

STAFF EVALUATION

Case No.: Use Permit No. 23-00014

Planning Commission Date: June 22, 2023

City Council Date: July 12, 2023

Prepared By: Davis Pemberton, City Planner 728-2040
Reviewed By: Mike Hayes, Planning and Zoning Division Manager 728-5244
Reviewed By: Patricia Melochick, Senior Deputy City Attorney

General Information

Applicant & Property Owners Paul & Heidi Blaski

Site Location 616 Beach Road [LRSN: 10000314]



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

Description of Proposal The applicant is proposing a short-term rental at 616 Beach Rd. The property is ± 0.25 acres and features a three (3) bedroom, two (2) bathroom residence that is approximately 1,250 square feet and was constructed in 1974.

Existing Land Use One-Family Residential

Zoning One-Family Residential (R-11) District; Chesapeake Bay Preservation Overlay (O-CBP) District; and Flood Zone Overlay (O-FZ) District

Applicable Regulations

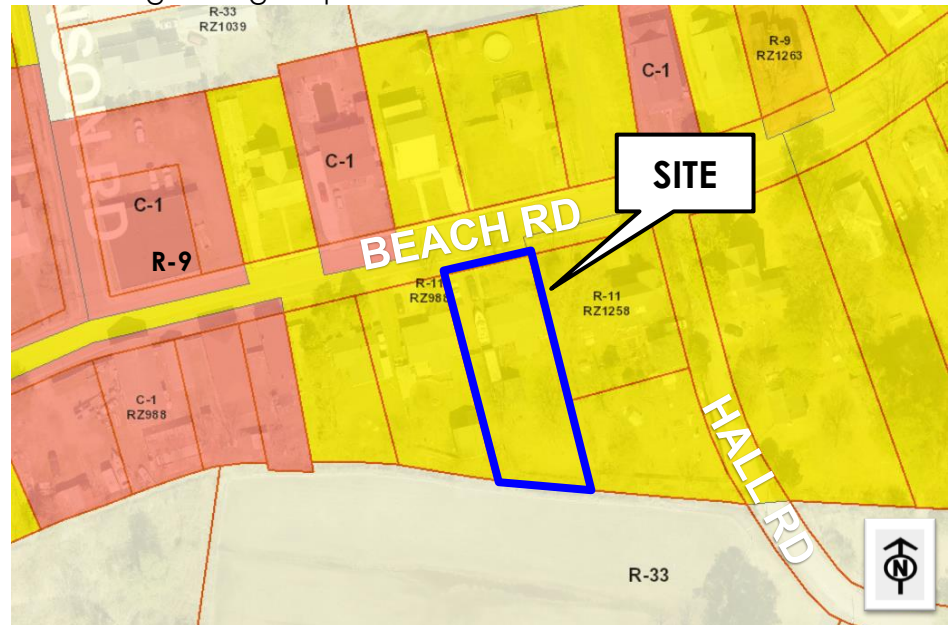
As of December 14, 2022, City Council amended the Zoning Ordinance use table and additional standards for short-term rentals. This amendment created a definition and additional standards for short-term rentals. Short-term rentals in the R-LL, R-43, R-R, R-33, R-22, R-15, R-13, R-11 , R-9, R-8, R-4, MD-1, 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.

Surrounding Land Use and Zoning

North: One-Family Residential (R-11) District and General Commercial (C-1) District; commercial and single-family
South: One-Family Residential (R-33) District; single-family
East: One-Family Residential (R-11) District; single-family
West: One-Family Residential (R-11) District and General Commercial (C-1) District; commercial and single-family

Surrounding Zoning Map:



Public Policy

Hampton Community Plan

The Hampton Community Plan (2006, as amended) recommends rural-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.

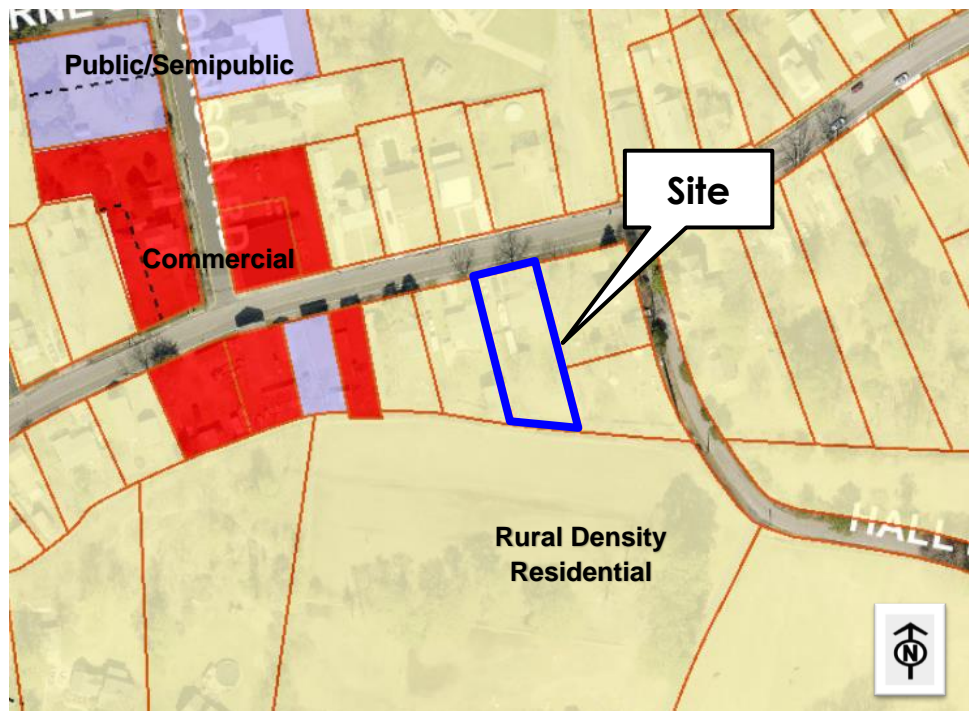
LU-CD Policy 31: Encourage a mix of land uses that is appropriate for each district. Promote the efficient use of land and high-quality urban design.

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 rural-density residential.

Land Use Plan:



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. 23-00014 is a request for a use permit for a short-term rental. The subject property is located at 616 Beach Rd [LRSN: 10000314]. The property is currently zoned One-Family Residential (R-11) District. R-11 allows for the desired use subject to an approved use permit.

The property owner and applicants, Paul & Heidi Blaski, have owned the property since June 2022 and are requesting to operate a short-term rental (STR) within a three (3) bedroom, ± 1,250 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 applicant intends to use the property for short-term rentals year-round, meaning it would not feature a primary resident. The property is also not being proposed as a host site for events.

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 includes 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. The property features a driveway capable of accommodating up to six (6) passenger vehicles, therefore, the proposed short-term rental (STR) has sufficient parking for the three (3) 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 number of overnight lodgers shall not exceed four (4). This figure does not include the use of a common area as an overnight sleeping area. Reflected in the staff recommended conditions is the prohibition of using a common area, such as the living room, as an overnight sleeping area.

On February 26, 2023, at approximately 3:54 AM, the Hampton Police Department (HPD) responded to the area of 612 Beach Rd in reference to five or six shots being fired and multiple cars fleeing the area. Later, it was advised that the actual location was 616 Beach Rd. Officers responded and spoke to a neighboring resident, who informed officers that loud arguments and commotion had been occurring at the property before an individual fired shots and vehicles fled from the scene.

At the time of the incident, the property was being used as a short-term rental (STR) where an alleged event by the overnight lodger was being hosted. After the incident occurred, on February 27, 2023, the Zoning Administrator confirmed that the property owner(s) had not obtained zoning and business license approval to operate the STR, and was therefore

operating illegally. The same day, the City's Code Official called and spoke with Mr. Blaski. She informed him that a use permit was needed to continue operation of the short-term rental and that the use could not occur until a use permit was obtained. However, it was later discovered that the property was continuing to be used and operated as a STR and was still available for booking on the Airbnb website. This practice continued until at least April 25, 2023, when the issue was escalated to the Deputy Director who spoke with Ms. Blaski and reiterated previous staff statements that bookings should not continue until a use permit was obtained.

The continued operation of the STR, despite being advised to cease operation of the STR, raises concerns regarding the operator's accountability and responsibility. A reliable operator would prioritize compliance with local regulations and actively address any issues related to noise, disturbances, or illegal activities associated with their property. The failure to rectify the situation and take appropriate measures raises doubts for mitigating potential future problems.

Staff recommends **DENIAL** of Use Permit Application No. 23-00014.

In the event this application is granted, staff recommends approval of this Use Permit with fifteen (15) conditions based upon the proposed use's operational and land use characteristics. Given the operational history of the site, should Planning Commission and City Council decide to approve the application, staff recommends conditions that are different than other short-term rental conditions presented prior to this one. For example, although the living room shown in the provided floor plan could be used as an overnight sleeping area by the building code, and sufficient on-site parking is available to accommodate it, staff recommends prohibiting the use of the living room as an overnight sleeping area. Additionally, staff is recommending the only authorized overnight lodgers not exceeding the approved capacity limit are allowed on the property. With this, no gatherings of individuals not part of the reservation or booking are permitted on the property. If the use permit is approved and if the owners then operate the STR in compliance with the approved conditions, they could return to City Council at a later date and request additional sleeping areas and/or capacity for the property.