



City of Harrisonburg, Virginia

Department of Planning & Community Development

409 South Main Street
Harrisonburg, Virginia 22801
(540) 432-7700 / FAX (540) 432-7777
www.harrisonburgva.gov/community-development

Building Inspections
Engineering
Planning & Zoning

July 1, 2019

TO THE MEMBERS OF CITY COUNCIL CITY OF HARRISONBURG, VIRGINIA

SUBJECT: Public hearing to consider a request from Becky Bartells for a special use permit per Section 10-3-40(8) of the Zoning Ordinance to allow for a short-term rental within the R-2, Residential District. The +/- 4,740 sq. ft. property is addressed as 406 Collicello Street and is identified as tax map parcel 34-C-6.

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. Banks said that the Comprehensive Plan designates this area as Neighborhood Residential. These areas are typically older residential neighborhoods, which contain a mixture of densities and a mixture of housing types, but should have more single-family detached homes than other types of housing. This type of land use highlights those neighborhoods in which existing conditions dictate the need for careful consideration of the types and densities of future residential development. Infill development and redevelopment must be designed so as to be compatible with the desired character of the neighborhood.

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

Site: Single-family detached dwelling, zoned R-2

North: Single-family detached dwelling, zoned R-2

East: Non-conforming, multi-family dwelling, zoned M-1

South: Across West Gay Street, non-conforming, multi-family dwelling, zoned R-2

West: Across Collicello Street, single-family detached dwelling, zoned R-2

The applicant is requesting approval of a short-term rental (STR) operation at 406 Collicello Street, which is located on the northeast corner at the intersection of Collicello Street and West Gay Street. The applicant desires to rent for STR throughout the year one accommodation space in their home that could accommodate two persons and to rent for STR for one week in May every year the entire single-family dwelling, which has three accommodation spaces, to a family of up to five persons. ("Accommodation space" 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 will be present during the lodging period when only the one accommodation space is rented for STR. The applicant would not be present during the one week in May when the entire single-family dwelling is rented for STR. The applicant has explained to staff that they plan to remain in the City, close to downtown, during the one week in May.

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 during the one week in May, 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 units.

The subject property is 4,737 square feet in size and has no accommodations for off-street parking. On-street parking is restricted along West Gay Street and within twenty-feet of the corner along Collicello Street. The applicant states in their letter that STR guests would park their vehicle on the street in front of the house. Collicello Street is not restricted by permit parking and given the suggested conditions that limits STR to one family at a time, staff is comfortable conditioning that the minimum off-street parking for the STR would not be required.

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, except for one week in May of each year.
3. All STR accommodations shall be within the principal structure.
4. There shall be no more than one STR guest room or accommodation space, except for one week in May when the operator may rent the entire home with up to three accommodation spaces.
5. The number of STR guests at one time shall be limited to two, except during one week in May when the operator may rent the entire house to a family of up to five persons.
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. The STR has no minimum off-street parking requirements.
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 the neighbors by ensuring that there is on-site accountability with operators being present during the lodging period. Staff does not believe the one week in May, where the operator will not be present during the lodging period, would cause a disruption to this neighborhood. Condition #3 prevents the ability for the STR operator to convert or construct an accessory building into space for a 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 one, except for one week in May when the entire house could be rented with up to three accommodation spaces. Condition #5 limits the total number of guests at one time to two, except for one week in May when the entire house could be rented to a family of not more than five persons. 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. The form includes a checklist to guide STR operators through a self-inspection of guest rooms and accommodation spaces and means of egress. Condition #7 provides flexibility for the property owner to maintain the residential appearance of the property by not requiring them to create 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 their plans for using this property, the SUP is not restricted to the applicant or operator and transfers to future property owners. If the applicant were to sell the property, then 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.

As noted above, the property is located at the intersection of Collicello Street and West Gay Street and is within close proximity to the downtown area. This segment of West Gay Street is an arterial street and receives a high volume of traffic. It is clear that this section of this residential neighborhood experiences pedestrian and vehicular traffic that is not generated from the residents of the street or their relatives and friends. Staff believes that from a traffic perspective, allowing a STR at this location would have very limited impact. Given the nature of the request, location of the property within the neighborhood, 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 any questions for staff.

Commissioner Finnegan said the request is very specific, and it will transfer to the next property owner, with the stipulation about May.

Ms. Banks said the applicant wanted to ensure that they would be able to have guests at some point in May for graduations. From an enforcement standpoint, a week would be defined as seven days. As written, if the graduation weekend spanned the end of April, the rental would not be able to begin until May. If a new owner wished to amend the condition, they would have to restart the SUP process.

Commissioner Finnegan said that the Planning Commission could amend the condition.

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

Becky Bartells, 406 Collicello Street, came forward to speak to the request. We could say graduation weekend. I simply want to be able to rent out my space for those few days. I would be open to talking about condition two. I do plan to be present. It is my home. I can deduce who I trust to stay alone or not, based on the safety of my house and my belongings. That said, I am happy to be there. As the very first applicant stated, that her parents may choose to trust someone to stay in their home, after spending some time with them, if I have someone staying for three days and they are solid, I might be willing to leave my house in their care. That seems reasonable to me. I would be happy to make it less restrictive. I will do whatever I need to do.

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 Finks said he does share the concern that taking condition two off of some requests and not others might not be equitable.

Commissioner Ford-Byrd said that she shares Commissioner Finks' concern. I am trying to find a way to be consistent in my thinking. As we discussed during the tours, we are also learning as things come up that have not been considered.

Commissioner Finks said if we were to consider removing condition two, would that require amending condition five?

Ms. Dang said it would not. Condition five is only related to the number people who may stay. I would encourage you to consider the consistency in how you apply the conditions. Perhaps regardless what the applicants are telling you, if they want to self-impose something that is on them. Be consistent in your thinking on why it is important to recommend the condition.

Commissioner Whitten said if we allow an applicant to strike it, everyone is going to strike. They do not want to say they have to be there if they do not.

Commissioner Finks said that he does not see the need for condition two. I am not on board with having to apply condition two on anyone.

Commissioner Finnegan said that he agrees with Commissioner Finks on that item.

Vice Chair Colman said that he agreed, as well.

Commissioner Finks said if that is the consensus, then why do we not strike condition two on a consistent basis, except when it is not operator owned?

Vice Chair Colman said that we need to consider each individually. We need to maintain consistency of thought, but not necessarily strike it across the board. Each request is an independent SUP.

Ms. Dang said if you strike condition two, it does not address the concern of “operator owned” because if the applicant were to sell the property, that person would rent it to a tenant. I recommend not to strike it if you want to achieve something differently. The suggested language is: “If the operator is not the property owner, then the operator shall be present during the lodging period.”

Commissioner Romero said we are getting too caught up with the specificity of this particular item, as if we were going to be monitoring in such a way that we would be able to see what everyone is doing. Whether someone says a week or other time period, I am not so concerned with number two. At the end of the day, the monitoring piece is something that I am still unsure as to how we are going to do it. I think that will be the key. If there is an issue, we will know about it. Otherwise, we will not know if they are following the conditions. What I am saying is that the one week in May condition is trivial. It should not make a difference.

Commissioner Whitten said that we would not want to leave the number of people open. Zoning is about being specific for a reason because there has to be a bar. There is always going to be someone who is not going to play with the rules.

Vice Chair Colman said he does not see why limit the rental. If it is the primary residence, then should have a whole house rental whenever they want.

Commissioner Finks said the ability, or not, of staff being able to enforce whether they are only renting it in May only reinforces the idea that we should amend it to if an operator is not the owner then the operator shall be present during the lodging period. That would strike the need for staff to check if they are renting it only one week in May.

Vice Chair Colman said the different opinions are welcome and need to be expressed for the benefit of the public and City Council. We are here to recommend these requests.

Commissioner Finnegan moved to approve the SUP with the amendment on condition two, with the other conditions as presented.

Commissioner Finks seconded the motion.

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

Respectfully submitted,

Alison Banks

Alison Banks
Senior Planner