City of Alexandria, Virginia
Department of Planning & Zoning

SPECIAL USE PERMIT CERTIFICATE

Article XI, Division A, Section 11-510 of the 1992 Zoning Ordinance of the City of Alexandria, Virginia requires that you display this Special Use Permit in a conspicuous and publicly accessible place. A copy of the list of conditions associated with the Special Use Permit shall be kept on the premises and made available for examination by the public upon request.

Special Use Permit	#2016-0067
Approved by Planning and Zoning:	October 13, 2016
Permission is hereby granted to:	Sandra Tran
To use the premises located at:	726 King Street
For the following purpose:	see attached report

It is the responsibility of the Special Use Permit holder to adhere to the conditions approved by City Council. The Department of Planning and Zoning will periodically inspect the property to identify compliance with the approved conditions. If any condition is in violation, the permit holder will be cited and issued a ticket. The first violation carries a monetary fine. Continued violations will cause staff to docket the special use permit for review by City Council for possible revocation.

10/13/16
Date

KARL MORITZ/AD.
Karl Moritz, Director
Department of Planning and Zoning

DATE:	October 13, 2016
TO:	Alex Dambach, Division Chief Department of Planning and Zoning
FROM:	Sara Brandt-Vorel, Urban Planner Department of Planning and Zoning
SUBJECT:	Special Use Permit #2016-0067 Administrative Review for a New Use

Site Use:	Restaurant
Proposed Business Name:	Nicecream Factory
Applicant:	Sandra Tran
Location:	726 King Street
Zone:	KR/King Street Retail

Request

Special Use Permit #2016-0067 is a request to operate a new restaurant of approximately 1,400 square feet at 726 King Street. The applicant proposes to open a second location of their ice cream concept, known as "Nicecream Factory" after operating in nearby Arlington County since early 2014. The "Nicecream" concept uses a freezing agent, liquid nitrogen, to combine fresh, local ingredients on the spot to create fresh, handcrafted ice creams. The applicant will also offer hot drinks such as coffee and tea. The applicant proposes a counter service restaurant model with seats on the ground floor and second floor. The applicant proposes hours of 11 a.m. – 10 p.m., Monday – Wednesday, 11 a.m. – 10:30 p.m., Thursdays, 11 a.m. – 11 p.m., Friday – Saturday and 11 a.m. – 10:30 p.m., Sundays. The applicant does not propose any live entertainment, alcohol service, or delivery services from the restaurant.

Elements of the proposal include:

Proposed Hours of Operation:	11 a.m. – 10 p.m., Monday – Wednesday 11 a.m. – 10:30 p.m., Thursdays and Sundays 11 a.m. – 11 p.m., Friday - Saturday
Proposed Seating:	16 indoor seats.
Type of Service:	Counter service and carry-out.
Delivery:	No delivery proposed.
Alcohol:	No on- or off-premises alcohol sales proposed.
Live Entertainment:	No live entertainment proposed.
Employees per Shift:	3 employees per shift.

Noise:	Minimal noise is expected.
Odors:	Minimal odors from a restaurant use are addressed through proper ventilation.
Trash/Litter:	All trash receptacles will be emptied into dumpsters located behind the proposed restaurant.

Background

According to Sanborn Fire Insurance maps, the two-story brick structure was constructed prior to 1891. Since construction the building has been used for permitted residential and commercial uses before most recently hosting a personal service use of a hair salon. The subject site is located in the 700 block of King Street with a diverse mix of uses, including nine restaurants, such as Eamonn's and The Light Horse; five retail stores including Lululemon Athletica and The Dog Park; and one personal service use, Glynn Jones Salon and Spa. The block also contains one vacant storefront and one storefront undergoing a renovation for a new Five Guys restaurant slated to open in fall 2016.

Parking

The applicant's proposed restaurant is located within the Central Business District and Section 8-300(B) of the Zoning Ordinance waives the parking requirement for restaurants located within the Central Business District. As such, the applicant is not required to provide off-street parking.

Zoning/Master Plan Designation

The subject site is located within the Old Town Small Area Plan which encourages the concentration of retail uses along primary commercial corridors, and encourages uses that activate both the ground floor and upper floors of buildings. The applicant's proposed design of an ice cream counter and seating on the ground floor with additional seating on the second floor meets the activation goal of the Small Area Plan. The Old Town Small Area Plan also includes the Old Town Restaurant Policy which requires an analysis of a proposed restaurant's impact on parking, late hours, alcohol sales, and littering. Additionally, as the proposed business is located in the City's Old and Historic District, any exterior work or signage will require review and approval by the Board of Architectural Review (BAR).

Community Outreach

Public Notice was provided through eNews, via the City's website, and by posting a placard at the site. In addition, the Old Town Civic Association was informed of the new restaurant application. Staff has not received any comments from residents or adjacent businesses.

Staff Action

Staff supports the applicant's request for a restaurant use at 726 King Street and finds the continued activation of a commercial storefront along one of the City's primary commercial corridors as a desirable outcome. While several ice cream restaurants are located at the lower end of King Street, the applicant's proposed ice cream restaurant will be the only one in that general vicinity and will diversify restaurant offerings along King Street. While the applicant did not request any outdoor dining seats in their application, outdoor seating may be pursued under the King Street Outdoor Dining Program under a separate application. In addition, staff has evaluated the applicant's restaurant request in the context of the King Street Restaurant Policy and finds the restaurant complies with policy goals.

Parking: Staff finds that a restaurant limited to coffee and ice cream will likely serve as a destination for visitors who are already frequenting King Street for shopping and dining, and the net new impact on parking would likely be low. In addition, the proposed restaurant location is located in an area of the City which has strong alternative transportation options such as the Metro system, DASH buses, Metrorail buses, and Capital Bikeshare which enable customers to reach the restaurant without a vehicle. Nonetheless, staff has included conditions designed to reduce the potential parking impact such as Condition #13 which encourages employees to use alternative forms of transportation and requires the applicant to contact Local Motion to learn about establishing an employee transportation benefit program; Condition #14 which requires the applicant to post information on alternative forms of transportation; and Condition #15 requires information on nearby public garages to be shared by the applicant. In addition, all employees are required to park off-street through Condition #20.

Litter: As the applicant proposes to install four trash receptacles inside their restaurant for patron use, and an additional four for staff use, all of which will be emptied into a dumpster behind the proposed restaurant, staff does not feel litter will be a challenge. However, staff has included Condition #21 requiring the applicant to monitor and remove litter within 75 feet of their restaurant at least three times a day.

Alcohol and Late Hours: As the applicant is not proposing any alcohol sales and will close by 11 p.m., daily, staff does not find any impacts from the applicant's restaurant proposal. As the applicant requested a closing time between 10:30 p.m. – 11 p.m. by different days of the week, staff has standardized the closing hour to 11 p.m. to give the applicant more flexibility through Condition # 4.

Diversity of Uses: The proposed restaurant, offering primarily ice cream, will increase the diversity of uses found in the 700 block of King Street which has a blend of full-service restaurants and retail destinations.

Staff hereby approves the Special Use Permit request.

ADMINISTRATIVE ACTION – DEPARTMENT OF PLANNING AND ZONING:

Date: October 13, 2016
Action: Approved

Alex Dambach, Division Chief

Attachments:
1) Special Use Permit Conditions
2) City Department Comments
3) Statement of Consent

CONDITIONS OF SPECIAL USE PERMIT #2016-00067

The new owner is responsible for ensuring that the following conditions are adhered to at all times. Violation of any of the conditions may result in fines and/or referral to public hearing by the Planning Commission and City Council.

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 applicant shall post the hours of operation at the entrance of the business. (P&Z)

3. The restaurant shall have 16 indoor seats. Outdoor seats may be permitted through the King Street Outdoor Dining Program. (P&Z)

4. The hours of operation of the restaurant shall be limited to between 11 a.m. and 11 p.m., daily. Meals ordered before the closing hour may be served, but no new patrons may be admitted, and all patrons must leave by one hour after the closing hour. (P&Z)

5. No alcohol sales are permitted. (P&Z)

6. No live entertainment shall be provided at the restaurant. (P&Z)

7. No food, beverages, or other material shall be stored outside. (P&Z)

8. 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)

9. 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)

10. All waste products including but not limited to organic compounds (solvents and cleaners) shall be disposed of in accordance with all local, state and federal ordinances or regulations. (T&ES)

11. Supply deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (T&ES)

12. 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)

13. The applicant shall encourage its employees to use public transportation to travel to and from work. The business shall contact the Local Motion at

localmotion@alexandriava.gov for information on establishing an employee transportation benefits program. (T&ES)

14. 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 Local Motion at localmotion@alexandriava.gov for more information about available resources. (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 (Old Town Area Parking Study). (T&ES)

16. Exterior power washing of the building shall not be completed using any kind of detergents. (T&ES)

17. Chemicals, detergents or cleaners stored outside the building shall be kept in an enclosure with a roof. (T&ES)

18. 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)

19. 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 Planning & Zoning and Transportation & Environmental Services, including replacing damaged lids and repairing/replacing damaged dumpsters. (P&Z) (T&ES)

20. The applicant shall require its employees who drive to work to use off-street parking. (T&ES)

21. 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)

22. 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)

23. The placement or construction of items that block the visibility through windows of the interior of the commercial space from the street and sidewalk, including but not limited to walls, window film, storage cabinets, carts, shelving, boxes, coat racks, storage bins, and closets, shall be prohibited. This is not intended to prevent retailers from displaying their goods in display cases that are oriented towards the street frontage. (P&Z)

24. 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)

IV. CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services:

R-1 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)

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 waste products including but not limited to organic compounds (solvents and cleaners) shall be disposed of in accordance with all local, state and federal ordinances or regulations. (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 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)

R-6 The applicant shall encourage its employees to use public transportation to travel to and from work. The business shall contact the Local Motion at localmotion@alexandriava.gov for information on establishing an employee transportation benefits program. (T&ES)

R-7 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 Local Motion at localmotion@alexandriava.gov for more information about available resources. (T&ES)

R-8 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 (Old Town Area Parking Study). (T&ES)

R-8 Exterior power washing of the building shall not be completed using any kind of detergents. (T&ES)

R-9 Chemicals, detergents or cleaners stored outside the building shall be kept in an enclosure with a roof. (T&ES)

R-10 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)

R-11 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)

R-12 The applicant shall require its employees who drive to work to use off-street parking. (T&ES)

R-13 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:

C-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 SUP approval. Contact the City's Recycling Program Coordinator at (703) 746-4410, or via e-mail at commercialrecycling@alexandriava.gov, for information about completing this form. (T&ES)

C-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)

C-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)

Fire Department:
No comments or concerns.

Code Enforcement:
No comments received.

Health Department:

C-1 An Alexandria Health Department Permit is required for all regulated facilities. A permit shall be obtained prior to operation, and is not transferable between one individual, corporation or location to another. Permit application and fee are required.

C-2 Construction plans shall be submitted to the Health Department located at 4480 King Street and through the Multi-Agency Permit Center. Plans shall be submitted and approved by the Health Department prior to construction. There is a $200.00 plan review fee payable to the City of Alexandria.

C-3 Construction plans shall comply with Alexandria City Code, Title 11, Chapter 2, The Food Safety Code of the City of Alexandria. Plans shall include a menu of food items to be offered for service at the facility and specification sheets for all equipment used in the facility, including the hot water heater.

C-4 A Food Protection Manager shall be on-duty during all operating hours.

C-5 The facility shall comply with the Virginia Indoor Clean Air Act and the Code of Alexandria, Title 11, Chapter 10, Smoking Prohibitions.

C-6 In many cases, original wooden floors, ceilings and wall structures in historical structures may not be suitable for food service facilities. Wood materials shall be finished in a manner that is smooth, durable, easily-cleanable, and non-absorbent.

C-7 Facilities engaging in the following processes may be required to submit a HACCP plan and/or obtain a variance: Smoking as a form of food preservation; curing/drying food; using food additives to render food not potentially-hazardous; vacuum packaging, cook-chill, or sous-vide; operating a molluscan shellfish life-support system; sprouting seeds or beans; and fermenting foods.

Recreation, Parks and Cultural Activities:
No comments received.

Police Department:
No comments received.

STATEMENT OF CONSENT

The undersigned hereby agrees and consents to the attached conditions of this Special Use Permit #2016-00067. The undersigned also hereby agrees to obtain all applicable licenses and permits required for the restaurant at 726 King Street.

Laurell 10/19/16

Applicant – Signature Date

Sandra Tran 10/19/16

Applicant – Printed Date