

DOCKET ITEM #3

**Special Use Permit #2011-0074**  
**711 King Street – Yogiberry**

Application	General Data	
Consideration of a request to operate a restaurant.	<b>Planning Commission Hearing:</b>	January 5, 2012
	<b>City Council Hearing:</b>	January 21, 2012
<b>Address:</b> 711 King Street	<b>Zone:</b>	KR/King Street Retail
<b>Applicant:</b> Yogiberry Old Town Alexandria, Inc.	<b>Small Area Plan:</b>	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.

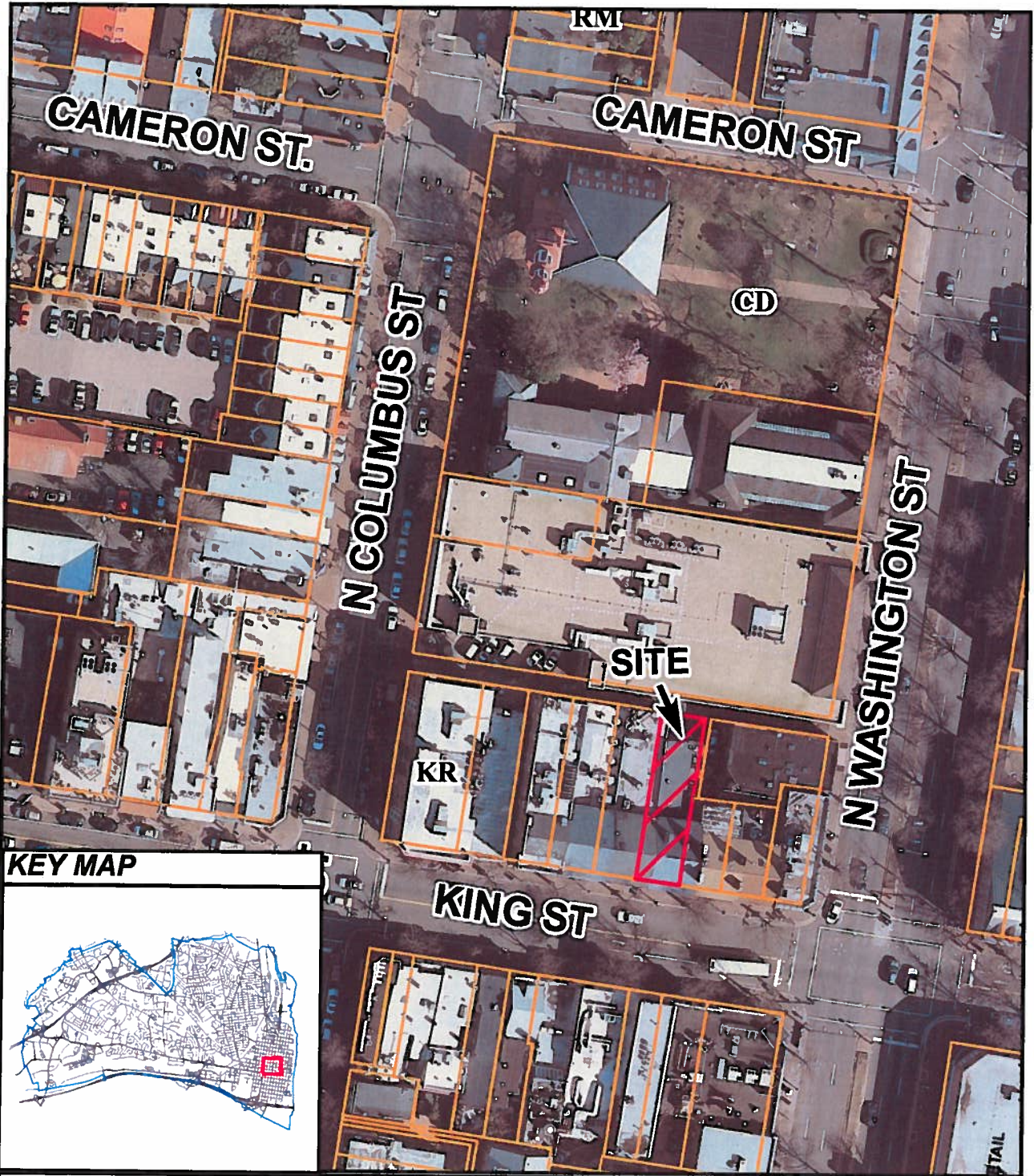
**Staff Reviewers:** Nathan Randall [nathan.randall@alexandriava.gov](mailto:nathan.randall@alexandriava.gov)

**PLANNING COMMISSION ACTION, JANUARY 5, 2012:** On a motion by Mr. Dunn, seconded by Ms. Fossum, the Planning Commission recommended approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendations. The motion passed on a vote of 6 to 0, with Mr. Robinson absent.

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

**Speakers:**

Richard Nguyen, representing the applicant, spoke in support of the request.



**SUP #2011-0074**

**1/5/2012**



## I. DISCUSSION

The applicant, Yogiberry Old Town Alexandria Inc., requests Special Use Permit approval to operate a restaurant at 711 King Street.

### SITE DESCRIPTION

The subject site is one lot of record with 25 feet of frontage on King Street, 100 feet of depth, and a total lot area of approximately 2,500 square feet. The lot is improved with a three-story commercial building, which is entirely vacant at present. The most recent tenant in the space was Moto Photo, a camera shop that relocated about a year ago.

The surrounding area is comprised primarily of commercial uses. Nearby businesses include the Ross department store, Murphy's Irish Pub, the former Popeye's restaurant and a gift shop.

### PROPOSAL

The applicant proposes to operate a 1,800 square-foot frozen yogurt shop. In the applicant's restaurant concept, customers dispense their own frozen yogurt and add fruit and other toppings themselves, paying by weight at the end of the process. Non-alcoholic beverages will also be available for sale. Additional elements of the applicant's proposal are as follows:



<u>Hours:</u>	10:00am – 11:00pm daily
<u>Number of seats:</u>	24 seats
<u>Type of Service:</u>	Dine-in and carry-out
<u>Customers:</u>	Approximately 200 customers/day
<u>Alcohol:</u>	No alcohol service is proposed
<u>Entertainment:</u>	No live entertainment is proposed
<u>Delivery:</u>	No delivery service is proposed
<u>Noise:</u>	Minimal noise levels anticipated
<u>Trash/Litter:</u>	Paper and plastic items will be picked up twice each week

### PARKING

The subject property is located within the Central Business District (CBD). Restaurants located within the CBD are exempt from parking requirements pursuant to Section 8-300 (B) of the Zoning Ordinance.

### ZONING/MASTER PLAN DESIGNATION

The subject property is located in the KR/King Street Retail Zone. Section 4-503(W) of the Zoning Ordinance allows a restaurant in the KR zone only with a Special Use Permit.

A new definition of ice cream and coffee shops, which includes restaurants serving frozen yogurt, was added to the Zoning Ordinance as a part of the 2010 Small Business Zoning initiative in order that this group of restaurants could be eligible for administrative SUP approval in most parts of the City. However, the new rules allowing administratively-approved restaurants do not apply in Old Town.

The proposed use is consistent with the uses shown in the Old Town Small Area Plan chapter of the Master Plan which designates the property for commercial use.

## **II. STAFF ANALYSIS**

Although it has some concern about the proposed yogurt shop opening in tenant space previously occupied by a retail use, staff does not object to the applicant's request given the restaurant's small size and lack of live entertainment or alcohol. The proposal is also consistent with the Old Town Restaurant Policy, which requires a review of the restaurant's potential impact in terms of parking, late night hours and alcohol, litter, and a diversity of uses.

### Diversity of Uses

Staff acknowledges general concerns, as reflected in the King Street Retail Strategy, of restaurant uses replacing retail establishments. The previous tenant in the subject space was a retail camera supply shop that relocated within Old Town. While staff would prefer to see another retail use here, the opportunity to fill tenant space vacant for about a year outweighs that preference, particularly given the overall diversity of uses on the adjacent blocks of King Street. Restaurants are the predominate use along the 700 block, but there are many retail and personal service uses in the 600, 700, and 800 blocks of King Street, including Ritz Camera, the Gap, Banana Republic, Nine West, Walgreen's, The Dog Park, Papyrus, Chico's, Random Harvest, Calico Corners, and Glynn Jones Salon. In addition, although five other ice cream shops are located along or close to King Street, and a sixth has been approved but has not opened, none of these is close to the proposed Yogiberry location. Four shops are located in or near the 100 block of King, another is located in the 1000 block of King and the sixth is planned for 200 Commerce Street near King and South Payne Streets. Staff therefore concludes that the addition of a frozen yogurt shop will not negatively impact the overall balance of uses along this portion of King Street.

### Parking

The potential for parking impacts from this use is relatively small, given that the applicant proposes only 24 seats and is unlikely to be a destination. The applicant has a parking/loading area with space for one vehicle immediately to the rear of the building, which is somewhat uncommon for properties along King Street. Staff has also included condition language (Condition #15) similar to other recent King Street restaurant SUP cases which requires the applicant to participate in an organized parking program should one be developed in the future.

### Late-Night Hours and Alcohol

The Old Town Restaurant Policy is designed to anticipate the possibility that a combination of late-night hours and alcohol could create neighborhood impacts. However, no alcohol or live entertainment is proposed here and the closing hour will be at 11:00pm daily, which is earlier than some restaurants in the area. Neighborhood impacts of the type contemplated in the Policy are therefore not expected in connection with this proposal.

### Litter

Given that take-out service will be a significant feature of the restaurant, there is some potential for litter impacts here. However, this potential is reduced given the small size of the yogurt shop and the fact that a trash can is already located in front of the tenant space. In addition, staff has recommended standard condition language (Condition #19) that will require the applicant to pick up litter on the property and surrounding area at least twice a day.

As discussed in the King Street Retail Strategy, quick-service restaurants have the potential to detract from unique retail character along King Street. For instance, some fast food restaurants employ a design with garish lighting and signage and plastic furniture and fixtures not compatible with the historic buildings and independent, eclectic retail businesses and restaurants found in Old Town. Although Yogiberry is not a typical fast-food restaurant and is not a national chain, staff believes that the highly modern, brightly-colored interior with plastic and vinyl seating found at other area locations is not entirely compatible with the neighborhood, particularly given that staff could easily observe these features from the exterior at the other Yogiberry locations. To enhance the compatibility of the proposed restaurant, staff has included condition language (Condition #8) requiring enhanced interior finishes to the satisfaction of the Director of Planning & Zoning. Similar condition language has been included in Special Use Permit approvals for other quick-service restaurants on King Street, such as the Subway Café at 320 King Street, with positive results.

In conclusion, staff believes that the proposed frozen yogurt shop will not negatively impact the surrounding neighborhood and recommends approval of the applicant's request subject to the conditions contained in Section III of this report.

### 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. The hours of operation of the restaurant shall be limited to between 10:00am and 11:00pm seven days/week. (P&Z)
3. The maximum number of indoor seats at the restaurant shall be 24. Additional outdoor seating may be provided subject to approval by the Director of Planning and Zoning through the King Street Outdoor Dining Program. (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 any future outdoor dining area. (P&Z)
6. No delivery service shall be available from the restaurant. (P&Z)
7. No alcohol service shall be permitted at the restaurant. (P&Z)
8. The applicant shall submit and maintain an interior design plan to the satisfaction of the Director of Planning & Zoning. The plan shall include relevant information and illustrations regarding the final design of the restaurant including, but not limited to, interior finishes, colors, materials, furniture, and lighting. The Director shall review the plan for its use of attractive, high-quality materials that substantially distinguish the restaurant from other locations of the same business as well as its compliance with the following elements:
  - a. Lighted signage in the windows shall not be permitted.
  - b. Lighting fixtures in the dining area and the serving area shall avoid the use of fluorescent tubes.
  - c. Furniture shall be constructed out of wood, granite, or other high quality and preferably natural materials, with minimal use of plastic.
  - d. Flooring within the dining area shall be ceramic tile or other high quality material.
  - e. Any tiling on the vertical surface of the cashier service counter shall be a generally solid color and or design.
  - f. Decorative wood interior trim shall include moldings and other detail such as rosettes.
  - g. Menu boards, if any, shall not be backlighted or have any internal lighting. (P&Z)
9. Meals ordered before the closing hour may be sold, but no new patrons may be admitted and all patrons must leave by one hour after the closing hour. (P&Z)

10. 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. (P&Z)
11. No food, beverages, or other material shall be stored outside. (P&Z)
12. 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)
13. All loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (P&Z)(T&ES)
14. 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. (P&Z)(T&ES)
15. The applicant shall direct patrons to the availability of parking at nearby public garages and shall participate in any organized program to assist with both employee and customer parking for businesses that is formed as a result of suggested parking strategies in the King Street Retail Strategy. (T&ES)
16. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES)
17. 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)
18. Supply deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (T&ES)
19. 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)
20. The applicant shall contact the Community Relations Unit of the Alexandria Police Department at 703-838-4520 regarding a security survey for the business and robbery readiness training for all employees. (Police)
21. The applicant shall provide a menu or list of foods to be handled at this facility to the Health Department prior to opening. (Health)

22. 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: Barbara Ross, 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.



#### IV. 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 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-3 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-4 Supply deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (T&ES)
- R-5 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)
- R-6 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)
- R-7 The applicant shall direct patrons to the availability of parking at nearby public garages and shall participate in any organized program to assist with both employee and customer parking for businesses that is formed as a result of suggested parking strategies in the King Street Retail Strategy. (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). (AUP2007-00003)

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)

Code Enforcement:

- F-1 The review by Code Administration is a preliminary review only. Once the applicant has filed for a building permit, code requirements will be based upon the building permit plans. If there are any questions, the applicant may contact Ken Granata, Acting Plan Review Supervisor at [ken.granata@alexandriava.gov](mailto:ken.granata@alexandriava.gov) or 703-746-4190. (Code)
- C-1 The proposed use is a change in use group classification; a new Certificate of Occupancy is required.
- C-2 Prior to the application for new Certificate of Occupancy, the applicant shall submit a building permit for a change of use. Six sets of *construction documents* sealed by a *Registered Design Professional* shall accompany the permit application. The *construction documents* shall fully detail the construction as well as layout and schematics of the mechanical, electrical, and plumbing systems. In addition data shall be supplied by the *Registered Design Professional* which fully details how the proposed use will comply with the current edition of the Virginia Uniform Statewide Building Code for the new use in the area of structural strength, means of egress, passive and active fire protection, heating and ventilating systems, handicapped accessibility and plumbing facilities.
- C-3 New construction must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-4 Alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-5 Before a building permit can be issued on any proposed future alterations, a certification is required from the owner or owner's agent that the building has been inspected by a licensed asbestos inspector for the presence of asbestos.
- C-6 The developer shall provide a building code analysis with the following building code data on the plan: a) use group; b) number of stories; c) type of construction; d) floor area per floor; e) fire protection plan.
- C-7 The applicant must obtain a Certificate of Occupancy prior to occupancy (use) of the structure.
- C-8 Accessibility requirements shall be in accordance with the USBC.
- C-9 Toilet Rooms for Persons with Disabilities:
  - (a) Water closet heights must comply with USBC 1109.2.2
  - (b) Door hardware must comply with USBC 1109.13

- C-10 Toilet Facilities for Persons with Disabilities: Larger, detailed, dimensioned drawings are required to clarify space layout and mounting heights of affected accessories. Information on door hardware for the toilet stall is required (USBC 1109.2.2).
- C-11 Mezzanine shall meet the minimum requirements of the USBC
- C-12 A rodent control plan shall be submitted to this office for review and approval prior to occupancy. This plan shall consist of the following:
  - (a) Measures to be taken to control the placement of litter on site and the trash storage and pickup schedule.
  - (b) How food stuffs will be stored on site.
  - (c) Rodent baiting plan.

Health:

- C-1 An Alexandria Health Department Permit is required for all regulated facilities. Permits are not transferable.
- C-2 Permits must be obtained prior to operation.
- C-3 Six sets of plans of each facility must be submitted through the Permit Center and approved by this department prior to construction. Plans must comply with Alexandria City Code, Title 11, Chapter 2, Food and Food Establishments. There is a \$200.00 fee for review of plans for food facilities.
- C-4 Certified Food Managers must be on duty during all hours of operation.
- R-1 Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening.

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 703-6838 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.

Zoning

- F-1 No comments.



**APPLICATION**

**SPECIAL USE PERMIT**

**SPECIAL USE PERMIT #** 2011-0074

**PROPERTY LOCATION:** 709 KING STREET / 711 KING STREET - FIRST FLOOR

**TAX MAP REFERENCE:** 074.02-02-06 **ZONE:** KR

**APPLICANT:**

Name: YOGIBERRY OLD TOWN ALEXANDRIA, INC.

Address: 709 KING STREET, ALEXANDRIA, VA 22314

**PROPOSED USE:** RETAIL SALE OF FROZEN YOGURT AND NON-ALCOHOLIC BEVERAGES  
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.

Vu Tan Huynh, President

Print Name of Applicant or Agent c/o Richard H. Nguyen, Esq.  
6402 Arlington Blvd. Suite 371

Mailing/Street Address  
Falls Church, VA 22042  
City and State Zip Code

[Signature] 10/24/11  
Signature Date

(703)534-8805 (703)534-3047  
Telephone # Fax #

richardn@nnlawfirm.com  
Email address

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

SUP # 2011-0074

**PROPERTY OWNER'S AUTHORIZATION**

As the property owner of 709-711 KING STREET, ALEXANDRIA, VA., I hereby

(Property Address)

grant the applicant authorization to apply for the RETAIL SALE OF FROZEN YOGURT AND NON-ALCOHOLIC BEVERAGES use as

(use)

described in this application.

Name: ZLOTNICK AND KRAFT-ALEXANDRIA LLC Phone (202) 296-9696, Ext. 201

Please Print 2000 L Street, N.W., Suite 675

Address: Washington, D.C. 20036

Email: [grossberg@gyfb.com]

Signature: By: *Gerald P. Grossberg*

Date: October 20, 2011

Gerald P. Grossberg, Manager

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.

[SEE EXHIBIT A ATTACHED, FOR SCHEDULE OF PRESENT OWNERS OF MORE THAN 10% IN THE OWNER, ZLOTNICK AND KRAFT-ALEXANDRIA LLC]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**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. VU HUYNH	3909 FOX VALLEY DR., ROCKVILLE, MD 20853	50%
2. HYUN KIM	3909 FOX VALLEY DR., ROCKVILLE, MD 20853	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 ~~709 KING STREET~~ 711 KING STREET (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. ZLOTNICK AND KRAFT-		100%
2. ALEXANDRIA LLC	2000 L Street, N.W., Washington D.C. 20036	
3.		

**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 below and "None" in the corresponding fields)**

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. VU HUYNH	NONE	NONE
2. HYUN KIM	NONE	NONE
3. Zlotnick and Kraft	NONE	NONE

Alexandria LLC

**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.

10/24/2011

Vu Tan Huynh, President

Date

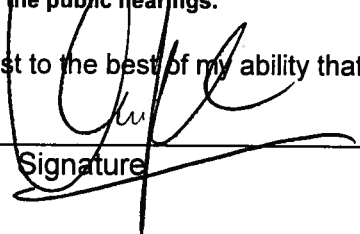
Printed Name

Signature

10/24/2011

*Richard H. Nguyen* *AA*  
 RICHARD H. NGUYEN, ESQ  
 NGUYEN + NGUYEN, P.C.

14



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

[x] **No.** The agent shall obtain a business license prior to filing application, if required by the City Code. The law firm of Nguyen & Nguyen, P.C. by which Richard H. Nguyen, Esq. is employed holds a Fairfax County Business license.

**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.)

THE APPLICANT REQUESTS A SPECIAL USE PERMIT FOR THE OPERATION OF A "YOGIBERRY" FROZEN YOGURT RESTAURANT WHICH WILL BE INVOLVED IN PREPARING AND SELLING SEVERAL FLAVORS OF FROZEN YOGURT AND RELATED FRUIT AND CONFECTION TOPPING, IN A SELF-SERVE MANNER PRICED BY WEIGHT FOR EAT IN AND CARRY OUT IN A SLEEK AND MODERN, FAMILY-FRIENDLY ATMOSPHERE. NON-ALCOHOLIC BEVERAGES WILL ALSO BE SERVED. THERE WILL BE INDOOR SEATS AND SMALL TABLES FOR EAT-IN PATRONS.

Blank lined area for additional narrative description.

**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).  
UNKNOWN DUE TO NEW LOCATION ESTIMATED AT 200 patrons per day.  
FROM 10:00 AM TO 11:00 PM

B. How many employees, staff and other personnel do you expect?  
Specify time period (i.e., day, hour, or shift).  
TWO TO FOUR EMPLOYEES  
FROM 9:30 AM TO 11:30 PM

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

Day: <u>7 DAYS A WEEK</u>	Hours: <u>10:00 AM TO 11:00 PM</u>
_____	_____
_____	_____
_____	_____

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

A. Describe the noise levels anticipated from all mechanical equipment and patrons.  
MINIMUM NOISE LEVELS ARE ANTICIPATED

B. How will the noise be controlled?  
NOISE WILL BE CONTROLLED AS NEEDED



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

NONE

---

---

---

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)  
PAPER AND PLASTIC CUPS, PLASTIC UTENSILS AND PAPER NAPKINS

---

B. How much trash and garbage will be generated by the use? (i.e. # of bags or pounds per day or per week)  
APPROX. 40LBS PER DAY.

---

C. How often will trash be collected?  
TWICE PER WEEK. TRASH WILL BE STORED IN AN <sup>EXISTING</sup> SHED AT THE REAR OF THE PREMISES.

---

D. How will you prevent littering on the property, streets and nearby properties?  
TRASH CONTAINERS WILL BE PROVIDED BOTH INSIDE AND OUTSIDE OF THE ESTABLISHMENT. EMPLOYEES WILL HELP MONITOR AND PREVENT LITTERING BY PICKING UP LITTER IN FRONT OF THE ESTABLISHMENT AT LEAST TWICE A DAY AND MORE OFTEN IF NEEDED.

---

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. [x] No.

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

---

---

---

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

SECURITY CAMERAS WILL BE INSTALLED AN MONITORED BY STAFF  
FROM BOTH ONSITE AND OFFSITE LOCATIONS.

---

---

**ALCOHOL SALES**

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

[ ] Yes [x] 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.

---

---

---

---

**PARKING AND ACCESS REQUIREMENTS**

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

- 0 Standard spaces
- 0 Compact spaces
- 0 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~~ <sup>street</sup> no off-~~site~~ parking will be provided

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

~~PUBLIC METERED PARKING~~

**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? X 1

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

B. Where are off-street loading facilities located? AT THE BACK OF THE BUILDING

C. During what hours of the day do you expect loading/unloading operations to occur?  
10:00 AM TO 12:00 PM

D. How frequently are loading/unloading operations expected to occur, per day or per week, as appropriate?  
FOUR TIMES PER WEEK BY A VAN SIZED VEHICLE.

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?  
YES, STREET ACCESS IS ADEQUATE.

**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?  
1,800 sq. ft. (existing) + \_\_\_\_\_ sq. ft. (addition if any) = \_\_\_\_\_ 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 # 2011-0074  
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: 24                      Outdoors: 0                      Total number proposed: 24
- 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:  
FROZEN YOGURT, FRUIT AND CONFECTION TOPPINGS AND NON-ALCOHOLIC BEVERAGES.  
\_\_\_\_\_  
\_\_\_\_\_
- 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? THERE WILL BE NO DELIVERY SERVICE.  
Will delivery drivers use their own vehicles?                      \_\_\_\_\_ Yes                      \_\_\_\_\_ No  
Where will delivery vehicles be parked when not in use?  
\_\_\_\_\_  
\_\_\_\_\_
- Will the restaurant offer any entertainment (i.e. live entertainment, large screen television, video games)?  
\_\_\_\_\_ Yes                       No  
If yes, please describe:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

+ 21

## OLD TOWN RESTAURANT POLICY

### Changes to Old Town Small Area Plan Chapter of the Master Plan Adopted by City Council on November 13, 1993

On November 13, 1993, the City Council adopted Resolution No. 1672, which outlines new policy and criteria used in applying the revised Old Town Restaurant Policy. Individuals who apply for a special use permit to operate a restaurant in Old Town must address in their entirety five criteria in order to be considered for a special use permit. An application will not be formally accepted for processing until this questionnaire is completed.

#### GOALS OF THE OLD TOWN RESTAURANT POLICY

1. To lessen the on-street parking impact of restaurants in Old Town and adjacent areas;
2. To prevent rowdiness and vandalism from patrons leaving restaurants, particularly in the late evening; and
3. To control the spread of litter in Old Town.

#### POLICIES TO ATTAIN THE GOALS OF THE OLD TOWN RESTAURANT POLICY

City Council shall not approve a request for special use permit for any new restaurant, carry-out or fast food establishment or an expansion of an existing restaurant, carry-out or fast food establishment, unless it finds that the request does not significantly impact nearby residential neighborhoods. City Council shall consider the cumulative impact of the proposal and the number of already established restaurants, carry-outs, fast food establishments and the number of food service seats, bar seats and standing service areas in the immediate area. In the case of an expansion or other intensification, the entire operation of the establishment may be taken into account in determining its impact upon the nearby residential neighborhoods. In making that determination, City Council shall consider the following factors:

- The availability of off-street parking.
- The predicted impact of the restaurant on parking supply in the adjacent neighborhood.
- The extent to which the restaurant is open in the late night hours.
- The extent to which alcohol (such as spirits, mixed drinks, wine, and beer) consumption will predominate over food consumption, including consideration of the number of bar seats, if any, and the standing areas in the vicinity of bars.
- The predicted extent of litter generated in nearby neighborhoods.

#### CRITERIA TO BE USED TO EVALUATE NEW OR EXPANDED RESTAURANTS

**Parking Management Plan.** The applicant must submit a parking management plan (PMP), which specifically addresses the following issues:

- The parking demand generated by the proposed restaurant.
- The availability of off-street parking for patrons. For the purpose of this policy, availability shall be measured in terms of the number of vacant off-street parking spaces within 500 feet from the entrance to the restaurant.
- How employees who drive will be accommodated off the street at least in the evenings and on weekends.
- The predicted impact of the restaurant on the parking supply at the evening, weekend, and daytime peaks.
- A proposal to reduce the impact of parking created by the restaurant on nearby areas. Acceptable alternatives for reducing parking impacts include, but are not limited to, the following: validated parking or valet parking for patrons, and off-street parking or transit subsidies for employees.

**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:
 

24	Maximum number of patron dining seats	
+	0	Maximum number of patron bar seats
+	4	Maximum number of standing patrons
=	28	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)
  - NO ALCOHOL High ratio of alcohol to food
  - WILL BE Balance between alcohol and food
  - CONSUMED Low ratio of alcohol to food

2 23

EXHIBIT A

INFORMATION CONCERNING OWNER OF THE PROPERTY  
 KNOWN AS 709-711 KING STREET, ALEXANDRIA,  
 VIRGINIA (the "Property")

This information is furnished at the request of Yogiberry Old Town Alexandria Inc., a Virginia corporation ("Tenant"), in connection with and to accompany Tenant's Application to the City of Alexandria, Virginia, Department of Planning and Zoning, for a Special Use Permit for a proposed restaurant to be operated by Tenant for retail sale of frozen yogurt and non-alcoholic beverages in a portion of the above referenced Property leased by Tenant from Zlotnick and Kraft-Alexandria LLC, a Virginia limited liability company (the "Owner"), said leased space being approximately 1,800 square feet on the first or street level floor of the Property and having address of 709 King Street, Alexandria, Virginia.

1. The Owner is the owner of the subject Property.
2. The names, addresses and percentage of ownership of the parties owning more than ten percent (10%) in the Owner entity are:

	<u>NAME</u>	<u>INTEREST IN OWNER LLC</u>
(a)	Trust for Erik W. Grossberg 6624 Wilson Lane Bethesda, Maryland 20817	50%
(b)	Renee Z. Kraft Residuary Trust f/b/o Bayla Kraft 11200 Rockville Pike, Suite 115 Rockville, MD 20852	15.197%
(c)	Renee Z. Kraft Residuary Trust f/b/o Bruce Kraft 11200 Rockville Pike, Suite 115 Rockville, MD 20852	15.197%
(d)	Renee Z. Kraft Residuary Trust f/b/o. Yvette Kraft 11200 Rockville Pike, Suite 115 Rockville, MD 20852	15.197%



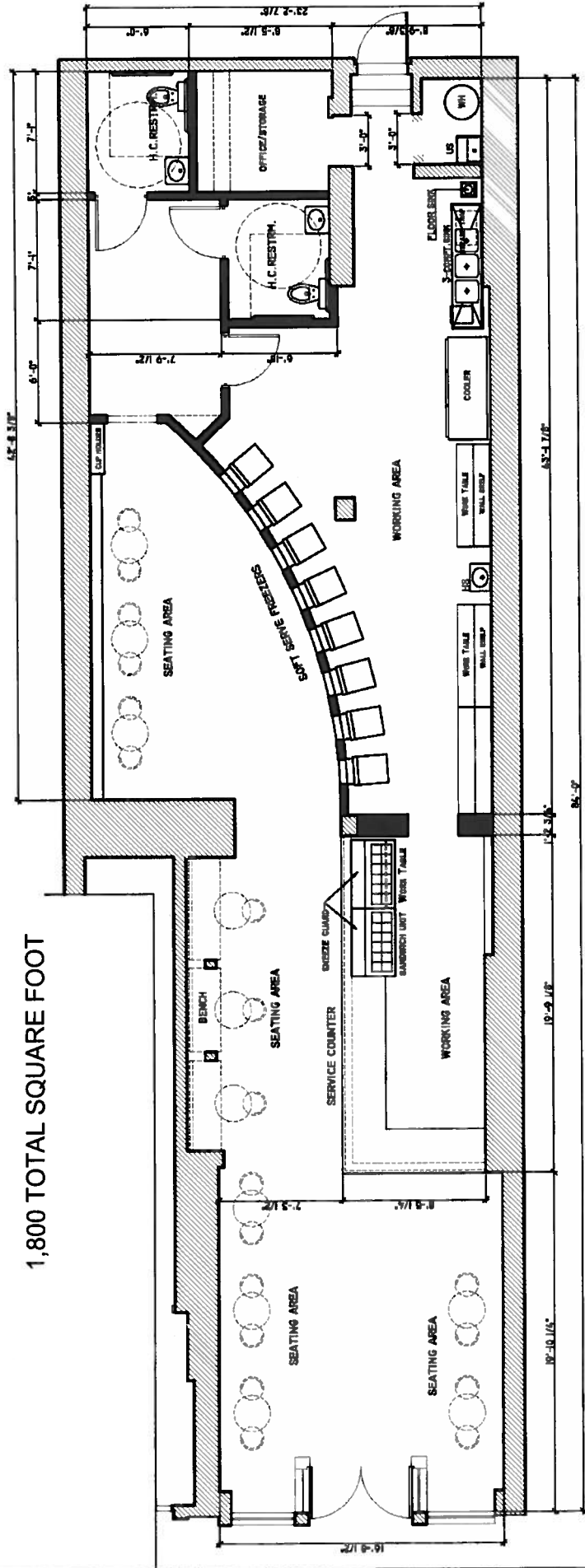
**LITTER CONTROL PLAN**

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.

SUR 2011-0074

26

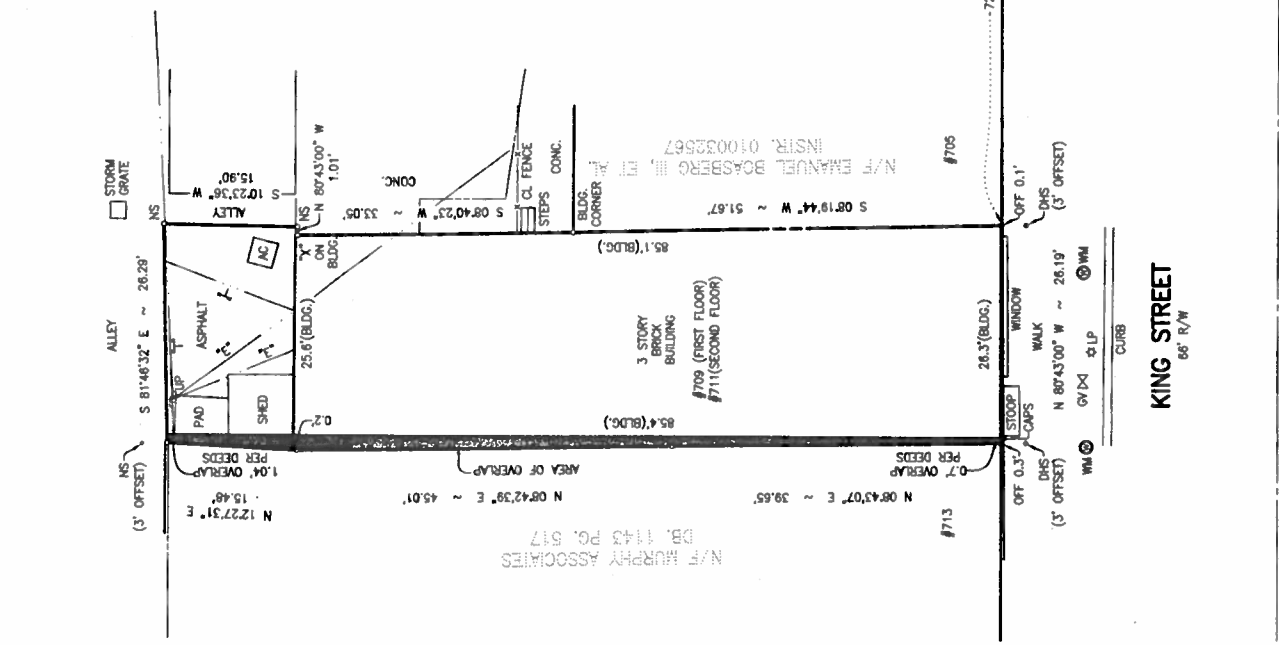
1,800 TOTAL SQUARE FOOT



 <b>AURORA ARCHITECTS LLC.</b> ARCHITECTURE DESIGN & CONSULTING DESIGNED BY : THAY LE - DZUNG NGUYEN TEL: 971-247-9833, 971-267-9834	PROJECT NAME <b>YOGIBERRY</b> 711 King Street, Alexandria, VA 22314		DRAWING NAME <b>NEW TENANT LAYOUT FLOOR PLAN</b>
	DATE : 10/04/2011	NOT TO SCALE	PROPOSAL - 1

Sup 2011-0074

122

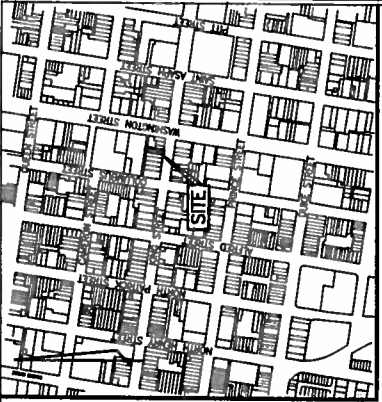
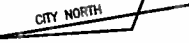


N. WASHINGTON STREET  
100' R/W

KING STREET  
66' R/W

N/F MURPHY ASSOCIATES  
DB, 1143 PG. 517

N/F EMANUEL BOASBERG III, ET AL  
INSR. 010032867



VICINITY MAP  
SCALE: 1" = 500'

**GENERAL NOTES**

1. TAX ASSESSMENT MAP # 074-02-02-06
2. ZONE: C-D
3. SITE AREA = 2,613 SQ. FT. OR 0.0600 AC. (COMP'D)
4. OWNER: ZLOTNICK AND KRAFT-ALEXANDRIA LLC  
8624 WILSON LANE  
BETHESDA, MARYLAND 20817  
(INSTRUMENT #000013905)
5. PLAT SUBJECT TO RESTRICTIONS OF RECORD.
6. NO TITLE REPORT WAS FURNISHED, THEREFORE, NOT ALL EASEMENTS MAY BE SHOWN.
7. BOUNDARY SURVEY BASED ON CURRENT FIELD RUN SURVEY.



**LEGEND**

- DHS DRILL-HOLE SET
- NS NAIL SET
- GV GAS VALVE
- WM WATER METER
- LP LIGHT POLE

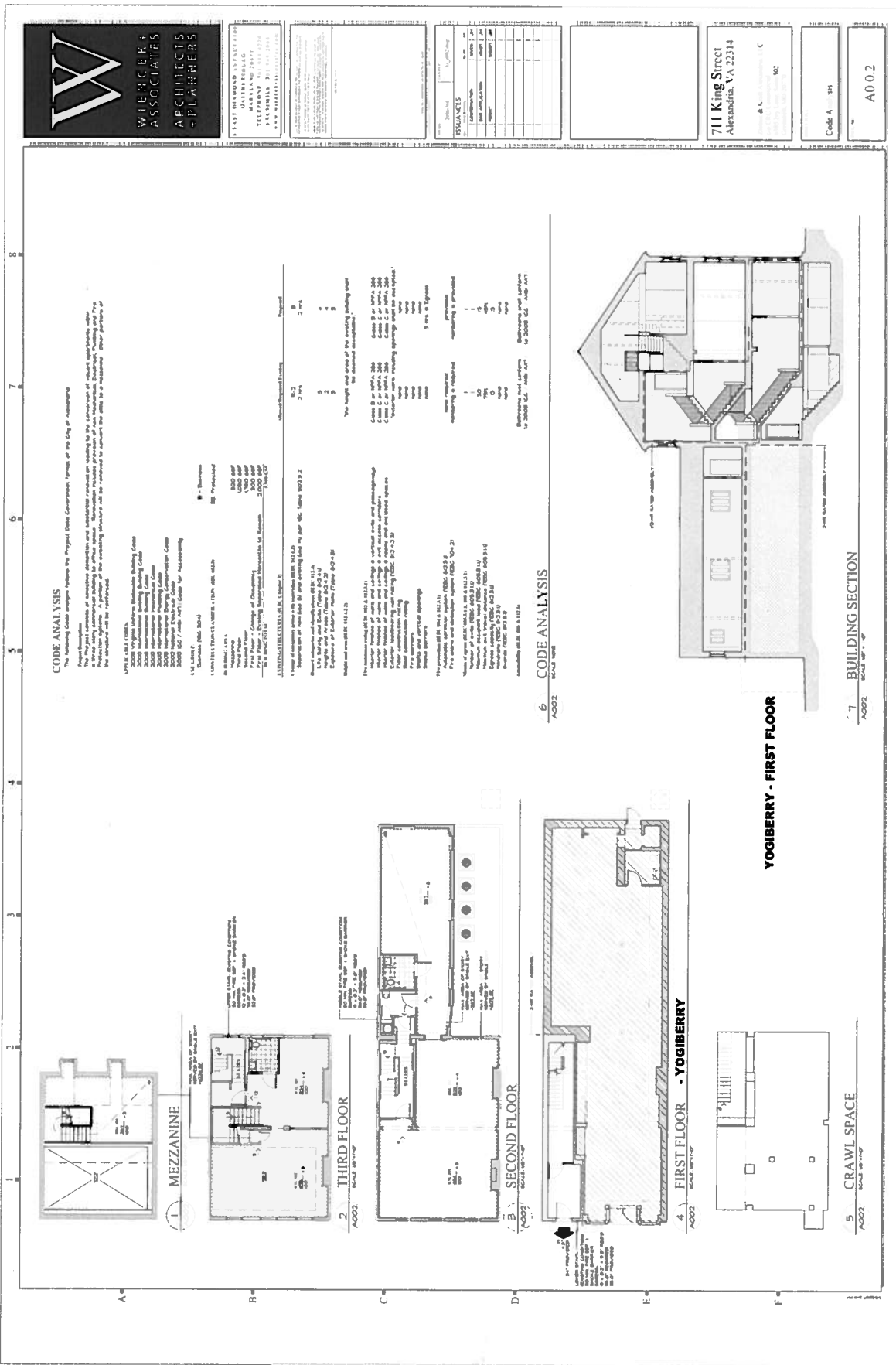
**PLAT**  
SHOWING  
BOUNDARY SURVEY  
ON THE PROPERTY OF  
**ZLOTNICK AND KRAFT  
ALEXANDRIA, LLC**  
CITY OF ALEXANDRIA, VIRGINIA  
SCALE: 1" = 10' DATE: MARCH 10, 2006

**RFP** ILLIAD, JR. & ASSOCIATES  
A PROFESSIONAL CORPORATION

● LAND SURVEYING ● SITE PLANNING ● SUBDIVISION DESIGN  
730 S. Washington St. Alexandria, Virginia 22314 (703) 549-6422

Sup 2611-0074

28



**CODE ANALYSIS**

The following Code analysis is based on the "Physical Data Government Form" of the City of Alexandria. The Project Engineer, after a thorough inspection and analysis, has determined that the building meets the requirements of the applicable Code sections. The Project Engineer is not responsible for the accuracy of the information provided on this document. The Project Engineer is not responsible for the accuracy of the information provided on this document. The Project Engineer is not responsible for the accuracy of the information provided on this document.

Code Section	Description	Remarks
1000	General Building Code	Complies with 1000.1 through 1000.10
1000.1	General Building Code	Complies with 1000.1 through 1000.10
1000.2	General Building Code	Complies with 1000.1 through 1000.10
1000.3	General Building Code	Complies with 1000.1 through 1000.10
1000.4	General Building Code	Complies with 1000.1 through 1000.10
1000.5	General Building Code	Complies with 1000.1 through 1000.10
1000.6	General Building Code	Complies with 1000.1 through 1000.10
1000.7	General Building Code	Complies with 1000.1 through 1000.10
1000.8	General Building Code	Complies with 1000.1 through 1000.10
1000.9	General Building Code	Complies with 1000.1 through 1000.10
1000.10	General Building Code	Complies with 1000.1 through 1000.10
1100	Fire Protection Code	Complies with 1100.1 through 1100.10
1100.1	Fire Protection Code	Complies with 1100.1 through 1100.10
1100.2	Fire Protection Code	Complies with 1100.1 through 1100.10
1100.3	Fire Protection Code	Complies with 1100.1 through 1100.10
1100.4	Fire Protection Code	Complies with 1100.1 through 1100.10
1100.5	Fire Protection Code	Complies with 1100.1 through 1100.10
1100.6	Fire Protection Code	Complies with 1100.1 through 1100.10
1100.7	Fire Protection Code	Complies with 1100.1 through 1100.10
1100.8	Fire Protection Code	Complies with 1100.1 through 1100.10
1100.9	Fire Protection Code	Complies with 1100.1 through 1100.10
1100.10	Fire Protection Code	Complies with 1100.1 through 1100.10
1200	Structural Code	Complies with 1200.1 through 1200.10
1200.1	Structural Code	Complies with 1200.1 through 1200.10
1200.2	Structural Code	Complies with 1200.1 through 1200.10
1200.3	Structural Code	Complies with 1200.1 through 1200.10
1200.4	Structural Code	Complies with 1200.1 through 1200.10
1200.5	Structural Code	Complies with 1200.1 through 1200.10
1200.6	Structural Code	Complies with 1200.1 through 1200.10
1200.7	Structural Code	Complies with 1200.1 through 1200.10
1200.8	Structural Code	Complies with 1200.1 through 1200.10
1200.9	Structural Code	Complies with 1200.1 through 1200.10
1200.10	Structural Code	Complies with 1200.1 through 1200.10
1300	Energy Code	Complies with 1300.1 through 1300.10
1300.1	Energy Code	Complies with 1300.1 through 1300.10
1300.2	Energy Code	Complies with 1300.1 through 1300.10
1300.3	Energy Code	Complies with 1300.1 through 1300.10
1300.4	Energy Code	Complies with 1300.1 through 1300.10
1300.5	Energy Code	Complies with 1300.1 through 1300.10
1300.6	Energy Code	Complies with 1300.1 through 1300.10
1300.7	Energy Code	Complies with 1300.1 through 1300.10
1300.8	Energy Code	Complies with 1300.1 through 1300.10
1300.9	Energy Code	Complies with 1300.1 through 1300.10
1300.10	Energy Code	Complies with 1300.1 through 1300.10
1400	Accessibility Code	Complies with 1400.1 through 1400.10
1400.1	Accessibility Code	Complies with 1400.1 through 1400.10
1400.2	Accessibility Code	Complies with 1400.1 through 1400.10
1400.3	Accessibility Code	Complies with 1400.1 through 1400.10
1400.4	Accessibility Code	Complies with 1400.1 through 1400.10
1400.5	Accessibility Code	Complies with 1400.1 through 1400.10
1400.6	Accessibility Code	Complies with 1400.1 through 1400.10
1400.7	Accessibility Code	Complies with 1400.1 through 1400.10
1400.8	Accessibility Code	Complies with 1400.1 through 1400.10
1400.9	Accessibility Code	Complies with 1400.1 through 1400.10
1400.10	Accessibility Code	Complies with 1400.1 through 1400.10

**6 CODE ANALYSIS**

Code Section	Description	Remarks
1500	Sign Code	Complies with 1500.1 through 1500.10
1500.1	Sign Code	Complies with 1500.1 through 1500.10
1500.2	Sign Code	Complies with 1500.1 through 1500.10
1500.3	Sign Code	Complies with 1500.1 through 1500.10
1500.4	Sign Code	Complies with 1500.1 through 1500.10
1500.5	Sign Code	Complies with 1500.1 through 1500.10
1500.6	Sign Code	Complies with 1500.1 through 1500.10
1500.7	Sign Code	Complies with 1500.1 through 1500.10
1500.8	Sign Code	Complies with 1500.1 through 1500.10
1500.9	Sign Code	Complies with 1500.1 through 1500.10
1500.10	Sign Code	Complies with 1500.1 through 1500.10

**7 BUILDING SECTION**

