

**DOCKET ITEM #14**  
**Special Use Permit #2009-0004**  
**4007 Mount Vernon Ave- 24 Express**

Application	General Data	
<b>Request:</b> Consideration of a review of a special use permit of a convenience store.	<b>Planning Commission Hearing:</b>	March 5, 2009
	<b>City Council Hearing:</b>	March 14, 2009
<b>Address:</b> 4007 Mt. Vernon Ave	<b>Zone:</b>	NR/Neighborhood Retail
<b>Applicant:</b> UAC Land and Building t/a 24 Express by William Thomas Jr. agent	<b>Small Area Plan:</b>	Potomac West

**Staff Recommendation: APPROVAL OF CONTINUED USE** 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)

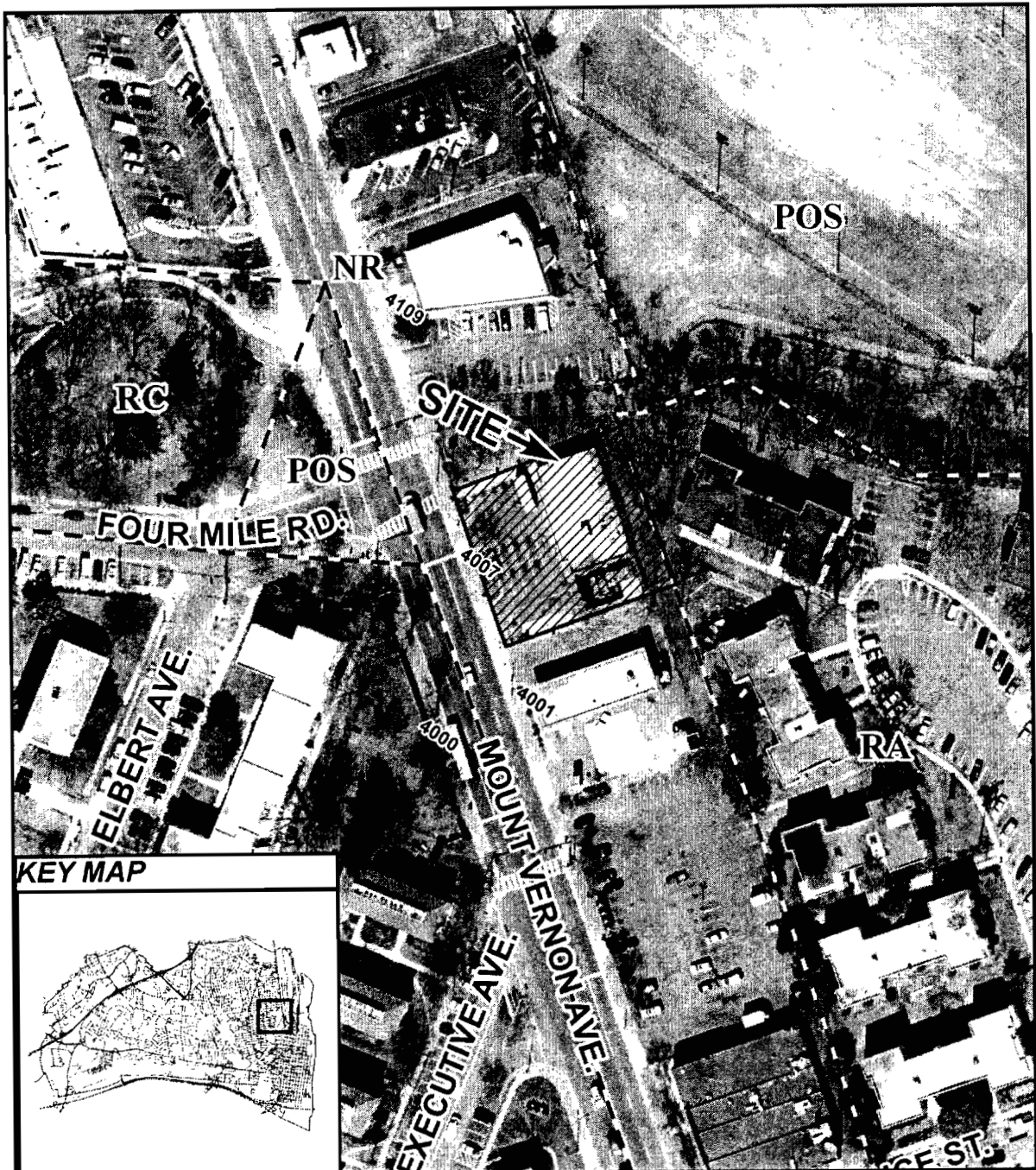
**PLANNING COMMISSION ACTION, MARCH 5, 2009:** On a motion by Mr. Wagner, seconded by Mr. Robinson, the Planning Commission voted to recommend approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendations. The motion carried on a vote of 6 to 0. Mr. Dunn was absent.

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

**Speakers:**

William Thomas, Jr., representing the applicant, spoke in favor of the request.

**CITY COUNCIL ACTION:**



**SUP #2009-0004**

**03/05/09**



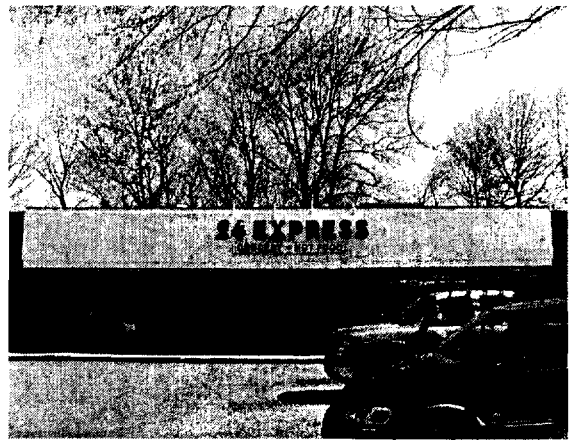
## I. DISCUSSION

Special Use Permit #2009-0004 is a six-month review of previously-approved Special Use Permit #2008-0020, an amendment to extend alcohol sales until midnight at 4007 Mt. 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 one-story convenience store building. 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 the former Duron 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

City Council approved SUP#2006-0051 on October 14, 2006 for the existing nonconforming convenience store and included certain alcohol-related conditions. Condition #29 of SUP #2006-0051 stated that alcohol sales shall cease at 11:00 p.m. daily. Condition #32 stated that “the applicant shall be required, without another public hearing, to automatically abide by a comprehensive alcohol policy for the Arlandria area, once such a policy has been developed by the city.”

Planning & Zoning staff and the Police Department met with the Virginia ABC in April 2008 to discuss the possibility of a comprehensive alcohol policy for the Arlandria area. ABC stated that they have no regulatory or policy mechanism to impose neighborhood-wide restrictions on alcohol sales. Licenses for alcohol sales are only considered on a case-by-case basis.

At its May 6, 2008 meeting, Planning Commission voted to recommend approval of the applicant's Special Use Permit amendment request. On May 20, 2008, City Council deferred the request, directing staff to approach other retail establishments in the area that sell off-premises alcohol and request a voluntary decrease in the hours for the sale of alcoholic beverages and to develop a plan/strategy to address the alcohol use in the area. At their hearing on June 24, 2008, City Council required 24 Express to continue ending alcohol sales at 11:00pm daily while staff continued its efforts to obtain voluntary compliance with other businesses on restricting off-

premises alcohol sales to no later than 11:00pm. City Council further instructed staff to bring the request back in September for review if staff is unsuccessful in obtaining the voluntary compliance.

Of the four businesses in the Arlandria area that sell alcohol for off-premises consumption, two declined to participate in a voluntary restriction of sales. The applicant's request consequently returned to City Council with staff recommending a compromise position, allowing alcohol sales until 12:00 midnight only Friday-Sunday with off-duty police officers required to be present from 6 pm until midnight on those days. Off-premises alcohol sales would end at 11:00pm on the remaining days of the week. City Council approved the request on September 23, 2008 with three new conditions that incorporated this compromise.

#### INSPECTIONS

Staff visited the property on February 19, 2009 and found two minor violations of SUP#2008-0020 that were subsequently resolved. Staff has not received any complaints about this property since City Council approval in September 2008.

#### PROPOSAL

The operation of the convenience store is proposed to remain as it was represented to City Council in SUP#2008-0020.

<u>Hours (convenience store):</u>	5am- Midnight daily
<u>Approximate Number of Patrons:</u>	5am- 8am: 200 8am- 4pm: 300 4pm- Midnight: 200
<u>Mechanical Noise:</u>	HVAC and refrigeration noise levels at or below City standard.
<u>Patron Noise:</u>	Combination of employee, manager, and security (police) personnel to insure against loitering, etc.
<u>Trash:</u>	Cardboard- To be picked up daily. Garbage- Approximately three loads per week. Currently there is a dumpster storage area on the property.
<u>Litter:</u>	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-premises alcohol sales until 11:00pm Monday-Thursday, and midnight Friday-Sunday.

#### 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 were 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.

The proposed use is consistent with the Potomac West Small Area Plan chapter of the Master Plan which designates the property for neighborhood retail use.

## **II. STAFF ANALYSIS**

The applicant has indicated that he would like to maintain the limitations on off-premises alcohol sales agreed to in September 2008, which allows off-premises alcohol sales until 11:00pm Monday-Thursday, and until midnight Friday-Sunday. Staff supports the continuation of this arrangement. Staff has not received any complaints from the public regarding this convenience store. The Police Department has reported no increase in activity or in service calls that can be attributed to the convenience store. Because of these findings, staff recommends amending Condition #30 to better mirror standard review condition language. An annual administrative review for the next three years is recommended to remain in effect, but the provisions requiring another six-month review upon receiving any complaints and requiring a full Council review after three years have been removed. The standard review language added into the condition will still permit staff to bring the SUP before Planning Commission and City Council should the need arise.

Subject to the conditions contained in Section III of this report, staff recommends continuation of the Special Use Permit.

### III. RECOMMENDED CONDITIONS

Staff recommends **continuation** of the special use permit amendment 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)(SUP2006-0051)
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)(SUP#2006-0051)
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) (SUP#2006-0051)
4. The hours of operation shall be limited to between 5am to midnight daily. (P&Z)(Police) (SUP#2006-0051)
5. 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) (SUP#2008-00020)
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) (SUP#2006-0051)
7. The applicant shall require its employees who drive to work to use off-street parking. (P&Z) (SUP#2006-0051)
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) (SUP#2006-0051)

9. Lighting shall be to the satisfaction of the Director of Transportation and Environmental Services in consultation with the Chief of Police. (P&Z) (SUP#2006-0051)
10. Lighting on the property shall be shielded to prevent glare on adjacent properties. (P&Z) (SUP#2006-0051)
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) (SUP#2006-0051)
12. Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (T&ES) (SUP#2006-0051)
13. Condition satisfied. (P&Z) (SUP#2008-00020)
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) (SUP#2006-0051)
15. Condition satisfied. (P&Z) (SUP#2008-00020)
16. Condition satisfied. (P&Z) (SUP#2008-00020)
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) (SUP#2006-0051)
18. Condition satisfied. (P&Z) (SUP#2008-00020)
19. No shrubs higher than 3 feet should be planted within 6 feet of walkways. (Police) (SUP#2006-0051)
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) (SUP#2006-0051)

21. The applicant shall remove all merchandise from the windows. (Police) (SUP#2006-0051)
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) (SUP#2006-0051)
23. Condition deleted. (PC) (SUP#2008-00020)
24. Condition satisfied. (P&Z) (SUP#2008-00020)
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) (SUP#2006-0051)
26. The applicant shall hire a uniformed and licensed security firm Monday through Thursday and shall hire off-duty police officers Friday through Sunday, from 6:00 p.m. until closing. (City Council) (SUP#2006-0051)
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) (SUP#2006-0051)
28. The applicant shall provide a sign on the property prohibiting litter. (P&Z) (SUP#2006-0051)
29. **CONDITION AMENDED BY STAFF:** The applicant may sell alcohol no later than 11:00pm Monday-Thursday. The applicant may sell alcohol until midnight on Friday, Saturday and Sunday with off-duty police or sheriff deputies providing security from 6 p.m. until midnight. (City Council) (P&Z)
30. **CONDITION AMENDED BY STAFF:** An annual staff review for three consecutive years is recommended shall be required. An additional review shall occur within six months after approval if complaints are received. At the end of the three years, it is recommended that the SUP go before City Council for a full review. Staff 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 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.  
(Police)(P&Z)(RP&CA)(PC) (SUP#2006-0051)

31. No alcohol consumption shall be permitted on the property. (PC) (SUP#2006-0051)
32. The applicant shall be required, without another public hearing, to automatically abide by a comprehensive alcohol policy for the Arlandria area, once such a policy has been developed by the City. (City Council) (SUP#2008-00020)
33. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES) (SUP#2008-00020)
34. Deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am, except for the delivery of milk/dairy products which may be allowed from 11:00pm to 6:00am. (T&ES) (City Council) (SUP#2008-00020)
35. The applicant shall post the hours of operation at the entrance to the convenience store. (P&Z) (SUP#2008-00020)
36. **CONDITION SATISFIED & AMENDED BY STAFF:** The applicant shall ~~clearly post~~ maintain no loitering signs on the property in a clearly visible location. (City Council) (SUP#2008-00020)
37. **CONDITION AMENDED BY STAFF:** The applicant shall execute an agreement annually with the Alexandria Police Department (APD) that allows APD to enforce no loitering on the property. (City Council) (SUP#2008-00020)

38. **CONDITION SATISFIED:** ~~This SUP shall be docketed for Planning Commission and City Council for a review in six months (March 2009). (City Council)~~

STAFF: Richard Josephson, 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 Two cans paid for 11/15/06. (T&ES)
- 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 Deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (T&ES)
- R-4 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-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)
- 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.

- C-2 The applicant shall comply with the City of Alexandria's Solid Waste Control, Title 5, Chapter 1, which sets forth the requirements for the recycling of materials (Sec. 5-1-99).

Code Enforcement:

- F-1 No Comment

Health Department:

- F-1 No Comment

Parks& Recreation:

- F-1 No Comment

Police Department:

- F-1 The Police Department has no objections to the hours extending from 11:00 p.m. to 12:00 a.m. for the purposes of selling alcohol off-premise with the following restrictions:
1. 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.
  2. That the SUP is reviewed after one year.

SPEAKER'S FORM

DOCKET ITEM NO. 14

**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: William (Tom) THOMAS JR
2. ADDRESS: 11320 Shawnee Hills 325 Fairfax 22030
- TELEPHONE NO. 385 8282 E-MAIL ADDRESS: Wthomas@t3pd.com
3. WHOM DO YOU REPRESENT, IF OTHER THAN YOURSELF? myself
4. WHAT IS YOUR POSITION ON THE ITEM?  
FOR: ☒ AGAINST: ☐ OTHER: ☐
5. NATURE OF YOUR INTEREST IN ITEM (PROPERTY OWNER, ATTORNEY, LOBBYIST, CIVIC INTEREST, ETC.): Property Owner
6. ARE YOU RECEIVING COMPENSATION FOR THIS APPEARANCE BEFORE COUNCIL?  
YES ☐ NO ☒

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 requests by subject or position, and allocated appropriate times, trying to ensure that speakers on unrelated subjects will also be allowed to speak during the 30 minute public discussion period.
- (d) If speakers seeking to address council on the same subject cannot agree on a particular order or method that they would like the speakers to be called on, the speakers shall be called in the chronological order of their request forms' submission.
- (e) Any speakers not called during the public discussion period will have the option to speak at the conclusion of the meeting, after all docketed items have been heard.