

STAFF EVALUATION

Case No: Use Permit No. 23-0283

Planning Commission Date: September 21, 2023

City Council Date: November 8, 2023

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General Information

<i>Property</i>	Peninsula Main VA, LLC
<i>Owner/Applicant</i>	
<i>Site Location</i>	1631, 1641, 1651, 1661, 1671, and 1675 Merchant Lane [portions of LSRN: 13004973]

Aerial Map:



<i>Requested Action</i>	Use Permit to allow for the conversion of existing commercial retail space into multifamily dwellings within the Limited Commercial (C-2) and Coliseum Central Overlay (O-CC) Districts.
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<i>Description of Proposal</i>	The development as described in the application includes converting 9,652 square feet of existing single story retail suites into nine (9) multifamily dwelling units: eight (8) of the units being 1-bedroom units and one unit being a 2-bedroom unit as detailed below:
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Proposed Unit Mix			
Unit(s)	Sq.Ft.	Unit Count	Total SF
Apartment 1	1,596 sq.ft.	1	1,596 sq.ft.

Apartment 2,3,4,5,6	978 sq.ft.	5	4,890 sq.ft.
Apartment 7,8	1,051 sq.ft.	2	2,102 sq.ft.
Apartment 9	1,064 sq.ft.	1	1,064sq.ft.
Totals		9	9,652 sq.ft.

All units would be directly accessed from Merchant Lane. Community amenities would be shared with the Chapman Apartment amenities, which currently include a rooftop garden terrace, gas grills, outdoor dog play area, theater room, common use resident office suites, common area conference room, bike storage room, dog wash station, and fitness center with spin room. All construction to convert the retail space into the individual apartment units would be internal, meaning no additions or exterior modifications are proposed. Similar to the retail conversion across Merchant Lane (Chapman Building), there are no planned renovations to the exterior façade.

Existing Land Use	Vacant commercial space
Zoning	Limited Commercial (C-2) and Coliseum Central Overlay (O-CC) Districts
Surrounding Land Use and Zoning	<p>North: Limited Commercial (C-2) and Coliseum Central Overlay (O-CC) Districts; multifamily dwellings</p> <p>South: Limited Commercial (C-2) commercial retail/restaurants</p> <p>East: Limited Commercial (C-2) and Coliseum Central Overlay (O-CC) Districts; commercial retail/restaurants</p> <p>West: Limited Commercial (C-2) and Coliseum Central Overlay (O-CC) Districts; commercial retail/restaurants</p>

Surrounding Zoning Map:



Public Policy

The Hampton Community Plan (2006, as amended) is adopted as the guiding policy document for the City of Hampton. The Hampton Community Plan includes the following policy recommendations pertinent to this case:

Land Use and Community Design Policies:

LU-CD Policy 3: Encourage and maintain a diverse mix of housing types and values.

LU-CD Policy 4: Evaluate land use proposals from a regional, city-wide, and neighborhood perspective.

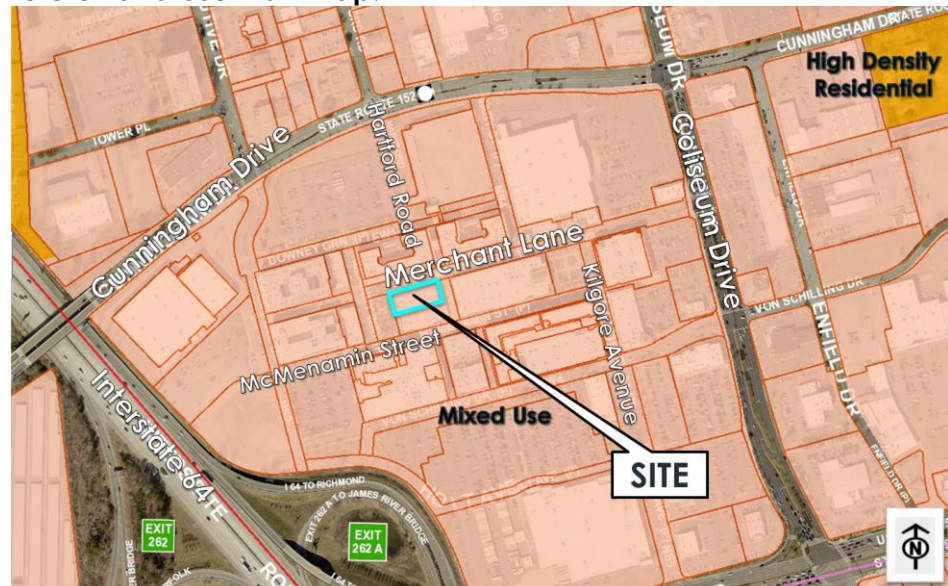
LU-CD Policy 31: Encourage a mix of land uses that is appropriate for each district. Promote the efficient use of land and high-quality urban design.

ED Policy 8: Promote Hampton as a retail destination for travelers and as the first retail choice for residents.

ED Policy 12: Focus special attention on strengthening the ability of older commercial and industrial areas to support new and expanded business activity.

Future Land Use:

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

Future Land Use Plan Map:

In addition, the Conservation Plan for The Hampton Coliseum Mall Project (2006, as amended), which is the guiding document for the redevelopment of the former Coliseum Mall into the current Peninsula Town Center recommends the following:

- Encourage residential developments integrated with commercial & office uses through higher density housing types to efficiently support urban redevelopment
- Construct separate retail buildings arranged along pedestrian-oriented streets with small parks, like traditional central business districts & downtowns.
- Incorporate office & housing spaces into retail buildings, as is often found in downtown areas, to create a mix of uses that better reflects a traditional town center.



Additionally, the Coliseum Central Master Plan (2015, as amended) includes the following policy recommendations pertinent to this case:

- The Coliseum North Initiative Area is the heart of the Coliseum Central District, and generates some of the highest commercial revenue in the City
- The properties within Coliseum North represent some of the highest potential and most underutilized properties in the District
- Concentrate retail development in the core & encourage denser development in and around identified nodes
- Develop appropriate relationships between residential, commercial, & park uses
- Residential development should be dense & upscale, with a mix of rental and for-sale properties

Traffic Impacts and Parking

There are no traffic impacts associated with this proposal. There is a current approved shared parking agreement that addresses the replacement of commercial space with nine (9) residential units.

<i>Environmental</i>	There are no environmental impacts associated with this proposal.
<i>Conditions</i>	<p>Should this use permit be approved, staff has recommended nine (9) conditions to include:</p> <ol style="list-style-type: none"> 1. Issuance of permit for multifamily dwellings at the subject property; 2. A maximum of nine (9) dwelling units; 3. Compliance with the Coliseum Central Design Standard for any subsequent additions, alterations, or renovations to site and building; 4. Management of the property; 5. Shared Amenities Agreement with the Chapman Apartments; 6. Certificate of Occupancy; 7. Compliance with Laws; 8. Revocation; and 9. Nullification <p>The full set of recommended conditions can be found in the package.</p>
<i>Community Meeting</i>	A community meeting was not held; however, the Coliseum Central Business District (CCBID) has been made aware of the project proposal and has indicated they have no issue with the project.

Analysis

Use Permit No. 23-0283 is a request by Peninsula Main VA, LLC to permit multifamily dwellings at 1631, 1641, 1651, 1661, 1671, and 1675 Merchant Lane [portions of LRSN: 13004973]. The subject site is zoned Limited Commercial (C-2) and Coliseum Central Overlay (O-CC) Districts, which permit multifamily dwellings with an approved use permit.

The proposal includes the conversion of existing vacant commercial space into nine (9) multifamily dwelling units within an existing one-story commercial building within the core of the Peninsula Town Center development. More specifically, the northern half of the building proposed to be converted faces Merchant Lane, while the southern half of the building that faces McMenamin Street would remain as commercial space. There is an existing internal service corridor that separates the commercial from the proposed residential units. To create the multifamily units, the applicant proposes, renovating the existing interior retail space into apartment units individually accessed directly from Merchant Lane. There are no planned renovations to the exterior facade. This means the building would continue to have at grade store front style doors and windows while containing residential units.

The proposed residential units would vary in size from 978 to 1,596 square feet, with eight (8) of the units being 1-bedroom units and one unit being a 2-bedroom unit. Community amenities would be shared with the Chapman Apartment amenities, which currently include a rooftop garden terrace, gas grills, outdoor dog play area, theater room,

common use resident office suites, common area conference room, bike storage room, dog wash station, and fitness center with spin room.

The Hampton Community Plan (2006, as amended) designates the subject property, and surrounding properties, as mixed-use. The Plan also speaks to encouraging a mix of land uses that is appropriate for each district [LU-CD Policy 31]. In addition, the Plan recommends strengthening the ability of older commercial area to support new and expanded business activity [ED Policy 12].

The Conservation Plan for The Hampton Coliseum Mall Project (2006, as amended) was developed as the guiding document for the redevelopment of the former Coliseum Mall into the current Peninsula Town Center (PTC), a mixed used town center concept. With its prominent and high visibility location, the Coliseum Mall was considered to be the economic engine for the City and the Hampton Roads region. At the time, the Mall had experienced a significant decline in vitality and was in need of fundamental change to incorporate a sustainable mix of uses through redevelopment. This Plan provides guidance that encourages integrated residential and commercial/office development, with separate retail buildings arranged along pedestrian-oriented streets and small parks.

PTC is also located within the Coliseum North Initiative area of the Coliseum Central Master Plan (2015, as amended). Recommendations from the Master Plan include building appropriate relationships between residential and commercial uses and the appropriateness of how land uses and development patterns are organized with respect to scale and compatibility. In addition, retail development should be concentrated within the core with more dense development in and around identified nodes. Specific master plan recommendations for PTC include infilling residential development around the north side of the Chapman Apartments, along Downey Green, wrapping the parking structure, and within the surface parking area between Cunningham Drive, Hartford Road, and Downey Green. The existing commercial retail is shown to remain in place with additional outparcel development along Coliseum Drive and Mercury Boulevard.

These plans all speak to the importance of the appropriateness of mixed land uses and the proper arrangement of such uses to create and sustain a viable and vibrant mixed-use center, including the retail being the core of the center. Commercial retail, which includes personal services and restaurants, should be in separate buildings, positioned in the core of a town center, and supported by other residential, office, and entertainment uses in and around this node. Typical mixed-use buildings are “vertical mixed-use” developments, meaning retail space is located on the ground floor with other land use (e.g., residential, office, etc.) on the upper floors. In urban settings, including town center concepts, it is standard design practice to locate residential land uses on upper floors away from street activity and noise in order to provide privacy. When uses are mixed within a single building, the more intensive uses should be located on the ground floor at the street level with less intensive uses, (e.g., office, residential) located above on upper floors. Regarding fully residential buildings with units on the ground floor, it is typical for the finished floor to be elevated above the street level to give units separation between the street and the residences.

Peninsula Town Center (PTC) is an urban mixed-use lifestyle center that has a mix of multifamily residential, general office, general retail, restaurants, and entertainment uses. In the original design and execution of PTC, single story commercial was located in the core of the center, surrounded by mixed-use buildings that consisted of residential or

office land uses on the upper floors with commercial retail and restaurants located on the ground floor; the mix of uses was separated by floors. For example, the Chapman Apartment building originally included apartment units on the 2nd, 3rd, and 4th floors with retail space on the 1st floor; the Claiborne Building includes retail and restaurant space on the ground floor with office space on the 2nd and 3rd floors, and the Evo Entertainment building includes retail and restaurant space on the ground floor, with entertainment and apartment units on the 2nd and 3rd floors and the access to these units is completely separated from the entertainment access. This proposal would convert existing retail space, which is at the street level, into individual residential units with direct ingress/egress to the street sidewalk. Such storefront conversions into residential keeps the units at the street level, adjacent to the street activity with reduced privacy. For this reason, the design standards for multifamily dwellings in Phoebus and Downtown include elevating the finished floor for residences located on the ground floor of a building. Although the applicant has previously converted retail space within the ground floor of the Chapman Building across Merchant Lane from this proposal, that conversion preceded the zoning ordinance amendments that require a use permit for multifamily dwelling units. As such, that conversion was allowed by-right and not subject to a use permit and the land use and policy considerations that go along with a use permit application.

Based on the mixed-use design principles from the City's policies, staff is also concerned with the erosion of leasable retail space within Peninsula Town Center (PTC). Since 2022, PTC has converted approximately 73,000 square feet of non-residential space into residential units within the commercial core. As of today, that represents a 42% loss of potential retail space. The proposed 9,652 square foot conversion would be an additional 6% loss of retail space for a total of 48% since 2022. Change is inevitable and as PTC responds to such change, staff believes it is pertinent to strengthen the center's ability to support new and expanded business activity, not replace it with residential units. Staff supports the increase of residential units within PTC, but that increased residential density should occur as infill in and around PTC, per the Plan recommendations, not at the expense of the commercial core.

Residential units have been added to PTC since the initial provision of residential units through the Chapman Apartments when the center opened in 2010. In 2017, unfinished portions of the 2nd and 3rd floors of the Evo Entertainment building were built out to accommodate 23 condo-style apartments. Tenants of Building G include Evo Entertainment and apartment units on the 2nd and 3rd floors and retail space on the 1st floor of all sides of the building. In 2020, 169 units were added to the center within a new 5-story building, known as Axis Apartments, as part of the former Macy's Department store redevelopment plan. The addition of these residential units was consistent with the plan design principles of adding residential to PTC while maintaining the commercial core. However, in 2022, the 1st floor retail space of the Chapman Apartments building (north side of Merchant Lane) was converted from retail to 52 residential apartment units which resulted in the loss of 73,000 square feet of retail space. The conversion of the retail space was not consistent with the plan recommendations. All of these projects to add residential units to PTC, including the conversion of 1st floor retail space, pre-dated the zoning ordinance amendments that implemented the use permit requirement for apartments in Coliseum Central, making the apartments were permitted by-right at the time.

Within the PTC environment, staff has concerns with locating residential units on the ground floor and mixing commercial and residential uses on the same floor of a building. While the adaptation of vacant or underused commercial property into apartments is an option for filling vacant storefronts and creating more housing, staff is concerned with the loss of leasable commercial retail square footage within the center. Additional loss of leasable commercial space further diminishes the offering of a variety of retail and services. Further, the loss of available retail space is more significant than the very limited number of residential units gained.

In summary, while staff supports adding residential density to the Coliseum Central District and more specifically adding residential units to Peninsula Town Center, the proposal to convert existing commercial space into residential units is not recommended. As stated earlier in this report, this proposal is not consistent with recommendations and design principles within the Community Plan, the Conservation Plan and the Coliseum Central Master Plan. Converting the commercial space into residential units is not in the correct location for residential, nor the correct form and design for the mix of uses. From a land use and design perspective, staff is concerned with mixing commercial and residential land use within a single-story building. Staff is also concerned with the potential safety, privacy and noise impacts of locating individual residential units on the ground floor with no separation from the activity at the street level. From an economic development perspective, staff is concerned with loss of retail square footage within the town center and potential erosion of the town center's commercial core. Further reduction of leasable commercial space could be detrimental to the future of PTC's mixed-use character and to the City's primary central business district. Staff recommends maintaining PTC's original character by preserving the town center's commercial core and by supporting further addition of residential infill within single use residential buildings and appropriate mixed-use buildings in and around the commercial core. As this proposal does not meet this goal, staff recommends denial of this use permit proposal to convert existing commercial space into residential units.

On October 11, 2023, Council deferred action on this item to the November 8th meeting in order to allow the applicant time to address Council's concern with the facade of the subject building appearing as vacant storefronts once converted to residential units. The applicant submitted additional materials in the form of illustrations to reflect how the existing facade could be renovated to the address Council's concern. Elements of the applicant's proposed renovation include:

- pressure washing and patching all surfaces;
- 36-inch-high wood slat screen at base of windows;
- frosting existing doors;
- replacing existing building light fixtures with more residential light fixtures;
- replacing awnings with wooden trellis

Although good suggestions, some of these design elements do not meet the Coliseum Central Design Standards, such as the wooden trellis and some elements are not addressed within the standards, such as the frosted glass doors or light fixtures. Based on these proposed design elements, staff has revised the recommended conditions to ensure approvable renovations within the context of the design standards and that would address Council's concern. Regardless of the revised conditions, staff continues to recommend that the use permit application be denied for the following reasons:

- proposal is inconsistent with the City's plan and policies;

- proposal is in an inappropriate location (i.e., commercial core) and form (i.e., single-story building);
- concerns with safety, privacy, and noise as there remains no separation from activity at the street level;
- loss of leasable retail square footage and erosion of the commercial base within the core.

Should this use permit be granted, staff has identified nine (9) recommended conditions based upon the proposed use's operational and land use characteristics as highlighted below:

- Issuance of permit
- Maximum of nine (9) apartment units
- Design standards
- Property management
- Provision of an agreement to ensure shared community amenities
- Certificate of occupancy
- Compliance with laws
- Revocation
- Nullification

Staff recommends **DENIAL** of Use Permit Application No. 23-0283. If approved, staff recommends approval with nine (9) conditions.