

Docket Item #13
SPECIAL USE PERMIT #2003-0095

Planning Commission Meeting
December 2, 2003

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

APPLICANT: 7-Eleven Inc.
by Michael R. Vanderpool, attorney

LOCATION: 800 Franklin Street

ZONE: CL/Commercial Low

STAFF RECOMMENDATION:

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)
3. No food, beverages, or other material shall be stored outside (except for items identified in Condition #5). (P&Z)
4. 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)
5. The business shall be permitted to operate for 24 hours daily. (P&Z)
6. The applicant shall post the hours of operation at the entrance to the business. (P&Z)
7. Beer or wine coolers may be sold only in 4-packs, 6-packs or bottles of 40 fluid ounces or more. 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)
8. 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)
9. 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)
10. The applicant shall require its employees who drive to work to use off-street parking. (P&Z)

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11. No seats or tables shall be provided for the use of patrons. (P&Z)
12. The applicant shall conduct employee training sessions on an ongoing basis, including as part of any employee orientation, to discuss all SUP provisions and requirements. (P&Z)
13. The existing landscaping shall be maintained, except that the applicant shall trim shrubbery as close as feasible to 36 inches. So as not to jeopardize the health of the mature shrubs, trimming shall occur over three planting seasons. (P&Z)
14. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES)
15. 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)
16. The applicant shall repair, and thereafter maintain in good condition, the freestanding sign on the property. (P&Z)
17. The applicant shall repair the lighting fixture located at the east side of the building, and clean and repair the lighting located under the canopy at the front of the building. (T&ES)
18. Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (T&ES)
19. Applicant shall pay the City the sum of \$1,700.00 for placement of two Model SD-42 Bethesda Series litter receptacles on the right-of-way to replace the existing steel cans on Franklin Street. (T&ES)
20. The applicant shall implement the facade improvements as submitted in the attached plans. (P&Z)
21. The lighting for the parking lot is to be generally maintained at a minimum of 2.0 foot candles. The lighting shall be shielded to prevent glare on adjacent properties. (Police)
22. The applicant shall maintain 14 on-site parking spaces. (P&Z)

23. The applicant shall continue to allow space in the building to be used by the Alexandria Police as an office. (P&Z)

24. The Director of Planning and Zoning shall review the special use permit one year after approval 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, (b) the director has received a request from any person to docket the permit for review as a result of a complaint that rises to the level of a violation, 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) (Police)

BACKGROUND

In 1986 the “convenience store” use was added to the Zoning Ordinance, distinguishing this high impact use from other retail uses and requiring a special use permit for convenience stores. The 7-Eleven stores in the City predate this change in the ordinance, do not have special use permits and, therefore, are considered “nonconforming”. In 1998, City Council amended the Zoning Ordinance to require that nonconforming uses cease operations within seven years, unless an SUP is approved allowing their continued use (TA#97-0009A). All 7-Eleven stores in the City were notified of their nonconforming status by letter dated June 30, 1998, explaining that a special use permit was required prior to July 1, 2005, or they would have to cease operations (see attached letter).

There are fifteen 7-Eleven convenience stores city-wide (see attached map and list of stores). When representatives from 7-Eleven, Inc. approached staff several months ago to discuss the application process, the applicant and planning staff, along with representatives from the Police, Code Enforcement, Transportation and Environmental Services, and Recreation, Parks and Cultural Activities worked together to address general issues and the City’s concerns city-wide, and to establish expectations for the continued use of the 7-Eleven stores in the City. This case is the first in a series that will come before the Commission and Council over the next 18 months. Each will address the potential impacts that 7-Elevens present and the solutions staff and the applicant have proposed for addressing them.

Impacts

While 7-Eleven stores provide a real convenience to citizens of the city, their location close to residential areas can create a problem. The use by definition includes high customer volume, typically for quick and small sales of retail convenience goods, and typically including alcohol. Therefore, convenience stores, by their nature, require consideration of the following issues:

- Alcohol sales. If the sale of alcohol leads to problem behavior, including loitering, crime, and litter, then a convenience store site can become a problem for the neighborhood. The volume of alcohol sales is an additional factor. While some 7-Elevens in the City now restrict sales of wine and beer to single or large containers, they do so as part of a voluntary agreement with the Alexandria Police, and not because of a clear legal restriction. In as much as all other SUP uses that include off site alcohol sales are limited to single sales, it is staff’s expectation, understood by 7-Eleven, that each of the 7-Eleven SUPs will include a similar restriction on the sale of wine and beer. The Virginia Department of Alcohol Beverage Control restricts alcohol sales to between 6:00 a.m. and 12:00 midnight at 7-Elevens, and other similar off-premises businesses, state wide.

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- Hours of operation. Most 7-Elevens in the City are open 24 hours a day, seven days a week. At some locations, a lighted, available meeting place is a convenience; in others it is a magnet for nuisance activity. Staff expects to address this issue on a case by case basis, depending on the circumstances at the individual 7-Eleven store.
- Litter and trash. The stores sell quick, consumable items including sodas, cigarettes, and chips, which can become trash and litter on the property and in the area surrounding the 7-Eleven. Many stores offer trash cans to prevent littering and consolidate trash, which may be supplemented by city trash cans in the right-of-way.
- Site improvements (signage, landscaping, dumpster screening, etc.) . Many of the sites have older facades and signs, including pole signs, and poor architecture, all of which make the neighborhood use less attractive. Because these sites are older, many have excessive paving or poor landscaping that may need new installation and enhancement. Staff has worked with 7-Eleven on the architecture, signage, and landscaping at each site in order to make each one more attractive.
- Crime. The 7-Elevens operate during late night hours and offer alcohol sales, which in combination may, but does not always, contribute to criminal activity. Staff will be reviewing the number of calls for service at each location, and the type of crime associated with those calls, at each location in order to determine whether there is a crime problem associated with the site.
- Access, Traffic and Deliveries. The 7-Eleven sites are generally in close proximity to residential areas, on smaller lots with limited areas for parking and vehicular maneuvering. This combination can create a conflict among the activities that occur on the site including rapid customer turnover, delivery vehicles loading goods, and trash pick up.

Although all of the 7-Elevens will experience these issues to some degree, the level to which they create problems at each site will vary case by case. Staff's recommendations to control these issues will also vary accordingly.

DISCUSSION

1. The applicant, 7-Eleven, Inc., by Mike Vanderpool, attorneys, requests special use permit approval for the continued use of a nonconforming convenience store located at 800 Franklin Street.
2. The subject property is one lot of record with 85 feet of frontage on Franklin Street, 100 feet of depth and a total lot area of 8,500 square feet. The site is developed with a 2,620 square feet, single story commercial building occupied by a 7-Eleven convenience store (see attached photo). The surrounding area is a mix of townhouses, condominiums, and office and commercial uses in the nearby vicinity. The Greene Funeral Home is located immediately to the west of the property and offices are immediately to the north. Residential uses are located immediately to the east and south of the property.
3. The 7-Eleven store at 800 Franklin Street has operated on the property since January 1965. The construction of the store was originally approved under Site Plan #64-016. The applicant leases the property. According to the applicant, the store is intended to provide quick and convenient shopping and goods which are typically purchased in small quantities. Food and beverages are purchased for consumption off premises.
4. The applicant has worked with staff to identify potential site improvements for 800 South Franklin Street store, and has agreed to renovate the store building's facade as illustrated in the attached elevation. There will be no color striping or color bands on the new facade. The facade improvements include new siding on the gable end over the entrance, a new shingled roof, repairing the existing free-standing pole sign, and removing the colored bands over the entrance. These improvements were approved by the Board of Architectural Review on November 5, 2003. The landscaping on the site is mature, and the applicant agrees to trim and maintain the existing landscaping.
5. The store is open 24 hours a day, 365 days a year. The applicant proposes that these hours remain the same.
6. According to Section 8-200 (A)(16) of the zoning ordinance, a retail use of 2,620 square feet at this location is required to provide one parking space for every 210 square feet of floor area, totaling 13 spaces. The property has a total of 14 spaces on site. According to the applicant, the existing parking has proven adequate because of the quick turnover of customers.
7. Trash generated is typical solid waste from a small retail establishment, largely consisting of paper, cardboard and plastic. Trash is picked up by a private hauler several times per week. The applicant presently contracts with a private company to perform three "litter walks" each week. The contractor removes litter and trash from the entire property, as well

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as adjacent sidewalks and gutters. Store employees also perform a minimum of two litter walks each day to pick up litter on the property. In addition, there are three trash receptacles located on the site, and two city trash cans located in the public right of way to control litter.

8. The applicant requests approval of outdoor storage to continue sales of firewood. The applicant is willing to store firewood in a rack as approved by staff.
9. A consolidated delivery is made to minimize the number of truck deliveries. The consolidated delivery is made daily at approximately 9:30 p.m. Large truck deliveries are scheduled to comply with the City's noise ordinance (if trash collection is less than 500 feet from a residential area, Section 5-1-42 of the City Code prohibits solid waste collection from the premises between the hours of 11:00 p.m. and 7:00 a.m.; or between 6:00 a.m. from May 1 through September 30). Other vendors deliver several times each week, typically three or four trucks delivery per each 24 hour period. Loading takes place from the parking area at the front of the store.
10. The store is equipped with a closed circuit T.V. and monitored alarm system. A Police Community Substation (office) is located on-site within the store.
11. The store has an A.B.C. license for off-premise sale of beer and wine between the hours of 6:00 a.m. and 12:00 midnight.
12. On November 19, 2003, staff attended the Southwest Quadrant Civic Association meeting, where residents of Old Town West and Old Town South were also present, and residents expressed support for the continued operation of the 7-Eleven at this location. Members also voiced support for a condition limiting alcohol sales to single sales. Staff has also discussed the application with the Old Town Civic Association, and has not heard of any serious concerns about the operation.
13. Zoning: The subject property is located in the CL/Commercial Low zone. The CL zone does not currently allow convenience stores, however, the nonconforming use may continue operating with special use permit approval.
14. Master Plan: The proposed use is consistent with the Southwest Quadrant chapter of the Master Plan which designates the property for CL uses. The south side of the block is designated for CL uses in order to maintain the present scale of development and provide transition between the residential areas at the south and the commercial areas on the west and east.

STAFF ANALYSIS:

Staff supports the proposed special use permit for the nonconforming 7-Eleven at 800 Franklin. The store has been operating for nearly 40 years and provides a valuable convenience to residents in the area. This compact and well landscaped site has generally not been a problem in the past. Nevertheless, staff recommends a number of conditions to address existing and potential future issues on the property.

Alcohol sales. Staff is concerned generally about the historic sale of single containers of beer and wine, and the potential that creates for negative activity on the premises and in the area. Staff has included a condition prohibiting single sales of beer and wine, as agreed to by the applicant.

Hours of operation. Staff is not aware of any problems related specifically to this location being open for 24 hours, and recommends that the establishment be permitted to continue to operate for 24 hours daily.

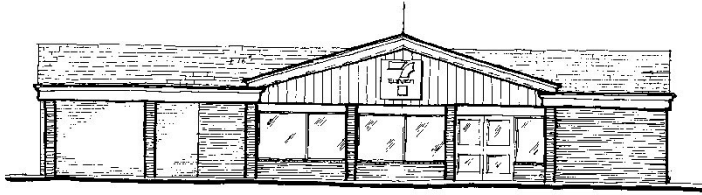
Litter and trash. Staff is also concerned generally about the potential for litter. Staff is satisfied with the applicant's litter program, contracting with a company to pick up litter three times a week, and employees to monitor the site at least two times a week. In addition, there are three trash receptacles located on the site, and two city trash cans located in the public right of way to control litter.

To add to the improved look of the area around the improved property, staff recommends that the two city trash cans be replaced by the applicant with the new model trash can. Staff also recommends the standard condition regarding litter pick-up.

Site improvements (signage, landscaping, dumpster screening, etc.). Staff was concerned about the appearance of the aging facade and the apparent neglect of the freestanding sign that has a slight lean to it. The applicant worked with staff to address these concerns, and proposes to improve the facade and repair the leaning sign as proposed by staff. The facade improvements have already been approved by the Board of Architectural Review.



Existing Facade



Proposed Facade

Facade improvements include: new raised parapet, mountings and trim (white), new vertical shadow line siding (beige), new gutter, new asphalt shingles. The brick facade is proposed to remain.

Crime. Although crime can be an issue for the 7-Elevens in general, at this particular station only six calls for service were received in the last year. In addition, a Police substation is located in the building, reducing the potential for criminal activity at this location. Staff is satisfied that this location has adequate control of criminal activity.

Access, Traffic, and Deliveries. Staff is not aware of any complaints regarding parking congestion or conflict with delivery vehicles. Staff finds that although a small property, there is adequate space for the functions of customer vehicles, delivery trucks, and trash pick-up.

Lighting. The Police Department has included a recommendation that lighting at the site be to a minimum level of 2.0 foot candles, which is the same recommendation that the Police Department makes for every development and business in the City. Staff has measured the existing lighting at the site, and found that it adequately illuminates the property, generally meeting or exceeding the 2.0 requirement. The lights are shielded so as not to cause a nuisance to neighboring residential properties. Therefore, staff recommends that the existing lighting levels and shielding be maintained.

The Police also recommended that the shrubbery be trimmed to a 36 inch height to improve visibility at the site. Although a good idea, the landscaping at this site is mature and would not survive a single trimming to that height. Therefore, staff recommends that the shrubbery be trimmed over three seasons to a height close to 36 inches.

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

STAFF: Eileen Fogarty, Director, Department of Planning and Zoning;
Barbara Ross, Deputy Director;
Valerie Peterson, Urban Planner.

CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services:

- F-1 The site is located on the southwest corner of Franklin Street and North Columbus Street and vehicular access is from 2 city standard driveway aprons, one for each street frontage.
- F-2 The public improvements; curbs, sidewalks and driveway aprons are in good condition and no repairs needed. The curb radius at the pedestrian street crossing has an existing handicap ramp.
- F-3 The private improvements; curbs, pavement are in good repair except for a portion of concrete sidewalk at the base of the steps located along the N. Columbus Street frontage.
- F-4 Site lighting is provided by wall mounted boxed (shielded) lights and should not present a nuisance to adjacent residential properties.
- F-5 A site lighting survey found that the site generally met or exceeded the required standards except for the east side of the building where a wall unit was not working.
- F-6 There are two old style street litter boxes located on the Franklin Street frontage and two private litter boxes located on and off the right-of-way on N. Columbus Street.
- F-7 The construction of this store was originally approved under Site Plan #64-016.
- R-1 Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers.
- R-2 The applicant shall repair existing lighting fixtures that are not working.
- R-3 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-4 Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line.

- R-5 Applicant shall pay the City the sum of \$1,700.00 for placement of two Model SD-42 Bethesda Series litter receptacles to replace the existing steel cans on Franklin Street.
- 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.

Code Enforcement:

- C-1 New construction must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-2 Alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-3 Construction permits are required for this project. Plans shall accompany the permit application that fully detail the construction as well as layouts and schematics of the mechanical, electrical, and plumbing systems.
- C-4 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.
- C-2 This facility is currently operating as 7-Eleven under Alexandria Health Dept. permit, issued to The Southland Corporation.
- C-3 This facility and all modifications must meet current Alexandria City Code requirements for food establishments.

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- C-4 Five sets of plans must be submitted to and approved by this department prior to construction/modifications. Plans must comply with the Alexandria City Code, Title 11, Chapter 2, Food and Food Establishments. There is a \$135.00 fee for review of plans for food facilities.
- C-5 Permits and/or approval must be obtained prior to operation.
- C-6 The facility must comply with the Alexandria City Code, Title 11, Chapter 10, Smoking Prohibitions.
- C-7 Certified Food Managers must be on duty during all hours of operation.
- C-8 Restrooms, including those in common areas, serving the restaurant, are to meet Alexandria City Code, Title 11, Chapter 2 requirements.
- C-9 Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening.

Police Department:

- R-1 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.
- R-2 The applicant is to contact the Crime Prevention Unit of the Alexandria Police Department at 703-838-4520 regarding a robbery awareness program for all employees.
- R-3 If an “ABC Off” license is approved we recommend the following:
 - 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 content of 14% or more by volume) may not be sold.
 - 2. That the SUP is reviewed after one year.
- R-4 The lighting for the parking lot is to be a minimum of 2.0 foot candles minimum maintained.
- R-5 The shrubbery is to be a maximum height of 36 inches when it is mature.

Recreation, Parks and Cultural Activities

F-1 Landscaping shall be maintained.