

Docket Item #26
SPECIAL USE PERMIT #2005-0035

Planning Commission Meeting
June 7, 2005

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

APPLICANT: Mok Bae Lim

LOCATION: 3314 Jefferson Davis Highway

ZONE: CSL/Commercial Service Low

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

SITE GRAPHIC
AVAILABLE IN THE PLANNING AND ZONING OFFICE

I. DISCUSSION

REQUEST

The applicant, Mok Bae Lim, requests special use permit approval for the operation of a convenience store located at 3314 Jefferson Davis Highway, known as the Sunrise Market.

SITE DESCRIPTION

The subject property is one lot of record with 57 feet of frontage on Jefferson Davis Highway, 110 feet of depth and a total lot area of 6,600 square feet. The site is developed with a single story commercial building.



To the north across Montrose Avenue is an auto-body shop. To the south is a tire sales and installation business. Across Jefferson Davis Highway to the east is the Potomac Yard commercial center. To the west are residential townhouses.

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 subject convenience store predates this change in the ordinance, does not have a special use permit and, therefore, is 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). The subject convenience store was notified of its nonconforming status by letter dated June 30, 1998, explaining that a special use permit was required prior to July 1, 2005, or it would have to cease operations.

On February 23, 1985, City Council approved SUP#1748 for the operation of a carry-out restaurant and market at the subject property. On May 13, 1991, City Council granted approval of SUP#1748-A for a change of ownership of the carry-out and market. Since the last approval, the owner ceased offering the restaurant service, and the establishment became solely a convenience store.

PROPOSAL

The applicant proposes to continue operating the nonconforming Sunrise Market convenience store. The following information is provided about the proposed continued operation:

Hours: The store is open 9:00 a.m. to 9:00 p.m. Monday through Saturday and 9:00 a.m. to 5:30 p.m. on Sunday.

ABC License: The store has an Alcoholic Beverage Control license for off-premise sale of beer and wine.

Architecture: The applicant proposes to replace the front door and windows with aluminum frames. Security bars will be installed inside of the windows. A new awning will be installed at the front (see attached drawing).

Landscaping: The applicant proposes to install plantings in an existing grass strip at the northeast portion of the property.

Signs: All of the existing signs are proposed to remain. The face of the freestanding sign will be changed.

Waste

Management: The dumpster is located at the back of the building. The applicant proposes to screen the dumpster with a wooden fence. Trash is typically solid waste from a small retail establishment, largely consisting of paper, cardboard, and plastic. Trash is picked up by a private hauler two times each week. Store employees perform a minimum of two litter walks each day to pick up litter around the store.

PARKING

When the carry-out and market were approved by City Council on March 12, 1985, eight spaces were required. There have been no changes on the property since that time, and although not striped, eight parking spaces can still be provided on the property.

NEIGHBORHOOD

On May 2, 2005, the Lynhaven Citizens Association voted to support the continued operation of the convenience store if all recommendations made by planning staff, police department and Lynhaven Citizens Association are implemented (see attached list of concerns from Lynhaven).

ZONING/MASTER PLAN DESIGNATION

The subject property is located in the CSL/Commercial service low zone. The proposed use is consistent with the Potomac West Small Area Plan chapter of the Master Plan which designates the property for commercial use.

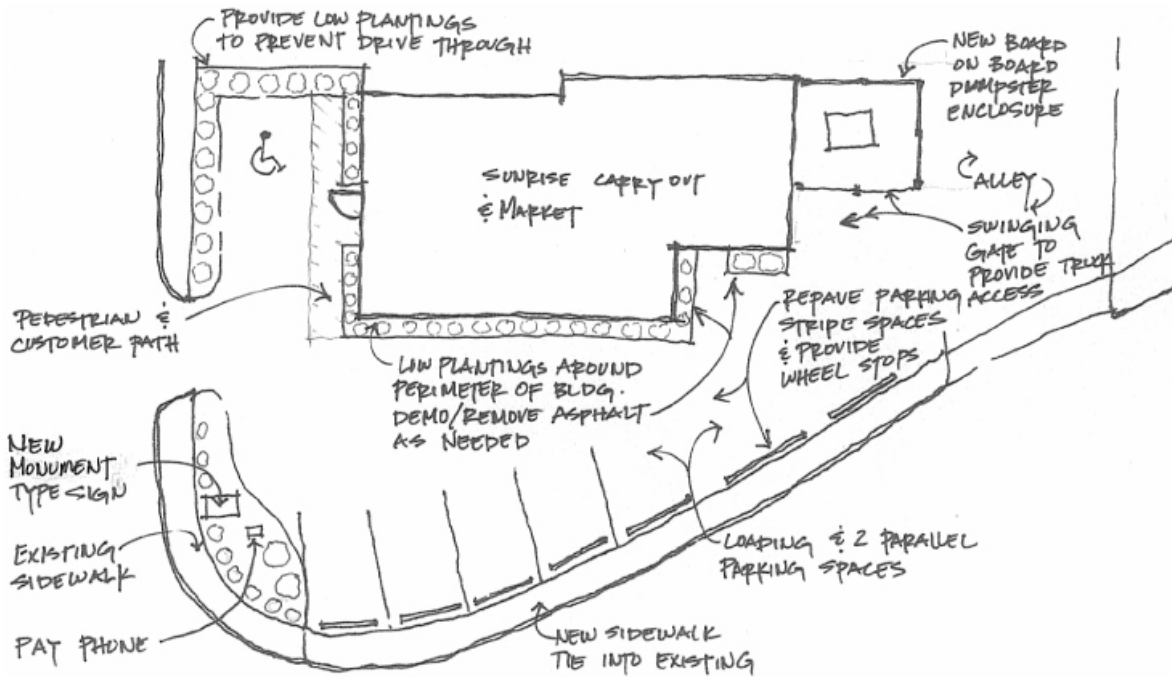
II. STAFF ANALYSIS

Staff does not object to the continued operation of a convenience store at 3314 Jefferson Davis Highway. The store provides convenience retail items to the community, and is within walking distance to several residences.

However, staff is concerned about the appearance of the property, and some negative activity that has occurred on the property over the years. There is no landscaping, the facade is not well maintained, the signage is old and weathered, the parking lot is in poor condition, and the freestanding sign detracts from the streetscape and is susceptible to breakage. In addition, the Lynhaven Citizens Association identified a number of concerns including loitering, single sales of alcohol, littering, 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 that beautify the site, discourage negative activities such as loitering and littering, and improve the streetscape.

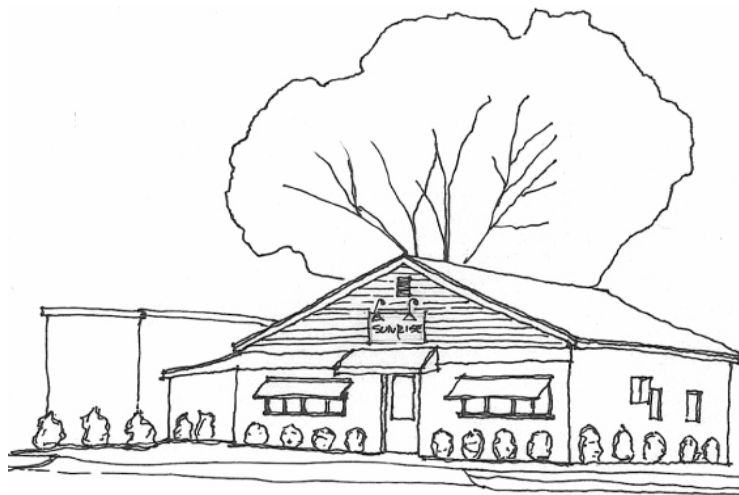
In response to staff's concerns, the applicant proposed installing new aluminum doors and windows, landscaping the small existing grass area located at the northeast corner of the property, installing a dumpster enclosure, and providing a single awning across the front of the building. Staff worked with Recreation, Parks and Cultural Services, Transportation and Environmental Services, and Police and found that there were many more opportunities to improve the site, and has recommended a number of conditions reflecting these recommended improvements.

Staff prepared a conceptual plan of what the recommended improvements are, which include installing landscaping along the perimeter of the building and Route 1 streetscape, installing a sidewalk on Montrose for improved pedestrian circulation, removing at least one pay phone and making the phone outgoing only to prevent negative activity being generated from phone use (the applicant has agreed to remove both phones), repaving the parking area, installing wheel stops to protect and better define the pedestrian area along the curb, and installing fencing at the rear of the property where residents have observed a loitering problem. Staff also recommends removing the existing freestanding sign and installing a new monument sign on the property, which in combination with the landscaping will greatly improve the streetscape.



Conceptual Site Plan

Staff also recommends a number of facade improvements including removing the existing signs on the building and replacing them with a new sign over the doorway, installing new doors and



windows as proposed by the applicant, installing three awnings on the front facade rather than one single awning as proposed by the applicant, and painting the building. There was some concern from the neighbors about the applicant's proposal for a single awning in that it would create a place for loitering, and the three awnings will break up the facade and better define the doors and windows. Staff prepared a conceptual drawing of the facade improvements which are pictured to the left.

Conceptual Facade

Lighting is also an important element on this property both for aesthetic purposes and for deterring negative activity during hours of darkness. The existing lighting consists of an unattractive pole mounted at the front corner of the building, and some lighting at the rear of the building that has not been at a level sufficient to deter loitering. Therefore, staff recommends that the pole lighting at the corner of the building be removed and replaced with wall-mounted lighting to be installed under the eaves of the building in evenly spaced intervals at various locations, and be made of vandal-proof materials. Staff also recommends that motion lights be installed at the southwest corner of the building to better light the area and deter individuals from loitering. While there may be additional opportunities for lighting on the property, such as part of a new monument sign, staff is only recommending areas it finds in critical need of lighting enhancements as a minimum requirement for the site. Staff recommends that the lighting levels be to the satisfaction of the Directors of T&ES in consultation with the Chief of Police.

Regarding alcohol sales, the Virginia Department of Alcoholic Beverage Control (VABC) has a minimum requirement of food sales for “convenience grocery stores” that have alcohol sales. Staff confirmed with VABC that there has not been a violation of this requirement at Sunrise Market. VABC staff are not aware of any violations of the ABC license at this location for several years. Staff is recommending the standard condition prohibiting single sales of alcohol.

Finally, staff recommends a number of conditions regarding the operation such as requiring frequent litter pick-up, and other standard conditions similar to what has been approved at the 7-Eleven convenience stores in the City. Staff also recommends a one-year review condition so that if there continue to be issues at the property, including with regard to alcohol sales, additional conditions may be imposed.

The recommended property improvements will beautify the site and help deter negative activity. The convenience store can continue to provide a convenience retail service to the community, but will no longer be an eyesore. On May 2, 2005, the Lynhaven Citizens Association voted to support the continued operation of the convenience store, if all recommendations made by planning staff, police department and Lynhaven Citizens Association are implemented.

With the following 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)
3. The hours of operation of the business shall be limited to 9:00 a.m. to 9:00 p.m. Monday through Saturday and 9:00 a.m. to 5:30 p.m. on Sunday. (P&Z)
4. The applicant shall implement facade improvements consistent with the conceptual facade plans pictured in Section II of this report. These improvements shall include installing three new awnings at the front of the building over the door and two windows, repainting the building and trim, and installing a new aluminum doors and windows for the building, to the satisfaction of the Director of Planning and Zoning. (P&Z)
5. The applicant shall install, and thereafter maintain in good condition, landscaping consistent with the concept site plan pictured in Section II of this report. The applicant shall provide a landscaping plan to staff which shall be to the satisfaction of the Directors of Planning and Zoning and Recreation, Parks and Cultural Activities prior to installation. (P&Z)
6. The shrubbery is to be a maximum height of 36 inches when it is mature. (Police)
7. The applicant shall enclose the rear yard with a fence to screen the dumpster and prevent loitering, consistent with the conceptual site plan pictured in Section II of this report, with fencing materials to the satisfaction of the Director of Planning and Zoning. (P&Z) (Police)
8. The applicant shall repave and stripe the parking lot for eight spaces consistent with the conceptual site plan pictured in Section II of this report, to the satisfaction of the Directors of Planning and Zoning, Transportation and Environmental Services, and the Chief of Police. The applicant shall install wheel stops for perpendicular parking spaces adjacent to Montrose Avenue. (T&ES) (Police) (P&Z)

9. The applicant shall install a 6 foot wide concrete sidewalk along the Montrose Avenue frontage (or at a minimum match width of existing sidewalk at corner of Jefferson Davis Highway). (T&ES)
10. 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)
11. The applicant shall remove the two wall signs on the building, and replace them with a single new wall sign to be mounted above the door consistent with the conceptual facade pictured in Section II of this report, and to the satisfaction of the Director of Planning and Zoning. Internally lit box signs shall not be permitted at the property. (P&Z)
12. The applicant shall provide the City \$850.00 for one Model SD-42 Bethesda Series litter receptacle for installation on the adjacent public right-of-way. Contact T&ES at 703.838.4324 x186 for information. (T&ES)
13. The applicant shall remove the two trash receptacles on the property and replace them with new cans. (P&Z)
14. The applicant shall remove the light pole mounted on the northeast corner of the building and install wall-mounted lighting (of vandal-proof materials) in evenly spaced intervals at various locations under the eaves of the building. (P&Z)
15. The applicant shall affix a motion light at the southwest corner of the building to deter crime. (Police)
16. The applicant shall maintain lighting to the satisfaction of the Director of T&ES in consultation with the Chief of Police. (T&ES)(P&Z)
17. Lighting on the property shall be shielded to prevent glare on adjacent properties. (P&Z)
18. 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)
19. 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. (Police)

20. At least one pay telephone shall be removed, and the remaining one shall be converted to outbound call capability only. (Police)(P&Z)
21. No food, beverages, or other material shall be stored outside. (P&Z)
22. 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)
23. 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)
24. 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)
25. Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (T&ES)
26. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys, or storm sewers. (T&ES)
27. The applicant shall require its employees who drive to work to use off-street parking. (P&Z)
28. No seats or tables shall be provided for the use of patrons. (P&Z)
29. 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)

30. 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)

STAFF: Eileen Fogarty, Director, Department of Planning and Zoning;
Richard Josephson, Deputy Director;
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:

- 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. (T&ES)
- R-2 Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (T&ES)
- R-3 Applicant shall provide the City \$850.00 for one Model SD-42 Bethesda Series litter receptacle for installation on the adjacent public right-of-way. Contact T&ES at 703.838.4324 x186 for information. (T&ES)
- R-4 Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys, or storm sewers. (T&ES)
- R-5 Planning and Zoning to provide standard lighting condition for this application which will be evaluated by T&ES staff in conjunction with the Police Chief and P&Z.
- R-6 Repair and/or repave parking lot to the satisfaction of the Director of T&ES. (T&ES)
[This condition may be deleted if P&Z determines that the applicant does not possess the resources to comply with this requirement.]
- R-7 Provide 6 foot wide concrete sidewalk along Montrose Avenue frontage (or at a minimum match width of existing sidewalk at corner of Jefferson Davis Highway). Provide wheel stops for perpendicular parking spaces adjacent to Montrose Avenue.
- F-1 Site is in general disrepair and existing site lighting needs to be evaluated to determine if it meets minimum standards.

- F-2 Parking lot lacks a uniform appearance and is in general disrepair with a quilt work of patched and re-patched areas.

Code Enforcement:

- C-1 Construction permits are required for the proposed project
- C-2 Awnings must comply with all applicable requirements of USBC 3105 and 3202. Retractable and fixed awnings must have a minimum 7 foot clearance from a sidewalk to the lowest part of the framework or any fixed portion of any retractable awning is required.
- C-3 Fixed awnings must be designed and constructed to withstand wind or other lateral loads and live loads required by the USBC. Structural members must be protected to prevent deterioration (USBC 3105.2).
- C-4 Security grills shall comply with section 1003.3.1.3.5 of the USBC.

Health Department:

- 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.
- F-1 This facility is currently operating as Sunrise Carry Out & Market under an Alexandria Health permit, issued to Mok Bae Lim.
- R-1 Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening.

Police Department:

After reviewing the crime reports and statistics for Sunrise Supermarket for the last two years, the Police Department has no objections to the continuance of the market operating. Because the market has new hardware and submitted plans on shrubbery, the Police Department has the following recommendations.

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

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-3 The lighting for the parking lot is to be a minimum of 2.0 foot candles minimum maintained.
- R-4 If an “ABC Off” license is re-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 alcohol content of 14% or more by volume) may not be sold.
- R-5 One pay telephone should be removed and the remaining one should be converted to outbound call capability only.

- R-6 The rear of the business should be fenced off or landscape the rear of the business with shrubbery designed to stop foot traffic such as the pyracanta or barberry bushes.

Staff has not included this condition because it finds that the awnings will improve the appearance of the property and not create a nuisance.

- R-7 The request to add an awning to the structure should be denied as it may cause more of a nuisance.
- R-8 A motion light should be affixed to the southwest corner of the business to deter crime.
- R-9 The applicant should police the property picking up liter within 75 feet of property at least twice a day.
- R-10 The parking lot should have clearly striped parking spaces.
- R-11 This SUP should be reviewed after one year.

SUP#2005-0035
3314 Jefferson Davis Highway

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