

Docket Item #8  
SPECIAL USE PERMIT #2006-0051

Planning Commission Meeting  
October 3, 2006

**ISSUE:** Consideration of a request for a special use permit to continue the operation of a nonconforming convenience store.

**APPLICANT:** UAC Land and Building L.L.C. T/A “24 Express”

**LOCATION:** 4007 Mount Vernon Avenue

**ZONE:** NR/ Neighborhood Retail

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**STAFF RECOMMENDATION:** Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the recommended permit conditions found in Section III of this report.

**SITE GRAPHIC**  
**AVAILABLE IN THE PLANNING AND ZONING OFFICE**

**I. DISCUSSION**

REQUEST

The applicant, UAC Land and Building L.L.C. trading as “24 Express”, requests special use permit approval for the continued operation of a nonconforming convenience store located at 4007 Mount Vernon Avenue.

SITE DESCRIPTION

The subject property is one lot of record with 155.7 feet of frontage on Mount Vernon Avenue, 132.7 feet of depth and a total lot area of 17,467 square feet. The site is developed with a “24 Express” convenience store. Access to the property is from Mount Vernon Avenue.



The surrounding area is occupied by a mix of residential, commercial, a public park, and a shopping center. Immediately to the north is a Dupont Paints retail store. To the south is an Exxon gas station. To the east is Four Mile Run Park and to the west is Presidential Greens Apartments.

BACKGROUND

In 1986, the Zoning Ordinance defined a convenience store as having 3,500 square feet or less of retail space. On March 3, 1998, City Council approved Text Amendment #97-0012 which provided that all nonconforming uses be required to come into compliance with the zoning ordinance within seven years of notice of their nonconforming status or cease operations. At the time Text Amendment#97-0012 was approved, “24 Express” was considered a grocery store because it had 3,600 square feet of floor area. On September 18, 1999, City Council approved Text Amendment #99-0007 changing the amount of space considered to constitute a grocery store from 3,500 square feet to 5,000 square feet. When the abatement legislation was adopted, notice was sent to all the nonconforming uses in the city known to staff, including “24 Express.”

PROPOSAL

The applicant proposes to continue operating a nonconforming convenience store located at 4007 Mt. Vernon Avenue. The applicant’s convenience store currently sells fresh fruits, vegetables, baked goods, as well as many other convenience store items. Consistent with other convenience stores within the city, the applicant proposes continuing operations as follows:

Hours: 5am- Midnight daily

Approximate Number of patrons:	5am- 8am: 200 8am- 4pm: 300 4pm- Midnight: 200
Mechanical Noise:	HVAC and refrigeration noise levels at or below City standard.
Patron Noise:	Combination of employee, manager, and security (police) personnel to insure against loitering, etc.
Trash:	Cardboard- To be picked up daily Garbage- Approximately 3 garbage pick up loads per week. Currently there is a dumpster storage area on the property.
Litter:	Site supervision, regular trash collection, and as needed policing of adjacent properties.
Safety:	Always staffed, lighted, with security personnel as needed on Friday, Saturday, and Sunday Evenings.
Alcohol:	Off-premise beer and wine sales

PARKING

Site Plan#85-035, approved in 1985, required the convenience store to provide one space per 200 square feet. A total of 16 off street parking spaces was required. The required 16 parking spaces are located on-site.

ZONING/MASTER PLAN DESIGNATION

The subject property is located in the NR/ Neighborhood Retail zone. Section 4-1403 of the Zoning Ordinance allows a convenience store only with a special use permit.

COMMUNITY OUTREACH

Upon receipt of the application by 24 Express, staff contacted nearby civic associations to make them aware of the request. Subsequently, staff attended two meetings involving the community members.

Lenox Place at Sunnyside Civic Association

On July 25, 2006, staff attended the Lenox Place at Sunnyside Civic Association meeting to discuss and answer any questions that the association had regarding the application and the applicant. At the meeting, members expressed concerns regarding alcohol sales, security at the convenience store, and exterior improvements.

### Site Visit

On August 18, 2006, City staff visited the “24 Express” location. Civic Associations in attendance were Tenants and Worker’s Support Committee, Arlandria Chirilagua Homeowner’s Co-operative Association, Hume Springs Citizens Association, and Lennox Place at Sunnyside Association. During the meeting, community members indicated to staff issues that they felt were a direct result of the operation of the “24 Express” convenience store. The issues that were raised were: crime statistics in relation to other area convenience stores, the ratio of food sales vs. alcohol sales at the store, transportation improvements at the intersection in front of the property in conjunction with the Arlandria Small Area Plan, lighting and payphones on the property, littering and trash receptacles on the property, health and safety concerns inside the store, and landscaping in conjunction with the Four-Mile Run Plan.

## **II. STAFF ANALYSIS**

Staff does not object to the continued operation of the 24-Express located at 4007 Mt. Vernon Avenue. The store is compatible with the mix of uses already in the area and provides a valuable convenience retail service to the community and is within walking distance to several residences.

Staff has been working with the applicant and the community to address issues that have been raised since the request was first submitted to the City. Staff members from the Departments of Code Enforcement, Parks, Recreation, and Cultural Activities, Police, and Planning and Zoning organized a comprehensive site visit which included the applicant and members of the Hume Springs Citizens’ Association, Lenox Place at Sunnyside Citizens’ Association, Tenants’ and Workers’ United Association, and the Astracor Association. In addition to the comprehensive site visit, staff has met with members of the Lenox Place at Sunnyside Citizens’ Association regarding the operation.

Staff is concerned about the appearance of the property and some negative activity that has occurred on the property over the years. Since staff received the request from the applicant, staff has discussed with the applicant, issues regarding property maintenance, including landscaping and litter on the property. Also, there have been complaints of store products blocking the isles, safety concerns, and single sales of alcohol. In addition, the Lenox Place at Sunnyside Citizens’ Association identified a number of concerns including loitering, increased crime, and other issues which have been ongoing at the property. In order for this convenience store to continue operating in the community, a number of site improvements will be necessary to beautify the site, discourage negative activities such as loitering and littering, and improve the streetscape. Specific concerns are addressed as follows:

### Crime Statistics

Within recent years, reported crimes at the 24 Express have declined (see attached crime statistics). In response to past crime at the subject property, the applicant has hired off-duty police officers for the 24 Express for Friday- Sunday nights from 6pm- 12 midnight. To further deter crime, staff has

included a condition that the applicant must hire an off-duty Alexandria Police Officer for security daily from 6pm- closing. Staff finds that this practice has proven to be successful in deterring and stopping crime at the business during those hours. When off-duty officers are used, calls for service at the business drop at a significant rate.

In addition, staff has also addressed crime within the Arlandria community by having residential Police Officers in the community as well as a police sub-station. The officers have increased patrols in the community and are continuously building a positive relationship with Arlandria residents and business owners.

#### Lighting & Payphones

When staff visited the property, there were concerns regarding the lighting and loitering on the property. In the evenings, visibility of the property is significantly reduced due to overgrown shrubbery. In addition to the landscaping concern, staff has found that loitering has added to issues with safety on the property. In order to address these concerns, staff has included a condition for the applicant to cut back the trees in order to provide the adequate lighting needed to address safety concerns. In addition, staff recommends the removal of three payphones and the conversion of the two remaining payphones on the property for outgoing calls only, as well as relocating the phones away from the building. The removal of three pay phones and conversion, as well as relocation, of two remaining phones should decrease loitering on the property, however still provide a needed phone service to the community.

#### Littering and Trash Cans

Within the fenced area of the site, staff finds that litter is not a large concern. The applicant has installed fencing to deter loitering as well as to prevent littering. However, there are not any signs on the property that prohibit littering. Despite the applicant's efforts to prevent littering, there is some litter in the area and only one City trash can. Staff has included conditions regarding the applicant providing two additional trash cans as well as including a condition that the applicant must pick up litter within 75 feet of the property to reduce the amount of litter located in the immediate area. Also, staff has included a condition requiring the applicant to provide a sign prohibiting litter. Staff finds that these conditions should help alleviate problems with litter in the area.

#### Health and Safety Concerns Inside the Store

Staff has been made aware of health and safety concerns regarding the blocking of isles, windows, and height of store products. Code Enforcement staff has visited the store and informed the applicant of health and safety issues. The applicant has since removed products blocking the isles and windows, as well as lowered the height that products are stacked within the store.

#### Site Improvements

Similar to the 7-Elevens and Sunrise Market, the Special Use Permit process provides an opportunity for property improvements. The owner of the 24- Express has expressed an interest in upgrading the site and is willing to work with City staff in doing so. In response to staff's concerns,

the applicant proposes a number of improvements for the property including removal of the existing pole sign and replacing the sign with a monument sign. Also, the applicant has agreed to the condition of removing the existing “box sign”, and replacing it with a non-internally lit wall mounted sign. There are also opportunities to improve landscaping and the applicant is also submitting a landscape plan to staff for the property.

Community members have indicated that they would like to see landscaping for the property be in conjunction with the Four Mile Run Plan, since the entrance to the park is immediately next to the subject property. Staff finds that including a condition regarding a landscaping plan submitted by the applicant subject to the approval of the Directors of Planning and Zoning and Recreation, Parks, and Cultural Activities will assist the store to be more compatible with the community and the Four Mile Run Park Plan.

#### Alcohol Sales

Staff supports the recommendation prohibiting single sales to prevent any potential problems, such as littering and loitering, and to be consistent with Police policy to limit such sales City-wide.

Staff generally applies a condition for a one year review of all Special Use Permits. Since there are additional impacts on the community regarding the operation of the 24 Express convenience store, staff has included a condition for an annual review of the convenience store use for the first three years after the Special Use Permit has been approved. On the third year, staff recommends that City Council review the Special Use Permit to ensure that the conditions have sufficiently addressed the concerns.

With these conditions, staff recommends approval of the special use permit.

### **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 business or entity in which the applicant has a controlling interest. (P&Z)
2. 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. (P&Z)(Police) (RP&CA)
3. Outdoor storage shall be limited to firewood. The firewood shall be located inconspicuously in a rack at the front of the store to the satisfaction of the Director of Planning and Zoning. (P&Z)

4. The hours of operation shall be limited to between 5am to 12am daily. (P&Z)(Police)
5. Trash and garbage shall be placed in sealed containers which do not allow odors to escape and shall be stored inside or in a closed container which does not allow invasion by animals. No trash and debris shall be permitted to accumulate on site outside of those containers. (P&Z)
6. The applicant is to contact the Crime Prevention Unit of the Alexandria Police Department at 703-838-4520 regarding a security survey for the business and a robbery awareness program for all employees. (Police)
7. The applicant shall require its employees who drive to work to use off-street parking. (P&Z)
8. 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)
9. Lighting shall be to the satisfaction of the Director of Transportation and Environmental Services in consultation with the Chief of Police. (P&Z)
10. Lighting on the property shall be shielded to prevent glare on adjacent properties. (P&Z)
11. 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)
12. Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (T&ES)
13. Applicant shall provide the City \$2000.00 for two Model SD-42 Bethesda Series litter receptacle for installation on the adjacent public right-of-way (monetary contribution to be submitted to the Department of T&ES, Engineering Division, Room 4130, 301 King Street). Contact T&ES Solid Waste Division (703/751-5130) regarding information on ordering and installation. (T&ES)(Police)
14. The applicant shall submit a landscaping plan and install, and thereafter maintain in good condition, landscaping to the satisfaction of the Directors of Planning and Zoning and Recreation, Parks and Cultural Activities. (P&Z)(RP&CA)(Police)

15. The applicant shall remove the existing freestanding signs, and install a new monument sign to the satisfaction of the Director of Planning and Zoning. More specifically, the new monument sign shall be not exceed three feet in height . (P&Z)
16. The applicant shall remove the existing box sign on the front facade of the business and replace the sign with a non-internally lit, wall mounted sign to the satisfaction of the Director of Planning and Zoning. (P&Z)
17. The applicant shall encourage its employees to use mass transit or to carpool when traveling to and from work, by posting information regarding DASH and METRO routes, the location where fare passes for transit are sold, and advertising of carpooling opportunities. (P&Z)
18. The applicant shall replace the existing dumpster screening with a wooden dumpster screening, and maintain it in good condition to the satisfaction of the Director of Planning and Zoning. (P&Z)
19. No shrubs higher than 3 feet should be planted within 6 feet of walkways. (Police)
20. Trees should not be planted under or near light poles. This eliminates the potential of the tree blocking out the light, nullifying the light's effectiveness, when the tree reaches full maturity. (Police)
21. The applicant shall remove all merchandise from the windows. (Police)
22. Advertisements or displays shall not be located in or around the windows. If advertisements must be used, they should be small in size not to exceed 20% of the individual window and located along the top of the windows to allow for surveillance opportunities both from within and from outside the building. (Police)(P&Z)
23. The shelving should be limited to a MAXIMUM height of no more than 42 inches, with no stacking of tall items on the top shelf. This will help with visibility throughout the store for staff and customers. (Police)
24. The applicant shall remove three payphones on the property. The remaining two telephones shall be relocated away from the building, along the street, with clear site lines from the cashier area. The telephones should be programmed to outgoing calls only. (Police)(P&Z)

25. Beer or wine coolers may be sold only in 4 packs, 6 packs or bottles of more than 40 fluid ounces. Wine may be sold only in bottles of at least 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold. (Police)(P&Z)
26. The applicant shall hire off-duty police officers from Sunday through Saturday, from 6:00 P.M. until closing. (Police)
27. Per the Arlandria Small Area Plan, the area directly north of this site is planned for an improved intersection and roadway access to the park. The applicant will be required to participate and contribute to these improvements at the time of City implementation.(RP&CA)
28. The applicant shall provide a sign on the property prohibiting litter. (P&Z)
29. The applicant shall cease alcohol sales at 10pm daily. (Police)
30. An annual review for three consecutive years is recommended for the business. At the end of the three years, it is recommended that the SUP go before City Council for a full review. (Police)(P&Z)(RP&CA)

STAFF: Richard Josephson, Acting Director;  
James Hunt, 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

- C-1 The applicant shall comply with the City of Alexandria's Noise Control Code, Title 11, Chapter 5, which sets the maximum permissible noise level as measured at the property line.
- R-1 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.
- R-2 Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line.
- R-3 Applicant shall provide the City \$2000.00 for two Model SD-42 Bethesda Series litter receptacle for installation on the adjacent public right-of-way (monetary contribution to be submitted to the Department of T&ES, Engineering Division, Room 4130, 301 King Street). Contact T&ES Solid Waste Division (703/751-5130) regarding information on ordering and installation.

##### Code Enforcement:

- C-1 The proposed monument sign will require a construction permit.

##### Health Department:

- 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 a robbery readiness program for all employees.

- R-3 The applicant should submit a landscape plan, especially for the south side of the business where it joins the gas station to set the site off from the adjoining property clearly establishing the business's boundaries.
- R-4 No shrubs higher than 3 feet should be planted within 6 feet of walkways.
- R-5 Trees should not be planted under or near light poles. This eliminates the potential of the tree blocking out the light, nullifying the light's effectiveness, when the tree reaches full maturity.
- R-6 The applicant shall add at least two more trash cans on the property site.
- R-7 The boundaries for litter retrieval that the applicant is responsible for should extend 75 feet around the perimeter of the business.
- R-8 The applicant shall remove all merchandise from the windows.
- R-9 Advertisements or displays shall not be located in or around the windows. If advertisements must be used, they should be small in size not to exceed 20% of the individual window and located along the top of the windows to allow for surveillance opportunities both from within and from outside the building.
- R-10 The shelving should be limited to a MAXIMUM height of no more than 42 inches, with no stacking of tall items on the top shelf. This will help with visibility throughout the store for staff and customers.
- R-11 The pay-telephones should be reduced to two telephones. The telephones need to be away from the building, along the street, with clear site lines from the cashier area. The telephones should be programmed to outgoing calls only.
- R-12 It is recommended that the closing hours for the business be 10:00 P.M.
- R-13 Beer or wine coolers may be sold only in 4 packs, 6 packs or bottles of more than 40 fluid ounces. Wine may be sold only in bottles of at least 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold.
- R-14 A three year annual review is recommended for the business. At the end of the three years, it is recommended that the SUP go before City Council for a full review.

- R-15 The applicant shall hire off-duty police officers from Sunday through Saturday, from 6:00 P.M. until closing.
- R-16 The applicant shall cease alcohol sales at 10pm daily.
- F-1 A check of the business revealed that natural surveillance into and out of the business is blocked/hindered by merchandise stored high along the windows. The windows should create a “fish bowl effect” to allow surveillance opportunities both from within and from outside the building. (see diagrams below).

Note that in the picture on the left, natural surveillance cannot be obtained due to all of the advertisements and merchandise in the window. For the safety of all employees and patrons, a “fish bowl effect” like the picture on the right should be obtained allowing for natural surveillance opportunities both from within and from outside the building by clearing the windows of all obstruction. Also, when the business looks like the owner cares crime is less likely to occur.



- F-2 The business currently employs off-duty police officers on Friday, Saturday and Sunday nights from 6:00 P.M. until 12:00 A.M. This practice has proven to be successful in deterring and stopping crime at the business. When the officers are on duty, calls for service at the business drop at a rate significant enough to recommend that the practice of hiring off-duty officers be extended from the current schedule to a schedule of Sunday through Saturday, from 6:00 P.M. until closing.

Recreation, Parks, & Cultural Activities

- R-1 The applicant shall install, and thereafter maintain in good condition, landscaping to the satisfaction of the Directors of Planning and Zoning and Recreation, Parks and Cultural Activities.

- R-2 A three year annual review is recommended for the business. At the end of the three years, it is recommended that the SUP go before City Council for a full review.
- R-3 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.
- R-4 Per the Arlandria Small Area Plan, the area directly north of this site is planned for an improved intersection and roadway access to the park. The applicant will be required to participate and contribute to these improvements at the time of City implementation.
- F-1. The City is actively pursuing the preservation and acquisition of open space in this area and would consider the possibility of right of first refusal and other means of converting this property to open space through voluntary interactions with the property owner. At the time or before the special use permit expires, the applicant may contact the City to discuss such future options.

SUP #2006-0051  
4007 Mount Vernon Avenue

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