

Docket Item #10
SPECIAL USE PERMIT #2008-0020

Planning Commission Meeting
May 6, 2008

ISSUE: Consideration of a request for a special use permit amendment to extend the hours of alcohol sales at an existing convenience store.

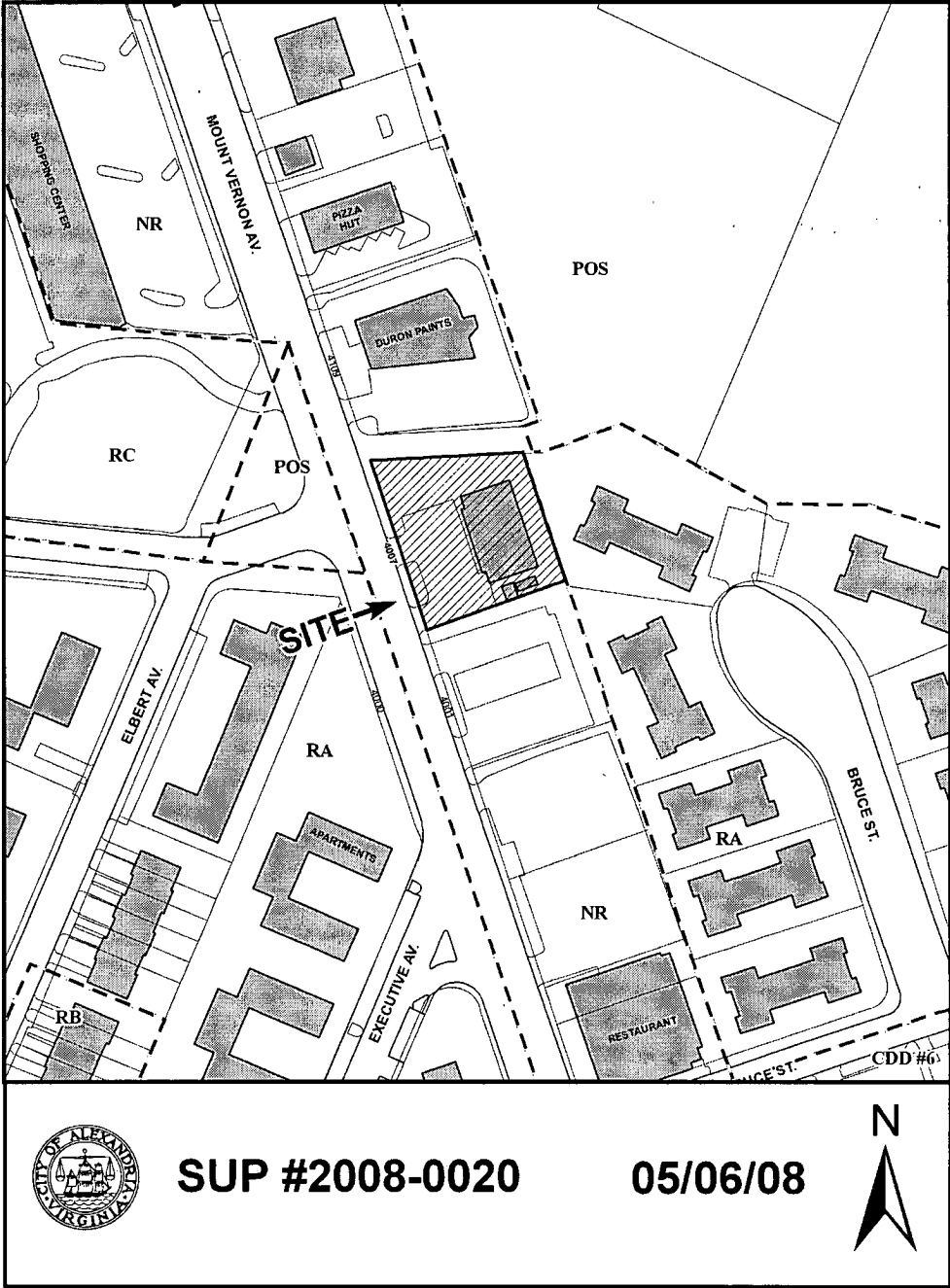
APPLICANT: UAC Land & Building LLC t/a "24 Express"
by William Thomas, Jr., agent

STAFF: Nathan Randall
nathan.randall@alexandriava.gov

LOCATION: 4007 Mount Vernon Avenue.

ZONE: NR / Neighborhood Retail

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



SUP #2008-0020

05/06/08



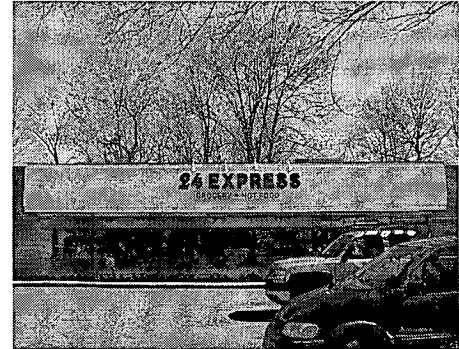
I. DISCUSSION

REQUEST

The applicant, 24 Express/UAC Land & Building LLC, requests a special use permit amendment to extend off-premises alcohol sales until 12:00 midnight daily at 4007 Mt. Vernon Ave.

SITE DESCRIPTION

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



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

BACKGROUND

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

Subsequently, the business owner applied for a special use permit for the nonconforming convenience store. City Council approved SUP#2006-0051 on October 14, 2006. Condition #29 of SUP #2006-0051 states that alcohol sales shall cease at 11:00 p.m. daily. Condition #32 states 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 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.

No complaints have been recorded at this property since SUP#2006-0051 received approval in October 2006. Staff visited the property on April 18, 2008 and found two minor violations of SUP#2006-0051 that have since been corrected.

PROPOSAL

Hours (convenience store): 5am- Midnight daily

Approximate Number of Patrons: 5am- 8am: 200
8am- 4pm: 300
4pm- Midnight: 200

Mechanical Noise: HVAC and refrigeration noise levels at or below City standard.

Patron Noise: Combination of employee, manager, and security (police) personnel to insure against loitering, etc.

Trash: Cardboard- To be picked up daily. Garbage- Approximately three loads per week. Currently there is a dumpster storage area on the property.

Litter: Site supervision, regular trash collection, and as needed policing of adjacent properties.

Safety: Always staffed, lighted, with security personnel as needed on Friday, Saturday, and Sunday Evenings.

Alcohol: Off-premise beer and wine sales until 12:00 midnight daily.

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

Staff supports the applicant's request to amend condition #29 of SUP#2006-0051 to extend off-premises alcohol sales until midnight.

Concerning overall property conditions, significant safety, landscaping, and signage improvements have been made to the property in conformance with SUP#2006-0051 since the last public hearing in October 2006. Furthermore, no complaints have been recorded at this location since October 2006.

Condition #29 of SUP#2006-0051 has created a situation whereby 24 Express is the only location in the neighborhood required to cease off-premises alcohol sales at 11:00 p.m. It should be noted that the CVS located at 3811 Mt. Vernon Avenue, as a retail pharmacy, is not required to obtain a special use permit to operate in the "NR" zone and that the entire CVS store closes at 12:00 midnight daily. 7-Eleven, located at 3412 Mt. Vernon Avenue, received approval of SUP#2004-0058 to continue a non-conforming convenience store on February 12, 2005. Its Virginia ABC license stipulates that alcohol sales shall cease at 12:00 midnight daily. SUP#2004-0058 contains no conditions limiting the hours of alcohol sales.

The applicant maintains that Condition #29 creates a competitive disadvantage for 24 Express. He notes that the convenience store has experienced an overall decrease in sales, not only in alcoholic beverages, as a result of the condition. The applicant also asserts that customers seeking to purchase alcohol after 11:00 p.m. travel to other neighborhood establishments to obtain it.

To be consistent with other businesses in the area, staff believes that Condition #29 should be amended to allow off-premises alcohol sales until midnight daily at 24 Express. Staff recommends approval of SUP#2008-0020 with new and amended conditions as shown in Section III below.

III. RECOMMENDED CONDITIONS

Staff recommends **approval** 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. **CONDITION AMENDED BY STAFF:** 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 or contact the City's Solid Waste Division at 703-519-3486 ext.132. (T&ES) ~~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) (SUP#2006-0051)
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:** ~~Applicant shall provide the City \$2000.00 for two Model SD-42 Bethesda Series litter receptacle for installation on the adjacent public right of way (monetary contribution to be submitted to the Department of T&ES, Engineering Division, Room 4130, 301 King Street). Contact T&ES Solid Waste Division (703/751-5130) regarding information on ordering and installation. (T&ES)(Police)~~
14. The applicant shall submit a landscaping plan and install, and thereafter maintain in good condition, landscaping to the satisfaction of the Directors of Planning and Zoning and Recreation, Parks and Cultural Activities. (P&Z)(RP&CA)(Police) (SUP#2006-0051)
15. **CONDITION SATISFIED:** ~~The applicant shall remove the existing freestanding signs, and install a new monument sign to the satisfaction of the Director of Planning and Zoning. More specifically, the new monument sign shall be not exceed three feet in height. (P&Z) (SUP#2006-0051)~~
16. **CONDITION SATISFIED:** ~~The applicant shall remove the existing box sign on the front facade of the business and replace the sign with a non-internally lit, wall-mounted sign to the satisfaction of the Director of Planning and Zoning. (P&Z) (SUP#2006-0051)~~

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:** ~~The applicant shall replace the existing dumpster screening with a wooden dumpster screening, and maintain it in good condition to the satisfaction of the Director of Planning and Zoning. (P&Z) (SUP#2006-0051)~~
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)
24. **CONDITION SATISFIED:** ~~The applicant shall remove three payphones on the property. The remaining two telephones shall be relocated away from the building, along the street, with clear site lines from the cashier area. The telephones should be programmed to outgoing calls only. (Police)(P&Z) (SUP#2006-0051)~~
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 shall cease alcohol sales at ~~11 p.m.~~ 12:00 midnight daily.
30. An annual review for three consecutive years is recommended. 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. (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.
33. **CONDITION ADDED BY STAFF:** Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES)
34. **CONDITION ADDED BY STAFF:** Deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (T&ES)
35. **CONDITION ADDED BY STAFF:** The applicant shall post the hours of operation at the entrance to the convenience store. (P&Z)

STAFF: Richard Josephson, Deputy Director, Department of Planning and Zoning;
Nathan Randall, 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 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 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.



May

APPLICATION SPECIAL USE PERMIT

SPECIAL USE PERMIT # 2008-0020

PROPERTY LOCATION: 4007 Mount Vernon Avenue "24 EXPRESS"

TAX MAP REFERENCE: 007.01-02-18 ZONE: NR

APPLICANT:

Name: UAC LAND & BUILDING L.L.C. t/a "24 EXPRESS"*
* By attorney

Address: 4007 Mount Vernon Avenue, Alexandria, Virginia 22305

PROPOSED USE: grocery/convenience store

amendment of SUP #2006-0051

THE UNDERSIGNED, hereby applies for a Special Use Permit in accordance with the provisions of Article XI, Section 4-11-500 of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

THE UNDERSIGNED, having obtained permission from the property owner, hereby grants permission to the City of Alexandria staff and Commission Members to visit, inspect, and photograph the building premises, land etc., connected with the application.

THE UNDERSIGNED, having obtained permission from the property owner, hereby grants permission to the City of Alexandria to post placard notice on the property for which this application is requested, pursuant to Article IV, Section 4-1404(D)(7) of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

THE UNDERSIGNED, hereby attests that all of the information herein provided and specifically including all surveys, drawings, etc., required to be furnished by the applicant are true, correct and accurate to the best of their knowledge and belief. The applicant is hereby notified that any written materials, drawings or illustrations submitted in support of this application and any specific oral representations made to the Director of Planning and Zoning on this application will be binding on the applicant unless those materials or representations are clearly stated to be non-binding or illustrative of general plans and intentions, subject to substantial revision, pursuant to Article XI, Section 11-207(A)(10), of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

By: WILLIAM C. THOMAS, JR.
Print Name of Applicant or Agent
11320 Random Hills Road, #325
Mailing/Street Address
Fairfax, VA 22030
City and State Zip Code

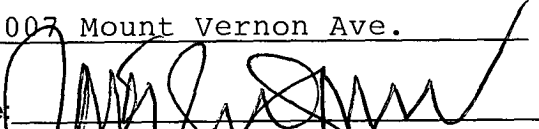
W.C. Thomas 2/26/08
Signature Date
(703) 385-8282 (703) 385-8761
Telephone # Fax #
wthomas@fspd.com
Email address

ACTION-PLANNING COMMISSION:	DATE:
ACTION-CITY COUNCIL:	DATE:

PROPERTY OWNER'S AUTHORIZATION

As the property owner of 4007 Mount Vernon Avenue, I hereby
(Property Address)
grant the applicant authorization to apply for the convenience store (amendment) use as
(use)

described in this application.
UAC Land & Building LLC

Name: By: Tien Niphadkabin Phone: (703) 836-7778
Please Print c/o Tom Thomas
Address: 4007 Mount Vernon Ave. Email: wthomas@fspd.com
Signature:  Date: 2-26-08

1. Floor Plan and Plot Plan. As a part of this application, the applicant is required to submit a floor plan and plot or site plan with the parking layout of the proposed use. The SUP application checklist lists the requirements of the floor and site plans. The Planning Director may waive requirements for plan submission upon receipt of a written request which adequately justifies a waiver.

- Required floor plan and plot/site plan attached. previous
- Requesting a waiver. See attached written request.

2. The applicant is the (check one):
 Owner
 Contract Purchaser
 Lessee or
 Other: _____ of the subject property.

State the name, address and percent of ownership of any person or entity owning an interest in the applicant or owner, unless the entity is a corporation or partnership, in which case identify each owner of more than ten percent.

Tien Niphadkabin; Paul Papageorge; Komol Phumisittikul;
Prapun Pituckul; Sangchai Chiapaikeo c/o 24 EXPRESS
4007 Mount Vernon Avenue, Alexandria, Virginia

If property owner or applicant is being represented by an authorized agent such as an attorney, realtor, or other person for which there is some form of compensation, does this agent or the business in which the agent is employed have a business license to operate in the City of Alexandria, Virginia?

Yes. Provide proof of current City business license

No. The agent shall obtain a business license prior to filing application, if required by the City Code.

NARRATIVE DESCRIPTION

3. The applicant shall describe below the nature of the request **in detail** so that the Planning Commission and City Council can understand the nature of the operation and the use. The description should fully discuss the nature of the activity. (Attach additional sheets if necessary.)

The applicant requests a review of the conditions of the SUP with
a specific request that the hours of operation for the sale of
alcoholic beverages be extended to 12:00 midnight daily
(Conditions #29 and #32 SUP #2006-0051). No other changes to
SUP #2006-0051 are requested.

See attached - updated narrative, prior application and supporting
materials.

USE CHARACTERISTICS

4. The proposed special use permit request is for (check one):
[] a new use requiring a special use permit,
[] an expansion or change to an existing use without a special use permit,
 an expansion or change to an existing use with a special use permit,
[] other. Please describe: _____

5. Please describe the capacity of the proposed use:

A. How many patrons, clients, pupils and other such users do you expect?
Specify time period (i.e., day, hour, or shift).
5-8 a.m. - 200 +/-; 8 a.m. - 4 p.m. - 300;
4 p.m. - midnight - 200 +/-

B. How many employees, staff and other personnel do you expect?
Specify time period (i.e., day, hour, or shift).
22 Employees total (mostly from community) + 3 Managers
(1 on duty at all times); 5-8 Employees per shift; 5-8 a.m.;
8 a.m. - 4 p.m.; 4 p.m. - midnight

6. Please describe the proposed hours and days of operation of the proposed use:

Day: Daily Hours: 5 a.m. - midnight

7. Please describe any potential noise emanating from the proposed use.

A. Describe the noise levels anticipated from all mechanical equipment and patrons.
HVAC and refrigeration; Noise levels at or below City
standards

B. How will the noise be controlled?
Combination of Employee, Manager, and Security..(Police)
Personnel to insure against loitering, etc.

8. Describe any potential odors emanating from the proposed use and plans to control them:

minimal food odors: vented to code

9. Please provide information regarding trash and litter generated by the use.

A. What type of trash and garbage will be generated by the use? (i.e. office paper, food wrappers)

primarily paper and plastic with minimal food waste

B. How much trash and garbage will be generated by the use? (i.e. # of bags or pounds per day or per week)

approximately 5 recycle cardboard loads per week
approximately 3 trash/garbage loads per week

C. How often will trash be collected?

cardboard - daily

trash/garbage - 3 times per week

D. How will you prevent littering on the property, streets and nearby properties?

site supervision: regular trash collection: and as needed
policing of adjacent properties

10. Will any hazardous materials, as defined by the state or federal government, be handled, stored, or generated on the property?

Yes. No.

If yes, provide the name, monthly quantity, and specific disposal method below:

11. Will any organic compounds, for example paint, ink, lacquer thinner, or cleaning or degreasing solvent, be handled, stored, or generated on the property?

Yes. No.

If yes, provide the name, monthly quantity, and specific disposal method below:

12. What methods are proposed to ensure the safety of nearby residents, employees and patrons?

always well staffed, lighted, with security personnel as needed and on Friday, Saturday and Sunday evenings

ALCOHOL SALES

13.

A. Will the proposed use include the sale of beer, wine, or mixed drinks?

Yes No

If yes, describe existing (if applicable) and proposed alcohol sales below, including if the ABC license will include on-premises and/or off-premises sales.

Beer and wine off-premises sales with changes proposed in line with neighboring similar retailers (other groceries, convenience stores, pharmacies).

PARKING AND ACCESS REQUIREMENTS

14. A. How many parking spaces of each type are provided for the proposed use:

- 14 Standard spaces
- _____ Compact spaces
- 2 Handicapped accessible spaces.
- _____ Other.

Planning and Zoning Staff Only

Required number of spaces for use per Zoning Ordinance Section 8-200A _____

Does the application meet the requirement?
 Yes No

B. Where is required parking located? (check one)
 on-site
 off-site

If the required parking will be located off-site, where will it be located?

PLEASE NOTE: Pursuant to Section 8-200 (C) of the Zoning Ordinance, commercial and industrial uses may provide off-site parking within 500 feet of the proposed use, provided that the off-site parking is located on land zoned for commercial or industrial uses. All other uses must provide parking on-site, except that off-street parking may be provided within 300 feet of the use with a special use permit.

C. If a reduction in the required parking is requested, pursuant to Section 8-100 (A) (4) or (5) of the Zoning Ordinance, complete the PARKING REDUCTION SUPPLEMENTAL APPLICATION.

Parking reduction requested; see attached supplemental form

15. Please provide information regarding loading and unloading facilities for the use:

A. How many loading spaces are available for the use? 1

Planning and Zoning Staff Only

Required number of loading spaces for use per Zoning Ordinance Section 8-200 _____

Does the application meet the requirement?
 Yes No

B. Where are off-street loading facilities located? on site (south end)

C. During what hours of the day do you expect loading/unloading operations to occur?
trash/recycling in a.m.; food deliveries and merchandise
primarily in a.m. through mid-day

D. How frequently are loading/unloading operations expected to occur, per day or per week, as appropriate?
trash/recycling as stated plus 2 to 3 deliveries per day

16. Is street access to the subject property adequate or are any street improvements, such as a new turning lane, necessary to minimize impacts on traffic flow?
access existing - adequate

SITE CHARACTERISTICS

17. Will the proposed uses be located in an existing building? Yes No
Do you propose to construct an addition to the building? Yes No
How large will the addition be? _____ square feet.

18. What will the total area occupied by the proposed use be?
3600 +/- sq. ft. (existing) + -- sq. ft. (addition if any) = 3600 sq. ft. (total)

19. The proposed use is located in: (check one)
 a stand alone building
 a house located in a residential zone
 a warehouse
 a shopping center. Please provide name of the center: _____
 an office building. Please provide name of the building: _____
 other. Please describe: _____

End of Application

carries beer and wine (it is noted that 24 Express has maintained an excellent record with Virginia ABC for all of its 20 years in existence and has an equally spotless record in the enforcement of and adherence to cigarette sales restrictions). 24 Express serves as an agent for Western Union, hosts and ATM service, and provides key making services for its customers.

The Arlandria/Potomac West and neighboring communities support the 24 Express with their business with many of the customers walking to the store from nearby residences. In fact, of the approximately 22 employees of 24 Express, most are also from the local community. In a testament to the community serving nature of the business, most customers know the workers at the store by name, and the workers know the customers as well. In addition, the owners have been active participants in the business community evidenced in part by the number of sponsorships over the years of community activities.

The 24 Express convenience and grocery store will continue to operate seven days a week from 5:00 a.m. to midnight. Employees on site at any point in time will always include at least one manager and from five to eight staff members. Additionally, on Friday, Saturday and Sunday evenings from 6:00 p.m. to midnight an off-duty Alexandria City police officer is employed to assist with parking lot management, ABC identification policy enforcement, as well as general security.

Again as a testament to the community serving presence of 24 Express, this grocery and convenience store serves between 600 and up to approximately 800 mostly neighborhood customers on any given day. In the 5:00 a.m. to 8:00 a.m. time frame approximately 200 customers will come in on their way to and on their way from employment with such companies as Metro, The Reagan National Airport, Crystal City and Potomac Yards businesses. Likewise, between 8:00 a.m. and 4:00 p.m. another approximately 300 customers will come to the store and another approximately 200 customers will come in the evening again on their way to and back from work in the neighboring business communities.

The existing site layout for the 24 Express grocery and convenience store is shown on the attached Special Use Permit plans prepared by Dominion Surveyors. In addition to the site layout provided, pictures of the site are also provided to show the substantial and mature landscaping that is maintained on the 24 Express property. In addition to the original site, in 1995 the City of Alexandria vacated unused right-of-way to the owners and this property has been consolidated into the operation as open space. A wrought iron styled black aluminum fence adorns the perimeter of the property at the entrance to the Alexandria Four Mile Run park. The building is a masonry block building maintained in a red brick color with a flat roof and existing building signage as shown on the attached photos. There is an existing freestanding pole sign and it is proposed that this sign be replaced with a monument sign and the landscaping tailored around it to enhance the sign treatment.

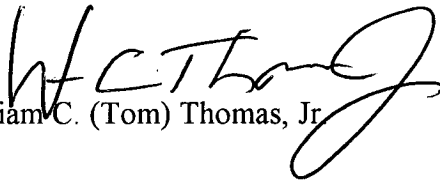
Though no expansion or intensification of the 24 Express business is requested in the Special Use Permit application, the Applicant is willing, in consultation with City Planning and Zoning, to implement, to the extent feasible, signage, lighting, landscaping and site amenity guidelines contained in the Potomac West Small Area Plan and the standards of the Neighborhood Retail (NR) zone. As the application moves forward, we look forward to meeting with Staff and our neighbors on site to further pursue these objectives. On behalf of the owners of the 24 Express, we look forward to the successful completion of the Special Use Permit application process.

SUP2008-0020

Thank you for your kind consideration of and attention to this matter.

Respectfully submitted,

FAGELSON, SCHONBERGER, PAYNE & DEICHMEISTER, P.C.
Attorneys/Agents for Applicant


William C. (Tom) Thomas, Jr

Date: 25 May 2006
revised 26 February 2008

24 Express – SUP

Lenox Place at Sunnyside (LPAS) and Arlandria Civic Association

Initial Response

April 27, 2008

SPECIAL USE PERMIT #2008-0020
4007 MOUNT VERNON AVENUE
24 EXPRESS STORE

Consideration of a request for a special use permit amendment to increase the hours for the sale of alcoholic beverages; zoned NR/Neighborhood Retail. Applicant: UAC Land and Building t/a 24 Express by William Thomas, Jr., agent.

Special Use Permit -- HOA and Civic Association Response

This document represents the initial presentation of our concerns on behalf of LPAS and Arlandria Civic Association.

It is our position that no significant changes in the conditions have been made to warrant an increase of hours for the sale of alcohol. Further, given an opportunity, we are in favor of a decrease in the hours of alcohol sales in the Arlandria neighborhood wherever possible. As addressed previously, Police Chief Baker cited alcohol related crime in Arlandria as the single biggest challenge facing the community. According to Captain Eddie Reyes:

“...if the City is going to have a long-term impact on violent crime and sustain the increased quality of life in Arlandria, bilingual education on alcohol abuse is mandatory. There is currently no education on alcohol abuse and/or treatment located in Arlandria....”

According to the Institute for Public Strategies, ‘the burden of proof should be on the applicant to show that having a new alcohol outlet will be of benefit to the community’. We see the SUP (and the process) as it is intended, as an opportunity to address the overall impact of alcohol sales in the community on a case by case basis.

...Middle-class Americans would not tolerate for one second laws that permitted an inner-city level concentration of liquor stores in and around the places where they and their loved ones live, work, shop, go to school, or play. It makes no sense to insist that it is all merely a matter of free markets, as if liquor stores simply go where the people want what they sell and sell to whomever they want.”

24 Express – SUP

Lenox Place at Sunnyside (LPAS) and Arlandria Civic Association

April 27, 2008

In addition to being an area highest in the City for violent and alcohol related crimes, this neighborhood also has the highest percentage AND number in the city of children under 18 (also the highest for children under 5), which is DOUBLE the average number of across the city. That number will rise even higher in the near future as ARHA brings in excess of 100 family occupied units within one mile of the 24 Express store. It would be irresponsible not to consider the alcohol related impact to the families and children dealing with the apparent consequences.

Status

At a minimum, the current SUP with an 11:00 cut off in the sale of beer and wine should remain in force. We believe that the consideration of alcohol related SUPs should be taken on a case-by-case basis and the sale of alcohol at a location immediately adjacent to a newly expanded Four Mile Run Park entrances should be taken under separate review by City staff.

The current SUP conditions are working. Alcohol availability after 11:00pm in the immediate neighborhood surrounding 24 Express has been reduced. We are seeing some positive results with decreased arrests (public drunkenness, liquor law violation and assaults). The goal of reducing neighborhood public drunkenness is beginning to show some signs of success. The SUP together with needed increased Police presence in the neighborhood has resulted in a reduction of alcohol-related crime.

Our local Police recognize the severe alcohol abuse in the neighborhood, its relationship to many of the types and large numbers of crimes committed and its victims. To this end they have also requested additional City services to combat alcohol abuse.

The excessive beer purchases late at night (and after 11pm) are still occurring at nearby businesses such as CVS, 7-Eleven and Giant food market in nearby Arlington. Attempts to mitigate the late night alcohol sales at these locations has not been undertaken to the extent necessary to bring about further needed change.

However, 24 Express is different. It operates under an SUP. This SUP and the vetting process before the Planning Commission and the City Council is the only avenue that allows area residents to express their concerns and opinions in this process. The 24 Express SUP has been the only opportunity available to mitigate the impact of alcohol sales. We would like to see additional proactive measures taken, and City Council has requested that additional regulation be explored. However, until that time, we have no desire to see the restrictions lifted since alcohol sales continue to have an inverse impact in the neighborhood and which the 11pm restriction seems to have mitigated.

24

24 Express – SUP

Lenox Place at Sunnyside (LPAS) and Arlandria Civic Association

April 27, 2008

Relation to Ongoing and Future Plans:

An Alexandria 'gateway', and Open Space/Park initiatives:

Money has begun to be spent to improve the playing fields and facilities at Four Mile Run park. Mt. Vernon Avenue is one of the 'gateway' entrances into Alexandria, Del Ray from Arlington.

The existence of 24 Express (with beer and alcohol sales) immediately adjacent to this expanded City park, bike and walking trails has a negative impact and influence. Single women and children are at risk when using the park or the bike path. The consumption of alcohol in the park and along the bike paths immediately adjacent to 24 Express is evident by the numerous beer cans and other litter from quick consumables currently on the surrounding grounds and in the stream bed.

Park Entrance:

No progress has yet been made on the issues with the entrance to Four Mile Run Park. The current restriction is necessary to mitigate these issues at least until they are resolved by the City and the business owner.

Duron and Pizza Hut buildings:

These buildings are currently vacant awaiting action by the City which has recently acquired them for increased park space and use for the recreation facility. The current restriction is necessary to mitigate these vacancies at least until they are resolved by the City.

Loitering:

The two 7-Eleven's (W Glebe Rd @ Valley Rd and Mt Vernon Ave @ W. Glebe Rd) post no-loitering signs and enforce a no loitering policy. 24-Express currently permits loitering in the early morning and indeed all day and evening long. It is commonly known, but not widely publicized, that 24-Express is a casual day-labor assembly point.

The SUP for the mini-market at the Exxon on Rt 1 has the enforcement of "no loitering" as a required condition.

25

24 Express – SUP

Lenox Place at Sunnyside (LPAS) and Arlandria Civic Association

April 27, 2008

Concerns about Competition:

The City's guidelines for SUP review state that arguments related to competition are off-limits during the review of an SUP:

"The Commission is not allowed by law to consider some arguments. For example, the Commission cannot consider the competitive impact on neighboring businesses when it considers an action. If you start to make off limit arguments, the Chair will warn you that the Commission cannot consider them."

While it is unfortunate that the City zoning does not allow the same regulation of other stores as it does convenience stores, the perception that other businesses will benefit from this restriction is not material to what hours are appropriate at this particular location with its own unique circumstances.

Problems with Enforcement:

Even after the current conditions were put in place, LPAS president Jim Rorke and Arlandria president Kevin Beekman were both present at 24 Express to witness the sale of beer to an highly intoxicated person after 11pm while the on-site, off-duty police officer was momentarily pre-occupied. Follow-up reports to APD and ABC resulted in no action against the business. We understand that no complaints of this nature will be accepted by the regulating authorities unless observed by trained law enforcement. The 11pm restriction is necessary to enable law enforcement to adequately police alcohol related problems. The lifting of the restriction would unnecessarily over-burden the police as past experience has demonstrated.

Summary:

The current SUP conditions are working. Alcohol availability after 11:00pm in the immediate neighborhood surrounding 24 Express has been reduced. We are seeing some positive results with decreased arrests (public drunkenness, liquor law violation and assaults).

It is our position that no significant changes in the conditions have been made to warrant an increase of hours for the sale of alcohol.

We look forward to providing additional materials, PP presentations and comments at the Planning Commission meeting and at City Council public hearings.