operation. (T&ES) (SUP#2016-0041)
28. **CONDITION SATISFIED BY APPLICANT AND DELETED BY STAFF:** ~~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 and a robbery readiness program for all employees. (Police) (SUP#2016-0041)~~
29. **CONDITION AMENDED BY STAFF:** The Director of Planning and Zoning shall review the special use permit after it has been operational for ~~three months, six months,~~ and 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) (Police) (PC) (CC) (~~SUP#2016-0041~~)

30. The Director of Planning and Zoning may grant an additional parking reduction of 23 spaces for the purpose of a cooperative parking arrangement within Roundhouse Square. (CC) (SUP#2016-0041)

STAFF: Tony LaColla, AICP, Division Chief, Land Use Services  
Ann Horowitz, Principal Planner

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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.

#### IV. CITY DEPARTMENT COMMENTS

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

##### Transportation & Environmental Services:

##### **Conditions:**

1. The applicant shall require its employees who drive to use off-street parking. (T&ES)
2. The applicant shall encourage its employees to use public transportation to travel to and from work. The business shall contact Go Alex at [goalex@alexandriava.gov](mailto:goalex@alexandriava.gov) for information on establishing an employee transportation benefits program. (T&ES)
3. The applicant shall provide information about alternative forms of transportation to access the site, including but not limited to printed and electronic business promotional material, posting on the business website, and other similar methods. Contact Go Alex at [goalex@alexandriava.gov](mailto:goalex@alexandriava.gov) for more information about available resources. (T&ES)
4. Litter on the site and on public rights-of-way and spaces adjacent to or within 75 feet of the premises shall be monitored and picked up at least twice during the day and at the close of the business, and more often if necessary, to prevent an unsightly or unsanitary accumulation, on each day that the business is in operation. (T&ES)

##### **City Code Requirements:**

1. 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](mailto:commercialrecycling@alexandriava.gov), for information about completing this form. (T&ES)
2. 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)
3. Section 5-1-42- Collection by Private collectors. (c) Time of collection. Solid waste shall be collected from all premises not serviced by the city at least once each week. No collections may be made between the hours of 11:00 p.m. and 7:00 a.m. (6:00 a.m. from May 1, through September 30) if the collection area is less than 500 feet from a residential area. (T&ES)

Code Enforcement:

C-1 A building permit plan review and inspections are required prior to the start of construction.

Fire:

C-1 If approved, increased occupant load will require applicant to update the fire prevention permit to reflect the new occupancy load.

Health:

No comments

Recreation, Parks & Cultural Activities:

No comments received

Police Department:

No comments received



## APPLICATION

# SPECIAL USE PERMIT

**SPECIAL USE PERMIT #** \_\_\_\_\_

**PROPERTY LOCATION:** 1400 Duke Street

**TAX MAP REFERENCE:** 073.02-08-30 **ZONE:** OCM(50)

**APPLICANT:**

Name: J&S Restaurant, LLC

Address: 1400 Duke Street, Alexandria, VA 22314

**PROPOSED USE:** Restaurant

☒ **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.

David L. Chamowitz

Print Name of Applicant or Agent

118 N. Alfred Street

Mailing/Street Address

Alexandria, VA 22314

City and State

Zip Code

Signature

17 Dec 18

Date

703 548 0110

Telephone #

Fax #

dchamowitz@chamlaw.com

Email address

**ACTION-PLANNING COMMISSION:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**ACTION-CITY COUNCIL:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

SUP # \_\_\_\_\_

**PROPERTY OWNER'S AUTHORIZATION**

As the property owner of 1400 Duke Street, I hereby  
(Property Address)  
grant the applicant authorization to apply for the Restaurant use as  
(use)  
described in this application.

Name: J, S & Family VI, LLC

Phone: 703 548 0110

Please Print

Address: 1400 Duke Street, Alexandria, VA 22314

Email: dc law@nowitz@chamlaw.com

Signature: *Doel for JS & family VI, LLC*

Date: 11 Dec 18

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 three percent.

Jerry & Susan Pnevmatikatos - 1400 Duke Street, Alexandria, VA 22314 - 100%

## 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 three 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. Terry + Susan Prewmarkos	1400 Duke Street, Alex VA 22314	100%
2.		
3.		

**2. Property.** State the name, address and percent of ownership of any person or entity owning an interest in the property located at 1400 Duke Street, Alexandria, VA 22314 (address), unless the entity is a corporation or partnership, in which case identify each owner of more than three 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. Terry + Susan Prewmarkos	1400 Duke St, Alex VA 22314	100%
2.		
3.	1400 Duke Street, Alexandria, VA 22314	

**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 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. Terry + Susan Prewmarkos	None	None
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.

11 Dec 18  
Date

David L. Chamowitz

Printed Name

  
Signature

SUP # \_\_\_\_\_

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?

☒ **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 application proposes the expansion of the Executive Diner, an existing restaurant on Duke Street. The Executive Diner opened in March 2018 and has been very well-received by its customers and the community. Based on this demand, particularly during the dinner hour and on weekends, Executive Diner seeks to expand by adding 26 additional seats, to a capacity of 140, 149

At the time of its original SUP in 2016, according to Staff calculations, Executive Diner was able to provide 19 parking spaces, and thus required a 10 space Parking Reduction SUP. Since that time, City Council amended the manner of calculating parking requirements under 8-200 of the Zoning Ordinance. The total parking requirement for Executive Diner is now 7 spaces, and as noted, it is providing at least 19 on site.

Executive Diner does not at the present time have an ABC license for the sale of alcohol. Should it be granted a license by the Virginia ABC Authority, it may choose to sell alcohol pursuant to that license and Virginia law. When City Council granted the original SUP for Executive Diner in 2016, Staff emphasized that the provision of alcohol was outside the purview of the City of Alexandria.

With the exception of the additional seats, this Application proposes no changes to the operation of the business beyond what was approved by City Council in SUP 2016-0041.

## 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).

Most times less than the full capacity of the restaurant. Heaviest during mealtimes.

We would estimate a maximum of 50 for breakfast, 60 for lunch, and 120 for dinner. These are only estimates.

B. How many employees, staff and other personnel do you expect?

Specify time period (i.e., day, hour, or shift).

A maximum of 20 employees at any one time

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

Day:

Mon-Sun

Hours:

5:30am-12am

7. Please describe any potential noise emanating from the proposed use.

A. Describe the noise levels anticipated from all mechanical equipment and patrons.

None.

B. How will the noise be controlled?

There are no specific noise control measures currently being taken.

In the approximately nine months of operation, the Applicant is unaware of any issue regarding noise having arisen from the activities of the Executive Diner.

Nevertheless, the restaurant staff will be properly attentive to controlling noise outside the premises.

Revised Dec. 20, 2018

SUP # \_\_\_\_\_

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

There are no specific odor control measures currently being taken.

And in the approximately nine months of operation, the Applicant is unaware of

any issue regarding odor having arisen from the activities of the Executive Diner.

Nevertheless, the restaurant staff will be properly attentive to controlling odor outside the premises.

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)  
Standard full-service restaurant trash and garbage. Mostly large plastic trash bags and broken-down cardboard boxes.

B. How much trash and garbage will be generated by the use? (i.e. # of bags or pounds per day or per week)

Unknown. We would guess 55 bags per week, but this is only a guess and is subject to change.

C. How often will trash be collected?

As often as needed. We would guess three times/week, but that is an estimate and is subject to change.

D. How will you prevent littering on the property, streets and nearby properties?

Employees will monitor the site and adjacent streets for litter related to the restaurant.

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

[ ] Yes.

[✓] No.

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

- 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:

Standard commercial cleaning and degreasing solvents are used. The names change according to supplier and availability, and quantities vary by demand. They are disposed of by standard, safe, and acceptable methods, including recycling when available.

- 12.** What methods are proposed to ensure the safety of nearby residents, employees and patrons? Management and staff police the restaurant and grounds for unsafe behavior during the hours the restaurant is open to the public, and will continue to do so.

## 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.

See description above. Restaurant does not currently sell alcohol but may if licensed to do so by the appropriate state agency in the future.

**PARKING AND ACCESS REQUIREMENTS**

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

17 Standard spaces  
0 Compact spaces  
2 Handicapped accessible spaces.  
0 Other.

Planning and Zoning Staff Only

Required number of spaces for use per Zoning Ordinance Section 8-200A \_\_\_\_\_

Does the application meet the requirement?

☐ Yes ☐ No

- 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?

---

**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? Many

Planning and Zoning Staff Only

Required number of loading spaces for use per Zoning Ordinance Section 8-200 \_\_\_\_\_

Does the application meet the requirement?

☐ Yes ☐ No

SUP # \_\_\_\_\_

- B. Where are off-street loading facilities located? The Applicant restaurant is located on a private lot, surrounded on two sides by private parking lots for the use of Applicant's customers.  
In the approximately nine months of operation, the Applicant's suppliers have successfully used these private parking lots for delivery. The parking lots offer at-grade access to the restaurant interior, and are rarely, if ever, filled to capacity, especially not during the early-morning hours of most supplier deliveries.
- C. During what hours of the day do you expect loading/unloading operations to occur?  
Varies by vendor/supplier. Mostly in the morning.
- D. How frequently are loading/unloading operations expected to occur, per day or per week, as appropriate?  
Likely 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?

No.

## 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? \_\_\_\_\_ square feet.

18. What will the total area occupied by the proposed use be?

6450 sq. ft. (existing) + \_\_\_\_\_ sq. ft. (addition if any) = 6450 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: \_\_\_\_\_

End of Application

SUP # \_\_\_\_\_  
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.

1. How many seats are proposed?  
Indoors: ~~132~~ **141**      Outdoors: 8      Total number proposed: ~~140~~ **149**
2. 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
3. Please describe the type of food that will be served:  
A varied "American" menu, served breakfast/lunch/dinner.  
\_\_\_\_\_  
\_\_\_\_\_
4. The restaurant will offer the following service (check items that apply):  
☒ table service      \_\_\_\_\_ bar      ☒ carry-out      \_\_\_\_\_ delivery
5. If delivery service is proposed, how many vehicles do you anticipate? 0  
Will delivery drivers use their own vehicles?      \_\_\_\_\_ Yes      \_\_\_\_\_ No  
Where will delivery vehicles be parked when not in use?  
Applicant MAY choose to offer delivery through app-based third-party services in the future.  
\_\_\_\_\_
6. Will the restaurant offer any entertainment (i.e. live entertainment, large screen television, video games)?  
☒ Yes      \_\_\_\_\_ No  
If yes, please describe:  
The Applicant may choose to install televisions in the future. No live entertainment will be offered.  
\_\_\_\_\_  
\_\_\_\_\_

SUP # \_\_\_\_\_

**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

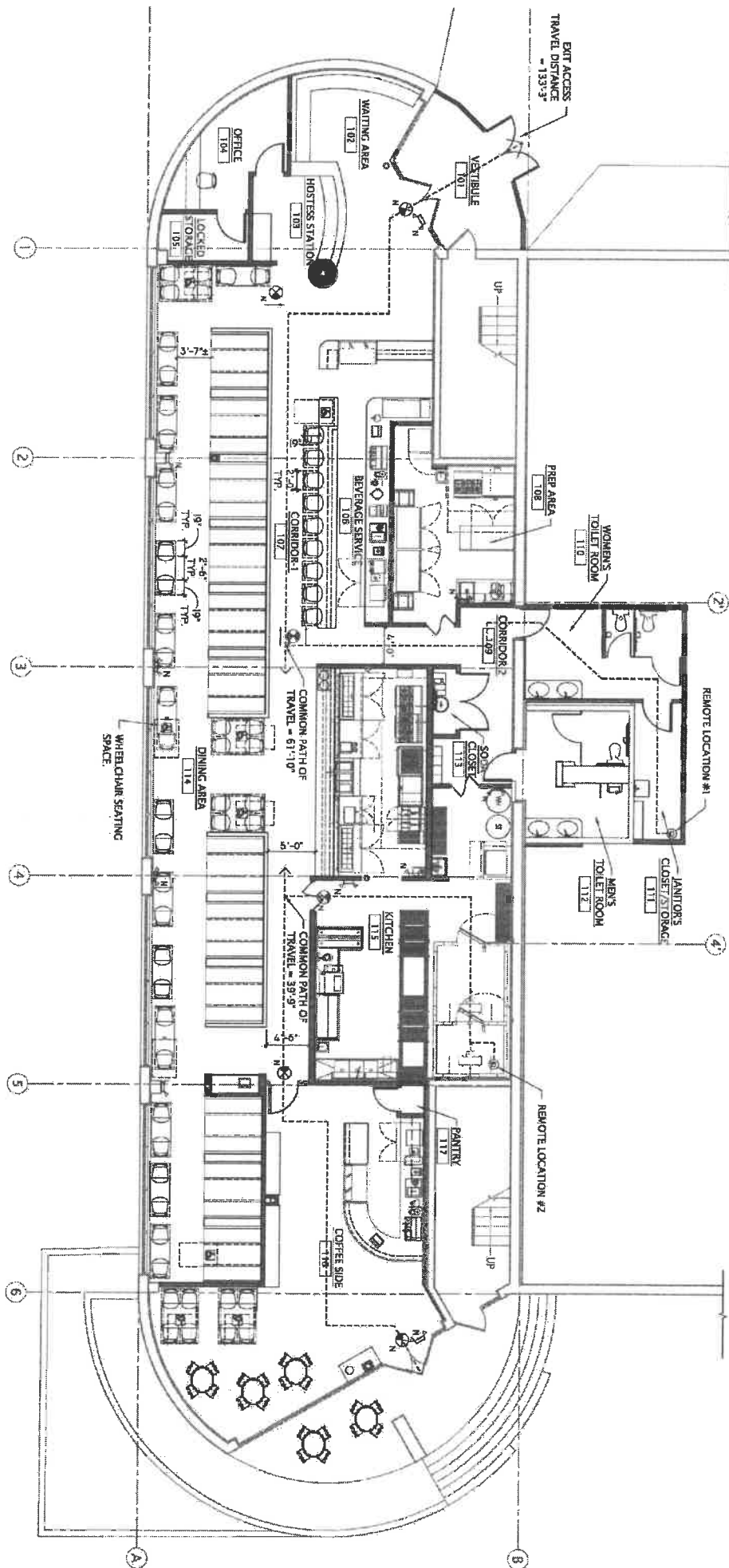
**Text**

**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:  

~~140~~ **149** Maximum number of patron dining seats  
+     0     Maximum number of patron bar seats  
+     0     Maximum number of standing patrons  
=     ~~140~~ **149** Maximum number of patrons
2. 20 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



# Re: Letter of Completeness: Special Use Permit #2018-00116 - 1400 Duke Street

David Chamowitz <dchamowitz@chamlaw.com>

Tue 12/25/2018 3:08 AM

To: Patrick Silva <Patrick.Silva@alexandriava.gov>;

 2 attachments (2 MB)

1400 duke dec 24 modifications (1).pdf; ATT00001.htm;

Hi Patrick,

I don't expect you'll get this or respond until the 26th, but I'm sending now since I'm operating from abroad and had a few minutes of downtime.

Given our narrative explanation in 15(b) about how there are effectively two entire parking lots available for loading operations, I don't think I have a better answer for 15(a) than the one we gave. That question asks "How many loading spaces are available for the use," and my original answer was something like "Many, on-site." (I don't have access to the original submission packet.). That's true, and when read with 15(b), is as accurately descriptive as it can be.

Attached are revisions to the SUP Application Narrative (Q3) and both pages of the Restaurant Supplement reflecting the 149 seats. My apologies for that confusion on this subject in our previous submissions.

I'm literally operating via iPhone, so my apologies that I couldn't cut the revised pages from the rest of the previous round's packet.

Will these PDFs be sufficient for Wednesday? I know in the past electronic revisions have been. I'm happy to bring you hard-copies on Thursday morning, but since the three revised pages don't have sworn affirmations or anything else with a signature, any hard copies will just be printouts of the PDFs anyway.

Thank you!

—Dave

## FW: Docket Item #8: 1400 Duke Street (Executive Diner)

Ann Horowitz

Thu 2/28/2019 10:42 AM

To: Patrick Silva &lt;Patrick.Silva@alexandriava.gov&gt;;

Cc: Tony LaColla &lt;Anthony.LaColla@alexandriava.gov&gt;; Karl Moritz &lt;Karl.Moritz@alexandriava.gov&gt;;

Patrick,

Please include this as an addition to the docket materials for 1400 Duke St.

Thanks.

Ann

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From: David Chamowitz <dchamowitz@chamlaw.com>

Sent: Thursday, February 28, 2019 10:20 AM

To: Mary Lyman [REDACTED]; Nathan Macek [REDACTED]; Stephen Koenig  
[REDACTED]; Melissa McMahon [REDACTED]; Maria Wasowski  
[REDACTED]; [REDACTED]; [REDACTED]

Cc: Ann Horowitz &lt;ann.horowitz@alexandriava.gov&gt;

Subject: Docket Item #8: 1400 Duke Street (Executive Diner)

Dear Members of the Alexandria Planning Commission:

My name is David Chamowitz, and I represent the applicant for an amendment to an existing restaurant SUP at 1400 Duke Street.

The Planning Commission and City Council approved an SUP for the Executive Diner in December 2016. Following renovations to the building, Executive Diner opened for business in March of this year. It has enjoyed sustained popularity, and now wishes to increase its interior seating capacity, including offering two outside tables in an existing covered porch area on the cafe side.

Additionally, the parking reduction granted to the restaurant in 2016 is no longer needed pursuant to the City's new parking requirements, for either existing conditions or the expanded number of seats proposed in the present application.

We are pleased to have Staff support for the application, and hope you will support it too. Please let me know if you have any questions about the restaurant or our proposal. I look forward to seeing you at next Tuesday evening's hearing.

--Dave

# 1400 Duke St. Special Use Permit

Tiffany Wlazlowski Neuman <tiffany811@hotmail.com>

Fri 3/1/2019 10:18 AM

To: PlanComm <PlanComm@alexandriava.gov>;

Cc: Ann Horowitz <ann.horowitz@alexandriava.gov>;

Patrick:

I am writing in regard to the public notice for a special use permit at 1400 Duke St. Alexandria. Va.

My husband and I have two children who attend Blue Bird of Alexandria II. The door to the school housing the Kindergarten and the First Grade that my children attend is adjacent to the café and the restaurant that are seeking to expand and add outdoor seating.

For some time, the door to the school has not been functioning properly. The door, which is set on a fob system, does not close or lock as intended. Concerns about this door have been raised with the school.

The open door poses a safety concern as it potentially could allow a member of the public who shouldn't be in the school to enter. An expansion and outdoor seating are intended to attract more people to that area.

To ensure that this does not exacerbate any risk to students or concerns among parents, I respectfully request that any plans to expand the restaurant or café or to add outdoor seating be postponed until the door to the school is repaired and functions as intended.

Regards,

Tiffany Wlazlowski Neuman

202-365-9459