

STAFF EVALUATION

Case No.: Use Permit No. 23-0222

Planning Commission Date: July 20, 2023

City Council Date: June 12, 2024

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Reviewed By:	Jessica Kraus, Assistant City Attorney	

General Information

Applicant & Property Owners Antionique & Twaitney Addison

Site Location 404 N Second St [LRSN: 12007147]



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

Description of Proposal The applicant is proposing a short-term rental at 404 N Second St. The property is \pm 0.1 acres and features a 1,200 square foot residence with three (3) bedrooms.

Existing Land Use One-Family Residential

Zoning Two Family Residential (R-8) 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.

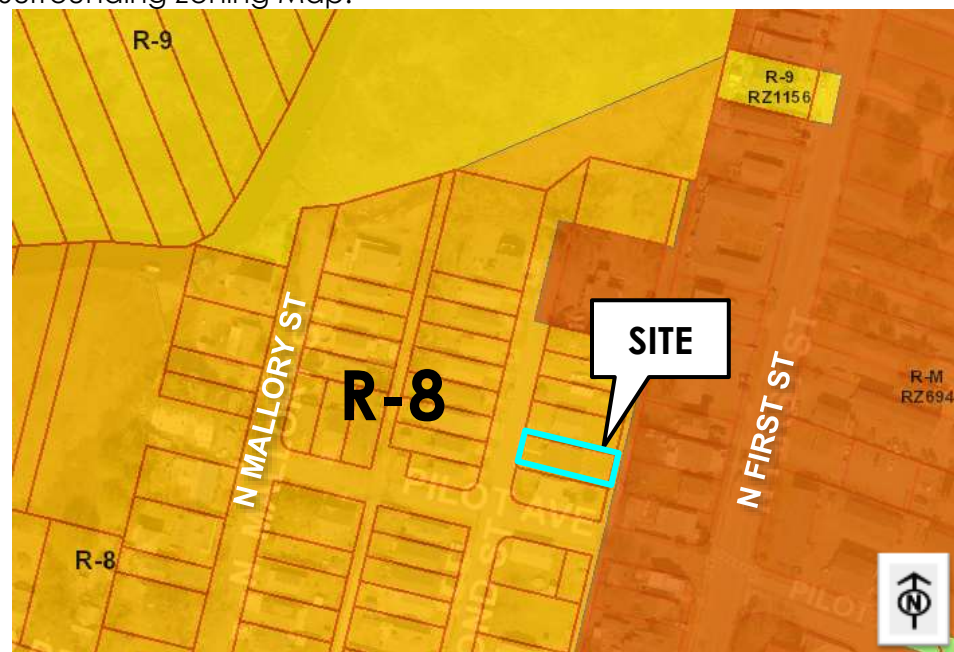
Short-term rentals for which a business license was issued and zoning compliance was confirmed pursuant to Sec. 18.1-12 of the city code prior to December 14, 2022 may operate continuously in the same location until December 31, 2024 provided that the short-term rental remains compliant with all applicable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

After December 31, 2024, the short-term rental must obtain approval of a use permit from City Council in order to continue operation.

Surrounding Land Use and Zoning

North: Two Family Residential (R-8), single-family residence
South: Two Family Residential (R-8) District, single-family residence
East: Multiple Residential (R-M), apartments
West: Two Family Residential (R-8) District, single-family residence

Surrounding Zoning Map:



Public Policy

Hampton Community Plan

The Hampton Community Plan (2006, as amended) recommends medium density residential for the subject property and adjacent properties.

Listed below are policies related to this request:

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 4: Nurture small and start-up businesses.

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 master plan recognizes Buckroe's distinguished past as an evolving vacation destination and aims to maintain its present identity as a family-oriented community. It sets forth guiding principles that call for low-scaled beach-oriented housing and supporting the unique coastal character of the architecture in Buckroe. Short-term rentals support these principles by maintaining the high-quality physical elements of the neighborhood and providing opportunities for visitors to experience and appreciate the coastal culture of the area.

Traffic/Parking	Staff does not anticipate that the requested use or operation would cause a significant or negative impact on traffic.
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Community Meeting	A community meeting has not been scheduled at this time.
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Analysis:

Use Permit Application No. 23-0222 is a request for a use permit to operate a short-term rental at 404 N Second St [LRSN: 12007147]. The property is zoned Two-Family Residential (R-8) District. R-8 allows for the desired use subject to an approved use permit.

The applicants, Antionique Addison & Twaitney Addison, have owned the property since October 2022 and are requesting to operate a short-term rental in this 1,200 square foot single-family dwelling. The property is +/- 0.1 acres and features a residence with three (3) bedrooms and two (2) bathrooms. 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 property is located within the Buckroe Master Plan (2005, as amended) area south of Brights Creek. The Plan recognizes Buckroe's distinguished past as an evolving vacation destination and aims to maintain its present identity as a family-oriented community. It sets forth guiding principles that call for low-scaled beach-oriented housing and supporting the unique coastal character of the architecture in Buckroe. Short-term rentals support these principles by maintaining the high-quality physical elements of the neighborhood and providing opportunities for visitors to experience and appreciate the coastal culture of the area.

The Hampton Community Plan (2006, as amended) calls for evaluating land use proposals from a regional, city-wide and neighborhood perspective. 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.

In looking at the requirements for the proposed operation, 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 is considered the same as a bedroom for the purposes of calculating necessary parking. Currently, the application features three (3) bedrooms and one (1) common area (living room) overnight sleeping area which would require no less than two (2) on-site parking spaces. On the property is a driveway that is approximately 10'x 32.5'. Per sec. 11-7 of Hampton's Zoning Ordinance, the minimum dimensional standard for a standard parking space shall be no less than 9'x18'. With this, the driveway is not capable of accommodating two (2) vehicles. In the event this Use Permit application is approved,

staff is recommending a condition that a driveway or driveway addition be installed that meets the minimum dimensional standards in order to accommodate two vehicles prior to commencing operation of the STR.

Per §404.4 of the Virginia Property Maintenance Code (VPMC), for residential dwelling units, each bedroom is required to contain at least 70 square feet of floor area, and each bedroom occupied by more than one person must contain at least 50 square feet of floor area for each additional occupant. Based on the square footage provided, the bedroom is able to accommodate one (1) occupant. The common area may be used to sleep three (3) additional occupants for a maximum occupancy of eight (8) overnight lodgers, 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 sixteen (16) 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" provided in the package, 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.

The use permit process is a City Zoning Process, the purpose of which is to develop and enforce government regulations for specific use on a specific parcel of land not otherwise permitted by right in the zoning district, and where that specific use is not detrimental to surrounding properties. Private agreements related to a parcel, such as homeowners' association declarations, leases, or other similar documents, that may limit or prohibit certain uses on a parcel are not considered by the City during the use permit process, as such private agreements are not enforceable by the City.

Update for the June 12, 2024 City Council meeting:

At the November 8, 2023 City Council meeting, City Council deferred the short-term rental use permit applications on its agenda to the February 28, 2024 City Council meeting. This decision was made to allow sufficient time for the Council to receive legal guidance, explore various options to regulate density, and evaluate appropriate areas for short-term rentals within the City of Hampton. The deferral aimed to provide an opportunity for public engagement regarding the proposed path forward before any further action is taken on short-term rental use permits.

Since then, the Community Development Department (CDD) convened a group of community stakeholders to provide guidance on the second major phase of development of the City's STR regulations and practices. This group of convened stakeholders functioned as a "focus group" by providing feedback, guidance, and ideas on particular areas of the regulations that needed to be addressed. The scope of the areas that the group was asked to address included: STR density, separation, suitable areas, types of STRs, and the permitting process. The stakeholder group was comprised of nine (9) members representing diverse perspectives, including those operating and managing STRs, a local Bed and Breakfast operator, and several local neighborhood leaders from a range of geographic areas.

Following the conclusion of these "focus group" meetings, staff formulated policy recommendations based on the feedback provided from community stakeholders and provided City Council and staff recommendation on Wednesday, February 14, 2024.

New guidelines have been proposed that will, among other things, limit the density of short-term rentals (STRs) to ensure that they don't affect the character of neighborhoods. The new proposed zoning district overlays would control the distribution and density of STRs across the city.

In order to limit density within an STR Zone, a maximum of 1% of the residential dwellings within each zone would be allowed to be an STR. This density cap aims to maintain the

character of our neighborhoods while accommodating the growing demand for short-term lodging. Other key elements of the proposed regulations include:

- A required separation between STRs of 500 feet, except that two may be directly next door to each other
- Administrative permitting process, with a \$200 application fee and \$50 inspection fee
- Conditions addressing the operation of the rental, including safety and nuisances

Based on the set of proposed amendments, the proposed short-term rental is located in the Buckroe 1 STR Zone. The proposed STR would not meet the proposed 500' separation requirement as two (2) previously permitted STRs and their respective property boundaries are located closer than 500' to one or more of 404 N Second Street's property boundaries. Additionally, the subject application is not eligible to convert to a Zoning Administrator Permit (ZAP) application when the proposed ordinance amendments go into effect as there is insufficient on-site parking; therefore, the item will remain a Use Permit and will require Council action.



Staff recommends DENIAL of item no. 23-0222.

In the event the item is approved, staff recommends approval of item no. 23-0222 with fifteen (15) recommended conditions.