

STAFF EVALUATION

Case No.: Use Permit No. 23-0224

Planning Commission Date: July 20, 2023

City Council Date: June 12, 2024

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General Information

*Applicant &
Property Owners* Antoinette Smith

Site Location 526 Settlers Landing Rd. [LRSN: 2003217]



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

*Description of
Proposal* The applicant is proposing a short-term rental at 526 Settlers Landing Rd. The property is \pm 0.32 acres and features a five (5) bedroom residence that is approximately 3,050 square feet.

Existing Land Use One-Family Residential

Zoning Downtown Business (DT-1) District;
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.

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: Downtown Business (DT-1) District; multifamily residential and retail sales, general

South: One-Family Residential (R-9) and Two-Family Residential (R-8) District; single-family residential

East: Downtown Business (DT-1) District; single-family residential and retail sales, general

West: Downtown Business (DT-1) District; single-family residential and retail sales, general

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 mixed-use.

Land Use Plan:



Downtown Hampton Master Plan

The property falls within the area governed by the Downtown Hampton Master Plan (2017, as amended). The Plan does not specifically address this property or the proposed use but does place an emphasis on Downtown becoming a regional and vibrant neighborhood. The property is located in the Franklin Street & Salters Creek Landing initiative area which is supported as a primarily residential neighborhood.

<i>Traffic/Parking</i>	Staff does not anticipate that the requested use or operation would cause a significant or negative impact on traffic.
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<i>Community Meeting</i>	A community meeting has not been scheduled at this time.
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Analysis:

Use Permit Application No. 23-0224 is a request for a use permit for a short-term rental. The subject property is located at 526 Settlers Landing Rd. [LRSN: 2003217] and is currently zoned Downtown Business (DT-1) District. DT-1 allows for the desired use subject to an approved use permit.

The applicants and property owner, Antoinette Smith, has owned the property since May 2023 and is requesting a Use Permit to operate a short-term rental (STR) within the five (5) bedroom, +/- 3,050 square foot single-family dwelling. This application does not include exterior modifications or changes to the site that would alter the residential nature of the property. The property is not being proposed as a host site for events.

Being zoned Downtown Business (DT-1) District, the 1-family detached dwelling use is not permitted, meaning that the current single-family use is legally nonconforming. If the single-family residential use of the property is discontinued for more than two (2) years, the property could not be used as a 1-family detached dwelling under current zoning provisions. Having been informed of this, the applicant stated that they would use the property as their primary residence, meaning they would reside at the property at least six (6) months per year. The proposed short-term rental would serve as an accessory use. However, should this Use Permit be approved, the short-term rental (STR) use would be permitted even if the single-family residence loses its legal nonconforming status.

The property is located within the area governed by the Downtown Hampton Master Plan (2017, as amended). The Plan does not specifically address this property or the proposed use, but does place an emphasis on Downtown becoming a regional and vibrant neighborhood. The property is located in the Franklin Street & Salters Creek Landing initiative area which is supported as a primarily residential neighborhood.

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 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.

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 shall count towards the minimum parking

requirements. No common area is proposed or being approved for use. The property features a driveway with sufficient parking to accommodate the five (5) proposed 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. 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" created by staff, 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 ascertain compliance with all applicable standards and codes.

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 Short-Term Rental (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 Downtown 3 Zone, in which the proposed amendments recommend a maximum of four (4) STRs. Currently, the Downtown 3 Zone features four (4) permitted STRs and the proposed STR would exceed the maximum number of STRs permitted. 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. 23-0224 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. 23-0224 with fifteen (15) conditions.