

# STAFF EVALUATION

**Case No.:** Use Permit No. 22-00010

**Planning Commission Date:** April 20, 2023

**City Council Date:** May 10, 2023

**Prepared By:** Davis Pemberton 728-2040  
**Reviewed By:** Mike Hayes, Planning and Zoning Division Manager 728-5244  
**Reviewed By:** Bonnie Brown, Deputy City Attorney

## General Information

*Applicant* Gregory Braxton

*Property Owners* PTC E Group LP

*Site Location* 1471 Merchant Ln [LRSN: 13002022]



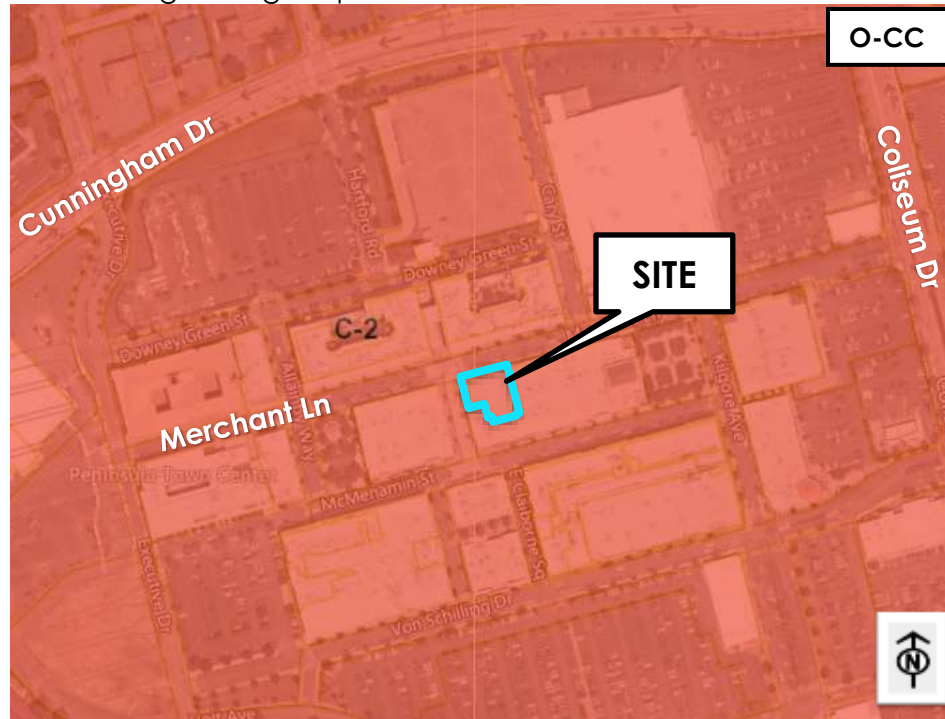
*Requested Action* Use Permit for restaurant 3.

*Description of Proposal* The applicant is proposing expanded live entertainment performance area and expanded operating house of indoor live entertainment in their restaurant, The Rhythm Room. The proposed indoor live entertainment performance area is ± 180 square feet. The requested hours of operation for indoor live entertainment performance area are 6:00 PM to 11:00 PM, Monday through Saturday, and 1:00 PM to 4:00 PM on Sunday. The restaurant occupies three (3) units within Peninsula Town Center (PTC). No outdoor dining or outdoor entertainment is proposed at the site.

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|----------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Existing Land Use</i>               | Commercial - Vacant                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <i>Applicable Regulations</i>          | <p>As of July 13, 2022, City Council amended the Zoning Ordinance use table and additional standards for restaurants. This amendment created a three-tiered system for categorizing restaurants. Within the C-2 District, <i>restaurant 1</i> is a by-right use. <i>Restaurant 1</i>'s can operate under the following requirements:</p> <ul style="list-style-type: none"> <li>• Operating hours of 5 am to 2 am</li> <li>• No retail alcohol sales</li> <li>• No live entertainment</li> <li>• No outdoor dining</li> </ul> <p>Within C-2, <i>restaurant 2</i>'s can operate under the following requirements:</p> <ul style="list-style-type: none"> <li>• Operating hours with retail alcohol sales: 5 am to 12 am</li> <li>• Live entertainment is permitted, with limitations. In this instance, indoor live entertainment performance area shall not exceed seventy-five (75) square feet.</li> <li>• Outdoor dining is permitted, with limitations</li> </ul> <p>Restaurants requesting to operate outside the conditions required for <i>restaurant 1</i> or <i>2</i> need to obtain a Use Permit. The applicant is requesting exceeding the live entertainment performance area requirements.</p> |
| <i>Surrounding Land Use and Zoning</i> | <p><b>North:</b> Limited Commercial (C-2) District; Coliseum Central Overlay (O-CC) District, Retail and Multi-Family Residential</p> <p><b>South:</b> Limited Commercial (C-2) District; Coliseum Central Overlay (O-CC) District, Retail</p> <p><b>East:</b> Limited Commercial (C-2) District; Coliseum Central Overlay (O-CC) District, Retail</p> <p><b>West:</b> Limited Commercial (C-2) District; Coliseum Central Overlay (O-CC) District, Retail</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

See following page for zoning map

Surrounding Zoning Map:



#### Public Policy

#### **Hampton Community Plan**

The Hampton Community Plan (2006, as amended) recommends mixed-use for the subject property and adjacent properties in the Peninsula Town Center.

Listed below are policies related to this request:

**LU-CD Policy 6:** Support the City's economic development priorities: high-wage jobs in targeted industry segments; regional retail and entertainment destination; first retail choice or Hampton residents; tourism destination; and higher value housing. (pg. LU-20)

**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. (pg. LU-22)

**ED Policy 4:** Nurture small and start-up businesses. (pg. ED-23)

**ED Policy 6:** Expand tourism, entertainment, and cultural opportunities within the city. (pg. ED-23)

#### **Coliseum Central Master Plan:**

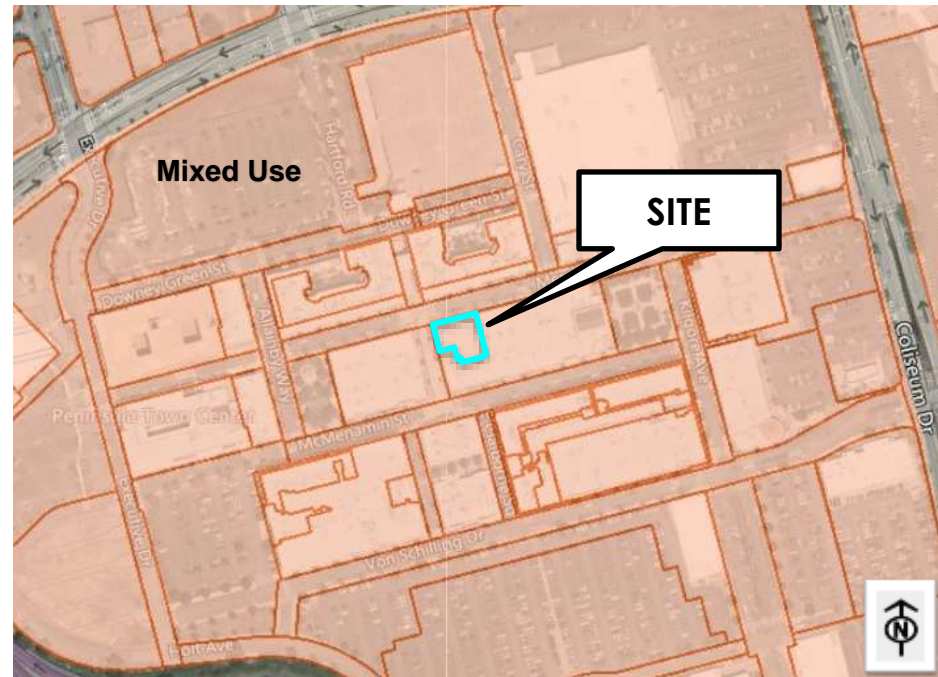
The Coliseum Central Master Plan (2015, as amended) ("CCMP"), calls for the Coliseum Drive North initiative area (where Peninsula Town Center is located) to provide community- and neighborhood-serving retail alongside regional retail and auto-oriented uses located around the interstate. It is further

recommended that a mix of commercial development that is regionally unique as well as locally-serving be pursued.

**Future Land Use:**

The Hampton Community Plan (2006, as amended) designates this area as mixed use.

Land Use Plan:



*Traffic/Parking*

Staff does not anticipate that the requested expansion of live entertainment performance area would cause a significant or negative impact in the parking or traffic within Peninsula Town Center over current existing conditions.

*Community Meeting*

The application has been presented to the Coliseum Central Business Improvement District (CCBID) Board for feedback. The Coliseum Central Board of Directors recommends approval of the application.

*Analysis:*

Use Permit Application No. 22-00010 is a request for a Use Permit for a restaurant 3 for expanded indoor live entertainment performance area to include one-hundred eighty (180) square feet of indoor performance area, hours as late as 2:00AM, and serving alcohol. The subject property is located at 1471 Merchant Lane [LRSN: 13002022] in Peninsula Town Center. The property is currently zoned Limited Commercial (C-2) and is within the Coliseum Central District Overlay (O-CC) District. C-2 allows for the requested use, subject to an approved Use Permit.

The proposed restaurant is ± 5,941 square feet and the proposed indoor live entertainment performance area is ± 180 square feet. No outdoor live entertainment and no outdoor dining are proposed by the applicant. In relation to the addition of live entertainment, no significant physical changes to the building are proposed, nor an increase in capacity. Therefore, additional environmental or traffic impacts are not anticipated.

Requested hours of operation of the restaurant are from 12:00 PM until 12:00 AM Monday through Saturday, and 11:00 AM to 5:00 PM on Sunday. These hours would be in accordance with the hours permitted under restaurant 2 for restaurants with retail alcohol sales. The requested hours of operation for indoor live entertainment performance area are 6:00 PM to 11:00 PM Monday through Saturday, and 1:00 PM to 4:00 PM on Sunday. It is the amount of live entertainment area which goes beyond the permissions of restaurant 2 within the C-2 commercial zoning district, leading to the request for a Use Permit for restaurant 3. A "Restaurant 2" in the Limited Commercial (C-2) district limits the area of indoor live entertainment performance area to not exceed seventy-five (75) square feet.

The Hampton Community Plan (2006, as amended) calls for nurturing small and startup businesses and expanding tourism and entertainment opportunities within the city. Coliseum Central is recognized as the city's regional draw for dining and entertainment. The Coliseum Central Master Plan (2015, as amended) further recommends a mix of development that is regionally-unique as well as locally-serving be pursued. Live entertainment at the proposed restaurant is consistent with the policies and goals of the plan. Additionally, restaurants with live entertainment performance areas exceeding 75 square feet in similar locations and with similar facilities have been previously approved by City Council.

In regards to parking requirements, there is a current, approved parking credit on file for the Peninsula Town Center (PTC) which reduces required minimum parking based upon the shared parking needs of the whole shopping center. In order to approve a new parking credit to incorporate a new use taking more parking than already allocated to the shopping center space, the Zoning Ordinance requires the consent of all relevant property owners. Staff did not receive a new parking credit request with the approval of all relevant property owners as part of the submittal for this Use Permit application. In reviewing possible alternatives, the Zoning Administrator determined that with the consent of the Building E property owner, reallocating current parking spaces for those existing vacant spaces in the same building would be possible. Within Building E, suites 101, 102, 103, 104, 106, 132, and 133 are currently vacant, which provides a total of 52 parking spaces that could be reallocated to the proposed use. The restaurant is proposed to occupy suites 101, 102, and 103.

The result of the proposed reallocation is that if this restaurant is permitted to establish, no uses will be able to locate in suites 104, 106, 132, or 133 in Building E until additional parking

can be identified. While staff supports this Use Permit application, staff also strongly encourages a parking demand study be completed by Peninsula Town Center (PTC) to facilitate future parking requirements.

If the Use Permit is to be granted, staff has identified thirteen (13) recommended conditions based upon the proposed use's operational and land use characteristics. A few key conditions are highlighted below:

- Hours of operation shall not exceed 5:00 AM to 12:00 AM Sunday through Thursday, and 5:00 AM to 2:00 AM, Friday through Saturday.
- Location of Live Entertainment will be conducted inside the building only and shall be limited to the area indicated on the attached floor plan identified as "Live Entertainment Area," attached as Exhibit A.
- Security services shall be provided that monitor activities both inside and outside the restaurant.
- The Use Permit will expire upon change of ownership, a change in possession, a change in the operation or management of a facility, or the passage of three (3) months without an active retail alcoholic beverage control license.

The conditioned evening hours of operation are less restricted than what is proposed by the applicant, but given the location within Peninsula Town Center and other surrounding uses, these conditioned hours proposed by staff are appropriate. The conditioned hours are consistent with other live entertainment and restaurant Use Permits granted in this district. This allows the applicant flexibility in expanding operating hours in the future without having to seek approval through the use permit process.

Staff recommends **APPROVAL** of Use Permit No. 22-00010 with thirteen (13) conditions.