

Docket Item # 15
SPECIAL USE PERMIT #2004-0057

Planning Commission Meeting
November 4, 2004

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

APPLICANT: 7-Eleven, Inc.
by Maynard Sipe, attorney

LOCATION: 2108 Mount Vernon Avenue

ZONE: CL/Commercial Low

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

I. DISCUSSION

REQUEST

The applicant, 7-Eleven Inc., requests special use permit approval for the continued operation of a nonconforming convenience store located at 2108 Mount Vernon Avenue.

SITE DESCRIPTION

The subject property is one lot of record with 80 feet of frontage on Mount Vernon Avenue, 116 feet of depth, with a total lot area of 9,437 square feet. The site is developed with a one story commercial building and surface parking. The alley at the rear of the property is private and used to access parking at the adjacent business. The subject building is approximately 2,714 square feet.

SURROUNDING USES

The surrounding uses are a mix of commercial, office, and residential. Immediately to the west is a single family home. To the east are commercial uses including offices and a nail salon. To the south is an interior design and home furnishings store. To the north are offices.

PROJECT DESCRIPTION

The applicant proposes to continue operating the nonconforming 7-Eleven convenience store. The applicant is the owner of the property. The 7-Eleven store is a typical convenience retail store selling a variety of goods including food and beverages, which are consumed off the premises. Consistent with staff's approach in the other 7-Eleven cases, the features of the continued operation are proposed:

Hours: The store is open from 5:00 a.m. to 12:00 midnight daily.

ABC License: The store has an Alcoholic Beverage Control license for off-premise sale of beer and wine between the hours of 6:00 a.m. and 12:00 midnight.

Architecture: The applicant has agreed to a number of facade improvements including a gable, accentuated columns at the front, new trim, and a new wood fence along the south property line (See attached plans).

Landscaping: At staff's suggestion, the applicant will be removing paving and installing a additional landscaping at the north and southeast corners of the property, and along the eastern border of the property which will screen parking. The applicant has also agreed to install two street trees along Custis Avenue and additional plantings around the trash enclosure and along the north side of the property. The applicant also proposes planters at the front of the store (See attached plan).

Sign: The 7-Eleven sign located over the door will remain, but at staff's suggestion it will no longer be an internally illuminated sign. The applicant has agreed to remove the freestanding sign located closer to the street and proposes to install a monument sign.

Parking: There are eight parking spaces provided at the store, which will remain. Section 8-200 (F) (1) of the zoning ordinance states that any land that was in use on June 25, 1963, is not required to provide off-street parking to meet the current zoning. In this case, the store has been operating at this location since prior to that date; therefore, there is no technical parking requirement.

Trash Dumpster and Litter:

Trash generated is typically solid waste from a small retail establishment, largely consisting of paper, cardboard and plastic. The applicant anticipates approximately 36 cubic yards each week of recycling and waste. Trash is picked up by a private hauler several times per week. The dumpster is enclosed with a fence. Store employees perform a minimum of two litter walks per day to pick up litter around the store. Additional litter walks are performed three times per week by a contractor. To control litter, there are two trash cans located at the front of the store, and one located closer to the street. There is an older model city trash can located on Custis Avenue.

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.

MASTER PLAN

The proposed use is consistent with the Potomac West Small Area Plan chapter of the Master Plan which designates the property for uses compatible with CL zoning.

MT. VERNON AVENUE PLAN

As part of the Mt. Vernon Avenue planning process, the community identified the subject property as a redevelopment opportunity site. Until such time that redevelopment is feasible, staff encourages that interim measures be undertaken to improve the property, which may include facade improvements and additional landscaping.

NEIGHBORHOOD

Staff attended the Del Ray Land Use Committee along with the applicant. There were concerns raised by other neighbors regarding litter, late night deliveries, noisy mechanical equipment, large delivery trucks blocking traffic, and other issues. Many who attended the meeting were generally

supportive of the application.

II. STAFF ANALYSIS

Staff does not object to the continued use of the 7-Eleven located at 2108 Mount Vernon Avenue. Although staff has had some complaints regarding late night deliveries and other issues at the site, staff finds that these operational issues can be controlled and monitored through the conditions of the special use permit. The store is compatible with the mix of uses already in the area. The business provides a valuable convenience retail service to the community.

The existing configuration of this prominent Mt. Vernon Avenue site is not in character with the neighborhood. The long term vision of the community as discussed in the Mt. Vernon Avenue planning process is to have a building that sits closer to the street. However, neighbors also see the store as a convenience and in the short term, a special use permit provides an opportunity for significant improvements to the existing building and site.

Staff had concerns regarding the facade of the building and the lack of landscaping on the premises. Staff worked with the applicant over several months on improving the architecture and landscaping on the property to address these concerns, which included input from the Del Ray Land Use Committee. Regarding the architecture, the applicant proposes a number of facade improvements for the entire building including the removal of the colored bands at the front of the facade, the addition of new moldings and trim above the existing windows, and covers on the existing columns to make them more prominent and be a more integral part of the architecture of the building, similar to neighboring buildings to the south. The existing 7-Eleven sign above the entrance will not be internally illuminated. Staff recommends a minor addition to this which, is a base board along the bottom of the gable to create a continuous entablature.

In response to staff's concerns about the lack of landscaping on the property and the visual impact of the parking lot, the applicant proposes a variety of new plantings. The applicant has agreed to remove pavement and install landscaping to screen parking along Mt. Vernon Avenue. The applicant will also be removing pavement at the northeast and southeast corners of the property, and adding plant materials. In addition, the applicant proposes two new trees on the Custis Avenue frontage, and plant materials at the northern border of the property. The existing freestanding sign will be removed, and replaced by a monument sign. The landscaping will make the site more attractive and will convert excessive paved areas to landscaping.

Regarding the issue of noise from the mechanical equipment, staff measured the noise level at the rear property line and found that it slightly exceeded the noise ordinance regulations. The applicant proposes to correct the situation by installing a new fence with noise barrier material around the equipment. Staff recommends that compliance with the noise ordinance be achieved within 30 days of approval of this permit.

Regarding the issue of large delivery trucks having difficulty maneuvering the narrow streets and blocking traffic, staff recommends that the size of the delivery truck trailer not exceed 35 feet, consistent with the approved condition at the 7-11 at 800 Franklin Street (SUP#2003-0095). Staff also recommends that all vendors be notified of this restriction within 60 days of approval, and on an annual basis thereafter.

In regard to alcohol sales, staff supports the Police recommendation prohibiting single sales to prevent any potential problems, such as littering and loitering, and to be consistent with Police's policy to limit such sales city-wide.

Staff also recommends a city trash can be placed along both Mt. Vernon and Custis Avenues, one of which will replace an existing old can. Staff recommends a number of other conditions similar to those already approved for the previous 7-Eleven cases, and finds that these conditions address the issues raised by neighbors.

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)
3. No food, beverages, or other material shall be stored outside. (P&Z)
4. The closing hour shall be no later than 12:00 midnight daily. (P&Z)
5. 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)
6. 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)

7. 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)
8. The applicant shall require its employees who drive to work to use off-street parking. (P&Z)
9. No seats or tables shall be provided for the use of patrons. (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 provide the City \$1,678.00 for two Model SD-42 Bethesda Series litter receptacles, one of which shall replace the existing can, for installation on the adjacent public right-of-ways Custis and Mount Vernon Avenues. Contact T&ES Solid Waste Division (703/751-5130) for information. (T&ES) (P&Z)
12. Lighting shall be to the satisfaction of the Director of Transportation and Environmental Services in consultation with the Chief of Police. (P&Z)
13. The applicant is required to take immediate measures to mitigate noise from HVAC/chiller units with measures that may include, but may not be limited to, installation of a noise barrier, replacement of noisy equipment with quieter equipment, etc. The property must be brought in compliance with the provisions of Noise Ordinance within 30 days of approval of this SUP, to the satisfaction of the Director of Transportation and Environmental Services. (T&ES)
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 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 and Environmental Services. (T&ES)
16. All loudspeakers shall be prohibited from the exterior of the building and no

amplified noise shall be audible at the property line. (T&ES)

17. The applicant shall implement the facade improvements consistent with the attached plans, except that a base board shall be installed along the bottom of the gable to create a continuous entablature, to the satisfaction of the Director of Planning and Zoning. (P&Z)
18. The applicant shall install, and thereafter maintain in good condition, landscaping according to the attached landscaping plan to the satisfaction of the Directors of Planning and Zoning and Recreation, Parks and Cultural Services. (P&Z)
19. The applicant shall remove the existing freestanding sign, and install a new monument sign to the satisfaction of the Director of Planning and Zoning. (P&Z)
20. Business signs shall comply with the Mount Vernon Avenue Design Guidelines. Internally illuminated box signs shall not be allowed. (P&Z)
21. 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)
22. The applicant shall screen the dumpster to the satisfaction of the Director of Planning and Zoning and shall maintain the screening in good condition. (P&Z)
23. The trailer length of trucks making deliveries shall not exceed 35 feet. On an annual basis, the applicant shall inform all vendors of this restriction and notify them that delivery trucks shall not block traffic when making deliveries. The applicant shall provide to staff in writing, 60 days from the date of approval, the method that it informed, and will annually inform, the vendors of this restriction. (P&Z)
24. Lighting on the property shall be shielded to prevent glare on adjacent properties. (P&Z)
25. 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 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 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)

STAFF: Eileen Fogarty, Director, Department of Planning and Zoning;
Valerie Peterson, 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:

- F-1 Lighting survey indicates good lighting at location.
- F-2 The property failed to meet the permitted Noise Levels standards of 55 dB(A) at its property line because of the noise from operations of the HVAC/chiller unit (at the back of the property). The fence around the unit is not an acoustic barrier.
- R-1 It is recommended that as part of this SUP conditions, the applicant is required to take immediate measures to mitigate this noise from HVAC/chiller units with measures that may include but may not be limited to installation of noise barrier, replacement of noisy equipment with quieter equipment etc.. The property must be brought in compliance with the provisions of Noise Ordinance within 30 days of this SUP.
- R-2 Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys, or storm sewers.
- R-3 The applicant shall control odors, smoke and any other air pollution from operations at the site and prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the Department of Transportation and

Environmental Services.

- R-4 All loudspeakers shall be prohibited from the exterior of the building and no amplified noise shall be audible at the property line.
- R-5 Applicant shall provide the City \$839.00 for one Model SD-42 Bethesda Series litter receptacle for installation on the adjacent public right-of-way. Contact T&ES Solid Waste Division (703/751-5130) for information.(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.

Code Enforcement:

- F-1 Two complaints were investigated by Code Enforcement over the past year. They are listed as follows:
 - CMP2003-03235 - August 21, 2003: Building materials stored in parking lot. Abated August 26, 2004.
 - CMP2003-03380 - August 28, 2003: Cinderblocks stored in parking lot. Abated September 3, 2003.
- C-1 A construction permit is required for the proposed changes to the facade.
- C-2 New construction must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-3 Alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).

Health Department:

- F-1 This facility is currently operating as 7- Eleven under Alexandria Health permit, issued to The Southland Corporation.
- C-1 An Alexandria Health Department Permit is required for all regulated facilities.

- C-2 This facility and all modifications must meet current Alexandria City Code requirements for food establishments.
- C-3 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-4 Permits and/or approval must be obtained prior to operation.
- C-5 The facility must comply with the Alexandria City Code, Title 11, Chapter 10, Smoking Prohibitions.
- C-6 Certified Food Managers must be on duty during all hours of operation.
- C-7 Restrooms, including those in common areas, serving the restaurant, are to meet Alexandria City Code, Title 11, Chapter 2, requirements.
- R-1 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 conditions;
 - 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.

The following recommendation related to site lighting has not been included as a condition;

rather, staff has recommended that the applicant maintain lighting to the satisfaction of the Director of T&ES in consultation with the Chief of Police, which will likely result in lower lighting levels than recommended by the Police.

R-4 The lighting for the parking lot is to be a minimum of 2.0 foot candles minimum maintained.

The following recommendation related to landscaping has not been included as a condition because staff finds that mature landscaping at this location will enhance the property.

R-5 The shrubbery is to be a maximum height of 36 inches when it is mature.