



DOCKET ITEM #4

**Special Use Permit #2010-0088**  
**101 North Union Street #101**

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<b>Application</b>	<b>General Data</b>	
Consideration of a request to operate a restaurant.	<b>Planning Commission Hearing:</b>	March 1, 2011
	<b>City Council Hearing:</b>	March 12, 2011
<b>Address:</b> 101 North Union Street #101	<b>Zone:</b>	KR/King Street Retail
<b>Applicant:</b> Blue Zen VA, Inc, represented by Hanh Tran	<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.

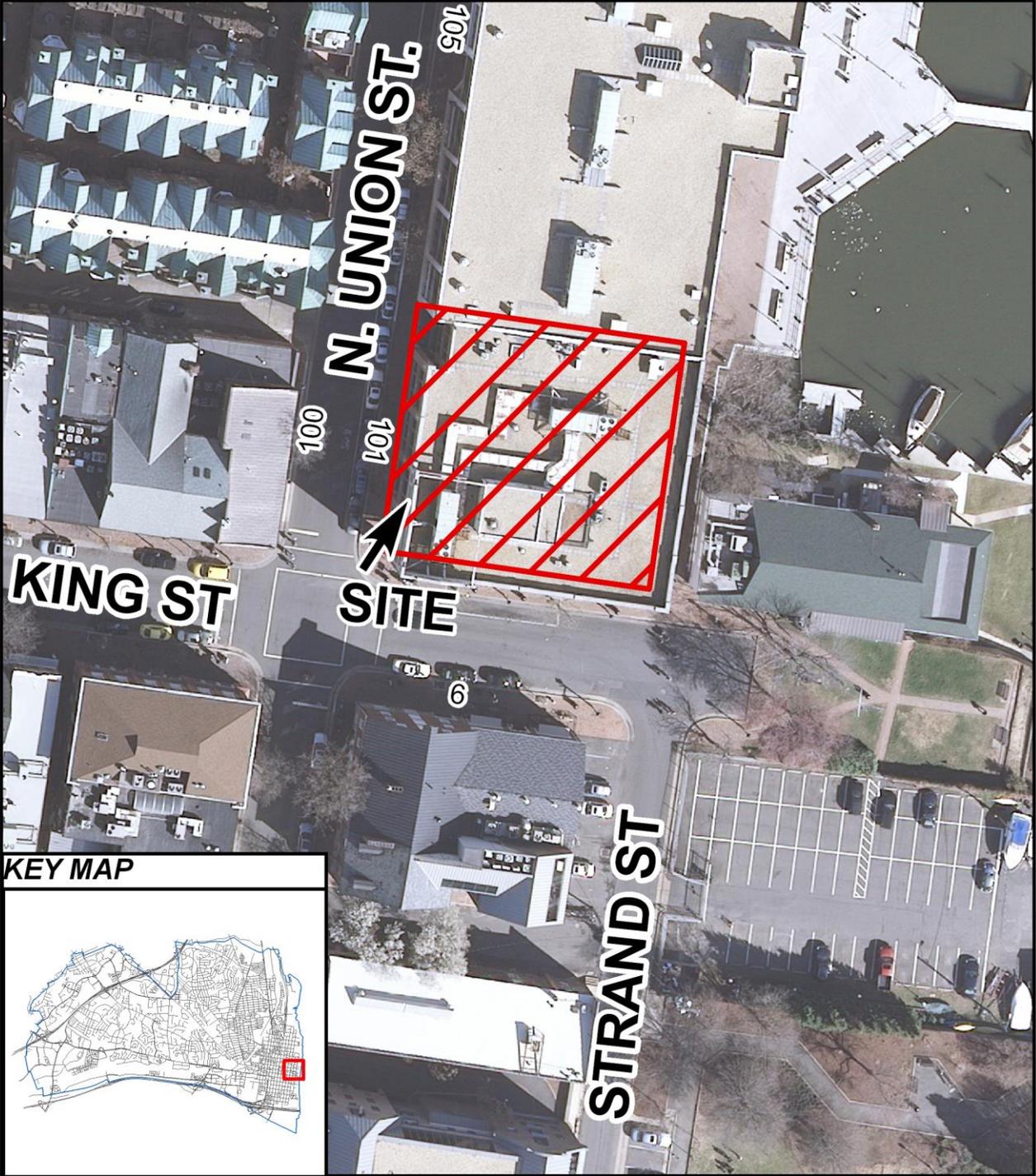
**Staff Reviewers:** Nathan Randall [nathan.randall@alexandriava.gov](mailto:nathan.randall@alexandriava.gov)

**CITY COUNCIL ACTION, MARCH 12, 2011:** City Council approved the Planning Commission recommendation.

**PLANNING COMMISSION ACTION, MARCH 1, 2011:** By unanimous consent, the Planning Commission recommended approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendations.

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

SUP #2010-0088  
101 North Union Street #101



**SUP #2010-0088 3/1/2011**



**I. DISCUSSION**

The applicant, Blue Zen VA, Inc, represented by Hanh Tran, requests Special Use Permit approval to operate a restaurant at 101 North Union Street Unit #101.

SITE DESCRIPTION

The subject site is one lot of record with 115 feet of frontage on King Street, 105 feet of frontage on North Union Street, and a total lot area of approximately 12,075 square feet. A three-story office and commercial building is located on the site. Retail tenants are located on the bottom floor facing an arcade that provides pedestrian access between the corner of King & Union Streets and the waterfront. Office uses are located immediately above the first-floor retail. Icon Gallery, a retail art gallery, is currently located in the space the applicant proposes to operate its frozen yogurt shop.



The surrounding area is occupied by a mix of commercial, residential, and institutional uses. The Torpedo Factory Arts Center is located immediately adjacent to the site to the north. City-owned waterfront/marina property and the Old Dominion Boat Club are located immediately to the east along the Potomac River. Starbucks, Mai Thai, and Red Curry restaurants are located to the south across King Street. Retail uses and residential condominiums are located to the west and northwest across North Union Street.



PROPOSAL

The applicant proposes to operate an independently-owned, 768 square-foot frozen yogurt shop. Frozen yogurt, made on premises, will be sold along with related confections, coffee and other drinks. Additional elements of the applicant’s proposal are as follows:

- Hours: 10:00am – 11:00pm daily
- Number of seats: 15 seats
- Type of Service: Dine-in and carry-out
- Alcohol: 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 are anticipated
<u>Trash/Litter:</u>	Paper and plastic cups/utensil waste and other trash will be stored in the shared garbage room at 201 N. Union and collected daily

#### PARKING

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

#### 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.

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

## **II. STAFF ANALYSIS**

Staff does not object to the applicant's proposal to operate a frozen yogurt shop. Despite some concern about a restaurant replacing a retail tenant, on balance, staff finds that the proposal is appropriate for this prominent corner in Old Town. It is a small restaurant use and should have a minimal impact on the surrounding area. It is also consistent with the Old Town Restaurant Policy, which requires a review of its impact regarding the balance of uses, parking, late night hours and alcohol, and litter.

#### Balance of Uses

The proposed restaurant would replace an existing retail use, raising concerns about maintaining the important balance between restaurant and retail uses. Staff also notes that among the variety of restaurants, retail shops, and institutional uses currently existing in this area, there are four other ice cream/frozen yogurt shops located nearby. Having too many of these businesses in the lower King Street area has the potential to negatively impact the balance of uses as a cumulative matter. However, this ice cream/yogurt shop is only 768 square feet and unlikely to impact the existing balance in a significant way. Although there are many restaurants in the immediate area, several retail tenants are also present nearby, such as other retail businesses facing the first-floor arcade in the building and along South Union Street.

On the positive side of the equation, this proposal is likely to increase pedestrian activity in this area, which could improve the condition of the existing first-floor arcade and help the existing retailers. The arcade is dark, uninviting, and disorienting, particularly for visitors. It serves as a visual barrier between King Street and the waterfront. Additional foot traffic from the proposed restaurant will help to make the arcade more active and inviting and could help to strengthen the connection between lower King Street and the waterfront. Additional activity also has the potential to draw more visitors to the Torpedo Factory Arts Center.

### Parking

In regard to parking, staff believes that while there is some potential for neighborhood impacts, it is unlikely because the restaurant will have only 15 seats and is not a destination for motorists. Staff has also included standard condition language in this report (Condition #14) requiring the applicant to participate in any shared parking program that may be established in the area in the future.

### Late Night Hours and Alcohol

The Old Town Restaurant Policy anticipates the possibility that a combination of late night hours and alcohol could create impacts on the surrounding neighborhood. However, this combination is not present in this case. No alcohol will be offered here and the proposed closing hour of 11:00pm is earlier than several restaurants in the area.

### Litter

Generally speaking, restaurants using offering carry-out service have some potential for litter impacts. This impact is likely to be small here given the size of the restaurant and given that several trash cans are located immediately in front of the building on King and Union Streets. Staff has also included standard condition language requiring the applicant to pick up litter around the business at least twice a day and more often if necessary.

Staff concludes that the proposal is consistent with the Old Town Restaurant Policy and is a reasonable, low-impact use. It will be a positive addition to this corner of Old Town and will draw vitality into the existing first-floor arcade. Subject to the conditions contained in Section III of this report, staff recommends approval of this Special Use Permit request.

### 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 15. Additional outdoor seating may be provided on the premises 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. Meals ordered before the closing hour may be sold, but no new patrons may be admitted and no alcoholic beverages may be served after the closing hour and all patrons must leave by one hour after the closing hour. (P&Z)
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)
10. No food, beverages, or other material shall be stored outside. (P&Z)
11. 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)
12. 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)
13. 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. (PC) (P&Z)(T&ES)

14. The applicant 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)
15. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES)
16. 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)
17. Supply deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (T&ES)
18. 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)
19. 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)
20. The applicant shall provide a menu or list of foods to be handled at this facility to the Health Department prior to opening. (Health)
21. 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.

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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:

- F-1 This property is not located within a resource protection area. (T&ES)
- F-2 Floodplain Ordinance Exemptions: Historic Buildings & Non-substantial Improvements (T&ES)
- This project is located within a delineated 100-year floodplain defined by FEMA as a Zone AE: "Areas subject to inundation by the 1-percent-annual-chance flood event determined by detailed methods. Base Flood Elevations (BFEs) are shown. Mandatory flood insurance purchase requirements and floodplain management standards apply." The BFE for this project site is 10.5'.
  - Due to exemptions provided in the City of Alexandria's floodplain ordinance, this project is not subject to the floodplain regulations found in the ordinance. However, it is advised that project owners/operators become aware of the risks associated with the project location and it is recommended that project owners/operators located in known flood zones make improvements that protect the project from flood related damages.  
General Floodplain information:  
[www.fema.gov](http://www.fema.gov)  
[www.floodsmart.gov](http://www.floodsmart.gov)  
[www.msc.fema.gov](http://www.msc.fema.gov)
- 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 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 (Old Town Area Parking Study). (T&ES)
- 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). (T&ES)

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) 519-3486, or via e-mail at [commercialrecycling@alexandriava.gov](mailto:commercialrecycling@alexandriava.gov), for information about completing this form.

- C-2 The applicant shall comply with the City of Alexandria's Noise Control Code, Title 11, Chapter 5, which sets the maxi

Code Enforcement:

- C-1 Alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-2 Alterations to the existing structure and/or installation and/or altering of equipment therein requires a building permit. Six sets of plans, bearing the signature and seal of a design professional registered in the Commonwealth of Virginia, must accompany the written application. The plans must include all dimensions, construction alterations details, kitchen equipment, electrical, plumbing, and mechanical layouts and schematics.
- C-3 This structure contains mixed use groups and is subject to the mixed use and occupancy requirements of USBC 508.
- C-4 Required exits, parking, and accessibility for persons with disabilities must be provided to the building.
- C-5 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.

BAR:

- F-1 101 North Union Street is located in the Old and Historic Alexandria Historic District and is under the jurisdiction of the Old and Historic Alexandria Board of Architectural Review (BAR). The application is for an SUP in order to operate a restaurant in the subject building. While no additional exterior alterations or demolition appears to be proposed for this building at 101 North Union Street, the applicant is reminded that any exterior changes to the building, which is visible from a public-right-of-way, including but not limited to installation of new signage including window decals, window replacements, roofing, repairs to the exterior masonry, exterior light fixtures, and any exterior demolition or encapsulation greater than 25 square feet requires approval by the Board of Architectural Review. It is the applicant's responsibility to inform BAR Staff should such issues develop.

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 Five sets of plans of each facility must be submitted to 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 Comment

Police Department:

- R-1 The applicant is to contact the Community Relations Unit of the Alexandria Police Department at 703-838-4520 regarding a security assessment for the business.
- R-2 The applicant is to contact the Community Relations Unit of the Alexandria Police Department at 703-838-4520 regarding robbery readiness training for all employees.
- F-1 The applicant is not seeking an A.B.C. permit. The Police Department concurs.

**REPORT ATTACHMENTS  
AVAILABLE IN THE PLANNING AND ZONING OFFICE**