



# CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

409 SOUTH MAIN STREET, HARRISONBURG, VA 22801

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To: Ande Banks, Interim City Manager  
From: Adam Fletcher, Director – Department of Community Development and Harrisonburg Planning Commission  
Date: February 8, 2022 (Regular Meeting)  
Re: Special Use Permit – 217 Franklin Street

### **Summary:**

Consider a request from Heather and Bronson Griscom for a special use permit per Section 10-3-180(6) of the Zoning Ordinance to allow for a short-term rental within the UR, Urban Residential District. The +/- 14,268 sq. ft. property is addressed as 217 Franklin Street and is identified as tax map parcel 26-L-2.

City staff recommended approval of the request with conditions. Planning Commission recommended denial of the request.

### **Background:**

The Comprehensive Plan designates this site 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 UR  
North: Across Franklin Street, single-family dwellings, zoned UR  
East: Single-family dwelling, zoned UR  
South: Across Ash Tree Lane, single-family dwellings, zoned UR  
West: Single-family dwelling, zoned UR

In June 1980, the subject property, then zoned R-2, Residential District, received a setback and lot density variance from the Board of Zoning Appeals (BZA) to allow the conversion of the second floor of an existing detached accessory building/garage into an accessory dwelling use. The BZA conditioned that the accessory dwelling use was restricted to that of a single-family dwelling classification. It is staff's understanding that the accessory dwelling use has been rented out as a long-term rental on and off throughout the years. (Of note, the accessory dwelling use is not a non-conforming use, it is a use approved by the BZA; therefore, the accessory dwelling use can be re-established at any time.)

**Key Issues:**

The applicants are requesting approval of a short-term rental (STR) operation at 217 Franklin Street and describe the property as their primary residence. The property is located in the Old Town area of the City, along the southern side of Franklin Street, about 75-feet east of the intersection of Franklin Street and South Mason Street.

As stated in the applicant’s letter, they desire to use the second floor space above a detached garage on the property as a short-term rental (STR) and describe the space as a one-room studio apartment with a bathroom. The applicant’s state that the space would accommodate a total of four individuals. While the proposed operation is similar in scale to a homestay, the requested operation is not classified as a homestay because the space in which the property owners want to operate the transient use is not within the principal building.

The applicants have been informed that if the SUP is approved, they will need to work with the Building Code Division to ensure that all building code requirements are met for the space above the garage. This may require a building permit or other trade permits be issued for the space, inspected and approved prior to its use as a STR.

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 one accommodation space, the property should provide one off-street parking space. In addition to the off-street parking space required for the STR, the ZO requires one off-street parking space for the non-transient dwelling unit. Therefore, if approved, a total of two off-street parking spaces would be required. Currently, there is a paved parking space on the property, adjacent to the detached garage, which is accessed from Ash Tree Lane at the back of the property. The applicants explain that guests would park there. Also, there is a drive and parking space at the front of the property, off Franklin Street, along the eastern side of the property.

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

1. All STR accommodations shall be within the existing accessory dwelling above the detached garage described in the application.
2. There shall be no more than one STR guest room or accommodation space.
3. The number of STR guests at one time shall be limited to four.
4. 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 items identified in the Pre-Operation Form when short-term rental guests are present.
5. Minimum off-street parking spaces do not need to be delineated and can be accommodated utilizing the driveways or other areas on the property.
6. 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 prevents the ability for the STR operator to convert or construct any other accessory building on the property into space for a STR that was not previously vetted for impacts to the surrounding properties. If the applicant later wishes to create additional living spaces within an accessory building for a STR, they must return to Planning Commission (PC) and City Council (CC) with a new SUP request. Condition #2 limits the total number of guest rooms and accommodation spaces on the entire property to one. Condition #3 limits the total number of STR guests to not more

than four. Condition #4 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 items identified in the form when STR guests are present. Condition #5 provides flexibility for the property owner to maintain the residential appearance of their property by not requiring them to delineate the required off-street parking spaces. Condition #6 allows PC and CC to recall the SUP for further review if the STR becomes a nuisance.

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

Because the City has approved multiple STR SUP applications in similar locations throughout the City and with comparable operating situations, staff recommends approval of the request with the 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.

**Environmental Impact:**

N/A

**Fiscal Impact:**

N/A

**Prior Actions:**

N/A

**Alternatives:**

- (a) Approve the special use permit request as submitted;
- (b) Approve the special use permit request with suggested conditions;
- (c) Approve the special use permit with other conditions(s); or
- (d) Deny the special use permit request.

**Community Engagement:**

As required, the request was published in the local newspaper twice advertising for Planning Commission’s public hearing and twice advertising for City Council’s public hearing. The advertisement was published as shown below:

***Special Use Permit – 217 Franklin Street (To Allow Short-Term Rental in the UR District)***

Public hearing to consider a request from Heather and Bronson Griscom for a special use permit per Section 10-3-180(6) of the Zoning Ordinance to allow for a short-term rental within the UR, Urban Residential District. A short-term rental is defined in the Zoning Ordinance as “[t]he provision of a dwelling unit, a guest room or accommodation space within the dwelling unit, or any accessory building that is suitable or intended for transient occupancy for dwelling, sleeping, or lodging purposes and is offered in exchange for a charge for the occupancy.” Short-term rentals are further regulated by Article

DD of the Zoning Ordinance. The +/- 14,268 sq. ft. property is addressed as 217 Franklin Street and is identified as tax map parcel 26-L-2.

In addition, adjoining property owners were notified of the public hearing; the property was posted with signage advertising the request; and a notice was provided on the City's website at <https://www.harrisonburgva.gov/public-hearings>.

**Recommendation:**

Staff recommends alternative (b) approval of the special use permit request with suggested conditions.

**Attachments:**

1. Extract from Planning Commission
2. Site map
3. Application and supporting documents
4. Public input as of January 27, 2022

**Review:**

Planning Commission recommended (4-3) denial of the special use permit request.