EXHIBIT NO. 18  
3-14-09

DOCKET ITEM #13

**Special Use Permit #2008-0092**  
**217 King Street**

Application	General Data	
<b>Request:</b> Consideration of a request for a special use permit to operate a restaurant.	<b>Planning Commission Hearing:</b>	March 5, 2009
	<b>City Council Hearing:</b>	March 14, 2009
<b>Address:</b> 217 King Street	<b>Zone:</b>	KR/King Street Retail
	<b>Small Area Plan:</b>	Old Town
<b>Applicant:</b> Mohammed Kabir		

**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:** On a motion by Mr. Jennings, seconded by Mr. Robinson, the Planning Commission voted to recommend approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendations. The motion carried on a vote of 6 to 0. Mr. Dunn was absent.

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

**Speakers:**

Duncan Blair, representing the applicant, spoke in favor of the request.

**CITY COUNCIL ACTION:**



SUP #2008-0092

03/05/09



## I. DISCUSSION

### REQUEST

The applicant, Mohammed Kabir, requests special use permit approval for the operation of a restaurant located at 217 King Street.

### SITE DESCRIPTION

The subject property is one lot of record with approximately 17 feet of frontage on King Street, 80 feet of depth and a total lot area of 1,377 square feet. The site is developed with a historic three-story commercial building, of which the proposed use will occupy the first floor of 1,377 square feet. Access to the property is from King Street and Ramsay Alley.



The surrounding area is occupied by a mix of retail uses. Immediately to the north across Ramsay Alley is a mixed office and residential building and a vacant lot used for Burke & Herbert Bank parking. To the south, across King Street, is the Warehouse restaurant, an art gallery, and an adult-themed retail establishment. Immediately to the east is a tobacco shop and immediately to the west is 219 Restaurant.

### BACKGROUND

No Special Use Permit has ever been granted for this address according to Planning & Zoning records. An SUP application for a restaurant was submitted in 1980 but did not proceed for unknown reasons. The current use of the property is Comfort One Shoes, a retail shoe store currently having a second location on King Street.

### PROPOSAL

The applicant proposes to operate a homemade ice cream restaurant with up to 16 seats and with retail sales of homemade chocolate and other confections. The applicant does not propose to sell sandwiches or other food intended as a meal.

Hours: 10:00am – 10:00pm, Monday-Thursday  
10:00am – 12:00midnight, Friday-Sunday

Number of seats: 16 Indoor Seats. May be eligible for outdoor seats through the King Street Outdoor Dining Program.

Customers: Approximately 250 patrons per day

Type of Service: Table Service and Carry-Out

<u>Alcohol:</u>	No alcohol sales
<u>Entertainment:</u>	No live entertainment
<u>Noise:</u>	Noises from customers are not expected to exceed permitted levels.
<u>Trash/Litter:</u>	Applicant expects trash from products received and disposable items used in serving items to the public. Trash will be stored in the commercial dumpster in the rear alley and will be picked up at least three times/week.
<u>Smoking:</u>	Citing anticipated changes in state law, the applicant has not agreed to voluntarily prohibit smoking inside the restaurant.

#### 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. Nonetheless, staff has conditioned in Section III of this report the applicant's participation in a parking program.

#### HISTORIC PRESERVATION

The location of the proposed restaurant is within the jurisdiction of the Old and Historic Board of Architectural Review. Since the applicant is not proposing any exterior changes to the building with this application, the applicant is not required to file with the BAR for review. However, for any exterior changes to the building that are visible from the public right-of-way, including signage, the applicant will be required to obtain approval from the Old and Historic Board of Architectural Review.

#### ZONING/MASTER PLAN DESIGNATION

The subject property is located in the KR / King Street Retail zone. Section 6-702(A)(2)(k) 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, including the Old Town Restaurant Policy and the King Street Retail Strategy, which designates the property for commercial use.

## **II. STAFF ANALYSIS**

Staff does not object to the applicant's request to operate an ice cream restaurant at the subject property. Recognizing the potential impact of a new restaurant on lower King Street generally,

staff therefore has analyzed the applicant's request with regard to the following policies and concepts:

- Old Town Restaurant Policy
- King Street Retail Strategy
- Retail/Restaurant Balance
- Details of Proposed Restaurant Concept

### **Old Town Restaurant Policy**

Staff has determined that the proposed restaurant is in conformance with the Old Town Restaurant Policy. The policy requires an analysis of factors including the availability of off-street parking, the impact of the restaurant on parking in the adjacent neighborhood, late night hours, alcohol, litter, and diversity of uses.

The number of seats proposed for the restaurant is small enough to have a minimal parking impact in the neighborhood. Ample off-street parking exists in public garages in the immediate vicinity to accommodate patrons, many of whom will already be in the area as workers and visitors. The applicant does not propose any alcohol sales. While the applicant is proposing that the restaurant be open until 12:00 midnight Friday-Sunday, staff does not believe this will negatively impact the surrounding area especially since no alcohol will be served on the premises. Litter will be controlled by the applicant through self-policing and trash pick-ups three times per week.

On the subject of diversity of uses, the Old Town Restaurant Policy "encourage[s] a mix of restaurants and shops providing a diversity of goods and services in the King Street area." Along King Street between City Hall and the waterfront or side streets there are four establishments that either primarily offer ice cream or offer it as a substantial portion of their business:

- Pop's (109 King St.)
- The Scoop Grill (110 King St.)
- Ben & Jerry's (103 S. Union St.)
- Larry's Cookies & Ice Cream (5 Cameron St. / Torpedo Factory Food Court)

As discussed later in this report, the proposed ice cream restaurant will not negatively impact the balance of restaurants and shops along lower King Street. Specifically regarding diversity, staff concludes that despite the presence of other similar establishments one additional ice cream restaurant located in this vicinity will not significantly impact the diversity of goods and services in the King Street area. Residents, visitors and employees have a range of restaurant and retail options in this vicinity such as galleries, full service restaurants, gift shops, coffee shops, and a tobacco shop, in addition to the ice cream establishments.

### **King Street Retail Strategy**

One of the broad objectives in the King Street Retail Strategy is to promote land uses that maintain an active pedestrian experience. Encouraging retail and restaurant uses on the ground

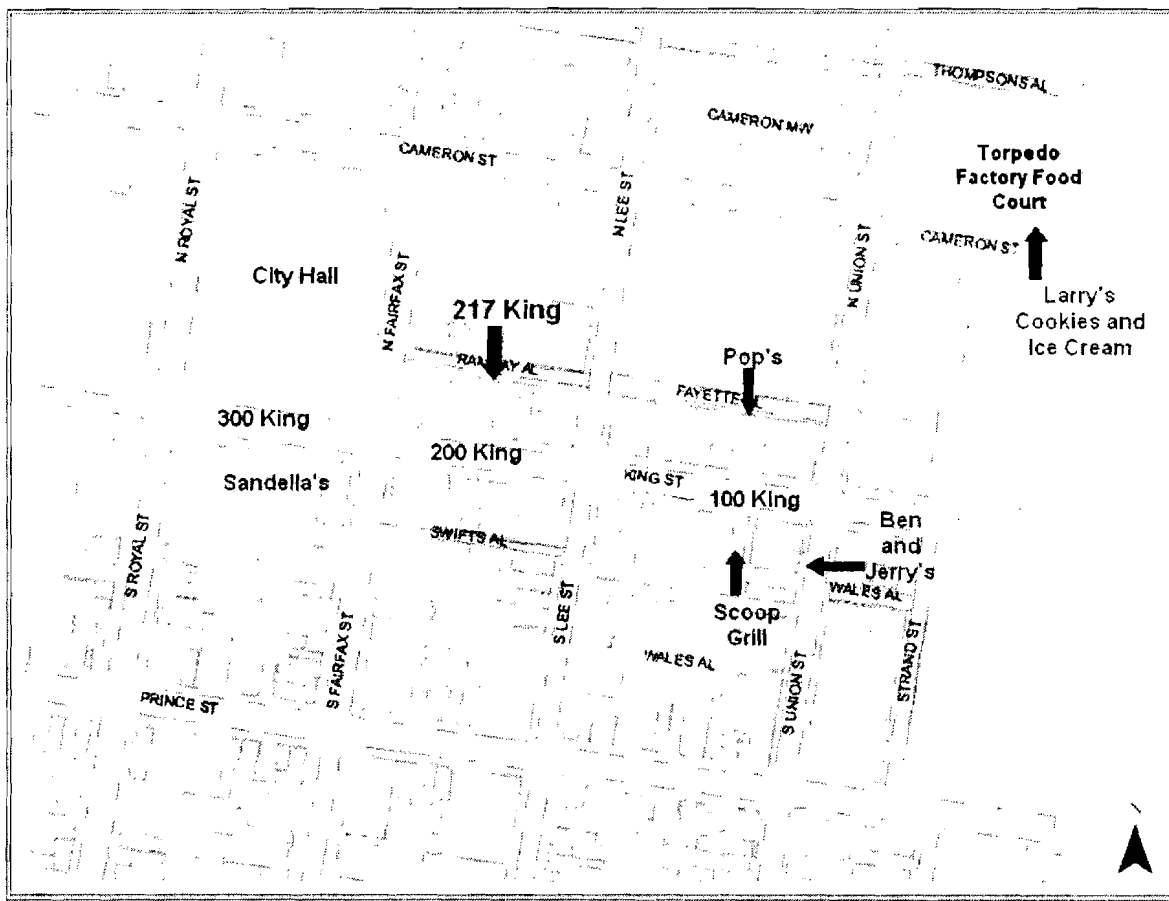
floor is one means to accomplish this goal. On this point the proposed restaurant fits within the King Street Retail Strategy because this restaurant use would maintain an existing active streetlife on this section of King Street.

Reflecting concerns that certain kinds of restaurants could impact the unique character of the King Street area, the King Street Retail Strategy further recommends “limiting the number and type of fast food establishments to assure that there are adequate, moderately priced, quick service establishments to serve employees and visitors, while at the same time limiting establishments that may impact the diversity and unique business environment of the street.” There is also concern expressed in the strategy that over time restaurants, particularly national chains, will drive up rents and crowd out independently-owned retail. Whether the proposed restaurant fits within these more specific portions of the King Street Retail Strategy hinges upon 1) a consideration of the existing retail/restaurant balance along lower King Street and 2) an analysis of the proposed quick-service restaurant’s concept.

### **Retail/Restaurant Balance**

A survey of uses currently operating on the 100, 200, and 300 blocks of King Street reveals **14 restaurants, 23 retail shops, and four other uses** (institutional, personal service, etc.) This calculation includes the recently-approved Sandella’s at 320 King Street and the new adult-oriented retail business at 210 King Street, but does not include the former 100 King Restaurant since it closed within approximately the last year. Of the 14 restaurants on this three-block portion of King Street, 11 of them are full service restaurants and three of them are quick-service restaurants, defined as restaurants without full table service. Two of the three quick-service restaurants are primarily ice cream shops: Pop’s at 109 King and The Scoop Grille at 110 King. The third quick-service restaurant is the recently-approved Sandella’s restaurant at 320 King. Currently no quick-service restaurants are located in the 200 block of King Street. For more information, see the map of the lower King Street area on next page, showing all existing ice cream shops, Sandella’s, and the subject proposal at 217 King Street.

If the proposed restaurant were approved, 15 restaurants, 23 retail establishments and four other uses would be located in the first three blocks of King Street. The mix of restaurants would continue to be weighted toward full-service, with four quick-service and 11 full service restaurants. With the majority of the businesses in this portion of King Street being retail, the proposed restaurant will not negatively impact the balance of retail and restaurant uses along lower King Street.



### Details of Proposed Restaurant Concept

There is general agreement in the community, reflected in the King Street Retail Strategy as discussed previously, that certain restaurants can have the potential to detract from King Street's unique and eclectic retail character. This is particularly true for fast-food restaurants and national chains. Although the proposed restaurant is considered to be a quick-service restaurant for the purposes of staff analysis, the proposed ice cream shop is neither a "fast food restaurant" nor a "national chain" as both terms are generally known.

Firstly, the proposed restaurant is not a "fast food restaurant" in the common sense of the term but rather a retail candy shop and restaurant only serving ice cream made on premises. Although the food may be served quickly, this is because ice cream as a product naturally lends itself to quick service. As noted previously, the retail component of the store will feature homemade chocolate and other confections not typically associated with "fast food." Secondly, while there are three other Thomas Sweet locations, one in Washington, DC and two in the Princeton, New Jersey area, staff does not consider the company to be a national chain in the common sense of the term. Thomas Sweet is not a national chain in the sense of a McDonald's, Popeye's, Wendy's or Cusi.

These two features of the proposal are important to distinguish the restaurant from fast-food or other quick-service concepts that are part of a national chain. Based on the nature of the business, then, staff does not believe the proposed restaurant will detract from the character of lower King

Street. While the Department of Planning and Zoning considers the desirability of quick service restaurants on a case by case basis in this vicinity, in this instance feels that the proposed restaurant would be appropriate in this location.

### **Conclusion**

Subject to the conditions contained in Section III of this report, staff recommends approval of the applicant's request. Staff concludes that the request is a reasonable and appropriate use for its location on King Street, but concedes that its recommendation for approval should not constitute a precedent and that future Special Use Permit requests for restaurants in this vicinity will be carefully scrutinized.

### **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 10:00pm, Monday through Thursday and 10:00am to 12:00 midnight, Friday through Saturday. (P&Z)
3. The maximum number of indoor seats at the restaurant shall be 16. (P&Z)
4. In addition to the indoor seating, outdoor dining 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)
5. The applicant shall post the hours of operation at the entrance of the business. (P&Z)
6. No live entertainment shall be provided at the restaurant. (P&Z)
7. No alcohol service shall be permitted. (P&Z)
8. No food, beverages, or other material shall be stored outside. (P&Z)
9. The applicant shall prepare a design plan to include interior finishes colors materials furniture lighting and specifications which shall be to the satisfaction of the Director of Planning and Zoning and shall include the following elements:
  - a. No lighted signage in the windows is permitted.
  - b. Lighting fixtures in the dining area and the serving area shall not contain fluorescent bulbs tubes or other fluorescent lighting elements.

- c. Furniture to be situated near the windows shall consist of wood tables and wood chairs with cloth upholstery.
  - d. Flooring within the dining area shall be ceramic tile.
  - e. Any tiling on the vertical surface of the cashier service counter shall be a generally solid color and or design.
  - f. Interior doors leading to or from the dining area shall be constructed of paneled wood.
  - g. Decorative wood interior trim shall include moldings and other detail such as rosettes.
  - h. Menu boards, if any, shall not be backlighted or have any internal lighting or show pictures or photos of food items. (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, and on how to prevent underage sales of alcohol. (P&Z)
11. 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 Study. (P&Z)
12. 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)
13. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES)
14. 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)
15. All loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line.(T&ES)
16. Deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (T&ES)
17. The applicant shall provide storage space for solid waste and recyclable materials containers as outlined in the City's "*Solid Waste and Recyclable Materials Storage Space Guidelines*", or to the satisfaction of the Director of Transportation & Environmental Services. The City's storage space guidelines and required Recycling Implementation Plan forms are available at: [www.alexandriava.gov](http://www.alexandriava.gov) or contact the City's Solid Waste Division at 703-519-3486 ext.132. (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)(P&Z)
19. Applicant shall contribute \$575.00 to the Litter Control Fund for the installation of litter receptacles along the public right-of-ways. Monetary contribution to be submitted to the Department of T&ES, Engineering Division, Room 4130, 301 King Street within 60 days of City Council approval. (T&ES)
20. All waste products including but not limited to organic compounds (solvents), motor oil, compressor lubricant and antifreeze shall be disposed of in accordance with all local, state and federal ordinances or regulations and not be discharged to the sanitary or storm sewers or be discharged onto the ground. (T&ES)
21. Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening. (Health)
22. The applicant is to 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)
23. 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: Richard Josephson, 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 Deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (T&ES)
- R-5 All waste products including but not limited to organic compounds (solvents), motor oil, compressor lubricant and antifreeze shall be disposed of in accordance with all local, state and federal ordinances or regulations and not be discharged to the sanitary or storm sewers or be discharged onto the ground. (T&ES)
- R-6 The applicant shall provide storage space for solid waste and recyclable materials containers as outlined in the City's "*Solid Waste and Recyclable Materials Storage Space Guidelines*", or to the satisfaction of the Director of Transportation & Environmental Services. The City's storage space guidelines and required Recycling Implementation Plan forms are available at: [www.alexandriava.gov](http://www.alexandriava.gov) or contact the City's Solid Waste Division at 703-519-3486 ext.132. (T&ES)
- R-7 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-8 Applicant shall contribute \$575.00 to the Litter Control Fund for the installation of litter receptacles along the public right-of-ways. Monetary contribution to be submitted to the Department of T&ES, Engineering Division, Room 4130, 301 King Street within 60 days of City Council approval. (T&ES)
- R-9 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)

- 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).
- 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)

Code Enforcement:

- C-1 The current use is classified as M- Mercantile; the proposed use is B- Business. Change of use, in whole or in part, will require a certificate of use and occupancy (USBC 116.2) and compliance with USBC 116.1 including but not limited to: limitations of exit travel distance, emergency and exit lighting, a manual fire alarm system, and accessibility for persons with disabilities.
- C-2 Prior to the application for new Certificate of Occupancy, the applicant shall submit a building permit for a change of use. Drawings prepared by a licensed architect or professional engineer shall accompany the permit application. These plans shall show provide existing conditions, construction type data, and a plot plan. In addition, these plans shall show proposed conditions and provide data by the design professional which 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 Required exits, parking, and accessibility within the building for persons with disabilities must comply with USBC Chapter 11. Handicapped accessible bathrooms shall also be provided.
- C-4 Alterations to the existing structure must comply with the 2006 edition of the Uniform Statewide Building Code (USBC).
- C-5 Alterations to the existing structure and/or installation and/or altering of equipment therein requires a building permit. Five 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-6 Construction permits are required for this project. Plans shall accompany the permit application that fully details the construction as well as layouts and schematics of the mechanical, electrical, and plumbing systems.

- C-7 The proposed use is a change in use group classification; a new Certificate of Occupancy is required (USBC 116.1).
- C-8 A fire prevention code permit is required for the proposed operation. An egress plan showing fixture location, aisles and exit doors shall be submitted for review with the permit application.
- C-9 When a change of use requires a greater degree of structural strength, fire protection, exit facilities or sanitary provisions, a construction permit is required.
- C-10 This structure contains mixed use groups and is subject to the mixed use and occupancy requirements of USBC 508.
- C-11 Required exits, parking, and accessibility for persons with disabilities must be provided to the building.
- C-12 The following code requirements apply where food preparation results in the development of grease laden vapors:
  - (a) All cooking surfaces, kitchen exhaust systems, grease removal devices and hoods are required to be protected with an approved automatic fire suppression system.
  - (b) A grease interceptor is required where there is drainage from fixtures and equipment with grease-laden waste located in food preparation areas of restaurants. Food waste grinders can not discharge to the building drainage system through a grease interceptor.
- C-13 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 Department:

- 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 must be submitted to and approved by this department prior to construction. Plans must comply with the Alexandria City Code, Title 11, Chapter 2, Food and Food Establishments. There is a \$135.00 fee for plans review of 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 survey 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.

APPLICATION for SPECIAL USE PERMIT # 2008-0092

PROPERTY LOCATION: **217 King Street, Alexandria, Virginia**

TAX MAP REFERENCE: **075.01 02 16**

ZONED: **CD/Commercial Downtown**

APPLICANT Name: **Mohammed H. Kabir**

Address: **5828 Glen Forest Drive, Falls Church, Virginia 22041**

PROPERTY OWNER Name: **Gerrie D. Winslow, Trustee**

Address: **8297 Champions Gate Blvd., #364, Davenport, FL 33896-8387**

PROPOSED USE: **Special Use Permit to operate a restaurant.**

**THE UNDERSIGNED** hereby applies for a Special Use Permit in accordance with the provisions of Article XI, Section 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 to post placard notice on the property for which this application is requested, pursuant to Article XI, Section 11-301(B) 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 Planning Commission or City Council in the course of public hearings 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.

**Land, Clark, Carroll, Mendelson & Blair, P.C.**  
**Duncan W. Blair, Esquire**

*Print Name of Applicant or Agent*



*Signature*

**524 King Street**

*Mailing/Street Address*

**(703) 836-1000**

*Telephone #*

**(703) 549-3335**

*Fax #*

**dblair@landclark.com**

**Alexandria, Virginia 22314**

*City and State*

*Zip Code*

**December 16, 2008**

*Date*

===== **DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY** =====

Application Received: \_\_\_\_\_ Date & Fee Paid: \_\_\_\_\_ \$ \_\_\_\_\_

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

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

Property Owner's Association

As the property owner of 217 KING ST., I  
hereby grant the applicant authorization to apply for the  
\_\_\_\_\_ use as described in this application.

WENDY SHER, TRUSTEE  
Name: GERRIE WILLOW TRUST Phone 314-791-4001  
8297 CHAMPAINS GATE BLVD, #364  
Address: CHAMPAINS GATE, FL 33896 E-mail: RJSHER@AOL.COM  
Signature: Wendy Sher, Trustee Date: 12/13/08

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)

☐ the Owner

☒ Contract Purchaser of the building

☐ 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, unless the entity is a corporation or partnership in which case identify each owner of more than ten percent.

**Mohammed H. Kabir is the sole proprietor.**

Property Owner's Association

As the property owner of \_\_\_\_\_, I  
hereby grant the applicant authorization to apply for the  
\_\_\_\_\_ use as described in this application.

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ E-mail: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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*)

☐ the Owner

☒ Contract Purchaser of the building

☐ 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, unless the entity is a corporation or partnership in which case identify each owner of more than ten percent.

**Mohammed H. Kabir is the sole proprietor.**

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, including such items as the nature of the activity, the number and type of patrons, the number of employees, the hours, how parking is to be provided for employees and patrons, and whether the use will generate any noise. (Attach additional sheets if necessary)

**Mohammed H. Kabir (the "Applicant") is requesting a special use permit to open a Thomas Sweet at 217 King Street in the Central Business District of the Old and Historic District of the City of Alexandria. Thomas Sweet specializes in homemade chocolate, confections and ice cream. (See: www.thomassweet.com for additional information.)**

### USE CHARACTERISTICS

4. The proposed special use permit request is for: (*check one*)

☒ a new use requiring a special use permit,

☐ a development special use permit,

☐ an expansion or change to an existing use without a special use permit,

☐ 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).

**The Applicant anticipates Thomas Sweet will serve approximately 250 patrons a day. Patrons will consist primarily of nearby residents, employees of nearby businesses, shoppers and visitors to the Old and Historic District of Alexandria.**

- B. How many employees, staff and other personnel do you expect? Specify time period (i.e., day, hour, or shift).

**Thomas Sweet will employ on a full or part time basis approximately six (6) full or part time employees working in two shifts per day, 10:00 A.M. - midnight. The maximum anticipated number of employees on site at any one time is three (3).**

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

Day:

Hours:

**Monday – Thursday**

**10:00 A.M. – 10:00 P.M.**

**Friday – Sunday**

**10:00 A.M. – 12:00 Midnight**

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

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

**It is not anticipated that noise levels will exceed permitted levels under the Alexandria City Code.**

- B. How will the noise from patrons be controlled?

**It is not anticipated that patron noise will be a source of complaints; as such, no extraordinary noise mitigation and control measures are warranted.**

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

**It is not anticipated that offensive odors will emanate from the use of the property as an ice cream and chocolate shop.**

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?

**The type of volume of trash and garbage generated by the restaurant will be mainly refuse from products received (i.e. cardboard delivery boxes) and from disposable items used in the serving of products sold and consumed by patrons of the restaurant. Trash and garbage will be deposited and stored in the commercial dumpster on the dumpster pad in the rear alley.**

B. How much trash and garbage will be generated by the use?

**Thomas Sweet will generate approximately 100 pounds of trash and garbage per day.**

C. How often will trash be collected?

**Trash and garbage will be collected by a commercial collector at least three (3) days a week.**

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

**Litter is not an anticipated problem; however, the restaurant's staff will self-police the adjacent right-of-way.**

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:

**Small quantities of organic compounds, generally recognized to be appropriate for use by restaurants in the operation of the business, will be stored, used as solvents, and disposed of in accordance with applicable regulations.**

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:

**Small quantities of organic compounds, generally recognized to be appropriate for use by restaurants in the operation of the business, will be stored, used as solvents, and disposed of in accordance with applicable regulations.**

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

**The location and hours of operations of Thomas Sweet should provide a safe environment for its patrons and staff. It is not anticipated that extraordinary security measures will be required.**

#### **ALCOHOL SALES**

13. 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.

#### **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.

<b>Planning and Zoning Staff Only</b>
Required number of spaces for use per Zoning Ordinance Section 8-200A
Does the application meet the requirement?
<input type="checkbox"/> Yes <input type="checkbox"/> No

- B. Where is required parking located? (*check one*)

☐ on-site  
☐ off-site (*check one*)

**N/A**

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? **None.**

Planning and Zoning Staff Only
Required number of loading spaces for use per Zoning Ordinance Section 8-200
Does the application meet the requirement?
<input type="checkbox"/> Yes <input type="checkbox"/> No

- B. Where are off-street loading facilities located?

**Deliveries will be made in the front in the existing designated loading zone.**

- C. During what hours of the day do you expect loading/unloading operations to occur?

**It is anticipated that loading and unloading activities will occur once a week before 9:00 A.M.**

- D. How frequently are loading/unloading operations expected to occur, per day or per week, as appropriate?

**It is anticipated that there will be three (3) deliveries per week.**

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?

**Street access to the property 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?

1377 sq. ft. (existing) + -0- sq. ft. (addition if any) = 1377 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: **Commercial Row Dwelling**

## RESTAURANT SUPPLEMENTAL APPLICATION

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: 16 Outdoor: \_\_\_\_\_ Total number proposed: \_\_\_\_\_

2. Will the restaurant offer any of the following?

Alcoholic beverages (SUP only) \_\_\_\_\_ Yes X No.

Beer and wine – on-premises \_\_\_\_\_ Yes X No.

Beer and wine – off-premises \_\_\_\_\_ Yes X No.

3. Please describe the type of food that will be served:

**Thomas Sweet serves fresh made ice cream, chocolates and other confections.**

4. The restaurant will offer the following service (check items that apply):

X table service \_\_\_\_\_ bar X carry-out \_\_\_\_\_ delivery

5. If delivery service is proposed, how many vehicles do you anticipate? **N/A**

Will delivery drivers use their own vehicles? \_\_\_\_\_ Yes. \_\_\_\_\_ No.

Where will delivery vehicles be parked when not in use?

6. Will the restaurant offer any entertainment (i.e. live entertainment, large screen television, video games)? \_\_\_\_\_ Yes. X No.

If yes, please describe:

**Parking impacts.** Please answer the following:

- A. 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

- B. 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

- C. 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:

Maximum number of patron dining seats  
 Maximum number of patron bar seats  
 Maximum number of standing patrons  
 **250** Maximum number of patrons

2.  **3** Maximum number of employees by hour at any one time

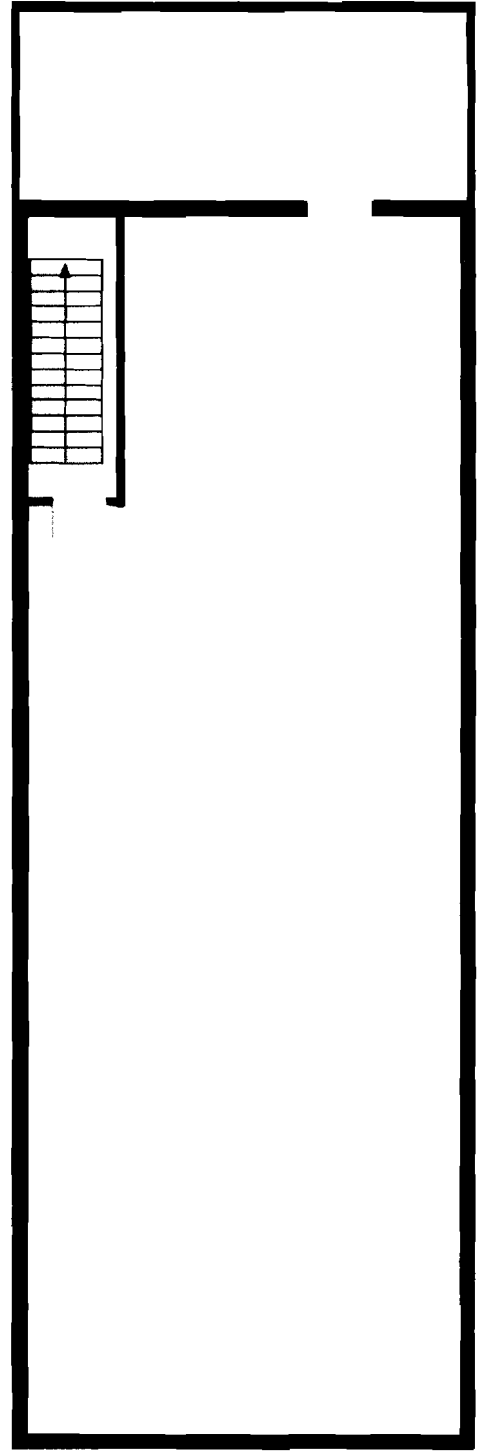
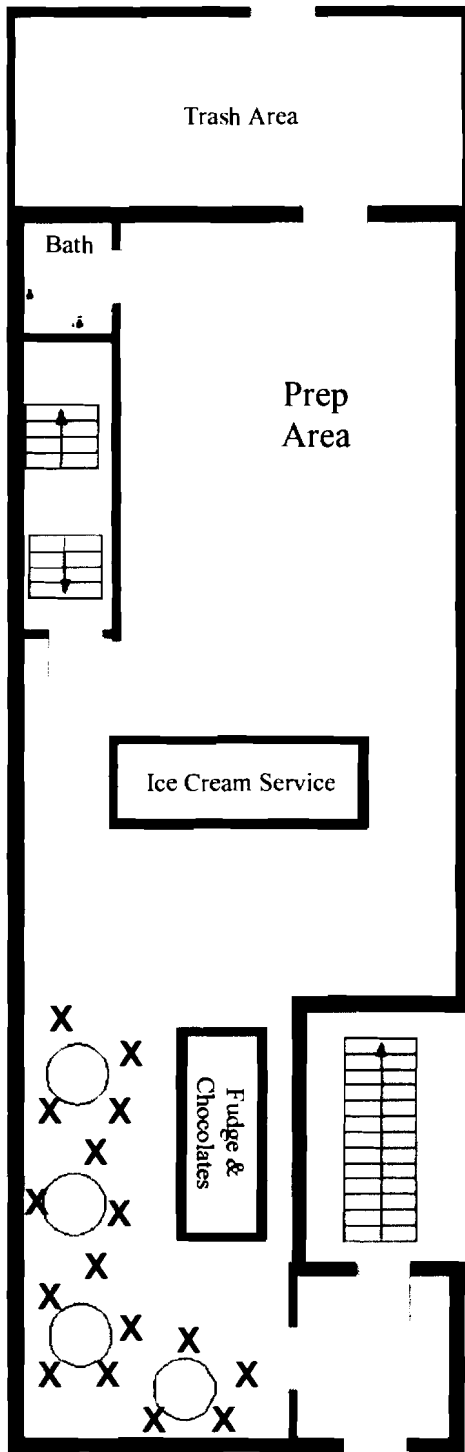
3. Hours of operation. Closing time means when the restaurant is empty of patrons. (check one)

☐ Closes by 8:00 P.M.  
☐ Closes after 8:00 P.M. but by 10:00 P.M.  
☒ Closes after 10:00 P.M. but by Midnight  
☐ Closes after Midnight

4. Alcohol Consumption (check one) **NONE.**

\_\_\_\_\_ High ratio of alcohol to food  
\_\_\_\_\_ Balance between alcohol and food  
\_\_\_\_\_ Low ratio of alcohol to food

# 217 King Street, Alexandria, VA

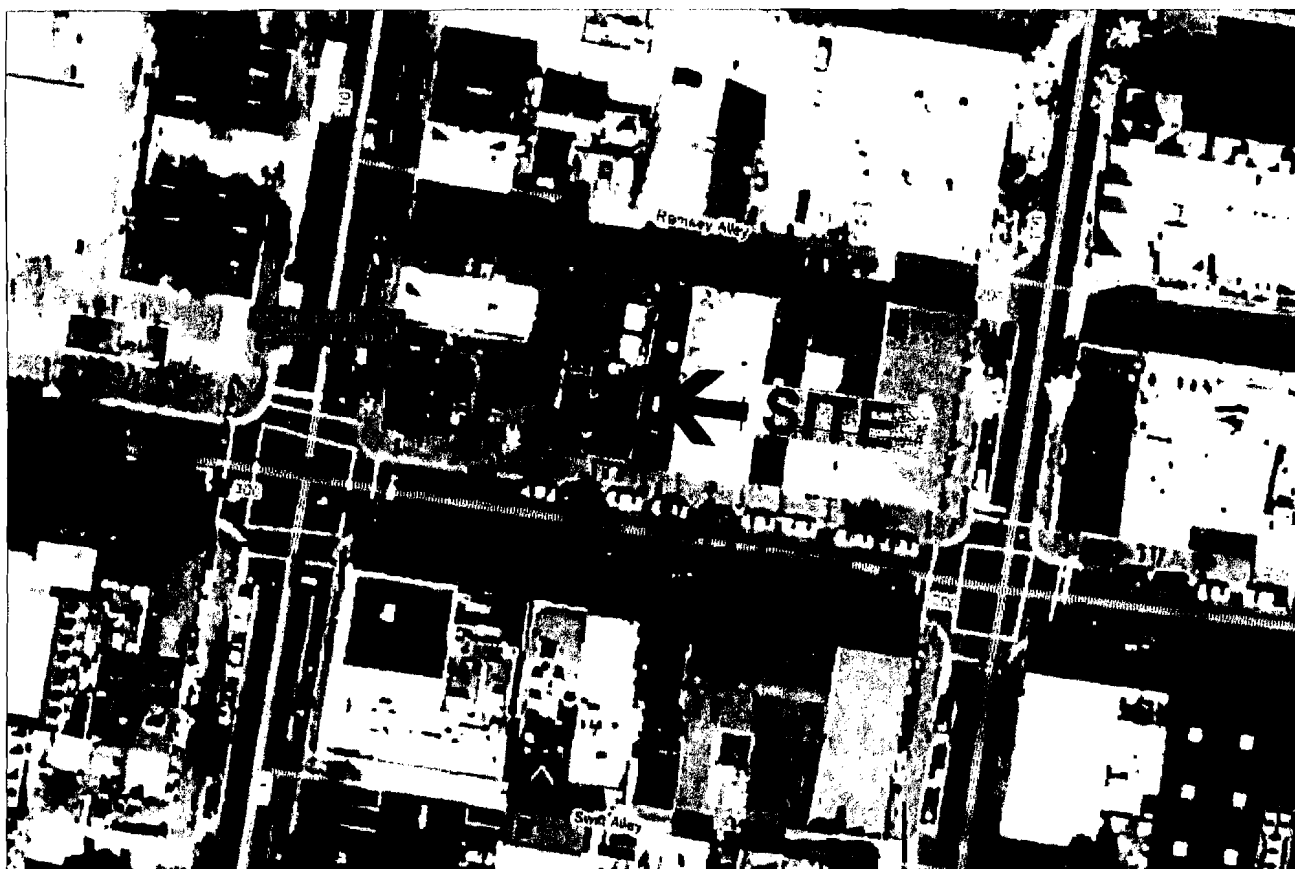


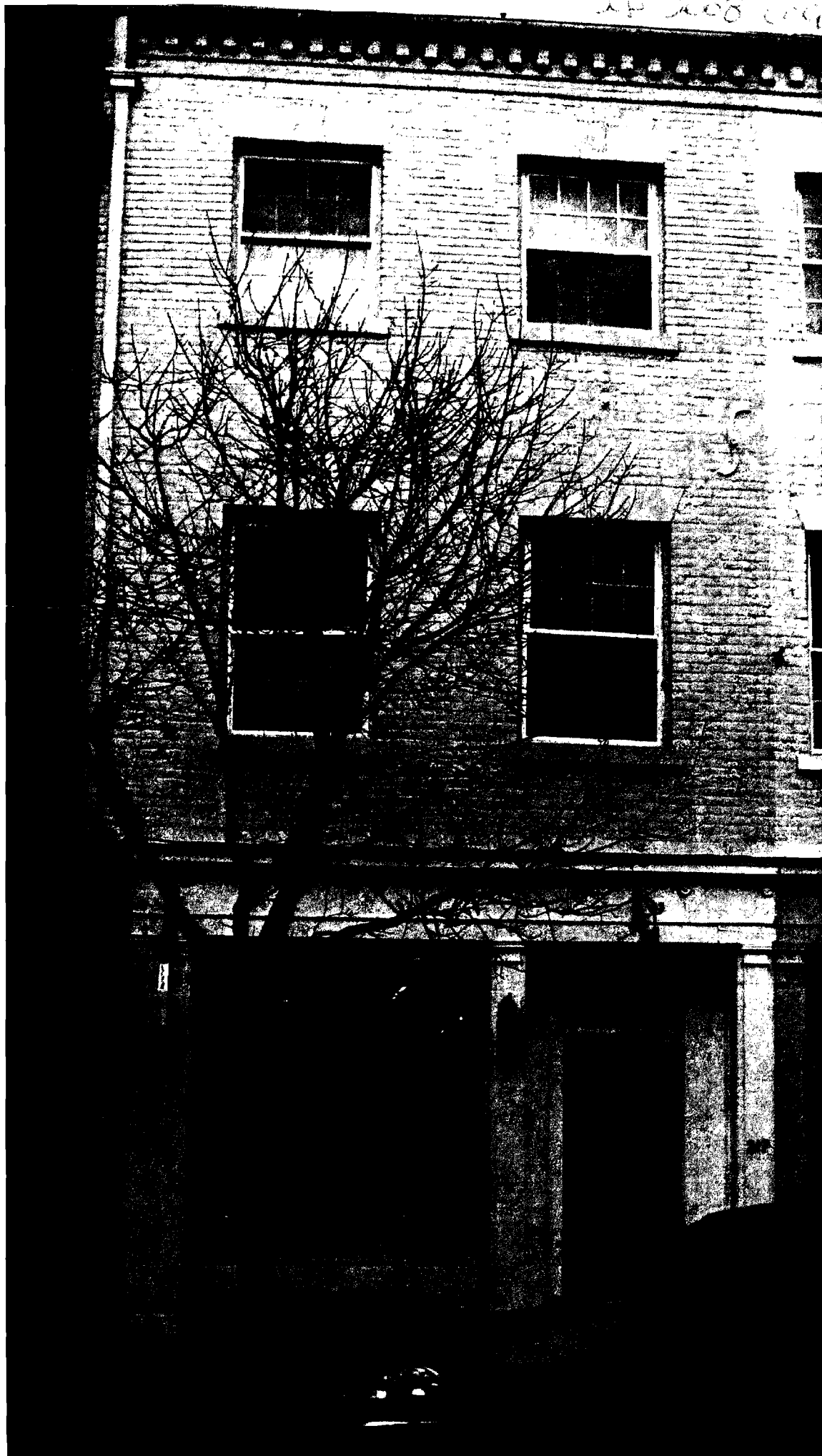
These drawings are intended for planning purposes only and are not to scale.

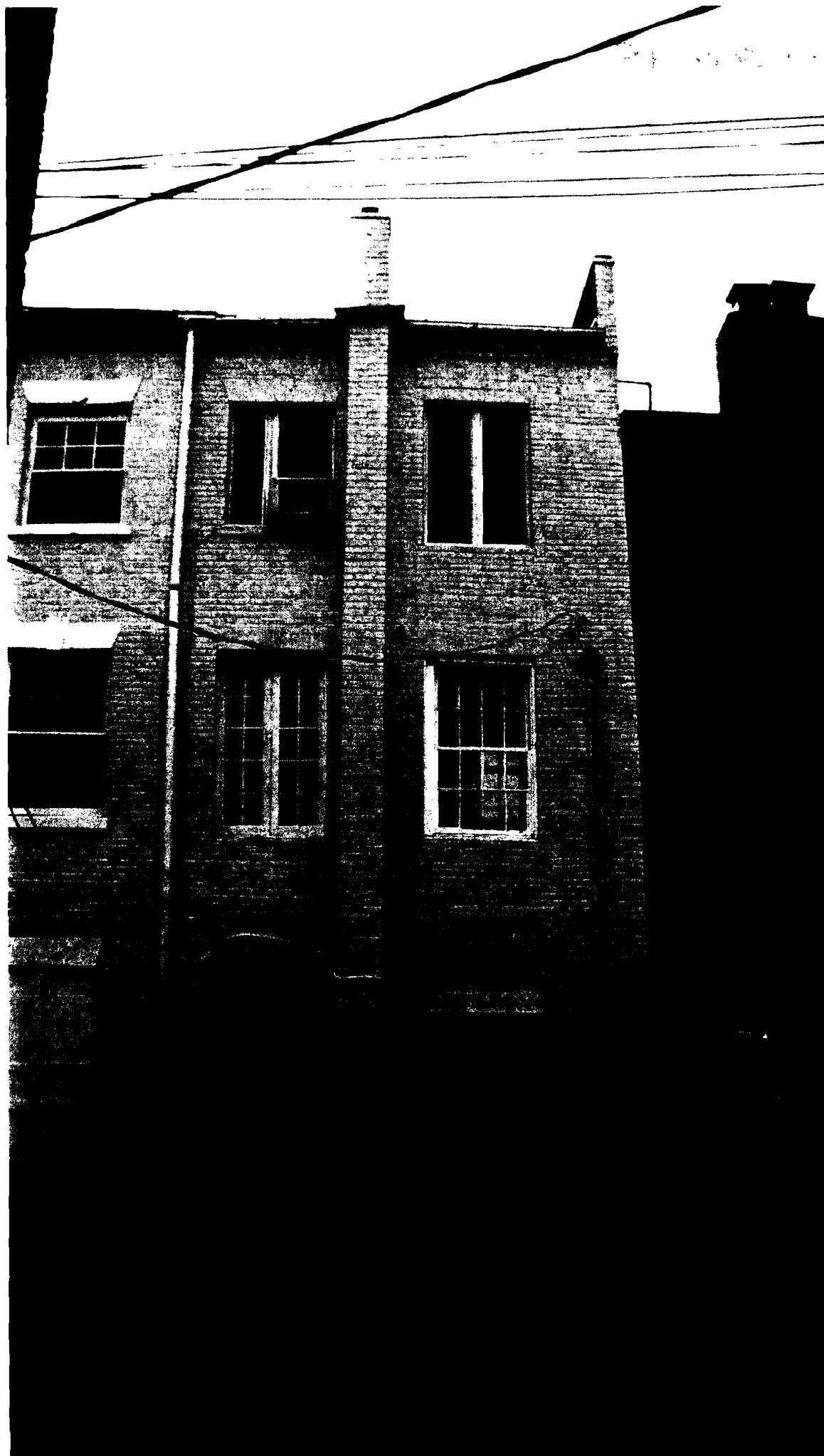


217 King Street  
075.01 02 16

lot size - 1,377 square feet  
gross building area - 4,131 square feet  
lot coverage - 99%







## SPEAKER'S FORM

DOCKET ITEM NO. 8

**PLEASE COMPLETE THIS FORM AND GIVE IT TO THE CITY CLERK  
BEFORE YOU SPEAK ON A DOCKET ITEM.**

**PLEASE ANNOUNCE THE INFORMATION SPECIFIED BELOW PRIOR TO SPEAKING.**

1. **NAME:** Duncan W. Blair, Esquire
2. **ADDRESS:** 524 King Street, Alexandria, Virginia 22314  
**TELEPHONE NO.** 703 836-1000 **E-MAIL:** dblair@landclark.com
3. **WHOM DO YOU REPRESENT, IF OTHER THAN YOURSELF?**  
Mohammed Kabir
4. **WHAT IS YOUR POSITION ON THE ITEM?**  
For
5. **NATURE OF YOUR INTEREST IN ITEM (PROPERTY OWNER, ATTORNEY,  
LOBBYIST, CIVIC INTEREST, ETC.):**  
Attorney
6. **ARE YOU RECEIVING COMPENSATION FOR THIS APPEARANCE BEFORE  
COUNCIL?**  
Yes

This form shall be kept as a part of the permanent record in those instances where financial interest or compensation is indicated by the speaker.

A maximum of three minutes will be allowed for your presentation, except that one officer or other designated member speaking on behalf of each *bona fide* neighborhood civic association or unit owners' association desiring to be heard on a docket item shall be allowed five minutes. In order to obtain five minutes, you must identify yourself as a designated speaker, and identify the neighborhood civic association or unit owners' association you represent, at the start of your presentation. If you have a prepared statement, please leave a copy with the Clerk.

Additional time not to exceed 15 minutes may be obtained with the consent of the majority of the council present; provided notice requesting additional time with reasons stated is filed with the City Clerk in writing before 5:00 p.m. of the day preceding the meeting.

The public normally may speak on docket items only at public hearing meetings, and not at regular legislative meetings. Public hearing meetings are usually held on the Saturday following the second Tuesday in each month; regular legislative meetings on the second and fourth Tuesdays in each month. The rule with respect to when a person may speak to a docket item at a legislative meeting can be waived by a majority vote of council members present but such a waiver is not normal practice. When a speaker is recognized, the rules of procedures for speakers at public hearing meetings shall apply. If an item is docketed *for public hearing* at a regular legislative meeting, the public may speak to that item, and the rules of procedures for speakers at public hearing meetings shall apply.

In addition, the public may speak on matters which are not on the docket during the Public Discussion Period at public hearing meetings. The mayor may grant permission to a person, who is unable to participate in public discussion at a public hearing meeting for medical, religious, family emergency or other similarly substantial reasons, to speak at a regular legislative meeting. When such permission is granted, the rules of procedures for public discussion at public hearing meetings shall apply.

### Guidelines for the Public Discussion Period

- (a) All speaker request forms for the public discussion period must be submitted by the time the item is called by the city clerk.
- (b) No speaker will be allowed more than three minutes; except that one officer or other designated member speaking on behalf of each *bona fide* neighborhood civic association or unit owners' association desiring to be heard during the public discussion period shall be allowed five minutes. In order to obtain five minutes, you must identify yourself as a designated speaker, and identify the neighborhood civic association or unit owners' association you represent, at the start of your presentation.
- (c) If more speakers are signed up than would be allotted for in 30 minutes, the mayor will organize speaker

APPLICATION for SPECIAL USE PERMIT # 2008-0092

PROPERTY LOCATION: **217 King Street, Alexandria, Virginia**

TAX MAP REFERENCE: **075.01 02 16**

ZONED: **CD/Commercial Downtown**

APPLICANT Name: **Mohammed H. Kabir**

Address: **5828 Glen Forest Drive, Falls Church, Virginia 22041**

PROPERTY OWNER Name: **Gerrie D. Winslow, Trustee**

Address: **8297 Champions Gate Blvd., #364, Davenport, FL 33896-8387**

PROPOSED USE: **Special Use Permit to operate a restaurant.**

**THE UNDERSIGNED** hereby applies for a Special Use Permit in accordance with the provisions of Article XI, Section 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 to post placard notice on the property for which this application is requested, pursuant to Article XI, Section 11-301(B) 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 Planning Commission or City Council in the course of public hearings 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.

**Land, Clark, Carroll, Mendelson & Blair, P.C.**

**Duncan W. Blair, Esquire**

*Print Name of Applicant or Agent*



*Signature*

**524 King Street**

*Mailing/Street Address*

**(703) 836-1000**

*Telephone #*

**(703) 549-3335**

*Fax #*

**dblair@landclark.com**

**Alexandria, Virginia 22314**

*City and State*

*Zip Code*

**December 16, 2008**

*Date*

===== **DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY** =====

Application Received: \_\_\_\_\_ Date & Fee Paid: \_\_\_\_\_ \$ \_\_\_\_\_

ACTION - PLANNING COMMISSION: recommended approval 6-0 DATE: 3/5/09

ACTION - CITY COUNCIL: CC approved PC recommendation 7-0 DATE: 3/14/09