

STAFF EVALUATION

To: City Council

Prepared By: Alison Alexander , AICP 728-5238

Reviewed By: Keith Cannady, AICP 728-5239

Reviewed By: Sharon McSmith, CAP 728-5240

Case No.: Use Permit No. 15-00012

Date: October 14, 2015

General Information

Applicant

David Leonardi

Location

87 Lincoln Street [LRSN 2003249]



Requested Use

Use Permit to allow for indoor live entertainment 2 at an existing restaurant with a capacity greater than fifty (50) people.

Description of Proposal

The applicant is proposing to provide live entertainment at an Italian restaurant located Downtown. The space was previously Mary Helen's restaurant and an adjoining storefront. Entertainment to be offered will focus on open mic nights, karaoke, and music for group reservations/private parties. Requested hours of live entertainment are from 10:30AM until 10:00PM Monday through Thursday, 10:30AM until 11:00PM on Friday and Saturday and 11:00AM until 9:00PM on Sunday.

Existing Land Use

Restaurant

Zoning

DT-1 (Downtown Business)

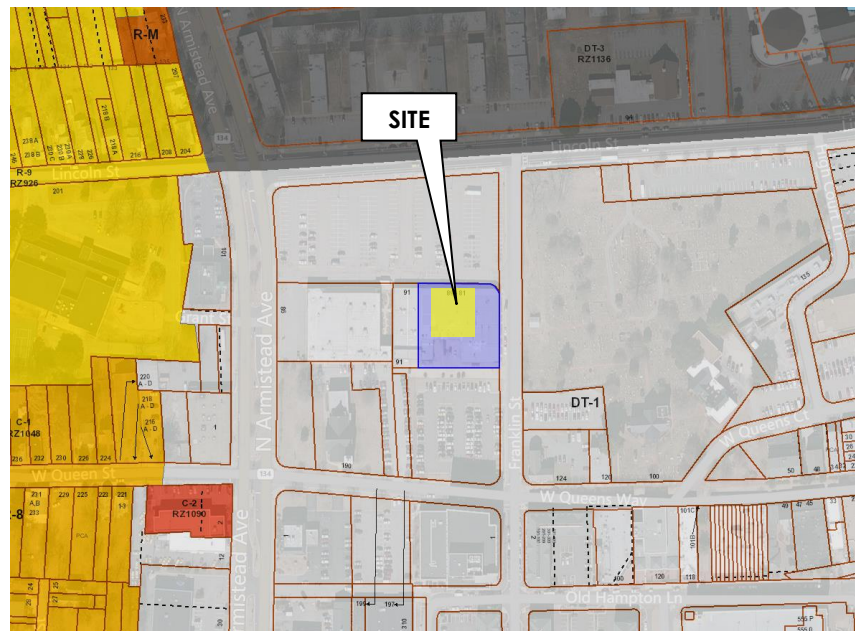
Surrounding Zoning and

North: DT-1 & DT-3, Parking & Vacant land

South: DT-1, Retail & Government Office

East: DT-1, Cemetery

West: DT-1 & R-9, Religious facility, retail, community center

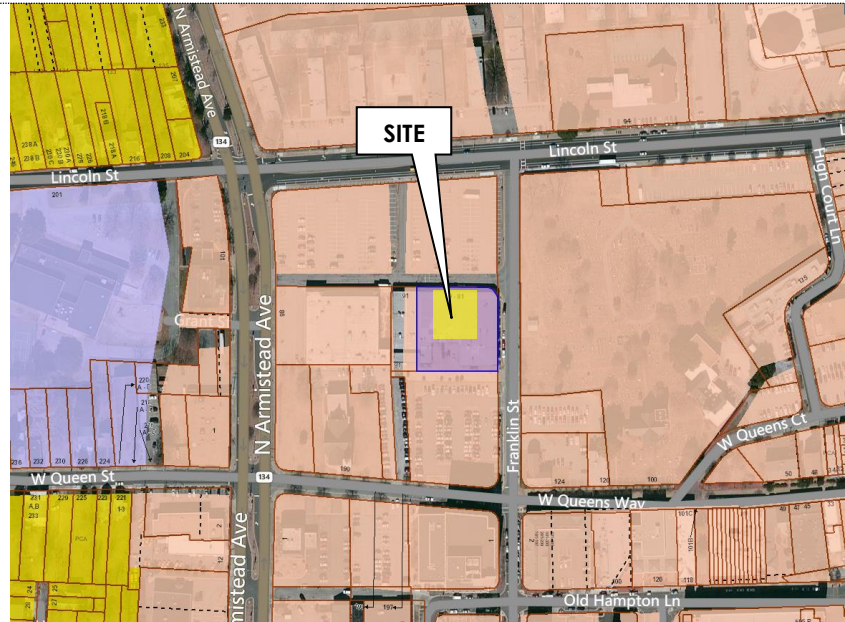


Zoning History

This location previously had a conditional privilege for live entertainment (CP76). Hours of live entertainment were Monday through Friday from 11:00am until 1:30am, Saturday from 2:00pm until 1:30am, and Sunday from noon to 1:30am. Due to the current operator's expansion into two storefronts, and the relocation of the live entertainment, a new use permit is required.

Public Policy

The Hampton Community Plan (2006, as amended) recommends mixed use for the subject property. Mixed uses are recommended for properties directly to the north, east, south, and west.



Broadly, The Plan establishes a vision "To Make Hampton the Most Livable City in Virginia". A primary goal furthering the attainment of this vision is that Hampton will be a unique regional retail and entertainment destination.

Relevant policies related to this goal include:

LU-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. (pg. LU-17)

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

ED-6: Expand tourism, entertainment, and cultural opportunities within the city. (pg. ED-23)

<i>Applicable Regulations</i>	DT-1 allows live entertainment subject to securing a Use Permit. The purpose of this Use Permit 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>	This use is not anticipated to increase traffic in the area. Olde Hampton Shopping Center provides ample parking to serve this use.
<i>Environmental</i>	Newly created environmental impacts are not anticipated.
<i>Community Meeting</i>	At this time, no community meeting has been scheduled.

Papa Ciccio's Italian Family restaurant is located at 87 Lincoln Street. The restaurant is requesting a use permit to permit indoor live entertainment. Entertainment will focus on open mic nights, karaoke, and music for group reservations/private parties. Live entertainment in conjunction with a restaurant is a permitted use in the Downtown Business (DT-1) District subject to securing a use permit.

The Hampton Community Plan (2006, as amended) calls for nurturing small and startup businesses and expanding tourism and entertainment opportunities within the city. Live entertainment at Papa Ciccio's, an independently run restaurant, is consistent with the policies and goals of the plan.

In relation to the addition of live entertainment, no significant physical changes to the building are proposed, nor an increase in capacity. Therefore, additional environmental or traffic impacts are not anticipated. Parking needs are satisfactorily met at Olde Hampton Shopping Center.

Requested hours of live entertainment are from 10:30AM until 10:00PM Monday through Thursday, 10:30AM until 11:00PM on Friday and Saturday and 11:00AM until 9:00PM on Sunday. In accordance with Downtown businesses in similar settings and to allow future flexibility, staff proposes the use permit allow hours of live entertainment from 11:00AM until 12:00AM Monday through Thursday and 11:00AM until 2:00AM on Friday and Saturday. (See Table 1 below.) While the applicant defines the type of live entertainment Papa Ciccio's intends to provide, because of conditions restricting noise and the square footage that can be devoted to live entertainment, and hours of operation, staff does not recommend restricting the type of live entertainment permitted to a greater degree than defined in Section 2.1 of the City's Zoning Ordinance.

Table 1: Recently Considered Applications for Live Entertainment						
Establishment	Adjacent to Single Family	Adjacent to Multi Family	Hours of Live Entertainment	Capacity	Decision	Indoor/Outdoor
Papa Ciccio's	No	No	Indoor: 12:00 PM Sun- Thurs 2:00AM Fri-Sat	125		Indoor
Sushi Hampton LLC (Sushi King)	No	No	Indoor: 10:00PM Sun- Thurs 2:00 AM Fri-Sat Outdoor: 9:00PM Sun-Thurs 10:00 Fri-Sat	300	Approved	Indoor/Outdoor
Avenue Blue Piano Bar	No	No	10:00 PM Sun- Thurs 2:00 AM Fri-Sat	168	Approved	Indoor
Peninsula Soul Food & Sports	Yes	No	11:00PM Sun – Thurs.		Approved	Indoor

USE PERMIT NO. 15-00012
STAFF EVALUATION

Bar			1:00AM Fri - Sat			
Stillwater Tavern (UP 14-00017)	No	No	12:00AM Sun. – Thurs. 2:00AM Fri. - Sat	80	Approved	Indoor
Grandview Island Grill (UP 14-00009)	Yes	No	Indoor: 12:00PM - 10:00PM Sun – Sat Outdoor: 4:00PM - 8:00PM Fri & Sat	134	Approved	Indoor/ Outdoor
The Point (UP 1091-2013)	No	No	12:00AM Sun-Thurs 2:00AM Friday - Sat	80	Approved	Indoor
Applebee's (CP 139-2013)	No	No	12:00AM Sun. – Thurs. 1:00AM Fri.- Sat.	165	Approved	Indoor
An Event to Remember (CP 136-2013)	No	No	11:00PM Sun.-Thurs. 12:00AM Fri. - 1:00 AM Sat.	189	Approved	Indoor
The Turtle (CP 130-2012)	Yes	No	12:00AM Sun.-Thurs. 1:00AM Fri.-Sat.	105	Approved	Indoor
Bar Louie (CP-129-2012)	No	Yes	11:00 PM Sun.-Tues. 2:00 AM Wed.-Sat.	248	Approved	Indoor
The Jewish Mother (CP 128-2012)	No	No	12:00AM weekdays 2:00AM weekends	80	Approved	Indoor
Mirro'z (CP 120-2011)	Yes	No	11:00 PM weekdays 1:00 AM weekends	240	Approved	Indoor
Terra (CP 116-2011) 2320 McMenamin Street	No	Yes	Indoor: 11PM Sun.-Tues. 2:00AM Wed.-Sat.	160	Approved	Indoor/ Outdoor

USE PERMIT NO. 15-00012**STAFF EVALUATION**

			Outdoor: 9:00 PM Sun – Thurs 10:00 Fri – Sat			
Queens Way Soul Café (CP 112)	No	Yes	12:00 AM weekdays 2:00 AM weekends	148	Approved	Indoor

Both Staff and Planning Commission recommend approval of application UP 15-00012 with twelve (12) attached conditions.

Use Permit Application No. 15-00012**David Leonardi DBA Papa Ciccio's Italian Family Restaurant****87 Lincoln Street, Hampton, VA 23669****1. Issuance of Permit**

The Use Permit applies only to 87 Lincoln Street [LRSN 2003249] and is not transferable to another location.

2. Location of Live Entertainment

Live Entertainment shall be limited to the 8'x 12' area indicated on the attached floor plan identified as "Stage," attached hereto as Exhibit A. The set up and use of any equipment shall not interfere with required clear space for safe exit in the case of emergency, per the Uniform Statewide Building Code and/or the Statewide Fire Prevention Code.

3. Hours of Operation

The hours of operation for live entertainment shall be limited to the following:

Indoor

- Sunday –Thursday 11:00AM to 12:00AM
- Friday - Saturday 11:00 AM to 2:00 AM

4. Capacity

During the time that live entertainment is being provided, patronage and staff shall not exceed 125 occupants, or the maximum capacity determined by a City building official, whichever is less.

5. Sound

Live entertainment located at 87 Lincoln Street shall comply with City Code section 22-9 with respect to any sound or noise.

6. Staffing

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

7. Licensing and Compliance with all Laws

When required by law, the restaurant must maintain a valid license from the Virginia Department of Alcoholic Beverage Control (VABC) and comply with all restrictions or requirements imposed by VABC. In addition, this Use Permit may be terminated for any violation of federal, state, or local law.

8. Dancing

The property owner shall comply with section 4-16 of the Hampton City Code with respect to dancing on the premises and dance floor area.

9. Third Party Promoters

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.

10. Revocation

Failure to comply with any conditions of this Use Permit shall constitute a violation of the provisions of Chapter 14 of the Zoning Ordinance and shall be cause for revocation of the use permit by City Council.

11. Nullification

The use permit shall automatically expire and become null and void under any of the following conditions:

- (1) If, in the case of new construction, the building has not been erected, with doors, windows, roof covering and exterior finish materials in place within two (2) years of the issuance of the use permit;
- (2) No building permit to construct the authorized improvements has been issued within twelve (12) months of the date of approval by the city council, or if no building permit is required, if the use is not established within twelve (12) months of the date of approval by the city council; or
- (3) Once the property may be occupied, if the property is not used for the permitted purpose for a continuous two-year period unless otherwise specified in the zoning ordinance. In making this determination the city may consider such matters as the issuance of a building permit, a business license, utility connections and such related factors.

12. Review of Live Entertainment Uses

After 12 months of operation, the Use Permit will be scheduled for review by the Director of Community Development (the "Director") to consider if the continuation of the Use Permit would not be detrimental to the public health, safety, and welfare and that to continue the activities under the Use Permit 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 Director determines that the Use Permit would not be detrimental to the public health, safety, and welfare and that to continue the activities under the Use Permit 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 permit shall be scheduled for the same administrative review in 5-year increments. If the Director determines that the Use Permit would be detrimental to the public health, safety, and welfare and that to continue the activities under the Use Permit 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 Director will notify the Permittee in writing and may initiate the revocation process before City Council. Nothing contained herein shall limit the City's ability to enforce City Code violations at any time during the operation

Exhibit A

