

STAFF EVALUATION

Case No.: Use Permit No. 23-00005

Planning Commission Date: June 22, 2023

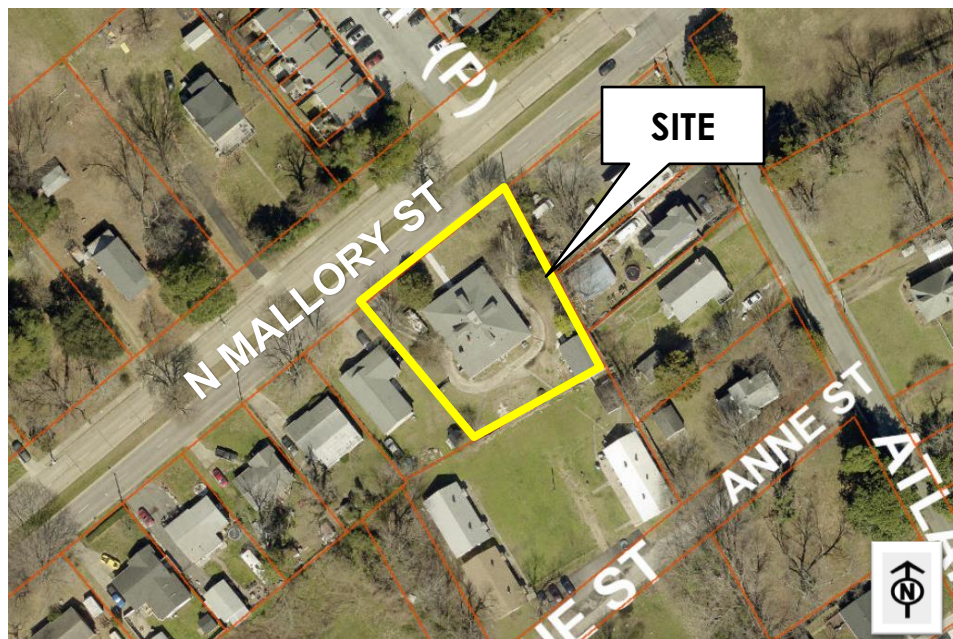
City Council Date: July 12, 2023

Prepared By: Davis Pemberton 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 Aunika & Shawn Kluchinsky

Site Location 1672 N Mallory St [LRSN: 12006575]



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

Description of Proposal The applicant is proposing a short-term rental at 1672 N Mallory St. The property is ± 0.42 acres and features a five (5) bedroom, two and one-half (2.5) bathroom residence that is approximately 3,272 square feet and was constructed in 1902.

Existing Land Use One-Family Residential

Zoning One-Family Residential (R-9) 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.

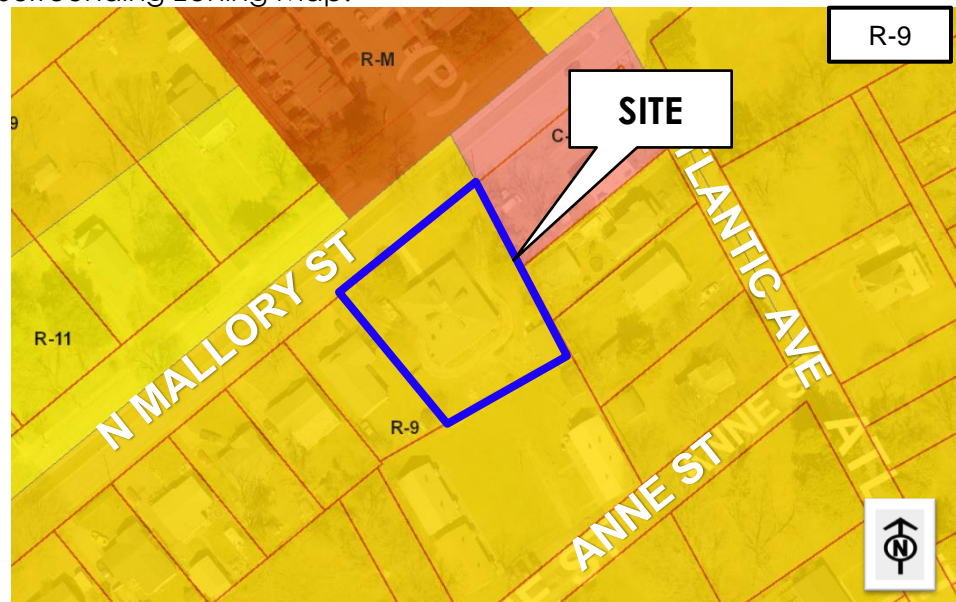
Short-term rentals for which a business license was issued and zoning compliance was confirmed pursuant to Sec. 18.1-12 of the city code prior to December 14, 2022 may operate continuously in the same location until December 31, 2024 provided that the short-term rental remains compliant with all applicable City Code and Zoning Ordinance provisions during that time.

After December 31, 2024, the short-term rental must obtain approval of a use permit by city council in order to continue operation.

Surrounding Land Use and Zoning

North: One-Family Residential (R-11) District and Multifamily Residential (R-M) District; single-family and multifamily residential
South: One-Family Residential (R-9) District; single-family residential
East: One-Family Residential (R-9) District and General Commercial (C-1) District; single-family residential and commercial
West: One-Family Residential (R-9) District; single-family residential

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.

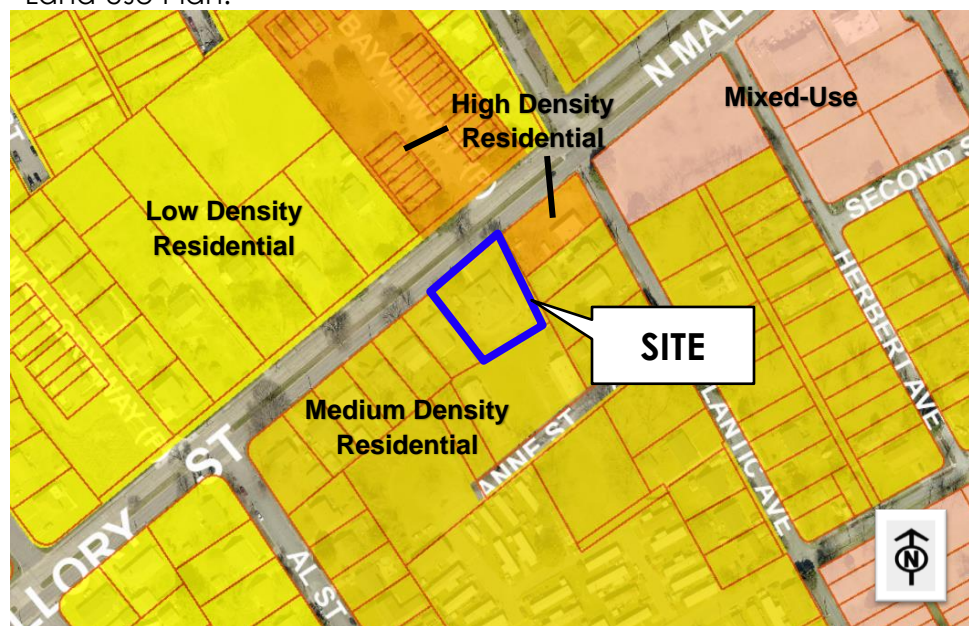
LU-CD Policy 31: Encourage a mix of land uses that is appropriate for each district. Promote the efficient use of land and high-quality urban design.

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 medium-density residential.

Land Use Plan:



Buckroe Master Plan

The property falls within the area governed by the Buckroe Master Plan (2005, as amended). The Plan does not specifically address this property or the proposed use but does recognize Buckroe's distinguished past as an evolving vacation destination and acknowledges that the visitor market is limited and seasonal due to the lack of transient accommodation. The Plan supports this portion of North Mallory Street as a primarily residential neighborhood and overall aims to maintain Buckroe as a distinctive, family-oriented community while preserving its unique and authentic character.

<i>Traffic/Parking</i>	Staff does not anticipate that the requested use or operation would cause a significant or negative impact on traffic.
------------------------	------------------------------------------------------------------------------------------------------------------------

<i>Community Meeting</i>	A community meeting has not been scheduled at this time.
--------------------------	----------------------------------------------------------

Analysis:

Use Permit Application No. 23-00005 is a request for a use permit for a short-term rental. The subject property is located at 1672 N Mallory Street [LRSN: 12006575] and is currently zoned One-Family Residential (R-9) District. R-9 allows for the desired use subject to an approved use permit.

The applicants and property owners, Aunika & Shawn Kluchinsky, have owned the property since May 2022 and are requesting a Use Permit to operate a short-term rental (STR) within the five (5) bedroom, ± 3,272 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.

Prior to the December 2022 Zoning Ordinance Amendments, STRs for which a business license was issued and zoning compliance was confirmed pursuant to Sec. 18.1-12 of the city code may operate continuously in the same location until December 31, 2024, provided that the STR remains compliant with all applicable City Code and Zoning Ordinance provisions during that time. Under the previous Zoning Ordinance provisions for a STR, the property owner(s) must reside at the property no less than fifty (50) percent of a calendar year. Under the new STR regulations, a property owner does not have to reside at the property but shall obtain a Use Permit prior to operation. The subject property was one that did receive zoning compliance and business license approval prior to December 14, 2022. The current property owners do not wish to use the property as their primary residence; therefore, they are seeking a Use Permit to use the property primarily as a STR.

The property is located along N. Mallory Street in the Buckroe Master Plan (2005, as amended) area with close proximity to Buckroe Beach. The Plan does not specifically address this property or the proposed use but does recognize Buckroe's distinguished past as an evolving vacation destination and acknowledges that the visitor market is limited and seasonal due to the lack of transient accommodation. The Plan supports this portion of North Mallory Street as a primarily residential neighborhood and overall aims to maintain Buckroe as a distinctive, family-oriented community while preserving its unique and authentic character. Short-term rentals support these principles by maintaining the high-quality physical elements of the neighborhood and providing accommodations to tourists and locals.

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. 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. A single-family dwelling advertised or offered to transient guests as a STR shall comply with Virginia Construction Code section 310.4.3, which states that "owner occupied or proprietor occupied lodging houses and other transient boarding facilities not more than 3 stories above grade plane in height, with 5 or fewer guestrooms and 10 or fewer total occupants shall be permitted to be classified as either Group R-3 or R-5...." If a single-family dwelling exceeds 5 bedrooms or 10 occupants, the use under the building code would change from R-3 or R-5 to R-1 (hotel/motel, for example), which would require (a) an automatic sprinkler system; (b) portable fire extinguishers; (c) manual fire alarm system; (d) single and multiple station smoke alarms; and (e) carbon monoxide detection if a fuel-burning appliance is present or if the home features an attached garage.

While the current application features multiple common areas such as living room, den, and sunroom, no common area shall be offered as an overnight sleeping area as the STR would change from either Group R-3 or R-5 under the Building Code, and would require all of the safety systems mentioned above. The applicant was informed of the building code requirements if they wish to exceed the ten (10) person capacity or five (5) rentable bedrooms but ultimately declined to retrofit the existing structure with the necessary safety equipment due to costs.

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.

Based on the analysis, staff recommends **APPROVAL** of the Use Permit Application No. 23-00005 with fifteen (15) recommended conditions based upon the proposed use's operational and land use characteristics.