

STAFF EVALUATION

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Reviewed By:	Bonnie Brown, Deputy City Attorney	

Case No.: Use Permit No. 22-00013
Planning Commission Date: November 17, 2022

General Information

Applicant Nakeisha Cummings (Pinkfish Seafood Bistro)

Property Owners CDW VWC LLC

Site Location 4111 W Mercury Blvd [LRSN: 13003605]



Requested Action Use permit to allow for a *restaurant 3* for extended outdoor dining hours and general hours of operation beyond the hours permitted through a Zoning Administrator Permit

Description of Proposal The applicant is proposing expanded operating hours of their restaurant, Pinkfish Seafood Bistro, and expanded operating hours of outdoor dining. The establishment has a bar area, traditional tables and seating, an outdoor dining area of 60 square feet (approx.), a banquet area of 2,395 square feet (approx.), and a 75 square foot (approx.) area for indoor live entertainment.

Existing Land Use Commercial – Vacant

Applicable Regulations

As of July 13, 2022, City Council amended the Zoning Ordinance use table and additional standards for restaurants. This amendment created a three-tiered system for categorizing restaurants. Within the C-2 District, *restaurant 1* is a by-right use. *Restaurant 1*'s can operate under the following requirements:

- Operating hours of 5 am to 2 am
- No retail alcohol sales
- No live entertainment
- No outdoor dining

Within C-2, *restaurant 2*'s can operate under the following requirements:

- Operating hours with retail alcohol sales: 5 am to 12 am
- Live entertainment is permitted, with limitations
- Outdoor dining is permitted, with limitations

Restaurants requesting to operate outside the conditions required for *restaurant 1* or *2* need to obtain a use permit. The applicant is requesting exceeding the live entertainment performance area requirements.

Surrounding Land Use and Zoning

North: Limited Commercial (C-2) District, commercial

South: One-Family Residential (R-9) District; single family homes

East: Limited Commercial (C-2) District, general retail

West: Limited Commercial (C-2) District, new and used vehicle sales

Surrounding Zoning Map:



Public Policy

Hampton Community Plan

The Hampton Community Plan (2006, as amended) recommends commercial land-use for the subject property and adjacent properties to the east, north, and west.

Listed below are policies related to this request:

LU-CD Policy 3: Promote compatibility and synergy among different land uses.

LU-CD Policy 7: Safeguard the integrity of existing residential neighborhoods.

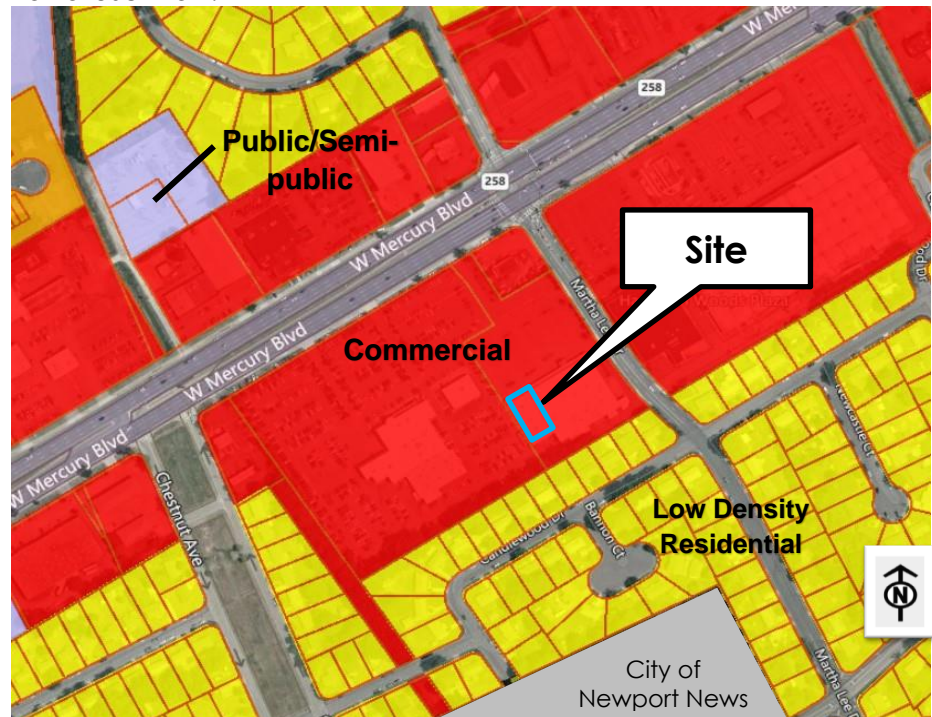
LU-CD Policy 31: Encourage a mix of land uses that is appropriate for each district. Promote the efficient use of land and high-quality urban design. (pg. LU-22)

ED Policy 4: Nurture small and start-up businesses. (pg. ED-23)

Future Land Use

The Hampton Community Plan (2006, as amended) designates this area as commercial land-use.

Land Use Plan:



Traffic/Parking

Staff does not anticipate that the requested hours of operation or outdoor dining would cause a significant or negative impact in the parking within the shopping center.

Community Meeting

A community meeting was held on November 1, 2022 at The Asher Institute located at 4107 W Mercury Blvd.

Analysis:

Use Permit Application No. 22-00013 is a request for a use permit for a restaurant 3 to exceed the hours of operation and hours of outdoor dining under a Zoning Administrator Permit (ZAP). The subject property is located at 4111 W Mercury Boulevard [LRSN: 13003605]. The property is currently zoned Limited Commercial (C-2) District. C-2 allows for the desired use, subject to an approved use permit.

There will be no outdoor live entertainment. Live entertainment will be conducted inside of the building. In relation to the expansion of general operating hours and outdoor dining hours, no significant physical changes to the building are proposed, nor an increase in capacity. Therefore, additional environmental or traffic impacts are not anticipated.

Requested hours of operation for the restaurant are from 5:00 AM until 12:00 AM, Sunday through Thursday, and 5:00 AM until 2:00 AM, Friday and Saturday. The requested hours for outdoor dining are from 5:00 AM to 10:00 PM, Sunday through Thursday, and 5:00 AM to 12:00 AM on Friday and Saturday.

The Hampton Community Plan (2006, as amended) calls for nurturing small and startup businesses as well as safeguarding the integrity of existing residential neighborhoods.

When analyzing the request pertaining to outdoor dining, staff considered potential negative impacts it may have on the adjacent residential properties and neighborhood. The nearest residential parcel is located behind the restaurant on Candlewood Drive, approximately seventy (70) feet from the rear door of the restaurant.

If this application is approved, staff recommends restricting the hours of outdoor dining to 5:00 AM until 10:00 PM, Sunday through Saturday. These hours are permitted under restaurant 2, which requires a Zoning Administrator Permit. These hours are more limited than several recently approved Use Permits due to the close proximity to a residential neighborhood.

Staff recommended to the applicant that they relocate the outdoor dining area to the front of the restaurant. This would place the outdoor dining area approximately two-hundred (200) feet away from any residence and would significantly reduce any potential negative impact the outdoor dining area may have on the neighborhood.

If the use permit is to be granted, staff has identified sixteen (16) recommended conditions based upon the proposed use's operational and land use characteristics. A few key conditions are highlighted below:

- Hours of operation shall not exceed 5:00 AM to 12:00 AM Sunday through Thursday, and 5:00 AM to 2:00 AM, Friday through Saturday.
- Outdoor dining hours shall not exceed 5:00 AM to 10:00 PM, Sunday through Saturday.

- Location of Live Entertainment will be conducted inside the building only and shall be limited to the area indicated on the attached floor plan identified as "Live Entertainment Area," attached as Exhibit A.
- Banquet area activities may be conducted inside the building only and shall be limited to the area indicated on the attached floor plan identified as "Banquet Room," attached as Exhibit B.
- Security services shall be provided that monitor activities both inside and outside the restaurant.
- The use permit will expire upon change of ownership, a change in possession, a change in the operation or management of a facility, or the passage of three (3) months without an active retail alcoholic beverage control license.

The conditioned evening hours of operation are more restricted than what is proposed by the applicant, but given the close proximity to residential properties, these conditioned hours proposed by staff are appropriate. The conditioned hours are consistent with other live entertainment and restaurant use permits granted in this district.

Staff recommends **APPROVAL** of Use Permit No. 22-00013 with sixteen (16) conditions.