

AT THE WORK SESSION OF THE HAMPTON PLANNING COMMISSION MEETING HELD IN THE COMMUNITY DEVELOPMENT DEPARTMENT CONFERENCE ROOM, 5TH FLOOR, CITY HALL, 22 LINCOLN STREET, HAMPTON, VIRGINIA, ON THURSDAY, DECEMBER 19, 2024 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 Tracy Brooks, Brian DeProfio, and Ruthann Kellum as being present. Commissioners Trina Coleman and Hope Harper were noted absent. Staff in attendance were Secretary to the Commission/Deputy Director Kim Mikel, Planning Division Manager Mike Hayes, Zoning Administrator Allison Jackura, Assistant City Attorney Jessica Kraus, Chief City Planner Donald Whipple and Clerk of Boards and Commissions Arlena Cahoon.

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

Minutes from the November 21, 2024 Hampton Planning Commission meeting:

Secretary Mikel mentioned that there were a few edits to the minutes from the November Planning Commission meeting. During the public hearing, there will need to be a motion to approve the minutes as amended.

The first edit was on page 14, in the second paragraph, the word "Existing" was misspelled. On that same page, in the fifth paragraph, the word "recommends" was duplicated. On page 15, in the fifth paragraph, there should be a space between the words "it" and "is". Also, on page 15, in the tenth paragraph, the word "proposing" was duplicated. Lastly, on page 21 under item no. 10, the amendment should read Chapter 35 "Subdivisions."

Use Permit Application No. 24-0456:

Secretary Mikel noted that this is a Use Permit Application by Virginia Electric and Power Company. Essentially, they are requesting to relocate a communication tower located at 902 G Street. They do have an existing communication tower; however, the proposed tower will be taller and more effective for their communications and operation. She further noted that communication towers are heavily regulated by the local, state, and federal government.

Assistant City Attorney Jessica Kraus added that both the Code of Virginia and the Code of Federal Regulations govern communication towers. Therefore, local governments have limited ability on what can be considered in regulating them. However, as a locality, the Planning Commission can consider the height, size, and location on the site. Things that cannot be considered are potential health impacts on people, animals, or the environment, or speculation for the need of the tower.

In response to Commissioner Ruthann Kellum's question regarding co-location, Ms. Kraus responded that ultimately, it is something that is encouraged. It is preferred to have things co-located on a tower rather than adding more towers. This tower is privately owned; therefore, the City's control is limited regarding co-location.

Planning Division Manager Mike Hayes added that the City can require the tower to be physically capable of holding an additional co-locator, but they cannot be forced to accept a co-locator.

Chief City Planner Donald Whipple added that the tower has been designed to accommodate for a co-locator, however, there is nothing currently planned.

Use Permit Application No. 24-0489:

Secretary Mikel noted that this is a Use Permit Application to operate as a Restaurant 3 for an existing restaurant, Karma Restaurant and Lounge. They are looking to expand their current Use Permit to 85 Lincoln Street, as 87 was previously approved for a Restaurant 3 Use Permit.

Mr. Hayes provided an overview on the restaurant uses. In the past, many restaurants were not regulated beyond their allowed use. At that time, there were no limitations on hours of operation or alcohol sales. The City began requiring Use Permits for outdoor dining and live entertainment, however, those were treated as individual add-ons to a restaurant, which became difficult to review and track. At City Council's direction, different levels of restaurants were drafted and implemented. Additionally, the City received permission from the State to regulate alcohol sales. The restaurant uses are divided into three (3) levels: Restaurant 1, Restaurant 2, and Restaurant 3. Restaurant 1 does not allow alcohol sales and can only operate until midnight. Restaurant 2 can vary depending on the zoning district, and begins to introduce alcohol sales and similarly to a Restaurant 1, can only operate until midnight. If a Restaurant would like to expand the hours to after midnight, then it would require a Use Permit for a Restaurant 3. There are many different provisions that can require an entity to obtain a Use Permit, such as, live entertainment, outdoor dining, capacity, etc.

In response to Chair Michael Harris, Mr. Hayes responded that the third-party promoter provision is a standard condition. However, staff inadvertently did not include the provision for the applicant's existing approved Use Permit. Generally, it is not allowed in the City if they have a Use Permit with those conditions. However, if a restaurant was established before the three (3) restaurant uses were enacted, then the City cannot enforce the provision. Essentially, owners can still host events or rent out space, but a third-party promoter cannot take responsibility and collect revenue from an event.

Mr. Whipple provided a hand out to the Commissioners of the updated and amended conditions.

Secretary Mikel noted that along with the amendment for third-party promoters, there was also a change to number 4 to reflect the correct word "silver."

Ms. Kraus added that if the Planning Commission were to approve this Use Permit, staff recommends the motion to include "Approve the Use Permit with the thirteen (13) conditions as amended."

Mr. Whipple mentioned that the motion will be referenced on the recommendation slide to utilize as a prompt.

In response to Vice-Chair Rogers, Ms. Kraus responded that it would be ideal to discuss calls for service during the public hearing to have on public record.

Mr. Hayes added that there will be assistance from Hampton Police Department at the public hearing where they can go into more detail about calls for service.

Mr. Whipple noted that the staff recommendation for the hours of operation are much less than what the applicant is requesting. The applicant is proposing to be open from 5 AM to 2 AM

every day of the week, which is not the standard hours of operation that staff usually recommends, especially with live entertainment involved. The applicant will be attending the public hearing to voice his concerns. He wants the flexibility to open on holidays and special events. While staff would like to accommodate that, it can become problematic from operator to operator. Therefore, staff's recommendation is to remain consistent with the hours of operation that have been previously approved.

In response to Vice-Chair Rogers, Mr. Whipple responded that the staff recommended hours are Sunday through Thursday, 5 AM to 12 AM, and Friday and Saturday, 5 AM to 2 AM.

In response to Commissioner Kellum, Mr. Hayes responded that Karma Restaurant and Lounge was the first business to bring window transparency to the City's attention. With late night activity, it is helpful to see into the business and aid police to respond effectively. Additionally, a concept in urban design is having sight lines both into and out of the business to establish an impression.

Ms. Kraus added that when the applicant previously applied for a Use Permit, Hampton Police Department suggested the reflective window as a security measure. It has also become a standard for all Restaurant 3 establishments.

Use Permit Application No. 24-0490

Secretary Mikel noted that this is a Use Permit Application for Raising Canes on Mercury Boulevard. The applicant is proposing to be open for an additional hour on the weekend until 3 AM. They are a fast-food establishment, that does not serve alcohol.

Mr. Whipple added that this is the first fast-food restaurant of this type under the new restaurant regulations.

Ms. Kraus added as mentioned, they currently do not have alcohol sales. If they would like to sell alcohol in the future, then they would need to apply for a new Use Permit.

The work session adjourned at 3:25 P.M.

AT THE REGULAR MEETING AND PUBLIC HEARING OF THE HAMPTON PLANNING COMMISSION HELD IN THE CITY COUNCIL CHAMBERS, 8TH FLOOR, CITY HALL, 22 LINCOLN STREET, HAMPTON, VIRGINIA, ON THURSDAY, DECEMBER 19, 2024 AT 3:30 P.M.

I. CALL TO ORDER

Chair Michael Harris called the meeting to order at 3:35 P.M.

II. ROLL CALL

A call of the roll noted Chair Michael Harris, Vice-Chair Kathy Rogers, Commissioners Tracy Brooks, Ruthann Kellum, and Brian DeProfio as being present. Commissioners Trina Coleman and Hope Harper were noted absent, however, Commissioner Harper arrived after roll call. Staff in attendance were Secretary to the Commission/Community Development Deputy Director Kim Mikel, Planning Division Manager Mike Hayes, Zoning Administrator Allison Jackura, Assistant City Attorney Jessica Kraus, Chief City Planner Donald Whipple, City Planner Quinn Heinrich, Senior Youth Planner Helena Folkerts, and Clerk of Boards and Commissions Arlena Cahoon.

III. APPROVAL OF MINUTES

A motion was made by Commissioner Tracy Brooks and was seconded by Vice-Chair Kathy Rogers to approve the minutes from the November 21, 2024 Hampton Planning Commission meeting, as amended.

A roll call vote on the motion resulted as follows:

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

IV. PUBLIC HEARING ITEMS

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

2. Use Permit Application by Virginia Electric and Power Company to Relocate and Operate a Communication Tower at 902 G Street [LRSN: 1000699]

Use Permit Application No. 24-0456: This is a Use Permit Application by Virginia Electric and Power Company to relocate and operate a communication tower at 902 G Street [LRSN:1000699]

Chief City Planner Donald Whipple presented the staff report on the subject application. Staff recommended approval of Use Permit Application No. 24-0456 with nine (9) conditions.

Chair Harris opened and closed the public hearing.

With there being no 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 Virginia Electric and Power Company to relocate and operate a communication tower at 902 G Street [LRSN: 1000699];

WHEREAS: the applicant is requesting to remove the existing 150-foot, self-supporting tower and construct a new 170-foot-tall, self-supporting lattice-style, communication tower along the northern property line, including related ground equipment;

WHEREAS: the applicant proposes to meet the landscaping requirements for the tower in an existing green area on the south side of the site along Pembroke Avenue in lieu of landscaping around the base of the proposed tower;

WHEREAS: the property is zoned Light Manufacturing (M-2) District which allows for a communication tower, commercial, subject to an approved use permit;

WHEREAS: the Hampton Community Plan (2006, as amended) recommends business/industrial use for the subject property;

WHEREAS: staff recommends nine (9) conditions based upon the proposed use's operational and land use characteristics, including site design, limitation on tower height, tower accessibility, removal of tower, public safety, and compliance with applicable laws;

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 Vice-Chair Kathy Rogers and seconded by Commissioner Ruthann Kellum,

BE IT RESOLVED that the Hampton Planning Commission recommends to City Council approval of Use Permit Application No. 24-0456 with nine (9) conditions.

A roll call vote on the motion resulted as follows:

AYES: Rogers, Brooks, Kellum, DeProfio, Harris
NAYS: None
ABSTAIN: None
ABSENT: Coleman, Harper

3. Use Permit Application by A & A Loyalty Group to Permit a Restaurant 3 at 85 Lincoln Street [Portion of LRSN: 2003249]

Use Permit Application No. 24-0489: This is a Use Permit Application by A & A Loyalty Group to permit a Restaurant 3 at 85 Lincoln St [Portion of LRSN:2003249]

Mr. Whipple presented the staff report on the subject application. Staff recommended approval of Use Permit Application No. 24-0489 with thirteen (13) conditions, as amended.

In response to Vice-Chair Kathy Rogers, Mr. Whipple responded that the Hampton Police Department is available to answer any questions the Commissioners may have.

Officer Zminkowski, with the City of Hampton Police Department, presented an overview of the calls for service at the location of Karma Restaurant and Lounge. In 2024, from January to the current date, there were fifteen (15) calls for services at the restaurant. Of those fifteen (15) calls of service, eight (8) alleged that either a weapon or assault was involved. When looking at local bar establishments with the same hours of operation, these calls ranged from three (3) to sixteen (16) with Karma Restaurant and Lounge being on the higher end of the scale.

In response to Vice-Chair Rogers, Officer Zminkowski responded that there have been conversations with the owner to alleviate this kind of activity and that him and one of the sergeants plans to meet with the owner to draft a plan, on December 20, 2024.

In response to Commissioner Ruthann Kellum, Officer Zminkowski responded that it has been fully operating in the year of 2024.

Mr. Whipple added that Karma Restaurant and Lounge was approved for a Use Permit to operate as a Restaurant 3 by City Council in January 2024. Since then, it has been fully operating as a restaurant with live entertainment. Sometime during the summer, the restaurant became interested in expanding to the space next door. However, they could not do that by right since the Use Permit was only for 87 Lincoln Street. In the interim, they have been operating in that space as a banquet hall. If the application were to be approved by City Council next month, then the revised Use Permit would apply to both 85 and 87 Lincoln Street.

In response to Vice-Chair Rogers, Mr. Whipple responded that he does not know the maximum capacity at this time.

Officer Zminkowski added that the current capacity for 85 Lincoln Street is 163 people and does not know the capacity for 87 Lincoln Street at this time.

In response to Commissioner Brian DeProfio, Officer Zminkowski confirmed that the restaurant was not operating beyond their capacity or approved hours when there were calls for services.

In response to Chair Michael Harris, Officer Zminkowski responded that he analyzed five (5) restaurants in the City that operate in the same capacity as Karma Restaurant and Lounge. The calls for service for those locations ranged from one restaurant only having three (3) calls for service, to another restaurant having sixteen (16) calls. Among those restaurants, Karma Restaurant and Lounge had fifteen (15) calls for service. While they do not have the highest number of calls, it is still on the higher end compared to other similar restaurants. Officer Zminkowski added that he did not have any demographic information for those calls at this time.

In response to Commissioner DeProfio, Officer Zminkowski responded that the numbers of calls for each restaurant were 16, 15, 12, 11, 7, and 3.

In response to Commissioner Kellum, Officer Zminkowski responded that he separated eight (8) calls that involved allegations of assault or a firearm.

In response to Commissioner DeProfio, Officer Zminkowski responded that he does not have a current breakdown of the reasons for the calls on the other restaurants, just a breakdown for Karma Restaurant and Lounge.

Courtney Ray, Applicant and Owner of Karma Restaurant and Lounge, clarified that he opened his restaurant in May 2023 as a Restaurant 2. Since then, he has expanded to a Restaurant

3 and was not aware that he had to obtain the same Use Permit for the additional space next door. In the past, the space was a soul-food style restaurant with a banquet hall called Mary-Helen's. Mr. Ray emphasized that he intends to be more involved with City in the coming year and provided details about his background that included his education from Norfolk State University and his 22 years of service in the U.S. Air Force. While he was active duty in the military, he started to engage in promoter work, which inspired his current career. He further expressed concerns about the proposed business hours and is requesting extended hours to accommodate for special occasions like holidays and college homecomings. He also opposed to the new provision that was added this morning regarding third-party promoters. While he does not use third-party promoters for his business, one may want to host an event at his establishment and feels they should be able to do so. Mr. Ray aims to maintain a safe establishment, including potentially hiring off-duty officers for parking lot patrols, as most incidents occur there. He noted that while he was aware of an incident a year ago, he was unfamiliar with the other reports from the HPD.

In response to Commissioner Kellum, Mr. Ray responded that his restaurant is open for lunch from 11 AM to 3 PM. Additionally, he does not consider his establishment a club, it is more of a lounge. He does have security come at 4 PM to ensure that under age individuals are not there at a certain time.

In response to Commissioner Tracy Brooks, Mr. Ray responded that the only time he does not have security is during lunch hours. He has more security guards staffed on Friday and Saturday nights, as they are busier times.

In response to Commissioner DeProfio, Mr. Ray responded that the reason he has coordinated to meet with HPD is because of his awareness of some of the criminal activity within the City and wanted to take preventative measures to protect his business.

In response to Vice-Chair Rogers, Mr. Ray responded that he already has enough security staffed. If there were additional security, it may become problematic because a portion of the parking lot belongs to the City.

In response to another question from Vice-Chair Rogers, Mr. Ray responded that he spoke with his security team about having off-duty police officers when he anticipates it to be busy. Additionally, the capacity number that Officer Zminkowski provided was for the additional side, not the original location. The capacity for the original side is 90 people, and the capacity for the extended side is 163 people, totaling 253 people for both sides together.

In response to Commissioner Kellum, Mr. Ray responded that his other business in Newport News, is a hookah lounge called Fahrenheit.

In response to Commissioner Hope Harper, Mr. Ray responded that the reason for the request is for special occasions. He does not intend to operate his business until 2 AM every day, however, he would like the flexibility to be open until that time for certain events and holidays that may occur on a weekday.

In response to Chair Harris, Assistant City Attorney Jessica Kraus responded that staff analyzed the option of proffering a condition that states he can be open for specific holidays, however, it would be difficult to enforce. More specifically, the condition would have to indicate the specific days of the year for the extended hours. Additionally, staff believed that it would be unfair to do it for just one business. If the Commission and Council wish to move forward with drafting such condition, then all restaurant establishments within the City should be considered.

In response to Chair Harris, Mr. Hayes responded that while specific holidays are something that could be implemented, it becomes problematic when adding occasions such as homecomings. It also becomes a policy decision in order to remain consistent with other restaurants within the City or the particular zoning district.

In response to Commissioner Harper, Mr. Ray responded that an organization wanted to host an event at his establishment on a Thursday, but due to the limitations for the hours on the Use Permit, he was unable to accommodate them. Hence, why he requested for 2 AM across the board for such circumstances.

In response to Chair Harris, Mr. Hayes responded that in the Hampton Community Plan, the property is intended to be redeveloped as well as the City's parking lot. Directly across from Lincoln Street, there may be a development for apartments along with a small portion of commercial businesses.

Chair Harris mentioned that he is conflicted because the City's goal is to promote business and believes that it's beneficial for a business to be open on those certain days. While he recognizes why staff is conflicted, the goal is to not have an unlively downtown area at midnight. Moving forward, he confirmed that staff is recommending the business to close on weekdays at midnight and the applicant is requesting to be open on all days of the week until 2 AM.

In response to Chair Harris, Mr. Ray responded that's correct, mainly for Holidays and special occasions that fall on the weekdays.

Chair Harris opened and closed the public hearing.

A motion was made by Commissioner Hope Harper and was seconded by Commissioner Brian DeProfio to approve Use Permit Application No. 24-0489 with thirteen (13) conditions as amended.

Vice-Chair Rogers expressed concern about the fifteen (15) calls for service that transpired within the year. She understands they have not happened within the establishment, however, patrons from the business have brought conflict out into the parking lot. If there are plans to redevelop the area with more residential units, she is concerned about not having any security plans to address incidents that may happen within the parking lot. Although the parking lot may not be the owner's responsibility, it could be detrimental for potential residents surrounding that area. While she can sympathize with the owner, the City does not encourage businesses to be on the high end of calls for service.

In response to Commissioner Harper, Mr. Ray responded that he has discussed with the landlord about issues he has had. He emphasized that security is vital in order to protect his business. Although, it is not his parking lot, he treats it as his own with having his security patrol it. Additionally, the age limit for his business is 21 and older.

Commissioner Kellum stated that she agrees with the comments that Vice-Chair Rogers expressed. However, she had the impression that it is a restaurant and is conflicted due to the age limit involved. If the establishment is limited to clientele or age, then that would be considered a club or a facility designed for occasions. From her perspective, a restaurant and club are two different operations, so she is concerned with that aspect.

In response to Commissioner Kellum, Mr. Hayes clarified that the restaurant use covers a broad set of establishments in Hampton and Virginia in general. Under state law, there is not a use intended specifically to a bar. For night clubs, there is a specific definition to one. Although a

restaurant may have music, alcohol, and an age limit, it would not be considered a night club under the regulations. It is common for a restaurant to limit the age range when going into the later hours of the day due to serving alcohol. There is also the banquet hall aspect, which is a separate use. The banquet hall use is to permit restaurants to rent out their space and accommodate for events involving groups of people.

Ms. Kraus added that she would like to clarify the motion as Commissioner Harper arrived later. The thirteen (13) conditions as amended is the amended red line. It is not amended to the hours of operation to 2 AM during the week.

Chair Harris commented that the numbers for the calls of service were concerning, however, there are plans to develop that area. In his opinion, when an area is developed, it changes the community around it. When there is a favorable appearance of an area, criminal activity typically declines, therefore he is not concerned with that long-term. He is concerned with limiting business in the City and not moving forward. Chair Harris further stated that he is in favor of the business being open until 2 AM, therefore, he will be voting against the motion as the conditions are limited to being open until midnight.

Chair Harris opened and closed the public hearing.

A roll call vote on the motion resulted as follows:

AYES:	Brooks, Kellum, DeProfio
NAYS:	Rogers, Harper, Harris
ABSTAIN:	None
ABSENT:	Coleman

The motion failed.

Ms. Kraus noted that there will need to be a new motion that passes with four (4) votes. From her observation, the reason some of the Commissioners may have voted against the motion, was due to the conditions. If the Commissioners would like staff to work with the applicant to revise the conditions, then she would recommend to defer the application.

In response to Ms. Kraus, Commissioner Brooks responded that she would appreciate allowing staff time to do so.

Ms. Kraus added that if the Commissioners wish for staff to go in that direction, then they would need to state what changes should be made or discussed.

Commissioner Harper stated that she is in favor of the business being open until 2 AM Sunday through Thursday. The reason she voted against the motion was because the current conditions limit the hours to midnight. Staff could work with the applicant on being open until 2 AM, even if other conditions may need to be involved. As a member of City Council, they often hear that it is difficult to establish a business within the City. She does not want that stigma to continue, and appreciates the applicant coming and being honest with what he is requesting. Therefore, she would like for the City to help and give him a chance. If they find that those changes are not conducive to the neighborhood, then they can address that accordingly in the future.

Commissioner DeProfio stated that he is comfortable with implementing a security plan to accommodate the business and decrease the calls for service. He further expressed concern

about the banquet hall portion of the restaurant. If this were to be deferred, then it would delay the applicant from operating that portion of the restaurant.

In response to Commissioner DeProfio, Ms. Kraus responded that's correct. He would still be able to operate as a Restaurant 3 for 87 Lincoln Street under the conditions of his current Use Permit. 85 Lincoln Street, currently has a Zoning Administrator Permit to operate as a banquet hall for private events. He can continue to operate in the same manner until this Use Permit is granted.

In response to Ms. Kraus, Commissioner DeProfio asked if there is a way to move forward with this Use Permit and make changes as it goes to City Council.

In response to Commissioner DeProfio, Ms. Kraus responded that the Commissioners can discuss a motion with recommendations and changes that will guarantee four (4) votes in order to move forward to City Council.

In response to Ms. Kraus, Commissioner DeProfio responded if they can make a motion to approve this Use Permit to increase the operating hours, while implementing a satisfactory security plan, it may address some of the concerns from the other Commissioners.

In response to Chair Harris, Ms. Kraus responded that it would not need to be deferred. To what Commissioner DeProfio said, is that he is recommending a motion for approval with conditions as amended to reflect an increased security plan. There would also need to be clarification on whether it's limited to be open until 2 AM on holidays or the whole week.

In response to Ms. Kraus, Commissioner Harper responded that since staff indicated that it would be difficult to enforce the specific holidays and events, she is in favor of the business being open until 2 AM for all days of the week. It would give him flexibility to decide his own hours and remain open for events and holidays at the time intended.

In response to Commissioner Harper, Ms. Kraus responded that staff would be comfortable designating certain holidays in the conditions, however, staff was conflicted for the events aspect relating to homecomings.

Vice-Chair Rogers expressed concern that if this were approved, it may set a precedent for other businesses to request specific hours. If this were to happen, then enforcement will end up in the hands of law enforcement when there are incidents. If there are residents in that area, then they will be the ones affected. She further inquired if the City has the capability of controlling this if it becomes an option for other businesses.

In response to Vice-Chair Rogers, Secretary Mikel responded that in order to be consistent, it would lead to creating a policy. It would be a difficult decision if another restaurant of similar operation applied for the same thing in the future.

Commissioner Kellum expressed concern about the possibility of the business impeding another business for being open past the time that the other business may not be enabled to. She further agreed to compromising a security plan.

In response to Chair Harris, Ms. Kraus responded that the item will be brought forward to City Council in a resolution. The discussion at the Planning Commission meeting is included and will indicate the Commissioners that were in favor of the request.

Chair Harris asked the applicant if he is comfortable with the application being approved to remain open until midnight for now, as opposed to the application being deferred.

Mr. Ray confirmed that he was comfortable with that.

In response to Commissioner Brooks, Mr. Hayes responded that there are at least two (2) restaurants in the downtown area that predate the current restaurant regulations. The current regulations were created over time because City Council wanted to address issues.

Commissioner DeProfio and Vice-Chair Rogers discussed how the motion should be presented with specifics relating to the hours of operation and holidays.

Chair Harris stated that he believes the business being open until 2 AM, for all days of the week, is sufficient for him.

Commissioner Brooks added that she is in favor of the security component of the motion.

Commissioner Kellum expressed concern with the possibility of restaurants picking and choosing hours for specific events. As a community, it can become problematic, as there are other restaurants that may want to be open later for different events than what the applicant is requesting.

In response to Commissioner Kellum, Mr. Hayes responded that there is not a way for businesses to do that. In regards to restaurants requesting to be open outside of the regulations, there is not a process for it. When introducing the motion, it would be ideal to specify the holidays or allow the business to remain open until 2 AM all together, with a security plan established.

With there being no 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 A & A Loyalty Group, LLC d/b/a Karma Restaurant to permit a Restaurant 3, to include live entertainment at 85 and 87 Lincoln Street [portion of LRSN: 2003249];
- WHEREAS: the property is zoned Downtown Business (DT-1) District, which permits the Restaurant 3 use, subject to an approved Use Permit;
- WHEREAS: a Use Permit [No. 23-0312] for Restaurant 3 was granted on January 10, 2024, subject to 12 conditions, for 87 Lincoln Street only;
- WHEREAS: the applicant is proposing to expand the existing Karma restaurant into 85 Lincoln Street, 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 entire operation in the restaurant 3 use;
- WHEREAS: the requested general hours of operation are 5:00 AM to 2:00 AM, Sunday through Saturday. The requested hours for indoor live entertainment are 12:00 PM to 2:00 AM, Sunday through Saturday;
- WHEREAS: the Hampton Community Plan (2006, as amended) recommends mixed-use for the subject property;
- WHEREAS: the conditions were amended to include the addition that neither the facility nor any portion of it shall be leased, let, or used by any third party to stage an event

for profit. No outside promoter shall be permitted to use, operate, rent, or host any event at the facility;

WHEREAS: staff recommends thirteen (13) 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, third party promoters, sound, ABC license and expiration, and compliance with applicable laws;

WHEREAS: the staff recommended hours of operation, Sunday-Thursday 10:00 AM to 12:00 AM and Friday-Saturday 10:00 AM to 2:00 AM, are more restrictive than those requested by the applicant; however, the recommended hours are consistent with other Restaurant 3 applications of similar nature and location;

WHEREAS: City staff recommends approval of this Use Permit Application; and

WHEREAS: the applicant asked the Commission to consider their requested extended general hours of operation Sunday through Saturday 5:00 AM to 2:00 AM. The applicant's intent of the extended hours during the week would be to accommodate special events on holidays and other special occasions that fall on Sunday through Thursday;

WHEREAS: Commissioners had concerns regarding recent security issues at the subject location. In an effort to be more accommodating of the applicant's request for extended hours Sunday through Thursday to host special events and holiday events, Commissioners also discussed the merits of extending the hours of operation beyond staff's recommendation;

WHEREAS: no one from the public spoke to this application.

NOW, THEREFORE, on a motion by Commissioner Hope Harper and seconded by Commissioner Brian DeProfio,

BE IT RESOLVED that the Hampton Planning Commission recommends to City Council approval of Use Permit Application No. 24-0489 with thirteen (13) conditions, as amended.

A roll call vote on the motion resulted as follows:

AYES:	Brooks, Kellum, DeProfio
NAYS:	Rogers, Harper, Harris
ABSTAIN:	None
ABSENT:	Coleman

The motion failed due to lack of majority vote.

NOW, THEREFORE, on a motion by Commissioner Brian DeProfio and seconded by Commissioner Tracy Brooks,

BE IT RESOLVED that the Hampton Planning Commission recommends to City Council approval of Use Permit Application No. 24-0489 with thirteen (13) conditions, as amended and with guidance to City Council that Planning Commission is supportive of the extended general

hours of operation, Sunday through Saturday 5:00 AM to 2:00 AM, with a revised security plan approved by the Hampton Police Department.

A roll call vote on the motion resulted as follows:

AYES: Brooks, Kellum, DeProfio Harper, Harris
NAYS: Rogers
ABSTAIN: None
ABSENT: Coleman

4. Use Permit Application by Raising Canes Restaurants LLC to Permit a Restaurant 3 at 1044 W. Mercury Blvd. [LRSN: 7001551]

Use Permit Application No. 24-0490: This is a Use Permit Application by Raising Canes Restaurants LLC to permit a Restaurant 3 at 1044 W. Mercury Blvd. [LRSN: 7001551]

Mr. Whipple presented the staff report on the subject application. Staff recommended approval of Use Permit Application No. 24-0490 with eight (8) conditions.

Ms. Kraus noted that there was an error on the conditions slide of the presentation. The general hours of operation would be Sunday through Saturday from 5 AM to 3 AM.

In response to Commissioner DeProfio, Mr. Whipple responded that he does not believe there have been calls for service at this restaurant.

Felicia Bivens, Development Consultant for Raising Canes, expressed her appreciation to the Planning Commission for considering their application and clarified that they are an operating restaurant requesting an additional hour of operation.

Chair Harris opened and closed the public hearing.

With there being no 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 Raising Cane's Restaurants, L.L.C. to permit a Restaurant 3, to include outdoor dining, at 1044 W. Mercury Blvd. [LRSN: 7001551];

WHEREAS: the property is zoned Limited Commercial (C-2) and Coliseum Central Overlay (O-CC) Districts, which permit the restaurant 3 use subject to an approved Use Permit;

WHEREAS: the applicant is requesting a Use Permit for Restaurant 3 to exceed the general hours of operation permitted under a Zoning Administrator Permit (ZAP), to include outdoor dining;

WHEREAS: the requested general hours of operation, including outdoor dining, are 9:00 AM to 2:00 AM, Sunday and Tuesday through Thursday and 9:00 AM to 3:00 AM Friday and Saturday;

WHEREAS: the Hampton Community Plan (2006, as amended) recommends mixed-use for the subject property;

WHEREAS: this is the first fast food restaurant with drive-through to request extended hours since the Zoning Ordinance Amendments that regulate restaurants went into effect in 2021;

WHEREAS: staff recommends eight (8) conditions based upon the proposed use's operational and land use characteristics, including issuance of permit, hours of operation, capacity, window transparency, ABC sales and service, and compliance with applicable laws;

WHEREAS: the staff recommended hours of operation, Sunday- Saturday 5:00 AM to 3:00 AM, are more permissive than those requested by the applicant, which are consistent with other similar fast-food style restaurants that have late night hours within the Coliseum Central District;

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 Brian DeProfio and seconded by Commissioner Hope Harper,

BE IT RESOLVED that the Hampton Planning Commission recommends to City Council approval of Use Permit Application No. 24-0490 with eight (8) conditions.

A roll call vote on the motion resulted as follows:

AYES:	Rogers, Brooks, Kellum, Harper, DeProfio, Harris
NAYS:	None
ABSTAIN:	None
ABSENT:	Coleman

V. COMMUNITY DEVELOPMENT DIRECTOR'S REPORT

12. December 2024 Monthly Briefing to the Planning Commission on the Youth Planner Report

Senior Youth Planner Helena Folkerts presented the Youth Planner Report for the Hampton Youth Commission (HYC).

VI. ITEMS BY THE PUBLIC

There were no items by the public.

VII. MATTERS BY THE COMMISSION

There were no items by the Commission.

VIII. ADJOURNMENT

There being no further business, the meeting was adjourned at 6:06 PM.

Respectfully Submitted,

Kimberly Mikel
Secretary to the Commission

APPROVED BY:

Michael Harris
Chairman