ORDINANCE No. 44,776

AN ORDINANCE GRANTING A SPECIAL EXCEPTION TO PERMIT A RETAIL GOODS ESTABLISHMENT TO OPERATE AFTER MIDNIGHT ON PROPERTY LOCATED AT 4803 POWHATAN AVENUE.

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1: That a Special Exception is hereby granted to permit the operation of a retail goods establishment after midnight on property located at 4803 Powhatan Avenue. The property, which is the subject of this Special Exception is more fully described as follows:

Property fronts 88 feet, more or less, along the northern line of 48th Street and 105 feet, more or less, along the western line of Powhatan Avenue; premises numbered 4803 Powhatan Avenue.

Section 2: That the Special Exception granted hereby shall be subject to the following conditions:

(a) No external signs other than one (1) illuminated sign shall be permitted and must be either a wall sign or a freestanding sign. If a freestanding sign is used, it shall be in the form of a monument sign.

(b) No temporary sign shall be mounted as a freestanding sign or a wall sign.

(c) No signage containing advertising, no corporate logos or colored striping, and no neon signs other than a single sign not more than two (2) square feet in area shall be placed in or on the store windows.

(d) No public telephone(s) shall be permitted on the exterior of the property. Any public phone(s) on the interior of the building shall be located in
an area within full view of the facility's staff and shall not be permitted within any restroom.

(e) No outside retail sales machines shall be permitted with the sole exception of one (1) movie rental machine, the location of which, if installed, shall be included within the coverage of a security camera.

(f) No propane tank rack shall be visible from the rights of way of either Powhatan Avenue or West 48th Street.

(g) Not more than two vehicular accesses shall be permitted, only one of which may provide access to Powhatan Avenue and only one of which may provide access to West 48th Street. The existing vehicular access located along West 48th Street at the southwest corner of the property shall be removed and replaced with a curb in a manner consistent with the standards of the City's Department of Public Works.

(h) All asphalt and concrete located immediately south of the southern wall of the building shall be removed from the building to the sidewalk.

(i) Opaque fencing or landscaping sufficient to block lights from vehicles shall be installed along the northern and western property lines.

(j) Security cameras will be installed in order to provide surveillance of both the interior and exterior of the building and its surroundings, including the parking area, the area immediately south of the southern wall of the building, and the bulk trash container enclosure.

(k) The property must be illuminated to a level sufficient to ensure visibility for customers visiting the property at night and for the useful operation of the security camera system required by condition (j), above.

(l) The property will developed in general conformity with the preliminary site plan labeled "C1.0,"
prepared by Harrison French & Associates Ltd., dated June 19, 2012, and attached hereto as "Exhibit A." In the event of any discrepancy between the preliminary site plan and the conditions of this special exception, the conditions of this special exception shall govern.

Section 3:- That the City Council hereby determines that the Special Exception granted herein complies with each of the requirements of § 25-7 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), namely that:

(a) The proposed use and development will be in harmony with the objectives and policies of the adopted General Plan of Norfolk and with the general and specific purposes for which this ordinance was enacted and for which the regulations of the district in question were established;

(b) The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located;

(c) The proposed use and development will not have an adverse effect upon the character of the area or the public health, safety and general welfare. Conditions may be applied to the proposed use and development, as specified in section 25-8 below, to mitigate potential adverse impacts;

(d) The proposed use and development will be constructed, arranged and operated so as not to interfere with the use and development of neighboring property in accordance with the applicable district regulations;

(e) The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, parks, libraries, and schools;
(f) The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets;

(g) The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance;

(h) The proposed use and development will not cause substantial air, water, soil or noise pollution or other types of pollution which cannot be mitigated;

(i) The proposed use and development will not cause a negative cumulative effect, when its effect is considered in conjunction with the cumulative effect of various special exception uses of all types on the immediate neighborhood and the effect of the proposed type of special exception use on the city as a whole;

(j) The proposed use and development complies with all additional standards imposed on it by the particular provisions of the ordinance authorizing such use; and

(k) No application for a special exception shall be recommended or granted until any and all delinquent real estate taxes owed to the City of Norfolk on the subject property have been paid.

Section 4:- That this ordinance shall be in effect from the date of its adoption.

ATTACHMENT:
Exhibit A (1 page)
Adopted by Council July 24, 2012
Effective July 24, 2012

TRUE COPY
TESTE:

R. BRECKENRIDGE DAUGHTREY, CITY CLERK

BY: ______________________________
   DEPUTY CITY CLERK
To the Honorable Council
City of Norfolk, Virginia

From: Frank M. Duke, AICP, Planning Director

Subject: Special Exception to a Retail Goods Establishment (operating after midnight) on property located at 4803 Powhatan Avenue - 7-Eleven by Stephen Romine:

Ward/Superward: 2/6

Approved: Marcus D. Jones, City Manager

July 24, 2012

I. Recommendation: Approval, considering compliance with ordinance requirements and consistency with approved plans.

II. Applicant: 7-Eleven by Stephen Romine
4803 Powhatan Avenue

III. Description:
This agenda item is for a Special Exception for 7-Eleven to operate a 24-hour convenience store.

IV. Analysis
- The site is located in the Lamberts Point neighborhood which is developed with the Old Dominion University Campus and a mix of residential uses.
- The Larchmont/Edgewater neighborhood is directly to the north.

<table>
<thead>
<tr>
<th>Prior</th>
<th>Proposed</th>
</tr>
</thead>
</table>
| Hours of Operation | N/A | 24 Hours
Seven days a week |

- The General Plan designates this site as Educational, Recreational, Cultural, Open Space, and Environmentally Sensitive, making the proposed use inconsistent with the General Plan.
  - Given that zoning controls the actual use of the property and that this is the location of an existing commercial use, the special exception could be recommended despite the inconsistency with the General Plan.
- The Old Dominion University Master Plan identifies this site as a location for new residential housing.
• The proposed new General Plan, \textit{plaNorfolk2030}, designates this site as Single Family Traditional.
  o Staff recommends that City Planning Commission re-evaluate this recommendation given its inconsistency with the existing and proposed uses.
• The site is located in a C-1 (Limited Commercial) district which allows operating between the hours of 12:00 midnight by Special Exception.
• The additional hours should not significantly impact traffic.
  o The site is located near frequent bus service.

V. \textbf{Financial Impact}
The applicant is current on all taxes.

VI. \textbf{Environmental}
• The site is located at the northwest corner of the ODU campus within the Lamberts Point neighborhood and at the southern corner of the Larchmont/Edgewater neighborhood.
• The existing convenience store structure directly abuts residential to the north and west.
• There is limited opportunity to provide full buffering for the residential property to the north, but at the planning Commission public hearing the applicant proffered conditions that should limit the impacts of light and glare from the parking area on this property.
• At the Planning Commission public hearing, the applicant proffered removal of significant surfaced area on the south side of the building, replacing it with landscaping that should significantly reduce the impacts of stormwater run-off from the site
• A letter of opposition was received from a resident of Larchmont.
• A conditional letter of support was received from Old Dominion University.
• A letter indicating no formal position was received from the Larchmont Civic League.

VII. \textbf{Community Outreach/Notification}
• Legal notice was posted on the property on February 21.
• Letter was sent to the Lamberts Point Civic League and Old Dominion University on March 2.
• Letters were mailed to all property owners within 300 feet of the property on March 7.
• Legal notification was placed in \textit{The Virginian-Pilot} on March 8 and 15.
• Notice was sent to the civic leagues by the Department of Communications on March 9.
• The Planning Commission Public Hearing was held on May 24, 2012.
• Public notification for this agenda item was conducted through the City of Norfolk's agenda notification process.
VIII. **Board/Commission Action**
- By a vote of 4 to 2 the Planning Commission recommended that the request for a Special Exception be approved, subject to the conditions outlined in the attached ordinance.
  - The Commissioners who recommended approval felt the additional conditions suggested by ODU and agreed to by the applicant addressed the original staff concerns about the environmental impacts of the proposed development.
  - The Commissioners who recommended denial felt that the area already has sufficient 7-Elevens.

IX. **Coordination/Outreach**
This report has been coordinated with the Department of Planning and Community Development and the City Attorney’s Office.

Supporting Material from the Department of Planning and Community Development:
- Ordinance
- Location Map
- Zoning Map
- Application
- Proposed Elevations
- Letters to Civic League and University
- Letters from Larchmont resident, Larchmont Civic League and ODU
Agenda Overview

Special Exception to a Retail Goods Establishment (operating after midnight) on property located at 4803 Powhatan Avenue - 7-Eleven by Stephen Romine

If approved, the request would allow the existing convenience store to operate 24 hours a day. Approval is recommended.

Marcus, please approve text for Agenda Overview

☑ Approved

☐ Approved with changes

- Request for the existing convenience store to operate 24 hours a day.
- The site is located in the Lamberts Point neighborhood which is developed with the Old Dominion University Campus and a mix of residential uses.
- The Larchmont/Edgewater neighborhood is directly to the north.
- The site is located in a C-1 (Limited Commercial) district which allows operating between the hours of 12:00 midnight by Special Exception.
- The additional hours should not significantly impact traffic.
  - The site is located near frequent bus service.
- By a 4 to 2 vote the Commission recommended approval.
Proponents and Opponents

Proponents
Stephen Romine
999 Waterside Drive, Suite 2100
Norfolk, VA 23510

Opponents
None