

STAFF EVALUATION

Case No.: Use Permit No. 23-0221

Planning Commission Date: July 20, 2023

City Council Date: June 12, 2024

Prepared By: Urvi Patel, City Planner 728-5144
Reviewed By: Mike Hayes, Planning and Zoning Division Manager 728-5244
Reviewed By: Jessica Kraus, Assistant City Attorney

General Information

Applicant & Property Owners FUM Properties, LLC

Site Location 136 S Second St [LRSN: 13004183]



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

Description of Proposal The applicant is proposing a short-term rental at 136 S Second St. The property is ± 0.07 acres and features a three-story 2,811 square foot residence with four (4) bedrooms.

Existing Land Use One-Family Residential

Zoning Buckroe Bayfront One Family Residential (BB-1) 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.

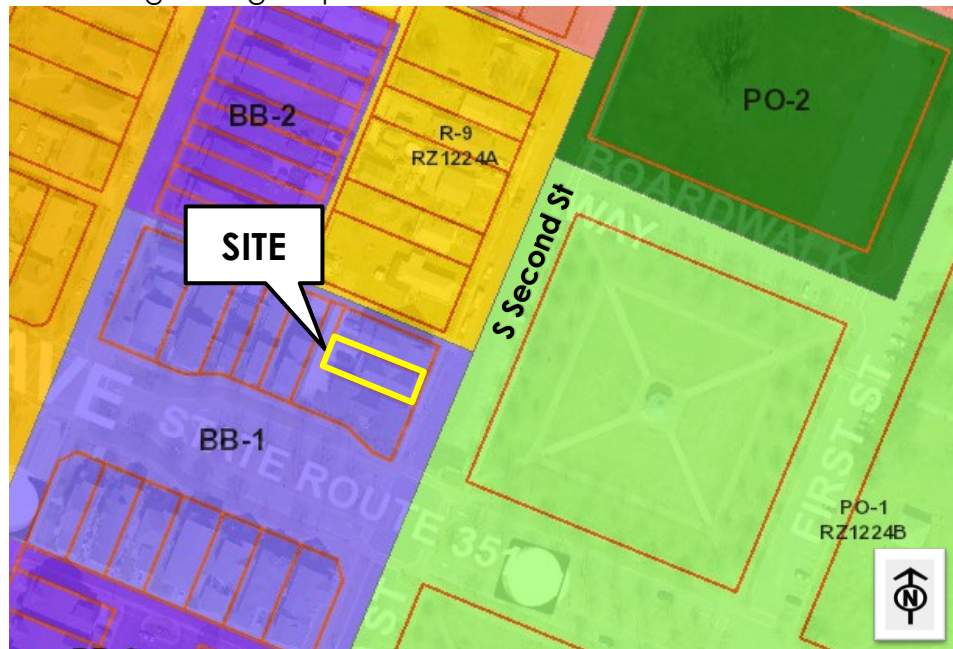
Short-term rentals for which a business license was issued and zoning compliance was confirmed pursuant to Sec. 18.1-12 of the city code prior to December 14, 2022 may operate continuously in the same location until December 31, 2024 provided that the short-term rental remains compliant with all applicable City Code and Zoning Ordinance provisions during that time.

After December 31, 2024, the short-term rental must obtain approval of a use permit from City Council in order to continue operation.

Surrounding Land Use and Zoning

- North:** Buckroe Bayfront Single Family Residential (BB-1), single-family residence
- South:** Buckroe Bayfront Single Family Residential (BB-1) District, single-family residence
- East:** Parks and Open Space General (PO-1), public park
- West:** Buckroe Bayfront Single Family Residential (BB-1) District, single-family residence

Surrounding Zoning Map:



Public Policy

Hampton Community Plan

The Hampton Community Plan (2006, as amended) recommends mixed use for the subject property and surrounding properties.

Listed below are policies related to this request:

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.

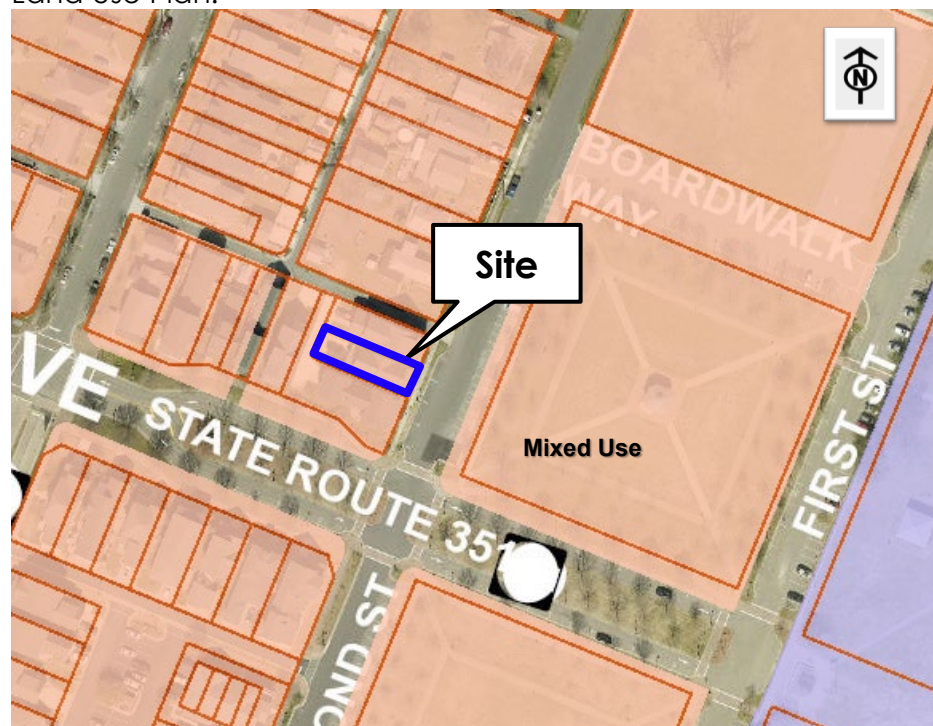
ED Policy 4: Nurture small and start-up businesses.

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 mixed use.

Land Use Plan:



Buckroe Master Plan

The property falls within The Bayfront initiative area of the Buckroe Master Plan (2005, as amended). The master plan specifically addresses this property and others along the western edge of Buckroe Park, calling for developing these blocks with low-scale beach housing with a minimum of three stories and architecture reflective of the regional coastal vernacular. More generally, the master plan recognizes Buckroe's distinguished past as an evolving vacation destination and aims to maintain its present

identity as a family-oriented community. It sets forth guiding principles that call for low-scaled beach-oriented housing and supporting the unique coastal character of the architecture in Buckroe. Short-term rentals support these principles by maintaining the high-quality physical elements of the neighborhood and providing opportunities for visitors to experience and appreciate the coastal culture of the area.

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 has not been scheduled at this time.

Analysis:

Use Permit Application No. 23-00011 is a request for a use permit for a short-term rental at 136 S Second St [LRSN: 13004183]. The property is zoned Buckroe Bayfront Single Family Residential (BB-1) District. BB-1 allows for the desired use subject to an approved use permit.

The property is owned by and the legal entity applying for this Use Permit is FUM Properties, LLC, which is represented by two of its members, Timothy Tardie & Michael Tardie. The property was developed in 2015 and acquired by FUM Properties, LLC in January 2023. The property is ± 0.07 acres and features a three-story, 2,811 square foot residence with four (4) bedrooms and three and one half (3.5) bathrooms. The applicant is proposing to operate the short-term rental (STR) year-round with a strict prohibition on events and management of the operation by PeakHost Properties, LLC. It is not intended to be owner-occupied at any time. The property is easily accessible from Buckroe Beach and is relatively close to the waterfront and other Buckroe attractions. As such, this short-term rental would provide tourist accommodations in or around the Buckroe community.

The property is located within The Bayfront Initiative area of the Buckroe Master Plan (2005, as amended), which supports a mix of public improvements and private development initiatives in the blocks surrounding Buckroe Beach and Park. The master plan specifically addresses this property and others along the western edge of Buckroe Park, calling for developing these blocks with low-scale beach housing with a minimum of three stories and architecture reflective of the regional coastal vernacular. More generally, the master Plan recognizes Buckroe's distinguished past as an evolving vacation destination and aims to maintain its present identity as a family-oriented community. It sets forth guiding principles that call for low-scaled beach-oriented housing and supporting the unique coastal character of the architecture in Buckroe. Short-term rentals support these principles by maintaining the high-quality physical elements of the

neighborhood and providing opportunities for visitors to experience and appreciate the coastal culture of the area.

The Hampton Community Plan (2006, as amended) calls for evaluating land use proposals from a regional, city-wide, and neighborhood perspective. Land use and economic development policies related to this land use application include 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.

The minimum parking requirement applicable to short-term rentals is one (1) parking space per two (2) bedrooms. A common space (e.g., living room, game room, family room) may be offered as an overnight sleeping area provided it is counted towards the parking requirement, although this application does not propose utilization of any such spaces as sleeping areas. Using the four (4) bedroom count for the parking calculation, the STR has a minimum requirement of two (2) parking spaces, which are available in the rear of the property and accessible through a shared drive aisle. Parking may also be supplemented by the available on-street public parking on both sides of S Second St.

Per §404.4 of the Virginia Property Maintenance Code (VPMC), for residential dwelling units, each bedroom is required to contain at least 70 square feet of floor area, and each bedroom occupied by more than one person must contain at least 50 square feet of floor area for each additional occupant. With this, the maximum guest occupancy for the property shall be limited to no more than ten (10) overnight guests, which is reflected in the staff recommended conditions.

In order to minimize the impacts of the STR on the neighborhood and ensure the safety of guests, staff is recommending conditions related to designating a Responsible Local Person (RLP) by the operator, limitations on events, posting safety information and city regulations within the dwelling, and requiring an initial inspection before operation can begin.

The Use Permit process requires each application be reviewed on a case-by-case basis to ensure that the proposed use is compatible with surrounding neighborhoods and land-uses. This property is zoned single-family residential within the Buckroe Bayfront special districts, and the use of the property as a short-term rental is compatible with the surrounding public and private uses. Given the proximity of the short-term rental to Buckroe Beach & Park, it is understood the neighborhood sees an influx of seasonal visitors and activities during the warmer months. A short-term rental in this location complements the adjacent public uses both for guests and for the neighborhood. The property has adequate on-site parking for guests, and the owner has provided evidence that they will require guests to park in designated areas to minimize impacts on the neighbors, who share a driveway, the surrounding neighborhood, and the available public parking.

The use permit process is a City Zoning Process, the purpose of which is to develop and enforce government regulations for specific use on a specific parcel of land not otherwise permitted by right in the zoning district, and where that specific use is not detrimental to surrounding properties. Private agreements related to a parcel, such as homeowners' association declarations, leases, or other similar documents, that may limit or prohibit certain uses on a parcel are not considered by the City during the use permit process, as such private agreements are not enforceable by the City.

Update for the June 12, 2024 City Council meeting:

At the November 8, 2023 City Council meeting, City Council deferred the short-term rental use permit applications on its agenda to the February 28, 2024 City Council meeting. This decision was made to allow sufficient time for the Council to receive legal guidance, explore various options to regulate density, and evaluate appropriate areas for short-term rentals within the City of Hampton. The deferral aimed to provide an opportunity for public engagement regarding the proposed path forward before any further action is taken on short-term rental use permits.

Since then, the Community Development Department (CDD) convened a group of community stakeholders to provide guidance on the second major phase of development of the City's STR regulations and practices. This group of convened stakeholders functioned as a "focus group" by providing feedback, guidance, and ideas on particular areas of the regulations that needed to be addressed. The scope of the areas that the group was asked to address included: STR density, separation, suitable areas, types of STRs, and the permitting process. The stakeholder group was comprised of nine (9) members representing diverse perspectives, including those operating and managing STRs, a local Bed and Breakfast operator, and several local neighborhood leaders from a range of geographic areas.

Following the conclusion of these "focus group" meetings, staff formulated policy recommendations based on the feedback provided from community stakeholders and provided City Council and staff recommendation on Wednesday, February 14, 2024.

New guidelines have been proposed that will, among other things, limit the density of short-term rentals (STRs) to ensure that they don't affect the character of neighborhoods. The new proposed zoning district overlays would control the distribution and density of STRs across the city.

In order to limit density within an STR Zone, a maximum of 1% of the residential dwellings within each zone would be allowed to be an STR. This density cap aims to maintain the character of our neighborhoods while accommodating the growing demand for short-term lodging. Other key elements of the proposed regulations include:

- A required separation between STRs of 500 feet, except that two may be directly next door to each other
- Administrative permitting process, with a \$200 application fee and \$50 inspection fee
- Conditions addressing the operation of the rental, including safety and nuisances

Based on the set of proposed amendments, the proposed short-term rental is located in the Buckroe 2 Zone, in which the proposed amendments recommend a maximum of sixteen (16) STRs. Currently, the Buckroe 2 Zone features five (5) permitted STRs and the proposed STR does not exceed the maximum number of STRs permitted. However, the proposed STR is within 500 feet of a permitted STR and would therefore not be compliant with the 500-foot buffer requirement proposed in the zoning text amendments. Additionally, the Use Permit application is eligible to convert to a Zoning Administrator Permit (ZAP) application on the day the proposed ordinance amendments go into effect.



Staff recommends DEFERRAL of item no. 23-0221 to the City Council meeting scheduled after the proposed ordinance amendments take effect.

In the event this item is approved, staff recommends approval of item no. 23-0221 with fifteen (15) conditions.