

STAFF EVALUATION

Case No.: Use Permit No. 24-0454

Planning Commission Date: November 21, 2024 **City Council Date:** December 11, 2024

Prepared By:	Donald Whipple, Chief Planner	728-5235
Reviewed By:	Mike Hayes, Planning & Zoning Division Manager	728-5244
Reviewed By:	Jessica Kraus, Assistant City Attorney	

General Information

Applicant Sherquita Tucker

Property Owners Hampton Woods Associates, Inc.

Site Location 1144 Big Bethel Road [portion of LRSN: 4002763]



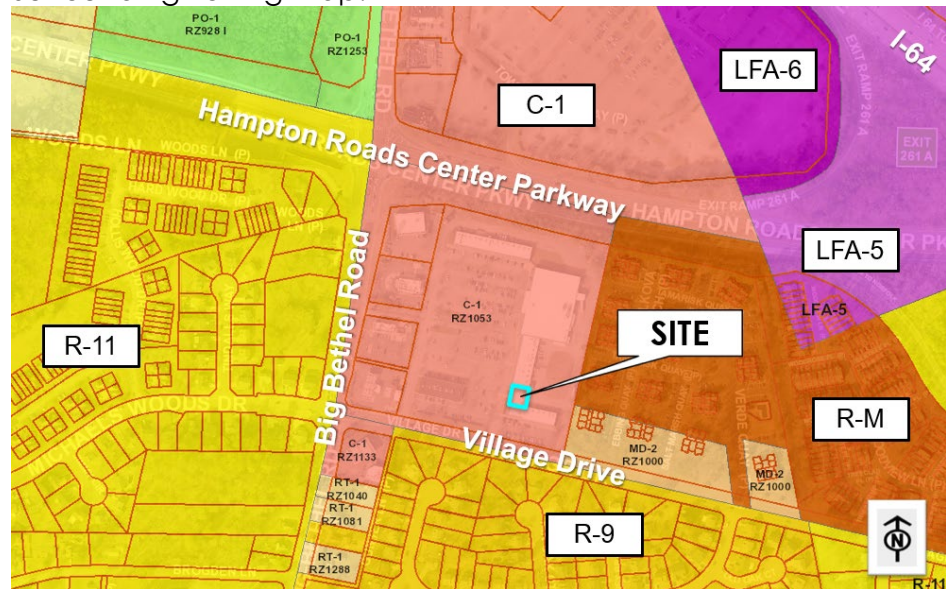
Requested Action Use permit to allow for a *restaurant 3* for extended general hours of operation, to include live entertainment and outdoor dining beyond the provisions permitted through a Zoning Administrator Permit.

Description of Proposal The applicant is proposing to open a restaurant at the subject location, to include indoor live entertainment and outdoor dining. The 3,836 square feet establishment would have a bar area (148 sq. ft.), traditional tables and seating, shisha (smoking) area (894 sq. ft.), and a proposed +/- 22 square feet of indoor live entertainment performance area. The outdoor dining area is approximately 370 square feet.

Existing Zoning Neighborhood Commercial (C-1) District

Existing Land Use	Vacant, formerly Restaurant 3
Applicable Regulations	<p>Within the C-1 District, <i>restaurant 1</i> is a by-right use. <i>Restaurant 1's</i> can operate under the following requirements:</p> <ul style="list-style-type: none"> • Operating hours of 5 am to 2 am • No retail alcohol sales • No live entertainment • No outdoor dining <p>Within C-1, <i>restaurant 2's</i> can operate under the following requirements:</p> <ul style="list-style-type: none"> • Operating hours with retail alcohol sales: 5 am to 12 am • Live entertainment is permitted, with limitations • Outdoor dining is permitted, with limitations <p>Restaurants requesting to operate outside the conditions required for <i>restaurant 1</i> or <i>2</i> need to obtain a Use Permit. The applicant is requesting exceeding the live entertainment performance area requirements.</p> <p>Per the existing conditions of UP No. 21-00010, the Use Permit would 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. Earlier this year the previous restaurant ceased and changed ownership; and thus, UP 21-00010 expired. This is the first Use Permit to expire under this condition due to a change in ownership.</p>
Surrounding Land Use and Zoning	<p>North: Neighborhood Commercial (C-1) District; restaurant and general retail sales</p> <p>South: One Family Residential (R-9) District; single family residential</p> <p>East: Multifamily Residential (MD-2) District and Multiple Residential (R-M) District; multi-family & townhouse residential</p> <p>West: One Family Residential (R-11) District; single family & townhouse residential</p>

Surrounding Zoning Map:

*Public Policy***Hampton Community Plan**

The Hampton Community Plan (2006, as amended) recommends commercial for the subject property and adjacent properties to the north and west. Recommended land use to the east is high density residential and low density residential to the south.

Listed below are policies related to this request:

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

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 commercial.

Land Use Plan:

*Traffic/Parking*

Staff does not anticipate that the requested hours or expanded indoor live entertainment performance area would cause a significant or negative impact in the parking within the parking garage.

Community Meeting

In lieu of an in-person community meeting, the applicant elected to send a mailer with a briefing of the restaurant 3 proposal to the community.

Analysis:

Use Permit Application No. 24-0454 is a request for a Use Permit to operate a restaurant 3 to extend the general hours of operation, to include indoor live entertainment and outdoor dining beyond the provisions permitted through a Zoning Administrator Permit (ZAP). The subject property is located at 1144 Big Bethel Road [portion of LRSN: 4002763]. The property is currently zoned Neighborhood Commercial (C-1) District, which allows for the proposed use, subject to an approved Use Permit.

Previous restaurants with expanded hours, including indoor live entertainment and outdoor dining, have operated at this location; however, a specific condition noted the Use Permit would expire with change in the operation or management of the restaurant. The proposed restaurant, Pecola's, would be under different management from the previous restaurant, so a new Use Permit is required. This is the first Use Permit to expire due a change in ownership or management. This condition was included in the previous Use Permit as a result of express authority granted by the Commonwealth, which the City Council requested. The grant of authority permits the City to impose a condition on a Use Permit relating to retail alcoholic beverage control licensees in which the Use Permit

automatically expires upon, among other things, a change of ownership or management. Making use of this authority allows City Council to reevaluate restaurants where a Use Permit is required, with late hours and alcohol being of particular concern.

The applicant is requesting hours beyond those that could be approved through an administrative review. However, no significant physical changes to the building are proposed, nor an increase in capacity when compared to previous Restaurant 3 uses at this location. All live entertainment would be conducted indoors. The applicant intends to utilize the 370 square feet of outdoor dining space.

The requested general hours of operation, including outdoor dining, are 11:00 AM to 10:00 PM, Sunday and Tuesday through Thursday and 11:00 AM to 1:00 AM Friday and Saturday. The restaurant will be closed on Mondays. The requested hours for indoor live entertainment are 7PM to 10:00 PM, Sunday and Tuesday through Thursday and 7:00 PM to 1:00 AM Friday and Saturday. The applicant has also submitted a security plan that addresses security personnel inside and outside, surveillance cameras and alarm systems, enhanced lighting, and access control.

The Hampton Community Plan (2006, as amended) recommends commercial for the subject property. Additionally, the Plan calls for promoting compatibility and synergy among different land uses, encouraging a mix of land uses that is appropriate for each district, nurturing small and start-up businesses, and expanding tourism, entertainment, and cultural opportunities within the city.

If the Use Permit is granted, staff has identified thirteen (13) recommended conditions based upon the proposed use's operational and land use characteristics. A few key conditions are highlighted below:

- Hours of operation for the restaurant, including live entertainment and outdoor dining, shall be limited to the following:
 - Sunday-Thursday 10:00 AM to 12:00 AM
 - Friday-Saturday 10:00 AM to 2:00 AM

Staff recommended hours of operation are more permissive than the hours requested by the applicant to be consistent with other similar restaurant operations that have been granted a Use Permit for expanded hours and live entertainment.

- 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 B to the conditions.
- Security services shall be provided that monitor activities both inside and outside the restaurant.
- The applicant shall obtain and maintain any necessary licenses required by the Virginia Alcoholic Beverage Control Authority. 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 full set of recommended conditions are included within the package. The conditioned hours are consistent with other live entertainment and restaurant Use Permits granted in this district.

Staff recommends **APPROVAL** of the Use Permit Application No. 24-0454 with thirteen (13) conditions.