

STAFF EVALUATION

To: Planning Commission

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728-5229

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728-5239

Sharon McSmith, CAP

728-5240

Case No.: Conditional Privilege Application No. 112 Date: 9/2/2010

General Information

Applicant
Agent

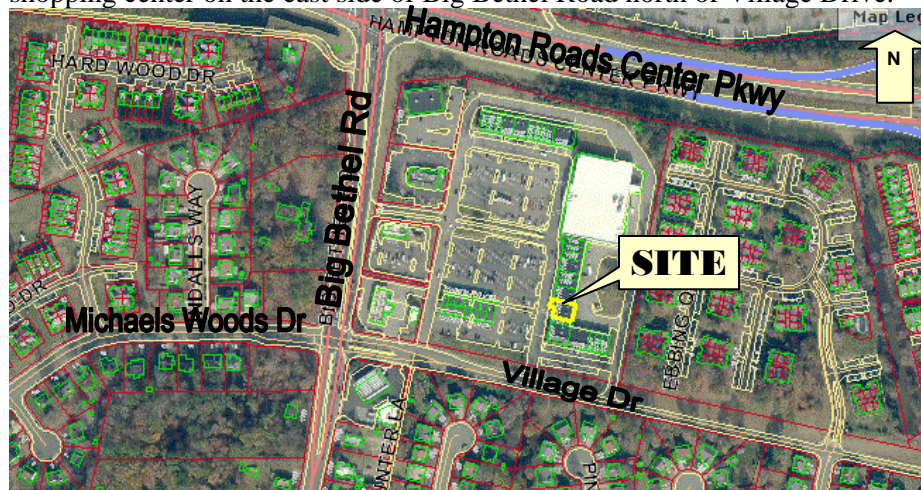
Queens Way Soul Café, LLC
Roger and Peggy Winston

Owner

Hampton Woods Associates, Inc.

Location

1144 Big Bethel Road (LRSN 4002763), located in Hampton Woods Plaza shopping center on the east side of Big Bethel Road north of Village Drive.



Requested Action

Conditional Privilege to allow for live entertainment within an existing restaurant use.

Description of
Proposal

The applicant is proposing to provide live entertainment within an existing 3,000± S.F. restaurant located within an 11.3± acre shopping center property. Entertainment to be offered includes recorded music, live instrumental music, a disc jockey, karaoke, and stand-up comedy acts. Hours of operation are 11:00 AM until midnight Sunday through Wednesday, 11:00 AM until 1:00AM Thursday, and 11:00 AM until 2:00 AM Friday and Saturday.

Existing Land Use

Commercial

Zoning

C-1 (Neighborhood Commercial District)

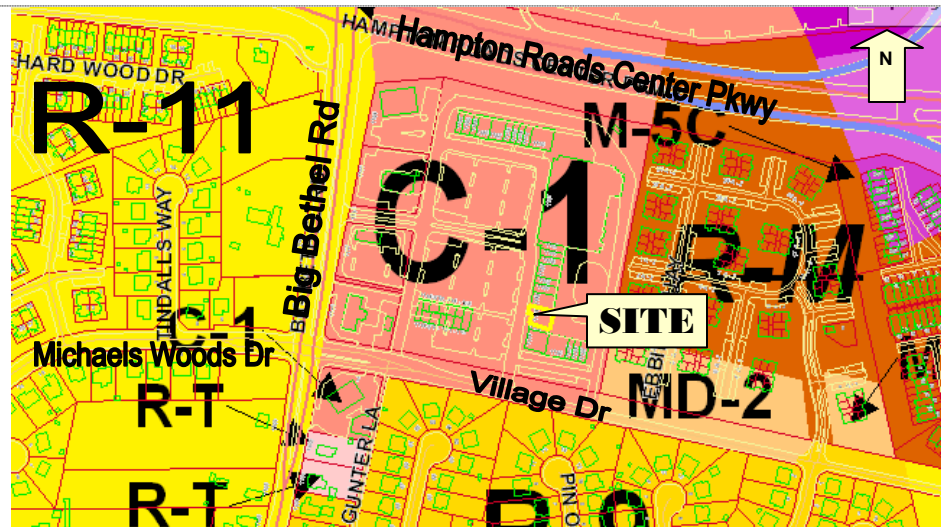
Surrounding Land Use
and Zoning

North: Neighborhood Commercial District (C-1), Hampton Woods Plaza, Hampton Towne Centre

South: One-Family Residence District (R-9), single-family homes and C-1, gas station/convenience store

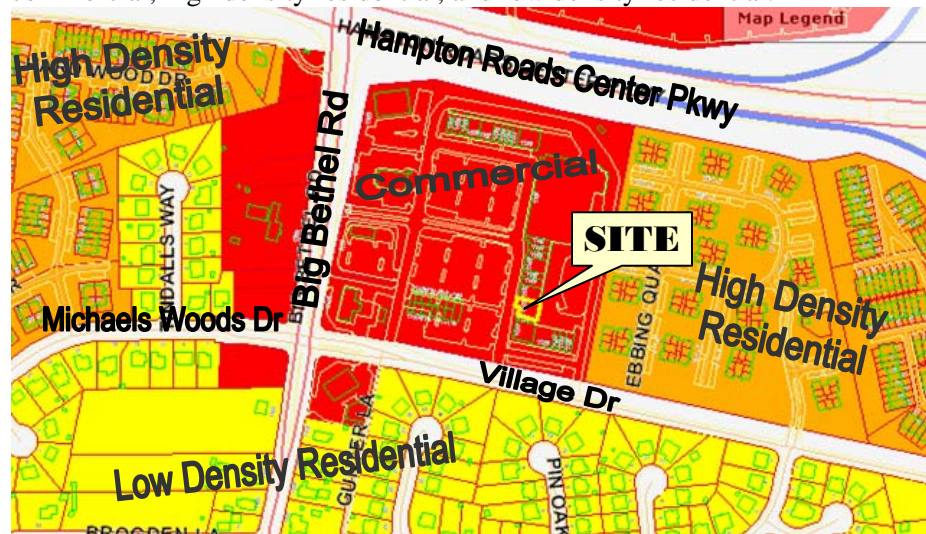
East: Multiple Residence District (R-M) and Multiple Dwelling District (MD-2), condominiums

West: One-Family Residence District (R-11), single-family homes



Public Policy

The Hampton Community Plan (2006, as amended) recommends commercial for the subject property. The surrounding area is recommended to be a mix of commercial, high density residential, and low density residential.



The plan also recommends policies that will encourage and maintain an environment that promotes the continued growth of small businesses. The following goals relate to this application:

LU-CD 6 - Support the City's economic development priorities: high wage jobs in targeted industry segments; regional retail and entertainment destination; first retail choice for Hampton residents; tourism destination; and, higher value housing.

ED 4 - Nurture small and start-up businesses.

ED 6 - Expand tourism, entertainment, and cultural opportunities within the City of Hampton.

Zoning History

A use permit for live entertainment for a previous business was approved in 1992 with two conditions.

<i>Applicable Regulations</i>	C-1 allows live entertainment subject to securing a Conditional Privilege. The purpose of this Conditional Privilege is to identify the operational characteristics of the proposal and establish the conditions under which the facility will be operated. This action is necessary to ensure the safety and welfare of the public as well as minimizing project impacts on the adjoining properties.
<i>Traffic/Parking</i>	As this request does not increase capacity at the restaurant, this use will not increase traffic on Big Bethel Road or other nearby roads. The restaurant is part of a much larger shopping center which provides a more-than-adequate amount of parking for this use.
<i>Schools</i>	This proposal does not impact schools.
<i>Environmental</i>	There are no known environmental concerns at this site.
<i>Community Meeting</i>	A community meeting was held on August 18, 2010.

Analysis

Queens Way Soul Café is located at 1144 Big Bethel Road and was established in 2005 and relocated to its current location in Hampton Woods Plaza in 2009. The restaurant is requesting a Conditional Privilege to permit live entertainment. The live entertainment will include recorded music, live instrumental music, a disc jockey, karaoke, and/or stand-up comedy acts, occurring inside the restaurant Sunday through Saturday. Live entertainment in conjunction with a restaurant is a permitted use in the Neighborhood Commercial (C-1) District subject to securing a Conditional Privilege.

The proposal is consistent with the Hampton Community Plan, (2006 as amended), which encourages the development and expansion of entertainment and tourism-related activities and the continuation of a nurturing atmosphere for small businesses.

The evaluation of a Conditional Privilege application analyzes whether the use is appropriate at a specific location. If the proposed use is appropriate and if there are conditions that will ensure that the live entertainment would not be detrimental to the public health, safety, and welfare of the surrounding uses, then it may be warranted to allow the proposed use at the site. The proposal would have virtually no impact on traffic and has more than enough existing parking in the shopping center lot. Conditions that will further regulate the live entertainment activity at Queens Way Soul Café are included below.

This proposal is an acceptable use in conjunction with the existing restaurant and is consistent with other City approved live entertainment venues.

Staff recommends approval of Conditional Privilege Application #112 with 12 conditions:

Conditional Privilege Application No. 112

Queens Way Soul Café: Live Entertainment
1144 Big Bethel Road, Hampton, VA 23666

Conditions

1. Issuance of Permit

The Conditional Privilege applies only to Queens Way Soul Café located at 1144 Big Bethel Road and is not transferable to another operator.

2. Location of Business

The Conditional Privilege applies only to 1144 Big Bethel Road in the location specified on the plat submitted with the application on July 30, 2010.

3. Location of Live Entertainment

Live Entertainment shall be conducted inside the building only. The stage or performance area, as indicated on the floor plan submitted with the application on July 30, 2010, shall be no larger than 10% of the dining area. All live entertainment equipment and performers shall be contained in these areas during all performances.

4. Hours of Operation

The hours of operation shall be limited to the following:

Sunday through Wednesday: 11:00 AM until midnight

Thursday: 11:00 AM until 1:00 AM (Friday)

Friday: 11:00 AM until 2:00 AM (Saturday)

Saturday: 11:00 AM until 2:00 AM (Sunday)

5. Capacity

During the time that live entertainment is being provided, patronage shall be limited to 120 persons or the maximum capacity as determined by a City building official.

6. Type of Entertainment

The types of live entertainment offered shall be substantially similar to those described in the narrative statement submitted July 30, 2010 and shall not include dancing.

7. Sound

Any sound or noise from amplified music shall not exceed a noise level measurement of 60 dBA upon the real property of another as determined by a sound level meter using the "A" weighting scale in accordance with the American National Standard Institute.

8. Staffing

Sufficient staff shall be provided to monitor patron behavior upon their exit of the building into the parking area.

9. Virginia Department of Alcoholic Beverage Control

The Conditional Privilege shall not supersede any restrictions or requirements imposed by the Virginia Department of Alcoholic Beverage Control.

10. Revocation

The City Council shall have the ability to revoke Conditional Privilege No. 112 upon two (2) convictions of the Hampton City Code, Section 22-3.1, "Amplified Music or Outdoor bands" or upon two (2) or more violations of any of the attached conditions.

11. Nullification

- a. The Conditional Privilege shall become null and void if the use is not established within twelve months of the date of approval by the City Council.
- b. The Conditional Privilege shall become null and void if the facility is not used for the permitted use for a period of six consecutive months.

12. Term of Permit

The Conditional Privilege shall be valid for 18 months from the date of approval by the Hampton City Council. After 12 months of operation, prior to the expiration date, the Conditional Privilege will be scheduled for review by the Planning Director to consider if the continuation of the Conditional Privilege would not be detrimental to the public

health, safety, and welfare and that to continue the activities under the Conditional Privilege would not cause public inconvenience, annoyance, disturbance, or have an undue impact on the community or be incompatible with other uses of land in the zoning district. The review will be based, in part, upon a physical site review, traffic flow and control, access to and circulation within the property, off-street parking and loading, hour and manner of operation, noise, light, neighborhood complaints, police service calls, and any violations of any federal, state, or local law. If after review, the Planning Director determines that the Conditional Privilege would not be detrimental to the public health, safety, and welfare and that to continue the activities under the Conditional Privilege would not cause public inconvenience, annoyance, disturbance, or have an undue impact on the community or be incompatible with other uses of land in the zoning district, the Planning Director may administratively extend the Conditional Privilege in five (5) year increments. Each such extension shall be subject to the same administrative review. If the Planning Director determines that the Conditional Privilege would be detrimental to the public health, safety, and welfare and that to continue the activities under the Conditional Privilege would cause public inconvenience, annoyance, disturbance, or have an undue impact on the community or be incompatible with other uses of land in the zoning district, the Planning Director will notify the Permittee of a denial of the extension in writing. The denial of an extension of the Conditional Privilege will not require the removal of any structure or structures constructed or installed for the live entertainment area(s). A Permittee aggrieved by the decision of the Planning Director may, upon written request within 30 days of the decision, have the matter reviewed by the Planning Commission and the City Council. Nothing contained herein shall limit the rights of a Permittee to seek a new Conditional Privilege.