

STAFF EVALUATION

Case No.: Use Permit No. 24-0049

Planning Commission Date: February 22, 2024; March 21, 2024

City Council Date: April 10, 2024

Prepared By:	Davis Pemberton, City Planner	728-2040
Reviewed By:	Mike Hayes, Planning & Zoning Division Manager	728-5244
Reviewed By:	Jessica Kraus, Assistant City Attorney	

General Information

Applicant George LLC d/b/a George Restaurant

Property Owners Provo Properties, LLC

Site Location 20 W Mercury Boulevard [portion of LRSN: 8001841]



Requested Action Use permit to allow for a *restaurant 3* for extended general hours of operation and expanded indoor live entertainment performance area beyond the provisions permitted through a Zoning Administrator Permit.

Description of Proposal The applicant is proposing extending operating hours and expanding the area of indoor live entertainment for their restaurant, George Restaurant. The establishment has a bar area, traditional tables and seating, and a proposed +/- 210 square feet (approx.) of indoor live entertainment performance area.

Existing Zoning Neighborhood Commercial (C-1) District

Existing Land Use Restaurant 2

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-1, *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

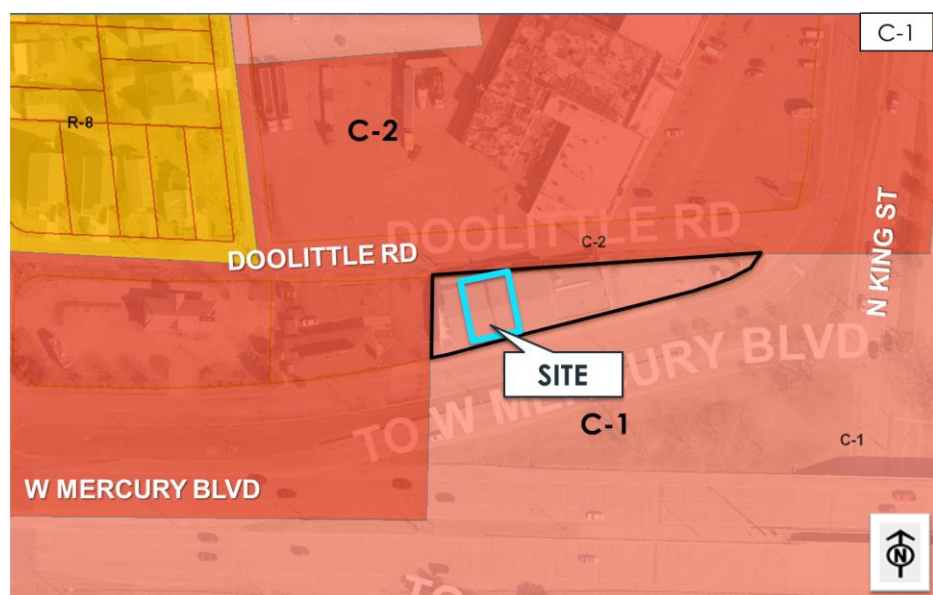
North: Limited Commercial (C-2) District; restaurant and general retail sales

South: Neighborhood Commercial (C-1) District;

East: Neighborhood Commercial (C-1) District; restaurant and general retail sales

West: Limited Commercial (C-2) District; restaurant

Surrounding Zoning Map:



*Public Policy***Hampton Community Plan**

The Hampton Community Plan (2006, as amended) recommends mixed-use for the subject property and adjacent properties to the north, south, east, 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 31: Encourage a mix of land uses that is appropriate for each district. Promote the efficient use of land and high-quality urban design.

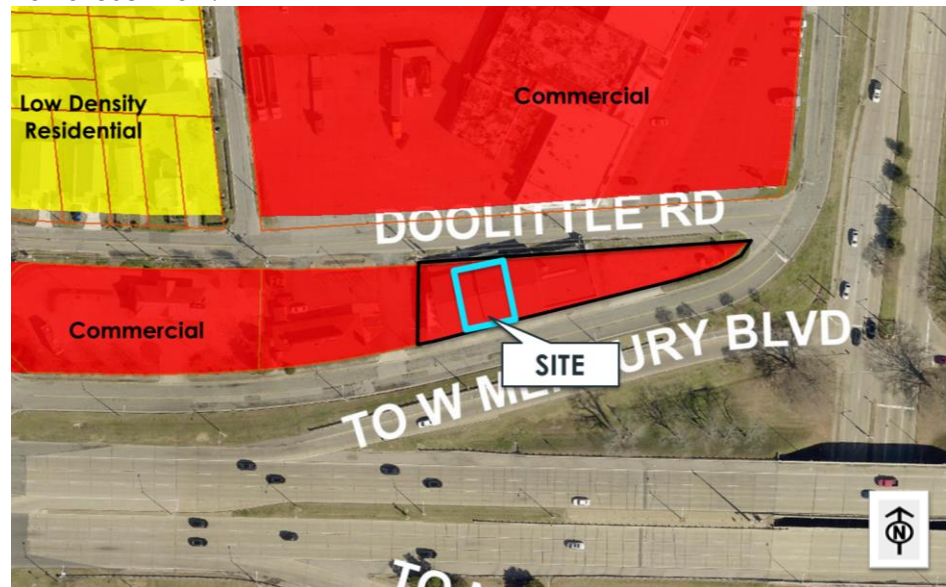
ED Policy 4: Nurture small and start-up businesses.

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 mixed-use.

Land Use Plan:

**North King Street Master Plan:**

The property is located in the North King Street Master Plan (2007, as amended) area which encourages land uses that reflect market realities and a commercial tenant mix that provides for reinvestment and future growth. The subject property is within the Two Key Intersections Initiative area, which highlights the desire for primary intersections, such as North King Street and Mercury Boulevard, be positioned to increase the intensity of commercial/mixed-uses.

<i>Traffic/Parking</i>	Staff does not anticipate that the requested hours or expanded indoor live entertainment performance area would cause a significant or negative impact to adjacent parking facilities.
<i>Community Meeting</i>	A community meeting featuring staff has not been scheduled at this time.

Analysis:

Use Permit Application No. 24-0049 is a request for a use permit for a restaurant 3 to extend the general hours of operation and to expand the indoor live entertainment performance area beyond the provisions permitted through a Zoning Administrator Permit (ZAP). The subject property is located at 20 W Mercury Boulevard (portion of LRSN: 8001841) and is currently zoned Neighborhood Commercial (C-1) District, which allows for the desired use, subject to an approved use permit.

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

The requested hours of operation and the requested hours of indoor live entertainment are 11:30 AM to 8:00 PM, Sunday through Tuesday, 11:30 AM to 11:00 PM Wednesday and Thursday, 11:30 AM to 12:30 AM on Friday, and 11:30 AM to 1:00 AM on Saturday. Additionally, the applicant is requesting to expand the area of indoor live entertainment performance to +/- 210 square feet with proposed hours of indoor live entertainment of 5:00 PM to 8:00 PM, Monday and Tuesday, 5:00 PM to 10:00 PM Wednesday and Thursday, 5:00 PM to 11:00 PM on Friday, and 12:00 PM to 11:00 PM on Saturday. Indoor live entertainment performances offered will include musicians, choirs, dance groups, comedians, and spoken word performers.

The Hampton Community Plan (2006, as amended) 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. The property is located in the North King Street Master Plan (2007, as amended) area which encourages land uses that reflect market realities and a commercial tenant mix that provides for reinvestment and future growth. The subject property is within the Two Key Intersections Initiative area, which highlights the desire for primary intersections, such as North King Street and Mercury Boulevard, be positioned to increase the intensity of commercial/mixed-uses.

On February 14, 2024, Planning staff was informed that the business linked to the application owed a considerable sum in meals taxes to the City of Hampton. These

outstanding taxes had been referred to the Treasurer's Office by the Commissioner of Revenue for collection of delinquent payments. At the February 22, 2024 Planning Commission meeting, Staff requested that no Use Permit be granted to any business or entity that is delinquent on any tax, payment, or fee owed to the City of Hampton. The Planning Commission voted to defer the Use Permit application one (1) month in order to provide time for the business to address the outstanding taxes owed to the City.

Since then, the business has paid the outstanding balance(s) owed to the City of Hampton in full. Following this update and finding that the proposal, when governed by the proposed conditions, is in keeping with the City's adopted land use policies in this area, staff is recommending approval of this Use Permit application.

If the Use Permit is to be granted, staff recommends twelve (12) 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.
- 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 the operation or management of a facility, or the passage of three (3) months without an active retail alcoholic beverage control license.

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. 24-0049 with twelve (12) conditions.