

STAFF EVALUATION

Case No.: Use Permit No. 23-00010

Planning Commission Date: June 22, 2023

City Council Date: July 12, 2023

Prepared By: Davis Pemberton, City Planner 728-2040
Reviewed By: Mike Hayes, Planning and Zoning Division Manager 728-5244
Reviewed By: Patricia Melochick, Senior Deputy City Attorney

General Information

Applicant & Property Owners Bui Kieu Diem & Nguyen Dung Anh

Site Location 12 Mill Creek Ter [LRSN: 12001112]



Requested Action Use permit to allow for a *short-term rental*

Description of Proposal The applicant is proposing a short-term rental at 12 Mill Creek Ter. The property is ± 0.56 acres and features a five (5) bedroom, five (5) bathroom residence that is approximately 4,459 square feet and was constructed in 1956.

Existing Land Use One-Family Residential

Zoning One-Family Residential (R-13);
Chesapeake Bay Preservation Overlay (O-CBP) District; and

Flood Zone Overlay (O-FZ) District

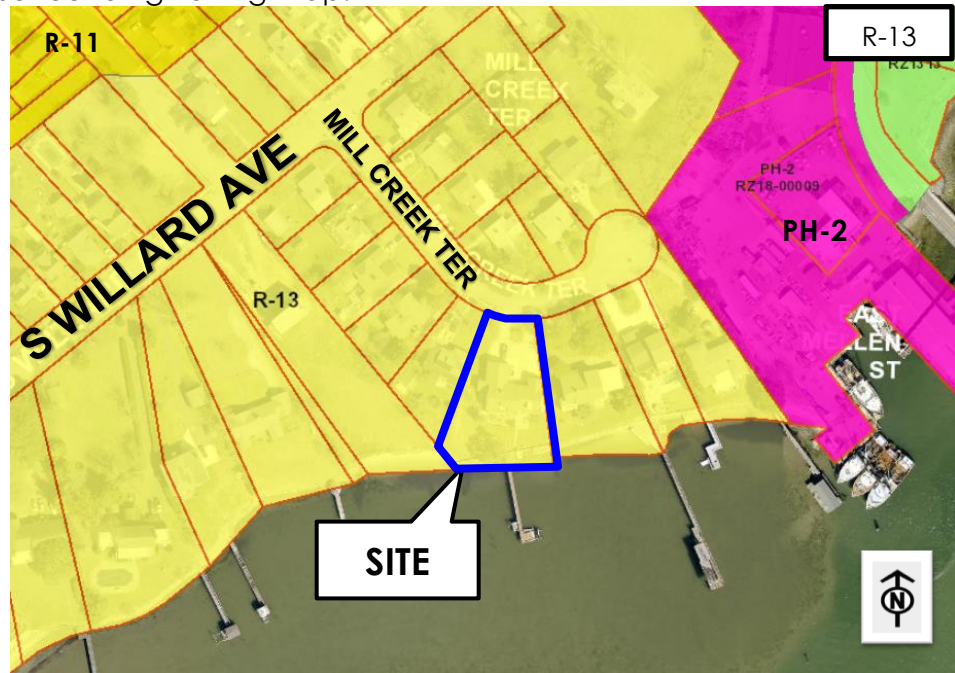
Applicable Regulations

As of December 14, 2022, City Council amended the Zoning Ordinance use table and additional standards for short-term rentals. This amendment created a definition and additional standards for short-term rentals. Short-term rentals in the R-LL, R-43, R-R, R-33, R-22, R-15, R-13, R-11 , R-9, R-8, R-4, MD-1, MD-2, MD-3, MD-4, R-M, C-1 , C-2, LFA-5, RT-1, 88-1 , 88-2, 88-3, DT-1, DT-2, DT-3, PH-1 , PH-2, PH-3, FM-1, FM-2, and FM-3 zoning districts are subject to obtaining a use permit by city council.

Surrounding Land Use and Zoning

North: One-Family Residential (R-13) District; residential
South: N/A
East: One-Family Residential (R-13) District; residential
West: One-Family Residential (R-13) District; residential

Surrounding Zoning Map:



Public Policy

Hampton Community Plan

The Hampton Community Plan (2006, as amended) recommends low-density residential land-use for the subject property and adjacent and surrounding properties.

Listed below are policies related to this request:

LU-CD Policy 4: Evaluate land use proposals from a regional, city-wide, and neighborhood perspective.

LU-CD Policy 7: Safeguard the integrity of existing residential neighborhoods.

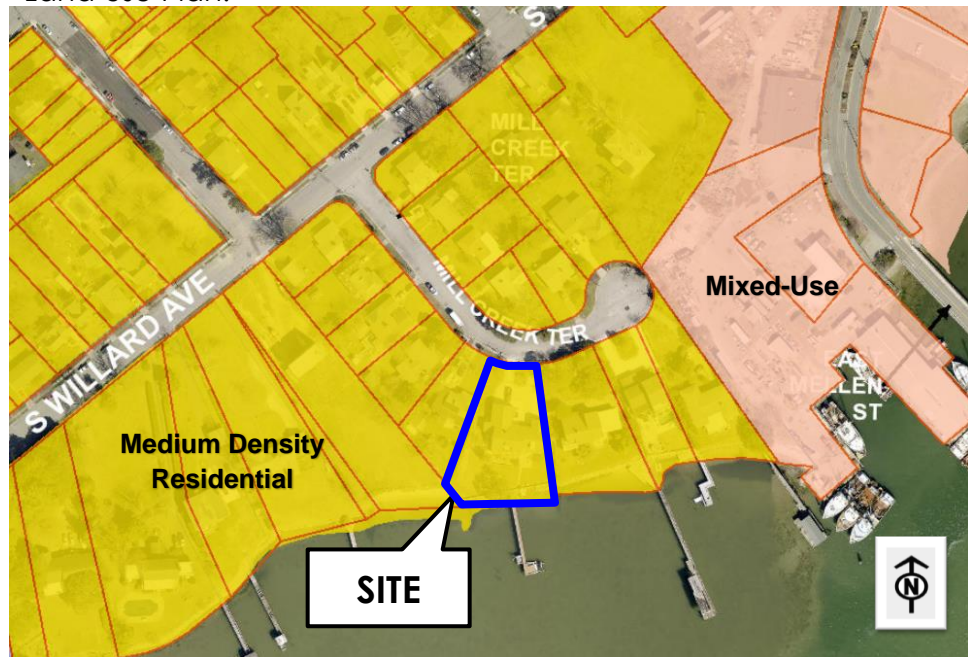
LU-CD Policy 31: Encourage a mix of land uses that is appropriate for each district. Promote the efficient use of land and high-quality urban design.

ED Policy 6: Expand tourism, entertainment, and cultural opportunities within the city.

Future Land Use

The Hampton Community Plan (2006, as amended) designates this area as low-density residential.

Land Use Plan:



Phoebus Master Plan

The property falls within the area governed by the Phoebus Master Plan (2013, as amended). While the master plan does not specifically address this property or the proposed use, it does highlight that one of the key regional and neighborhood-specific factors that influence and bolster Phoebus' market potential is its unique historic character and tourism potential.

Traffic/Parking Staff does not anticipate that the requested use or operation would cause a significant or negative impact on traffic.

Community Meeting A community meeting was held on May 11, 2023 at the Hampton Public Library located at 4202 Victoria Blvd.

Analysis:

Use Permit Application No. 23-00010 is a request for a use permit for a short-term rental. The subject property is located at 12 Mill Creek Terrace [LRSN: 12001112]. The property is

zoned One-Family Residential (R-13) District. R-13 allows for the desired use subject to an approved use permit.

The applicants and property owners, Bui Kieu Diem & Nguyen Dung Anh, have owned the property since April 2022 and are requesting to operate a short-term rental (STR) within a five (5) bedroom, ± 4,459 square foot single-family dwelling. The applicant intends to use the property for short-term rentals year-round, meaning it would not feature a primary resident. The property is also not being proposed as a host site for events.

The Hampton Community Plan (2006, as amended) calls for evaluating land use proposals from a regional, city-wide and neighborhood perspective. Furthermore, land-use and economic development policies related to this land use application includes safeguarding the integrity of existing residential neighborhoods, encouraging a mix of land uses that is appropriate and promoting the efficient use of land, and expanding tourism, entertainment, and cultural opportunities within the city. These policies can become competing, so much thought is given to the conditions under which short term rentals can operate in support of the tourism industry and welcoming visitors while maintaining the character of Hampton's neighborhoods.

The Phoebus Master Plan (2013, as amended) does not specifically address this property or the proposed use. However, the Plan does state that one of the key regional and neighborhood-specific factors that influence and bolster Phoebus' market potential is its unique historic character and tourism potential. Short-term rentals support these principles by maintaining the high-quality physical elements of the neighborhood and providing accommodations to tourists and locals.

In looking at the requirements for the proposed operation, a minimum of one (1) parking space per two (2) bedrooms is required for short-term rentals. An approved common space (e.g., living room, game room, family room) being offered as an overnight sleeping area is considered the same as a bedroom for the purposes of calculating necessary parking. The current application features a two-car garage and a driveway capable of accommodating the minimum required parking for the five (5) bedrooms.

Per section 404.4.1 of the Virginia Property Maintenance Code (VPMC), for residential dwelling units, each bedroom shall contain at least 70 square feet of floor area, and each bedroom occupied by more than one person shall contain at least 50 square feet of floor area for each additional occupant. A single-family dwelling advertised or offered to transient guests as a STR should comply with Virginia Construction Code section 310.4.3, which states that "owner occupied or proprietor occupied lodging houses and other transient boarding facilities not more than 3 stories above grade plane in height, with 5 or fewer guestrooms and 10 or fewer total occupants shall be permitted to be classified as either Group R-3 or R-5...". If a single-family dwelling exceeds 10 occupants or 5 bedrooms, the use would change to R-1 (hotel/motel, for example), which would require (a) an automatic sprinkler system; (b) portable fire extinguishers; (c) manual fire alarm

system; (d) single and multiple station smoke alarms; and (e) carbon monoxide detection if a fuel-burning applicant is present or if the home features an attached garage.

While the current application features common areas such as living room and family room, no common area shall be offered as an overnight sleeping area as the STR would change from either Group R-3 or R-5 under Virginia Construction Code, and would require all of the safety systems mentioned above. With this, the maximum occupancy shall be limited to no more than ten (10) overnight lodgers and the maximum number of rentable bedrooms shall not exceed five (5), which is reflected in the staff recommended conditions.

For events and gatherings in conjunction with a STR, it is important to consider the potential harmful impacts on adjacent properties and take into account several factors to minimize disturbances. Staff recommends that events, as defined in Hampton's Zoning Ordinance, in conjunction with a STR not be conducted without a special event permit. Additionally, for gatherings of individuals who are not overnight lodgers of a STR, the maximum number of people on property between the hours of 7:00 AM and 10:00 PM shall not exceed double (2x) the capacity limit of overnight lodgers as determined by the Building Official. In this instance, up to twenty (20) people are permitted to be on the property between the hours of 7:00 AM and 10:00 PM. Only authorized overnight lodgers not exceeding the approved capacity limit are allowed on the property between the hours of 10:00 PM and 7:00 AM, which align with the City of Hampton's noise ordinance.

The "Short-Term Rental Fact Sheet" provided in the package, which features information pertaining to the Responsible Local Person (RLP); events and gatherings; capacity limitations; Hampton's noise ordinance; parking on lawn restrictions; and trash & recycling collection, shall be posted in a conspicuous location inside of the dwelling and visible at all times to overnight lodgers and their guests. Additionally, staff recommends that the approved floor plan(s) be posted alongside the fact sheet.

Further, staff is recommending that a ledger be maintained showing the date(s) the STR is rented, the name of the primary person(s) who booked the reservation, the number of overnight lodgers featured in the reservation, and the overnight sleeping area(s) used throughout the duration of their booking. This is a requirement for current hotels/motels and bed and breakfast establishments. The RLP shall maintain these records and shall be made available to the Zoning Administrator or their designee within one (1) day upon request.

In the event a STR is approved, prior to operation, the operator shall schedule an inspection through Hampton's 311 Citizen Contact Center. There shall be no STR activity prior to this inspection. Additionally, upon a change of ownership of the property, or an approved modification to the floor plan made to the dwelling, a new inspection shall be scheduled by the operator to confirm compliance with all applicable standards and codes.

Staff recommends **APPROVAL** of the Use Permit Application No. 23-00010 with fifteen (15) conditions.