



# CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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April 1, 2024

**TO THE MEMBERS OF CITY COUNCIL  
CITY OF HARRISONBURG, VIRGINIA**

**SUBJECT: *Consider a request from Joshua K. Defnall, Sarah T. Defnall, Jimmy E. Defnall, and Lynne W. Defnall for a special use permit to allow a short-term rental at as 1088 and 1094 College Avenue***

**EXTRACT FROM THE DRAFT MINUTES OF HARRISONBURG PLANNING  
COMMISSION MEETING HELD ON: March 13, 2024**

Chair Finnegan read the request and asked staff to review.

Ms. Rupkey said the applicant is requesting a special use permit (SUP) per Section 10-3-40 (8) of the Zoning Ordinance (ZO) to allow for a short-term rental (STR) in the R-2, Residential District. The +/- 13,316-square foot property is addressed as 1088 and 1094 College Avenue and is identified as tax map parcel 48-D-2. The request is to have three accommodation spaces within the accessory structure (addressed as 1094 College Avenue) and to have no more than six people at the STR at one time.

The applicant's letter states that in the future they would like to have the option to utilize 1094 College Avenue as a long-term rental unit. Currently, while the property's size would allow a duplex structure (two units within one principal building), the R-2 district does not allow two single-family detached dwellings on the same lot. The applicant hopes the forthcoming updated ZO in some way will allow the accessory building to be converted to a principal dwelling. (NOTE: The applicant's letter incorrectly states that the setback for an accessory structure is 10-feet, however, accessory structures are permitted to be five feet from side and rear property lines).

While the applicant has explained their operation plans for the STR, the SUP is not restricted to only the current applicant/operator. All SUPs transfer to future property owners; thus, if the applicant sells the property, any future property owner could operate a STR so long as they meet the requirements of the ZO and any conditions placed on the SUP. How the STR could be operated by any future property owner should be considered and evaluated as part of this request.

As defined in the ZO, a STR is "[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.” STRs are further regulated by Article DD of the Zoning Ordinance. Among other things, a STR differs from the by right homestay use by allowing operators to exceed 90 lodging nights per year, in allowing more than four guests at one time, and in having the ability to use an accessory building as a transient lodging structure.

The ZO requires one off-street parking space for the existing single family detached dwelling. If the STR is approved as requested, the site must have three more off-street parking spaces—one for each approved accommodation space. Unless City Council allows for a reduction in off-street parking spaces as a condition of the SUP, the site must ultimately accommodate four off-street parking spaces—one for the dwelling and three for the STR.

#### *Land Use*

The Comprehensive Plan designates this site as Neighborhood Residential and states:

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.

#### *Transportation and Traffic*

A traffic impact analysis (TIA) was not required for the SUP request.

#### *Public Water and Sanitary Sewer*

Staff has no concerns regarding water and sanitary sewer service availability for the proposed use.

#### *Housing Study*

The City’s Comprehensive Housing Assessment and Market Study (Housing Study) places the subject site within Market Type A. Among other things, this Market Type is characterized by high population growth. The study notes that Market Type A has “above median overall access to amenities such as public transit within walking distance, full-service grocery stores, and multiple parks and recreation facilities.” The study also notes that “policies that are appropriate to Market type A areas include an emphasis on increasing density through zoning changes, infill development and housing rehabilitation to maintain the quality of housing.”

The accessory structure in which the STR use is proposed cannot be used as a dwelling under current zoning laws, and therefore, the proposed STR use would not be removing a dwelling unit from the housing market.

#### *Recommendation*

The City has approved many STR SUP applications throughout the City and after review of this request, staff believes this request shares similar characteristics to other applications that have already received approval, and thus staff recommends approval of the request, but only with the following conditions:

1. All STR accommodations shall be within the detached structure described in the application.
2. There shall be no more than three STR guest rooms or accommodation spaces.
3. The number of STR guests at one time shall be limited to six.
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 driveway 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.

Chair Finnegan said I just want to make sure that I am understanding staff's recommendation correctly, this line "the R-2 district does not allow two single family detached dwellings on the same lot", if R-2 did allow, would staff recommend against? Maybe I can ask my question in a different way. It says the R-2 district does not allow two single family detached dwellings on the same lot, if R-2 did allow that would staff's recommendation be any different?

Ms. Dang said let me rephrase and perhaps ask another way. If there was a property with two dwelling units on the property, whether it is a duplex or some other zoning district that would allow two detached structures and we recommend approval or not, I would say probably not.

Mr. Fletcher said evidence that history shows that we have not supported those, however, every special use permit is site specific, it is very circumstantial based upon the details of the site. What Ms. Dang is saying is that evidence shows history that we have not traditionally supported those.

Vice Chair Byrd said I thought our thinking was if there were two separate dwelling units, then we wanted those to be housed by residents.

Chair Finnegan said they are saying R-2 does not allow two separate dwelling units.

Mr. Fletcher said two separate structures as dwelling units.

Chair Finnegan said I guess my question is more of a hypothetical, if R-2 were changed to allow that maybe this could be...

Vice Chair Byrd said I remember someone appeared before us who had two dwelling units and they wanted a short-term rental and we were against it because the idea that we are trying to encourage was that dwelling units are resided in by residents. You having extra space to accommodate guests, that is for short-term rental use.

Chair Finnegan said I understand, what I am talking about is if the rules change in the future, two dwelling units are allowed on R-2, this could be a dwelling unit.

Vice Chair Byrd said I still hold to the same position that it [inaudible].

Chair Finnegan said it is not a dwelling unit and cannot be under R-2.

Chair Finnegan asked if there were any more questions for staff. Hearing none, he opened the public hearing and invited the applicant or applicant's representative to speak to their request.

Josh Defnall, applicant, came forward to speak to the request. He said it is interesting that you bring that up because there was a lot of conversation around that. Three years ago when we purchased the property we were trying to explore different avenues of what we could do with it. I would very much like to have a long-term tenant in the back but I was told that I could not put a full kitchen only a kitchenette and that I was pretty much limited to short-term rental options due to current zoning regulations. A lot of that had to do with setback requirements from 1088 [College Avenue], the building in the back. We did pay for a survey and we were able to find those property markers and the building is within one foot of the property line at one corner. We have built those out for two-hour fire walls. In the future I do hope that at some point we can put long term housing in the back, but as of right now it seems that we are pretty much limited to a short-term rental situation. That is what we have applied for as far as staff recommendations. I think my letter pretty much aligns with six people, we have plenty of off-street parking. I think so many folks were out yesterday you can kind of see that in the back. Any questions?

Chair Finnegan said sorry if that startled you. We do walk around people's property, wherever there is a sign.

Chair Finnegan asked if there were any questions for the applicant. Hearing none, he asked if there was anyone in the room or on the phone wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Vice Chair Byrd said I like people to take advantage of any existing space that they have. If they do not have a large enough family to fit in it and they have this extra space, I see no issue with having short-term rental. Visiting the site, I feel it could accommodate a guest and their vehicles, if necessary, without being a nuisance to the neighborhood. I would be in favor of approval and will make a motion to approve the special use permit request with suggested conditions from staff.

Commissioner Baugh seconded the motion.

Chair Finnegan said I would add that I agree with the applicant. It would be nice if this could be a dwelling unit for a person year-round. As we all know, there is a housing shortage and it is currently not allowed. It feels like the next best use for this. I would be in support of this.

Chair Finnegan called for a roll call vote.

Commissioner Baugh	Aye
Vice Chair Byrd	Aye
Commissioner Washington	Aye

Chair Finnegan

Aye

The motion to recommend approval of the special use permit request passed (4-0). The recommendation will move forward to City Council on April 9, 2024.