

STAFF EVALUATION

Case No.: Use Permit No. 21-00019
Planning Commission Date: January 20, 2022

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| Prepared By: | Garek Hall Hannigan, City Planner | 727-6057 |
| Reviewed By: | Mike Hayes, Planning & Zoning Div. Manager | 728-5244 |
| | Bonnie Brown, Deputy City Attorney | |

General Information

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| <i>Applicant</i> | William Comer, 1865 Brewing Company, LLC |
| <i>Property Owners</i> | Lewis and Amy F. Georges, 1865 Brewing Company, LLC |
| <i>Site Location</i> | 9 South Mallory Street [LRSN: 12001371] |



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| <i>Requested Action</i> | Use permit to allow for a micro-brewery with live entertainment 2 in the Phoebus Urban Core (PH-1) District. |
| <i>Description of Proposal</i> | The applicant is proposing to expand the business' hours and to allow live entertainment outdoors. |

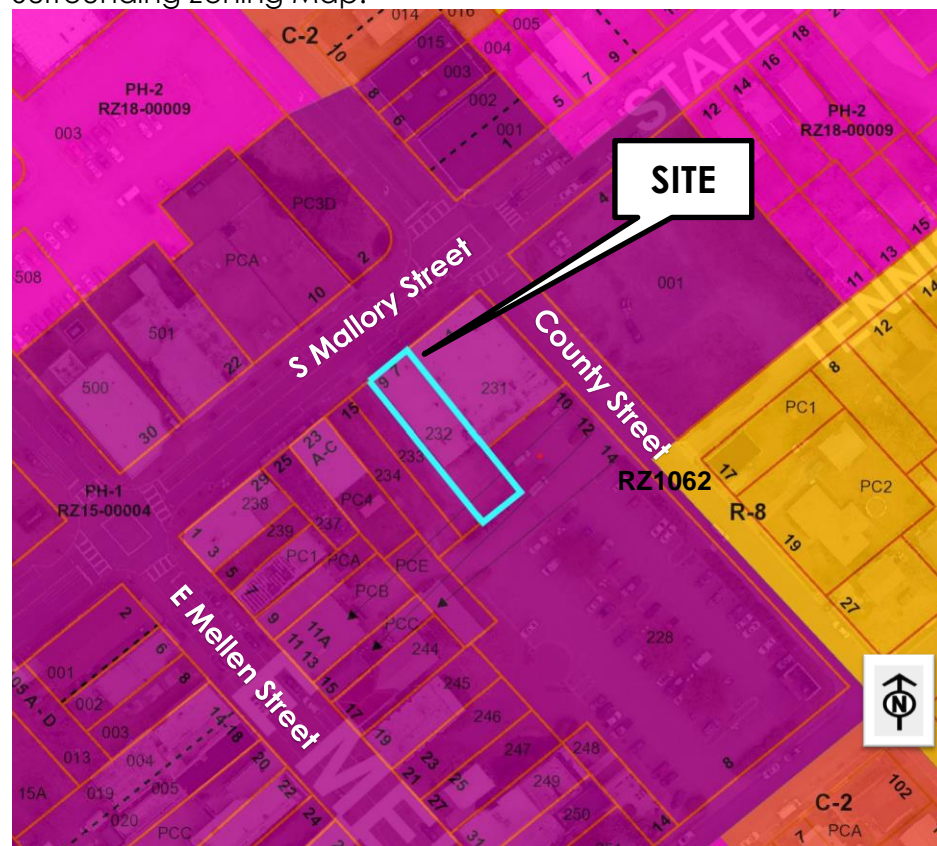
Existing Land Use Micro-brewery

Zoning & Zoning History The subject site is located within the Phoebus Urban Core (PH-1) District which allows for a micro-brewery with live entertainment 2, subject to an approved Use Permit.

The subject site currently has three approved Zoning Administrator Permits for operation as a micro-brewery with limited hours (ZA21-00001), live entertainment 1 which limits the entertainment area and hours (ZA21-00009), and outdoor dining which permits use of the rear patio (ZA21-00011).

Surrounding Land Use and Zoning **North:** Phoebus Urban Core (PH-1) District; general retail sales, bank, general office
South: Phoebus Urban Core (PH-1) District; parking lot, restaurants
East: Phoebus Urban Core (PH-1) District; public library, vacant lot
West: Phoebus Urban Core (PH-1) District; vacant lot, general retail sales

Surrounding Zoning Map:



Public Policy

The Hampton Community Plan (2006, as amended) is adopted as the guiding policy document for the City of Hampton. The property also falls within the Phoebus Master Plan (2007, as amended) The Hampton Community Plan includes the following policy recommendations pertinent to this case:

Land Use and Community Design Policies:

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

LU-CD Policy 17: Preserve and enhance the identity and scenic qualities of city corridors and gateways.

LU-CD Policy 36: Protect adjacent neighborhoods and promote compatible land uses within the city's residential corridors.

Economic Development Policies:

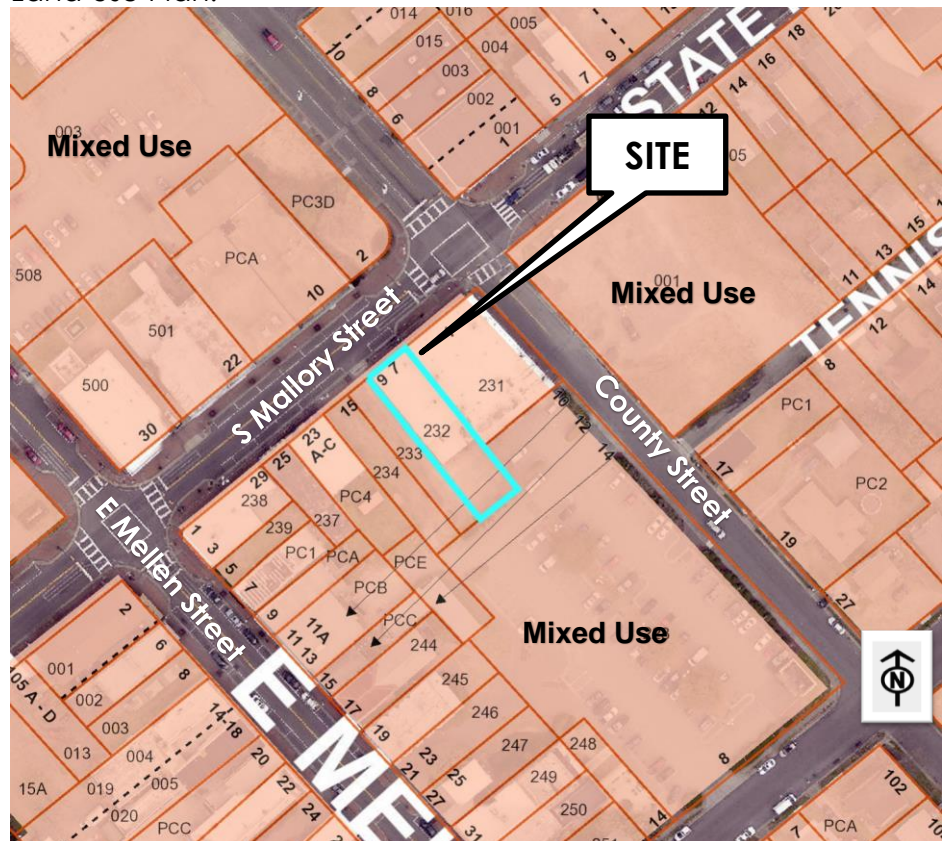
ED Policy 4: Nurture small and start-up businesses.

ED Policy 10: Foster the successful redevelopment of well-situated vacant and underutilized commercial and industrial properties within the city.

Future Land Use:

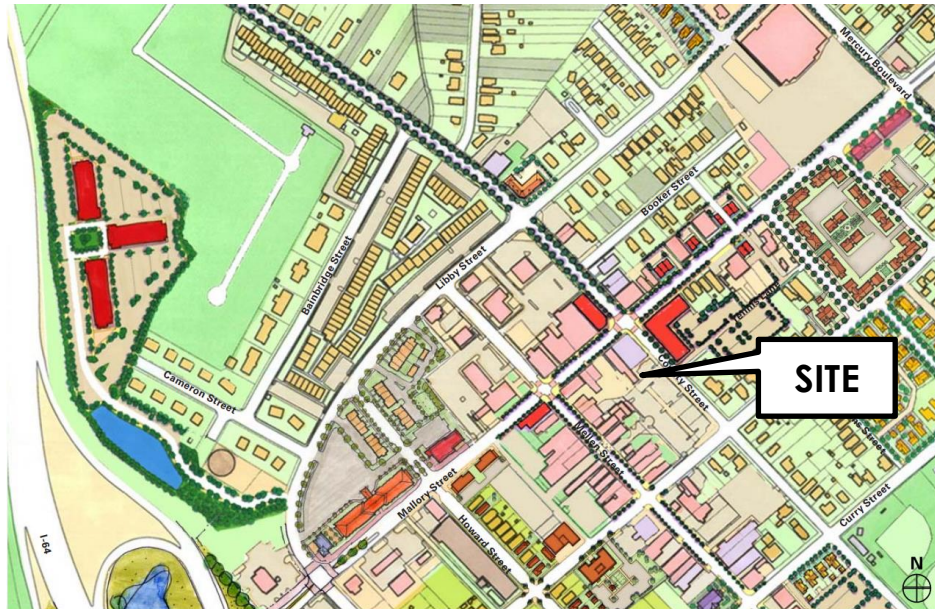
The Hampton Community Plan (2006, as amended) designates this area as mixed use.

Land Use Plan:



Phoebus Master Plan:

This property is within the Phoebus Master Plan Initiative Area 3: Mallory Street. This initiative area recommends development and redevelopment of structures with commercial and mixed-uses. Additionally, Mallory Street also serves as the connection of not only Phoebus but Fort Monroe and Buckroe to Interstate 64. Mallory Street is an important corridor with a classic neighborhood, main street charm in Phoebus.

**Applicable Regulations**

The current zoning, PH-1, allows for the operation of a micro-brewery through the Zoning Administrator Permit process. The Zoning Administrator Permit (ZAP) is an administrative process which permits less intense versions of uses that typically require an approved Use Permit from City Council. These ZAPs come with a set of conditions which limit hours of operation from 6:00 AM to 10:00 PM, require adherence to the City's noise ordinance, and adherence to the Zoning Ordinance.

Additionally, the accessory use of Live Entertainment 1 requires a ZAP with similar limitations to the ZAP for the microbrewery. Expansion of the hours of operation for a micro-brewery with live entertainment requires an approved Use Permit from Hampton City Council.

The purpose of this Use Permit is to identify the operational characteristics of the establishment, 1865 Brewing Company, and evaluating its compatibility with surrounding land uses and adopted policy.

Traffic/Parking

There are no foreseen negative impacts to traffic and parking associated with allowing live entertainment 2 at this location.

Community Meeting

No community meeting has been scheduled at this time.

Analysis

Use Permit No. 21-00019 is a request to allow for a micro-brewery with live entertainment 2. The use of micro-brewery was initially established under a Zoning Administrator Permit (ZA21-00001) which is an administrative permit for uses typically approved under the use permit process, and which contain conditions which restrict hours of operation. Additionally, two other Zoning Administrator Permits were acquired by this establishment, ZA21-00009 and ZA21-00011, which permitted the accessory uses of live entertainment 1 and outdoor dining, respectively. Currently, the hours of operation for the micro-brewery are limited to 6:00 AM to 10:00 PM. The ZAP for the accessory use of live entertainment also features conditions with restrictions which dictate that the live entertainment can only be conducted indoors, at a space or spaces totaling no greater than 75 square feet, and which limit the hours of live entertainment to those hours prescribed to the operation of the micro-brewery under the ZAP. Approval of this use permit application would allow for extended hours of operation for the establishment, as well as the use of live entertainment 2, which can allow for a greater range of entertainment space size and the ability to permit outdoor entertainment.

The applicant is proposing that the hours of operation be expanded to 7:00 AM to 12:00 AM, Monday through Sunday, and that hours for live entertainment be increased to 10:00 AM to 12:00 AM, Monday through Sunday. As the Commission and Council will see, staff recommends permitting a different set of hours, which are in line with those approved for Sly Clyde cidery, which is two blocks away on Mellen Street. Staff's proposed hours would permit an additional hour in the morning, distinguish between indoor and outdoor live entertainment times, limit outdoor live entertainment to ending by 10:00 PM, shorten indoor live entertainment to ending by 11:00 PM, and permit indoor live entertainment until as late as 1:00 AM Friday and Saturday nights. In brief, indoor live entertainment would generally be permitted longer hours than outdoor, and indoor live entertainment would be permitted longer hours on Friday and Saturday than the rest of the week.

The applicant is also requesting that the area of live entertainment be expanded as to cover a 5 foot by 4 foot space on the first floor of the establishment, a 5 foot by 4 foot piano space on the second floor, and a 13 foot by 18 foot stage area on the rear patio, as shown on Exhibit A, B, and C, respectively. The live entertainment areas are intended to serve approximately 75 patrons indoors on the first floor, 25 patrons indoors on the second floor, and 50 patrons outdoors. The proposed type of live entertainment is live music, comedy, and general open mic events.

1865 Brewing Company has been open since March 2021, and to date has not had any violations from the City.

If approved, staff recommends twelve (12) conditions that address issuance of permit, location of live entertainment, hours of operation, sound, and ABC compliance.

Staff's analysis has determined that the proposed use is consistent with the Hampton Community Plan and the Phoebus Master Plan: This proposed use acts as a representation of the adopted policy's goals coming to fruition. As one of the primary

connections between Phoebus' urban core and Phoebus' historic residential neighborhood, as well as main corridor through which many of Hampton's visitors first experience the City as a whole, the revitalization of the corner of Mallory Street and County Street is paramount not only to the vibrancy and charm of Phoebus, but of the image of Hampton as whole. Uses such as micro-breweries and restaurants are a key asset to the reestablishment of Phoebus' historic main-street appeal, acting as nodes of interest that play-off of one another and increase the volume of opportunities for dining and entertainment within walking-distance to one another. Additionally, residential projects such as the Monroe Gates apartment complex create a greater influx of residents to patronize Phoebus. By expanding uses such as these, Phoebus can continue its growth as not only a destination for tourism within Hampton, but as a classic, American main street geared towards providing its residence with a community built for living, working, and playing, all within walking distance of each other. Staff has determined that this proposed use will continue to advance the interests of Phoebus, and generate a greater sense of community within the historic downtown of Phoebus. Negative land use impacts are not expected and the business has a record of compliance with applicable codes, ordinance, and conditions. Thus, staff recommends approving the proposed application for a micro-brewery with live entertainment 2 at 9 S Mallory Street, 1865 Brewing Company.

Staff recommends **APPROVAL** of Use Permit No. 20-00019 with twelve (12) conditions.