



City of Harrisonburg, Virginia

Department of Planning & Community Development

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Building Inspections
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July 1, 2019

TO THE MEMBERS OF CITY COUNCIL CITY OF HARRISONBURG, VIRGINIA

SUBJECT: Public hearing to consider a request from Craig Goeller, Jr. for a special use permit per Section 10-3-34(7) of the Zoning Ordinance to allow for a short-term rental within the R-1, Single Family Residential District. The +/- 12,000 sq. ft. property is addressed as 150 East Fairview Avenue and is identified as tax map parcel 18-N-2.

EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: June 12, 2019

Vice Chair Colman read the request and asked staff to review.

Ms. Dang said that the Comprehensive Plan designates this area as Low Density Residential. These areas consist of single-family detached dwellings in and around well-established neighborhoods with a target density of around 4 dwelling units per acre. The low density residential areas are designed to maintain the character of existing neighborhoods. It should be understood that established neighborhoods in this designation could already be above 4 dwelling units per acre.

The following land uses are located on and adjacent to the property:

- Site: Single-family detached dwelling, zoned R-1
- North: Single-family detached dwelling, zoned R-1
- East: Single-family detached dwelling, zoned R-1
- South: Single-family detached dwelling, zoned R-1
- West: Single-family detached dwelling, zoned R-1

The applicant is requesting approval of a short-term rental (STR) operation at 150 East Fairview Avenue, which is located approximately 600-ft. from Port Republic Road, approximately 700-ft. from South Main Street, and approximately 800-ft. from James Madison University. The applicant desires to rent for STR three accommodation spaces in their home that could accommodate a total of six individuals.

("Accommodation spaces" means any room offered for sleeping. This would not include living spaces or rooms where guests would not be sleeping.) The applicant describes that the property is their primary residence and that they plan to be present during the lodging period.

This neighborhood has brown zone parking and a parking pass is required for vehicles parking on-street at all times. Section 10-3-25(28) of the Zoning Ordinance (ZO) requires STRs to "provide one parking space for each guest room or accommodation space, or as may be more or less restrictive as conditioned by a special use permit." With a request to rent for STR three accommodation spaces, the property should provide three off-street parking spaces. It should be acknowledged that in addition to the off-street parking spaces required for the STR, the ZO requires off-street parking spaces for the non-transient

dwelling unit. The property has a driveway that can accommodate up to four vehicles. The applicant explained to staff that during lodging periods STR guests would park in the driveway, and the applicant would park on the street in front of their home. Regardless, staff believes the applicant should be provided the flexibility to meet the off-street parking requirements by allowing customers to park on the existing driveway or other area of the property without delineating parking spaces.

If the request is approved, staff recommends the following conditions:

1. The site shall be the operator's primary residence.
2. An operator shall be present during the lodging period.
3. All STR accommodations shall be within the principal structure.
4. There shall be no more than three STR guest rooms or accommodation spaces.
5. The number of STR guests at one time shall be limited to six.
6. Prior to operation, the operator shall submit to City staff a completed Short-Term Rental Pre-Operation Form. Furthermore, the operator shall maintain compliance with the Pre-Operation Form when short-term rental guests are present.
7. Minimum off-street parking spaces do not need to be delineated and can be accommodated utilizing the driveway or other areas on the property.
8. If in the opinion of Planning Commission or City Council, the short-term rental becomes a nuisance, the special use permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

Condition #1 helps to prevent the City's housing stock from being purchased by investors and then being reallocated from homeownership and long-term rentals to STRs. Condition #2 protects neighbors by ensuring that there is on-site accountability by the STR operators. Condition #3 prevents the ability for the STR operator to convert or construct an accessory building into space for STR that was not previously vetted for impacts to the surrounding properties. If the applicant later wishes to create living spaces within an accessory building for STR, they must return to Planning Commission (PC) and City Council (CC) with a new SUP request. Condition #4 limits the total number of guest rooms and accommodation spaces on the entire property to three. Condition #5 limits the total number of STR guests to not more than six. Condition #6 requires that prior to beginning operations that the operator shall submit to City staff a completed Short-Term Rental Pre-Operation Form and shall maintain compliance with the form when STR guests are present. Condition #7 provides flexibility for the property owner to maintain the residential appearance of their property by not requiring them to create and delineate additional off-street parking spaces. Condition #8 allows PC and CC to recall the SUP for further review if the STR becomes a nuisance.

It should be acknowledged that while the applicant has explained his plans for using this property, the SUP is not restricted to the applicant or operator and transfers to future property owners. If the applicant sold the property, future property owners could operate a STR so long as they meet the conditions for the SUP. How the property could be used by any future property owner should be considered when deciding on SUP conditions.

Given the nature of the request, location of the property, and staff's suggested conditions, staff believes that the proposed use is consistent with good zoning practice and will have no more adverse effect on the health, safety or comfort of persons living or working in the area and will be no more injurious, economically or otherwise, to property or improvements in the surrounding area than would any use generally permitted within the district.

Staff recommends approval of the special use permit request with the suggested conditions.

Vice Chair Colman asked if there are any questions for staff. Hearing none, he opened the public hearing and invited the applicant to speak to the request.

Craig Goeller, Jr., 150 East Fairview Avenue, came forward to speak to the request.

Commissioner Finnegan asked if Mr. Goeller has spoken with his neighbors regarding the request.

Mr. Goeller said that he has.

Vice Chair Colman asked if the applicant had any concerns with the conditions presented.

Mr. Goeller said he does not. He accepts condition two.

Commissioner Whitten asked if the applicant has guest parking passes.

Mr. Goeller said that he does, however he has stickers on his own vehicles and intends to move those to the street when he has guests.

Panayotis Giannakaouros, city resident, came forward to say that this treatment of condition two strikes me as having a peculiar logic. If it is optional, if people can opt in or out of it, it should be removed. Otherwise, people may feel pressured to accept it in the hopes that their SUP request will be approved. It creates an expectation that is not grounded on an actual need. Let people have it without condition two.

Vice Chair Colman asked if there was anyone else wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Commissioner Ford-Byrd moved to approve the SUP with conditions, as presented.

Commissioner Finnegan seconded the motion.

All members voted in favor of the SUP with conditions, as presented. The recommendation will move forward to City Council on July 9, 2019.

Respectfully submitted,

Alison Banks

Alison Banks
Senior Planner