

**AT THE WORK SESSION OF THE HAMPTON PLANNING COMMISSION MEETING HELD IN THE COMMUNITY DEVELOPMENT DEPARTMENT CONFERENCE ROOM, 5<sup>TH</sup> FLOOR, CITY HALL, 22 LINCOLN STREET, HAMPTON, VIRGINIA, ON THURSDAY, NOVEMBER 20, AT 3:00 P.M.**

Chair Michael Harris called the work session to order at 3:02 P.M.

A call of the roll noted Chair Michael Harris, Vice-Chair Kathy Rogers, Commissioners Joe Griffith, Tracy Brooks, Trina Coleman and Brian DeProfio as present. Commissioner Martha Mugler was noted absent. Staff in attendance were Secretary/Interim Director Kim Mikel, Interim Deputy Director Steve Lynch, City Attorney Courtney Sydnor, Assistant City Attorney Cory Wolfe, Planning Manager Milissa Story, Zoning Administrator Melvion Knight, Deputy Zoning Administrator Chris Langaster, Executive Project Manager Joshua George, Chief Neighborhood Development Specialist Travis Rash, Zoning Official Samar Ravan, Chief City Planner Donald Whipple, City Planner Han Vu, City Planner Valerie Taylor, City Planner Quinn Heinrich, and Clerk of Boards and Commissions Arlena Cahoon.

The Commission and staff discussed the agenda items, with the following information being provided.

**Agenda Item Order:**

Secretary Kim Mikel requested to move the Youth Planner Report to the beginning of the agenda, given the expectation of a longer meeting. The adjustment would allow the Youth Planner to present and depart before the lengthier agenda items are discussed. She further asked the Commission's preference on either hearing Use Permit Application No. 25-0285 first or the recommendation for Revocation of Use Permit No. 24-0489.

Commissioner Trina Coleman mentioned that she is on board with hearing the Use Permit Application first and asked if there are foreseeable challenges with the application.

In response to Commissioner Coleman, Secretary Mikel responded that it should be similar to any other Restaurant 3 Use Permit Applications that have come forward in the past.

The Planning Commission agreed to moving the Youth Planner Report to the beginning of the agenda and leaving the public hearing items order as is.

Assistant City Attorney Cory Wolfe noted that there will need to be a brief motion to move the Youth Planner Report to the beginning of the agenda.

**Proposed 2026 Planning Commission Meeting Calendar:**

Planning Manager Milissa Story provided copies of the proposed 2026 Planning Commission Meeting calendar.

Secretary Mikel noted that there were a couple of meeting dates that needed to be adjusted from the standard third-Thursday due to conflicts with Hampton City Council Meetings. She requested that the Planning Commission review the proposed dates to confirm their availability and be prepared to discuss them further at the next Planning Commission work session,

**Rezoning Application No. 25-0322: by Gloria Higuera Lopez to Rezone +/-0.15 acres at 1700 E Pembroke Ave [LRSN: 12003841] from Limited Commercial (C-2) District to the One-family Residential (R-9) District with Proffered Conditions in Order to Construct a Single-Family Dwelling**

**on a Vacant Lot:**

Secretary Mikel noted that this is a Rezoning Application to rezone from Limited Commercial (C-2) to One-Family Residential (R-9) at 1700 East Pembroke Avenue, which would allow for the construction of a single-family dwelling.

In response to a question from Commissioner Joe Griffith, Secretary Mikel responded that a Mixed-Use proposal would also be considered appropriate for that area. While the Master Plan and Comprehensive Plan express a preference for Mixed-Use, it has been observed that the existing Commercial and Retail districts in the vicinity have not performed as expected. As a result, transitioning the area to Residential use may be the more appropriate.

Mr. Wolfe noted that the applicant for this item is a Spanish speaker, therefore staff has arranged interpretation services to ensure she can effectively communicate with the Planning Commission.

**Use Permit Application No. 25-0285: by Southern Comfort Restaurant & Lounge, LLC to permit a Restaurant 3 for Extended General Hours of Operation, to Include Alcohol Sales and Indoor Live Entertainment, at 2163 & 2165 Cunningham Dr [Portion of LRSN: 7001532]:**

Secretary Mikel noted that this is a Use Permit Application by Southern Comfort Restaurant & Lounge, LLC to permit a Restaurant 3 for extended general hours of operation, to include alcohol sales and indoor live entertainment, at 2163 and 2165 Cunningham Drive.

In response to a question from Vice-Chair Kathy Rogers, Secretary Mikel responded that the conditions require the parking lot to be monitored at all times, but they do not specify the method for doing so. The expectation is that if an issue arises in the parking lot, it must be addressed immediately.

**Consider Revocation of the Use Permit Issued to Karma Restaurant and Lounge for a Restaurant 3 in the Downtown Business (DT-1) District at 85 and 87 Lincoln Street [Portion of LRSN: 2003249] Due to Violations of Conditions contained in the Use Permit:**

Secretary Mikel noted that this a recommendation for the revocation of the Use Permit No. 24-0489 issued to Karma Restaurant and Lounge for a Restaurant 3 located at 85 and 87 Lincoln Street, due to violations of conditions contained in the Use Permit.

In response to questions from Vice-Chair Rogers, Secretary Mikel responded that Hampton Police Department (HPD) will be present and available at the meeting to answer any questions.

Secretary Mikel added when staff learned that the restaurant expanded into the vacant space, they issued a Notice of Violation (NOV) and informed the owner of the steps required in order to come into compliance.

Chair Michael Harris added that the applicant had made substantial improvements to the vacant suite in preparation for operating, which prompted him to apply for a Use Permit for a Restaurant 3. However, he did not believe the Commission had been aware of the initial violation at that time.

Vice-Chair Rogers recalled the meeting at which the applicant first applied for the Restaurant 3 Use Permit, including extensive discussion regarding calls for service and the security

plan. She added that, in hindsight, awareness of the prior violation would have been helpful information during the Commission's decision-making process.

**The Planning Commission Attendance Policy:**

Vice-Chair Rogers mentioned at the last meeting, there was discussion on possibly aligning the Planning Commission attendance policy with the State, and was wondering if that was moving forward. Mr. Wolfe responded that all of the Boards and Commissions for the City of Hampton are going through review of their bylaws, which would include the attendance policy.

The work session adjourned at 3:15 P.M.

**AT THE REGULAR MEETING AND PUBLIC HEARING OF THE HAMPTON PLANNING COMMISSION HELD IN THE CITY COUNCIL CHAMBERS, 8<sup>TH</sup> FLOOR, CITY HALL, 22 LINCOLN STREET, HAMPTON, VIRGINIA, ON THURSDAY, NOVEMBER 20, 2025 AT 3:30 P.M.**

**I. CALL TO ORDER**

Chair Michael Harris called the meeting to order at 3:30 P.M.

**II. ROLL CALL**

A call of the roll noted Chair Michael Harris, Vice-Chair Kathy Rogers and Commissioners Joe Griffith, Tracy Brooks, Trina Coleman, and Brian DeProfio. Commissioner Martha Mugler was noted absent. Staff in attendance were Secretary/Interim Director Kim Mikel, Interim Deputy Director Steve Lynch, City Attorney Courtney Sydnor, Assistant City Attorney Cory Wolfe, Planning Manager Milissa Story, Zoning Administrator Melvion Knight, Deputy Zoning Administrator Chris Langaster, Zoning Official Samar Ravan, Chief City Planner Donald Whipple, City Planner Han Vu, City Planner Valerie Taylor, City Planner Quinn Heinrich, Junior Youth Planner Henry Godfrey, and Clerk of Boards and Commissions Arlena Cahoon.

**III. APPROVAL OF MINUTES**

A motion was made by Vice-Chair Kathy Rogers and was seconded by Commissioner Tracy Brooks to approve the minutes from the October 16, 2025 Planning Commission Meeting and Work Session.

A roll call vote on the motion resulted as follows:

AYES:	Griffith, Rogers, Brooks, DeProfio, Harris
NAYS:	None
ABSTAIN:	Coleman
ABSENT:	Mugler

**V. COMMUNITY DEVELOPMENT DIRECTOR'S REPORT**

**1. November 2025 Youth Planner Report**

Senior Youth Planner Henry Godfrey presented the November Youth Planner report for the Hampton Youth Commission (HYC)

**Upcoming Events:**

- November 17<sup>th</sup> – 1<sup>st</sup> Stakeholder meeting
- December 15<sup>th</sup> – Teen Town Hall and Grant Hearing

Chair Michael Harris clarified that the Planning Commission decided to move the Youth Planner report to the beginning of the agenda in order for Mr. Godfrey to depart before the lengthier agenda items are discussed.

**IV. PUBLIC HEARING ITEMS**

Secretary Kim Mikel read the key points of the Hampton Planning Commission Public Hearing/Comment Rules.

**1. Rezoning Application No. 25-0322: by Gloria Higuera Lopez to Rezone +/-0.15 acres at 1700 E Pembroke Ave [LRSN: 12003841] from Limited Commercial (C-2) District to the One-family Residential (R-9) District with Proffered Conditions in Order to Construct a Single-Family Dwelling on a Vacant Lot**

**Rezoning Application No. 25-0322:** This is a Rezoning Application by Gloria Higuera Lopez to Rezone +/-0.15 acres at 1700 East Pembroke Avenue [LRSN:12003841] from Limited Commercial (C-2) District to the One-Family Residential (R-9) District with proffered conditions in order to construct a Single-Family Dwelling on a vacant lot.

City Planner Han Vu presented the staff report on the subject application. Staff recommended approval of Rezoning Application No. 25-0322 with seven (7) conditions.

Attorney for the applicant, Allen Tanner, 11835 Fishing Point Drive, Newport News, mentioned that the applicant brought an interpreter for her family and was available to answer any questions.

In response to a question from Commissioner Trina Coleman, Mr. Tanner responded that the applicant plans to reside at the dwelling.

There being no further questions or speakers, the Planning Commission approved the following resolution:

- WHEREAS: the Hampton Planning Commission has before it this day a rezoning application to rezone 1700 E Pembroke Ave [LRSN: 12003841], totaling +/- 0.15 acres, from Limited Commercial (C-2) District to One Family Residential (R-4) District with conditions for a single-family dwelling development;
- WHEREAS: the property is currently vacant;
- WHEREAS: the applicant is proposing to construct a 1,930 square foot single-family home that includes two (2) stories with 3 bedrooms, 3.5 bathrooms, and an attached garage. The vehicular access off of Smiley Road;
- WHEREAS: the Hampton Community Plan (2006, as amended) recommends commercial use for this property;
- WHEREAS: the Hampton Community Plan also includes policies encouraging a diverse mix of housing types and values, promoting high quality site planning and design, enhancing the identity and scenic quality of city corridors and gateways, and encourages efficient use of land;
- WHEREAS: the Hampton Community Plan also identifies East Pembroke Avenue as a Residential Corridor with Commercial Nodes, characterized by a mix of residential and commercial uses and recommends that new or expanded commercial development be concentrated within established commercial nodes, while other segments of the corridor may be more suitable for residential infill development;
- WHEREAS: the subject property falls within the boundaries of the Buckroe Master Plan (2005, as amended), which envisions converting Kecoughtan Road into a residential boulevard with commercial nodes at key commercial nodes;

WHEREAS: the Buckroe Master Plan recognizes that shopping patterns have changed since the corridor was first largely zoned commercial and that many of the commercial properties along the corridor have a negative impact on the image of the corridor and upon the neighborhoods behind them;

WHEREAS: there are seven (7) proffered conditions, which include adherence to the conceptual plan, building elevations, & general layout on the site, high-quality building materials, Site Plan approval, and compliance with the Zoning Ordinance;

WHEREAS: City staff's analysis of the proposal confirms it is in alignment with the City's adopted policies and recommendations for this area of the city;

WHEREAS: City staff recommends approval of this Rezoning application with seven (7) proffered conditions;

WHEREAS: no one from the public spoke on this item.

NOW, THEREFORE, on a motion by Commissioner Trina Coleman and seconded by Commissioner Tracy Brooks,

BE IT RESOLVED that the Hampton Planning Commission recommends approval of Rezoning Application No. 25-0322 with seven (7) proffered conditions.

A roll call vote on the motion resulted as follows:

AYES:	Griffith, Rogers, Brooks, Coleman, DeProfio, Harris
NAYS:	None
ABST:	None
ABSENT:	Mugler

**2. Use Permit Application No. 25-0285 by Southern Comfort Restaurant & Lounge, LLC to permit a Restaurant 3 for Extended General Hours of Operation, to Include Alcohol Sales and Indoor Live Entertainment, at 2163 & 2165 Cunningham Dr [Portion of LRSN: 7001532]**

**Use Permit Application No. 25-0285:** This is a Use Permit Application by Southern Comfort Restaurant & Lounge, LLC to permit a Restaurant 3 for Extended General Hours of Operation, to include Alcohol Sales and Indoor Live Entertainment, at 2163 and 2165 Cunningham Drive [Portion of LRSN: 7001532]

Secretary Mikel presented the staff report on the subject application. Staff recommended approval of Use Permit Application No. 25-0285 with fourteen (14) conditions.

In response to a question from Commissioner Joe Griffith, Secretary Mikel responded that the applicant would be responsible to pay for any extra duty police officers that are required under the Use Permit.

In response to questions from Vice-Chair Kathy Rogers, Secretary Mikel responded that approximately ten (10) people attended both community meetings. She explained that staff provides the applicant with a list of addresses within a one-tenth-mile radius for required notices. However, notices for apartment buildings are sent to the property owner rather than the tenants, so she could not confirm whether tenants received notice. Regarding 311 calls, she reported that

there have been none concerning the business and that the Hampton Police Department (HPD) could report on the calls for service.

HPD Officer Tyler Zminkowski noted that there have been seventeen (17) calls for service this year, the majority of which were non-violent. Several calls came from the adjacent apartments prior to the restriction of hours and that nothing in the call history raised major concerns. Additionally, establishments in Coliseum Central vary in size, capacity, and promotion, and the proposed restaurant falls within the average range. He further stated that an extra-duty officer contract is in place and that those officers reported no concerns.

In response to a question from Chair Michael Harris, Officer Zminkowski responded that storing ID-scanner information is a best practice the City is moving toward. Several restaurants already use this tool, which helps HPD investigate incidents that occurred outside or after patrons have left. The business would maintain control of the ID scanner and would not be required to voluntarily provide data to HPD. However, if necessary, HPD could obtain that information through a subpoena or search warrant.

In response to a question from Commissioner Brian DeProfio, Officer Zminkowski responded that the ID scanners store multiple data points that can assist HPD in identifying individuals involved in criminal activity.

In response to a question from Commissioner Coleman, Secretary Mikel responded that there are conditions specific to the live entertainment area. Regarding dancing, the condition follows City Code, which require dancefloors to not exceed ten percent (10%) of the total floor area.

Assistant City Attorney Cory Wolfe referenced the floor plan in the Planning Commission packet and indicated the location of the dancefloor in the top-right corner.

In response to a question from Vice-Chair Rogers, Officer Zminkowski responded that he did not know the difference between ID-scanners used by grocery store and those used by restaurants.

HPD Captain Anthony Scheck explained that scanning the back of an ID typically provides a person's name, date of birth, and possibly the ID number. Some ID scanners include information on race, gender, height, or weight. The primary purpose of the scanners is to verify age. He added that requiring ID scanners at restaurants would need to be addressed through Use Permit conditions. Existing establishments without scanners cannot be required to obtain them unless there are violations that prompt Alcohol Beverage Control (ABC) involvement.

In response to questions from Chair Harris, Secretary Mikel responded that all recent Use Permits involving live entertainment include conditions restricting third-party promoters. Allowing third-party promoters has been proven to cause accountability issues. Therefore, these conditions have been consistently approved by City Council. Officer Zminkowski responded that HPD does not enforce what type of ID scanner an establishment must use as the device is a limited investigative tool. HPD would only seek the information through subpoena or search warrant unless the business voluntarily provided it.

Applicant Eddie Gomez, owner of Southern Comfort Restaurant and Lounge, 2163 and 2165 Cunningham Drive, provided an overview of the circumstances leading to his Use Permit request. When he originally applied during the COVID-19 pandemic, businesses were required to close at 10:00 PM. Due to inexperience, he listed those restricted hours on his application. When concerns later arose, he met with Officer Zminkowski, who outlined the steps necessary for

compliance. Afterward, he implemented those steps immediately. He has operated for four (4) years with already following the requirements that are now being proposed. He mentioned that he has a positive working relationship with HPD and that his security staff are licensed by the Virginia Department of Criminal Justice Services (DCJS).

Mr. Gomez further stated that he has used ID scanners since opening. The scanners collect a patron's name, address, gender, date of birth, and validity of the ID. They also have the ability to ban and deny future access to a patron who has caused issues. He requested flexibility regarding the required number of security guards since staffing needs may vary based on the size and nature of events. Prior to this application, he was already routinely contacting HPD to schedule extra-duty officers for events. He expressed concern regarding the proposed requirement of security guards and how the excessive minimum staffing would create a financial hardship, especially during low-attendance nights. Additionally, although his Use Permit lists seven (7) days of operation, he does not intend to open every day but wants the flexibility for event-based scheduling.

In response to questions from Vice-Chair Rogers, Mr. Gomez indicated the event space on the floor plan and explained the separation between the event area and the family restaurant and lounge. The building capacity is approximately 536 people and the event space is only used for special events. Additionally, after being made aware of prior noise complaints, he has since used a decibel reader to ensure exterior noise remains within acceptable levels.

In response to questions from Chair Harris, Mr. Gomez responded that the building has 15–20 cameras with no blind spots, which were installed in 2021. When HPD has requested footage, he has consistently provided it to them. He added that security staffing levels vary depending on the event, and he coordinates with HPD and his security team to ensure adequate coverage.

In response to a question from Commissioner Joe Griffith, Mr. Gomez reported that the community meeting attendees were supportive. Several attendees were local residents or business owners, and he did not receive negative feedback.

In response to a question from Commissioner Coleman, Mr. Gomez responded that the minimum age for entry is 21 and up.

In response to a question from Chair Harris, Officer Zminkowski responded that HPD presence was incorporated into the conditions to ensure adequate resources remain available for emergency calls throughout the City. Mr. Gomez stated that he pays HPD an hourly rate for coverage from 10:30 PM to 2:30 AM.

Chair Harris opened the public hearing. There being no individuals signed up to speak, Chair Harris closed the public hearing.

Chair Harris stated that one of his primary considerations is regarding the condition involving police staffing. He acknowledged the applicant's positive track record and that he generally favors minimizing restrictions for responsible business owners. He asked whether the condition could be amended.

In response to Chair Harris, Mr. Wolfe responded that the Commission may make an oral motion to approve the Use Permit subject to an amended condition or they may defer the application to provide staff with direction on revisions.



In response to a question from Commissioner Coleman, Chair Harris responded that any changes would be incorporated into the motion. If additional revisions are desired, the Commission may discuss those prior to action. His proposed amendment pertains to the required level of police staffing.

In response to a question from Commissioner DeProfio, Officer Zminkowski responded that the proposed security requirements are based on the maximum capacity. Since attendance levels may fluctuate, staff must plan for the worst-case scenario. He clarified that HPD officers generally remain outside the establishment and respond when called by security.

Vice-Chair Rogers asked whether the conditions provide a mechanism for adjusting security staffing based on expected attendance. Requiring nine (9) security guards when only 100 patrons are present would affect both the cost and atmosphere of the business. She expressed understanding of both the City's safety goals and the applicant's concerns.

In response to a question from Chair Harris, Officer Zminkowski responded that the seven (7) security-guard requirement is based on a ratio of one (1) guard per seventy-five (75) patrons. That standard is based on capacity rather than actual headcount because attendance fluctuates and cannot reasonably be tracked in real time for compliance purposes.

Chair Harris noted that the overarching statement in the condition requires nine (9) security guards, while another bullet references the one-per-seventy-five ratio, which together effectively require the applicant to maintain nine guards at all times due to potential capacity fluctuations.

In response to a question from Commissioner Coleman, Officer Zminkowski responded that the recommendation ultimately rests with the Planning Commission. From a law enforcement perspective, planning for worst-case scenarios is essential. Having sufficient DCJS-certified security and HPD officers is a reasonable measure to prevent incidents that may escalate quickly.

In response to a question from Commissioner Coleman, Mr. Gomez responded that he aims to give patrons a fair opportunity and that many 21-year-olds are responsible. Additionally, he believes that patrons tend to respect HPD more than private security, and has sometimes had to send security guards home early when attendance was low.

In response to a question from Chair Harris, Mr. Wolfe responded that Use Permits may be revoked through the same process used to adopt them. The Planning Commission would make a recommendation, and City Council would make the final decision.

In response to a question from Vice-Chair Rogers, Mr. Wolfe responded that Use Permit conditions may also be amended through the same process used to adopt them.

In response to a question from Chair Harris, Mr. Wolfe responded that failure to maintain the specified number of officers would constitute one type of security-related violation.

In response to a question from Commissioner DeProfio, Secretary Mikel responded that City Code includes a provision requiring that any Use Permit associated with an ABC license is non-transferable. If an applicant loses its ABC license for three months, the Use Permit becomes null and void.

Chair Harris suggested deferring the application to a later meeting if the applicant agreed, allowing staff time to develop revised security language that strikes a reasonable balance.

Commissioner Brooks expressed agreement, stating that the current requirements appear to impose a significant burden on the business. She supported exploring alternative language.

Vice-Chair Rogers stated that she prefers for HPD to be included in any development of revised conditions.

In response to questions from Chair Harris, Mr. Gomez responded that a deferral would have severe financial impacts. He recently reopened under reduced hours and needs time for patron volume to rebuild. If he later fails to maintain adequate safety, he would understand the need for amended conditions, but he believes he has already demonstrated compliance with City expectations. Moreover, he began operating under reduced hours in June.

In response to a question from Vice-Chair Rogers, Mr. Gomez responded that his reduced hours were a result of COVID-19 restrictions. He believed at the time that he was required to operate under those limited hours.

Secretary Mikel clarified that in 2020, Mr. Gomez received a Zoning Administrator Permit (ZAP) with hours limited to 10:00 PM. More recently, he obtained a ZAP for Restaurant 2 use, extending his hours to midnight.

In response to a question from Vice-Chair Rogers, Mr. Gomez responded that he may currently remain open until midnight. He asked whether the City could take into consideration the financial strain caused by the previously restricted hours and that the business struggled as a result. The City subsequently allowed him to operate until midnight.

Commissioner DeProfio stated that he is hesitant to recommend approval without revisions, as similar situations have not worked well for the City in the past. However, he noted that the Commission has previously forwarded applications to City Council with the stipulation that a particular condition would require further discussion. This approach allows staff, the applicant, and HPD to refine the language while keeping the application moving forward. He stated that he shares Vice-Chair Rogers' concerns about lacking any security requirements in the interim and recommended this alternative for the Commission's consideration.

In response to a question from Chair Harris, Secretary Mikel responded that the next City Council meeting is scheduled for December 10<sup>th</sup>.

Commissioner Griffith stated that he supports Commissioner DeProfio's approach and wants to ensure staff has sufficient time to work with the applicant.

In response to a question from Chair Harris, Mr. Wolfe asked the Commission to clarify what revisions it would like staff to pursue. He suggested a motion directing staff to revise Section 8B to adjust the requirement tying the number of security personnel to maximum occupancy.

In response to a question from Commissioner Brooks, Mr. Wolfe responded that the revision would likely involve reducing the required minimum number of security guards.

There being no further questions or speakers, the Planning Commission approved the following resolution:

- WHEREAS: the Hampton Planning Commission has before it this day a Use Permit Application by Southern Comfort Restaurant & Lounge, LLC to permit a Restaurant 3, to extend the hours of operation at 2163 & 2165 Cunningham Dr [portion of LRSN: 7001532];
- WHEREAS: the property is zoned Limited Commercial District (C-2) District, which permits the restaurant 3 use subject to an approved Use Permit;
- WHEREAS: the applicant is proposing to exceed the general hours of operation with alcohol sales permitted under a Zoning Administrator Permit (ZAP) and to include live entertainment, which places the proposed operation in the restaurant 3 use;
- WHEREAS: the requested general hours of operation and live entertainment are 11:00 AM to 2:00 AM, daily;
- WHEREAS: the Hampton Community Plan (2006, as amended) and Coliseum Central Master Plan (2015, as amended) recommend mixed-use for the subject property;
- WHEREAS: staff recommends fourteen (14) conditions based upon the proposed use's operational and land use characteristics, including issuance of permit, location of live entertainment, hours of operation, capacity, security, window transparency, dancing, sound, third party promoters, ABC license and expiration, and compliance with applicable laws;
- WHEREAS: staff recommends hours of operation of 11:00 AM to 12:00 AM Sunday through Thursday, and 11:00 AM to 2:00 AM on Fridays, Saturdays, and designated holidays. These recommended hours are more permissive than those requested by the applicant and are consistent with other Restaurant 3 applications of similar nature and location;
- WHEREAS: Commissioners expressed concerns about the number of security guards required under the staff-recommended conditions, noting that the requirement could create a burden for the business;
- WHEREAS: The applicant requested that the condition related to the number of required security guards be revised to allow the business owner flexibility to determine appropriate staffing levels on a day-to-day basis;
- WHEREAS: Commissioners directed staff to work with the applicant to revise Condition #8(b) regarding security requirements;
- WHEREAS: City staff recommends approval of this Use Permit Application; and
- WHEREAS: no one from the public spoke to this application.

NOW, THEREFORE, on a motion by Commissioner Joe Griffith and seconded by Commissioner Tracy Brooks,

BE IT RESOLVED that the Hampton Planning Commission recommends to City Council approval of Use Permit Application No. 25-0285 with fourteen (14) conditions, including an amendment to condition #8(b).

A roll call vote on the motion resulted as follows:

AYES: Griffith, Rogers, Brooks, Coleman, DeProfio, Harris  
NAYS: None  
ABSTAIN: None  
ABSENT: Mugler

**3. Consider Revocation of the Use Permit Issued to Karma Restaurant and Lounge for a Restaurant 3 in the Downtown Business (DT-1) District at 85 and 87 Lincoln Street [Portion of LRSN: 2003249] Due to Violations of Conditions contained in the Use Permit**

**Consider Revocation of Use Permit No. 24-0489:** This is a consideration for revocation of the Use Permit Issued to Karma Restaurant and Lounge for a Restaurant 3 in the Downtown Business (DT-1) District at 85 and 87 Lincoln Street [Portion of LRSN: 2003249] due to violations of conditions contained in the Use Permit.

Interim Deputy Director Steven Lynch and Officer Tyler Zminkowski presented the staff report and HPD analysis on the proposed revocation of Use Permit No. 24-0489

Applicant Courtney Ray, Owner of Karma Restaurant and Lounge, 85 and 87 Lincoln Street, stated that several items in the staff report were new to him and that it was his first time seeing it. In the letter he received from the City, one of the violations stated that his LLC had lapsed. He explained that the renewal was delayed due to the business being closed after the April 11 incident, however, he has since renewed it and provided a receipt.

Mr. Ray clarified that the window treatment had not been reinstalled after removal. He had a discussion with the City Attorney and the violation was resolved.

On the subject of third-party promoters, Mr. Ray stated that he does not use them. The video referenced in his paperwork was only a marketing tool to promote private events during a slow period. Any fees charged covered cleanup, staffing, and setup, and he has never handed control of the establishment to anyone else.

Addressing the July 11 video, he stated that this was the first time he had seen it. One security guard arrived late but eventually reported for duty, and that he had the required security presence that night, 11 security guards and 2 HPD officers. In the portion of the video where a security guard appears to be clicking a capacity counter, he questioned why concerns about the capacity counter were not raised at the time, as he cannot determine now what the guard was doing. He added that the individual seen outside with a backward hat was a patron, not security.

Mr. Ray stated he was not aware of any videos circulating of intoxicated females in the parking lot that were mentioned in the report. Additionally, he is not someone who attracts negative activity and maintains a zero-tolerance policy for violence. He previously hosted events while in the military and opened his business in Hampton because he lives in and cares about the community.

He noted that in the beginning of the month of April, he observed an uptick in incidents across the City. Out of concern, he contacted Officer Zminkowski and requested a wellness check, during which officers visited. He increased security that night. The April 11 event was an R&B night and was calm inside and the individuals involved in the incident had a pre-existing dispute that escalated outside.

In response to a question from Commissioner Griffith, Mr. Ray responded that his security services are provided through a contracted security company, which is responsible for ensuring that guards are properly certified. He was unsure about the issue involving the sixth security guard but recalled having 11 or 12 guards on duty that night because it was his birthday.

Officer Zminkowski clarified that when officers arrived, they requested identification from all DCJS-certified security guards working that evening. Only three (3) guards were able to identify themselves. Officers informed Mr. Ray and the head of security that if six (6) certified guards could report to the scene, they could be verified by HPD and cleared. Six (6) guards were ultimately brought forward, but one lacked DCJS certification, resulting in charges being sought against that individual.

In response, Mr. Ray asked why he was not informed of this compliance issue at the time rather than the following day, as he would have immediately addressed it with his security company. He was surprised to be learning about this matter in November concerning an incident that occurred in July.

Officer Zminkowski explained that officers contacted DCJS during their compliance efforts and confirmed that Mr. Ray's security was provided by a third-party company. His primary concern that evening was pursuing charges against the uncertified guard. He could not explain why Mr. Ray was not notified immediately. The incident was reported to multiple agencies as part of the compliance process.

In response to a question from Commissioner DeProfio, Officer Zminkowski responded that he had to collect information on scene so it could be reviewed by the DCJS compliance agent, who was not present. He learned of the certification issue the next day after providing DCJS with the names and identification numbers collected that night. If a guard's lack of certification had been verifiable on scene, the summons could have been dismissed immediately.

In response to a question from Chair Harris, Officer Zminkowski responded that the video showing the security guard with the clicker was pulled directly from Mr. Ray's system. As part of the Use Permit conditions, HPD has access to external camera system and does not remove Mr. Ray's access. He did not believe that specific footage had previously been shown to the applicant.

In response to additional questions from Chair Harris, Mr. Ray responded that the SCC lapse had been resolved and was discovered while he was updating his POS and payroll systems. He was unaware of the November 8 incident and had not previously seen that footage, despite it being recent. Nightclub security is difficult to manage because the contracted team operates independently with their own insurance and liability. He did not know what occurred between the security guard and the patron in the parking lot but knows that his guards do not use force without cause and are expected to take the least intrusive measures necessary.

In response to a question from Chair Harris, Officer Zminkowski responded that the video was identified through calls for service and information from responding officers. In this case, officers responded to an agitated individual in the parking lot, which prompted them to review the camera footage. He added that he believed Mr. Ray appeared in the footage and pointed out the moment where he was visible.

In response, Mr. Ray reiterated that he had never seen the video. He stated that he could not recall the specific incident but believed it involved a dispute between two patrons and that

the security guard later reported acting in self-defense. He added that his ABC license is currently operating under conditions that remain in place until April due to the prior homicide.

In response to questions from Commissioner DeProfio, Mr. Ray stated that he received a hand-delivered letter notifying him of the City's proposal to revoke his use permit. He confirmed that this was the first-time hearing about several matters, including the November 8 incident and the video involving the security guard using the clicker.

In response to a question from Commissioner Griffith, Mr. Ray responded that he is not aware of any incidents occurring at the business that were not reported to the City. His establishment rarely experiences such issues and that his security team follows procedures to remove individuals involved in altercations and escort them off the premises.

In response to a question from Commissioner Coleman, Mr. Ray responded that he is experiencing challenges operating profitably due to an ABC-related matter he misunderstood. Prior to the homicide, the business was profitable and maintained a loyal clientele. In any business, there is always the possibility of a problematic individual. He added that he has strong event-management experience and historically has not encountered issues of this magnitude. Business owners often receive blame for patrons' behavior outside their control. He recalled comments made by the Chair last year about revitalizing Downtown Hampton and expressed his commitment to contributing positively to the community and maintaining a safe environment.

In response to a question from Chair Harris, Mr. Ray responded that after viewing the video of the November 8 parking lot incident, he intends to meet with his security team lead. He maintains separate teams for the parking area and the interior, and believes both groups may need updated procedures to ensure minimum use of force. He reiterated that he does not know what occurred and that the guard involved claimed he acted in self-defense. Prior to receiving the City's letter, he saw another nightclub announce that patrons involved in fights circulating on social media would be banned, and he discussed forming a coalition to ban disruptive individuals across multiple establishments.

Commissioner Coleman stated that her position was to defer the matter and that additional discussion was needed, as Mr. Ray was hearing significant information for the first time. She believed that he was being judged based on events at his establishment and wished him well in addressing the concerns.

Vice-Chair Rogers referenced Mr. Ray's earlier comment that patrons' behavior does not reflect on him as an owner and stated that she disagreed. In her view, the atmosphere cultivated inside an establishment influences the behavior it attracts. Given the 97 calls for service and numerous parking lot altercations, it was difficult to believe the business was operating as calmly as presented. If Mr. Ray was unaware of these issues, communication with his staff must be lacking. Although the security is contracted, the responsibility ultimately lies with the business owner. She added that the homicide at the location affected citizens and her personally, as the Planning Commission approved the permit. The repeated incidents involving intoxicated patrons and fights in the parking lot raise concerns about the environment inside the establishment.

In response to a question from Commissioner Griffith, Mr. Ray responded that he also owns a small vape shop in Phoebus called Cloud Nine.

In response to a question from Commissioner DeProfio, Mr. Ray responded that he previously owned a restaurant in Newport News but closed it to focus on Karma. Additionally, his

hours of operation for Karma were 11 a.m. to 12 a.m., Tuesday through Thursday, and 11 a.m. to 2 a.m. on Fridays and Saturdays. The business was closed on Mondays.

Chair Harris opened the public hearing.

Fran Wornom, owner of the property, stated that she would like clarification on what the majority of the calls for service involved. She has cameras covering the shopping center and believes many of the calls may have been related to her, not Karma. She has experienced broken windows at the center and has called police for assistance. Ms. Wornom questioned the report of 27 parking-related calls, stating that the lot is a public parking area, and that not all calls should be attributed exclusively to Karma, as multiple businesses operate within the center.

Ms. Wornom added that the area previously had a significant homeless presence and that Mr. Ray has helped many of those individuals by offering them work and food. She described him as a good tenant and a good person, and that other business owners in the center feel the same. When Karma temporarily closed following the homicide, she was frequently asked when the business would reopen.

A motion was made by Commissioner Brian DeProfio and was seconded by Vice-Chair Kathy Rogers to recommend revocation of Use Permit No. 24-0489.

Commissioner Coleman reiterated her preference to defer the decision on this.

Chair Harris thanked Mr. Ray for attending and speaking. He stated that it appeared there were several matters Mr. Ray had not been made aware of in advance, despite the letter that was sent. Secondly, it seemed Mr. Ray's security personnel had failed him, and that if the business is allowed to continue operating, he should consider securing a new security team.

Chair Harris added that he had spoken with nearby residents who felt they now had limited places to go. Unfortunately, balancing revenue generation and entertainment options with public safety is always difficult, which made this decision challenging. He had expected increased attention to security matters following the April 11 incident, however, he also acknowledged the strong support expressed by the property owner, which he considered significant.

He agreed with Commissioner Coleman's suggestion to consider a deferral to allow time to address security concerns. He would not support revocation, as he believed there was still room for improvement.

Commissioner DeProfio clarified that the revocation just takes away the ability to stay open later and that he would still be able to continue to operate.

A roll call vote on the motion resulted as follows:

AYES:	Griffith, Rogers, Brooks, DeProfio,
NAYS:	Coleman, Harris
ABSTAIN:	None
ABSENT:	Mugler

## **VI. ITEMS BY THE PUBLIC**

There were no items by the public.

**VII. MATTERS BY THE COMMISSION**

There were no items by the Commission.

**IX. ADJOURNMENT**

There being no further business, the meeting was adjourned at 6:09 PM.

Respectfully Submitted,

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Kimberly Mikel  
Secretary to the Commission

APPROVED BY:

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Michael Harris  
Chairman