



# 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](http://www.harrisonburgva.gov/community-development)

Building Inspections  
Engineering  
Planning & Zoning

To: Ande Banks, Acting City Manager  
From: Harrisonburg Planning Commission and  
Adam Fletcher, Director - Department of Planning and Community Development  
Date: January 9, 2018  
Re: Special Use Permit (Increased Occupancy) 333 Old South High Street

### **Summary:**

Public hearing to consider a request from 4G Properties LLC for a special use permit per Section 10-3-40 (7) of the R-2, Residential District to allow occupancy of not more than four (4) persons provided one (1) off-street parking space per tenant is provided on site. The 3,700 +/- square foot property is located at 333 Old South High Street and is identified as tax map parcel 25-G-4.

### **Background:**

The Comprehensive Plan designates this area as Neighborhood Residential. This designation states that 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 existing character of the neighborhood. These are older neighborhoods, which can be characterized by large housing units on small lots.

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

**Site:** Unoccupied single-family dwelling; zoned R-2

**North:** Multiple tenant residential uses; zoned R-2

**East:** Across Old South High Street, multiple tenant residential uses; zoned R-2

**South:** Single-family, detached dwelling; zoned R-2

**West:** Across South High Street (Route 42), James Madison University athletic fields and parking lot; zoned R-2

### **Key Issues:**

The applicant is requesting a special use permit (SUP) per Section 10-3-40 (7) of the Zoning Ordinance to allow occupancy of up to four persons within a single-family detached dwelling, zoned R-2, Residential District. The property is located on the west side of Old South High Street, approximately 200-feet north from the end of the cul-de-sac, and is a through lot, with road frontage along Old South High Street, as well as along South High Street. The subject parcel is only 3,700+/- square feet in size; therefore, it is non-conforming to lot size for the R-2 zoning district, which requires 7,000 square feet of lot area for a single-family dwelling.

Currently, the R-2 zoning district permits owner-occupied single-family dwellings which may include rental of space for occupancy by not more than two persons. Nonowner-occupied single-family dwellings may include rental of space for occupancy by not more than one person. In other words, when a dwelling is nonowner-occupied, by-right, property owners can rent to a family (regardless of the

number of individuals in the family) plus one other person or they may rent to two tenants. The R-2 occupancy regulations were amended in December 1998, reducing by right occupancy in R-2 from four tenants to the same occupancy as R-1. Nonconforming occupancy may legally continue until the use is discontinued for a period of 24 consecutive months or more, after which time the occupancy must conform to the regulations of the zoning district in which it is located.

The subject property is designated as Neighborhood Residential within the Comprehensive Land Use Guide; a designation more associated with larger, older homes on smaller lots, and is often coupled with the R-2 district such as the subject property. This portion of Old South High Street is a mix of residential housing types – single-family detached dwellings, duplexes, and apartments. Most dwellings along this street are rental properties, with many of the rental units occupied by James Madison University (JMU) students. In 2005, a staff survey observed that only six of the 35 residential properties within this block of Old South High Street were owner occupied; today, staff’s review indicates only three properties are owner occupied, not including the subject parcel. Of the three owner occupied properties, one is currently vacant and for sale. Although the neighborhood is zoned R-2, given the number of students often seen in the area, it appears that many of the properties have occupancy levels that exceed the two-person limit; however, it is not known if all these properties are nonconforming or illegally occupied.

The area around West Bruce Street, Chesapeake Avenue, Martin Luther King, Jr. Way, and South High Street has changed over the last 10 – 15 years. JMU now owns the properties across South High Street and Martin Luther King, Jr. Way from this block. Recent rezonings to B-1, Central Business District along South Liberty Street, West Bruce Street, and Chesapeake Avenue, have brought the City’s “downtown” closer to this area; making it convenient for residents of Old South High Street to walk to shops and restaurants. The expansion of the B-1 district combined with the easy access to JMU facilities across Martin Luther King, Jr. Way and South High Street, have made this area desirable for JMU student housing and higher occupancies.

In February 2017, Planning Commission reviewed the same type of SUP request for 257 Old South High Street; both staff and Planning Commission recommended in favor of that request. However, the request was ultimately denied by City Council. During the Planning Commission public hearing, it was discussed whether the existing Land Use designations remain best suited for this area and if changes should be proposed during the Comprehensive Plan update. Currently, there is a proposal within the draft Comprehensive Plan to designate this area for Mixed Use, a land use designation often associated with the B-1, Central Business District, where occupancy is allowed to be up to four individuals per unit.

As part of the SUP request for increased occupancy, the applicant is required to provide one one-site parking space per tenant. The subject parcel is narrow with only 36+/- feet of lot width and the existing dwelling is situated such that there is no space available for vehicles to access the rear yard from Old South High Street or for front yard off street parking. Therefore, all parking must be accommodated within the rear yard, which is accessed from South High Street. The applicant has provided a site sketch showing where parking spaces would be designated. During staff review of the request it was discussed with the applicant that all maneuvering of vehicles shall take place on the property because of concerns with vehicles backing out onto South High Street. If approved, staff recommends the following condition:

- All vehicles shall be able to turn around on the property and cannot back out onto South High Street.

**Environmental Impact:**

N/A

**Fiscal Impact:**

N/A

**Prior Actions:**

N/A

**Alternatives:**

- (a) Approve the special use request as submitted by the applicant;
- (b) Approve the special use request with the following condition:
  - All vehicles shall be able to turn around on the property and cannot back out onto South High Street.
- (c) Approve the special use request with other conditions;
- (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 for the special use permit and twice advertising for City Council’s public hearing. The advertisement was published as shown below:

*Special Use Permit – 333 Old South High Street (10-3-40 (7), Increased Occupancy)*

Public hearing to consider a request from 4G Properties LLC for a special use permit per Section 10-3-40 (7) of the R-2, Residential District to allow occupancy of not more than four (4) persons provided one (1) off-street parking space per tenant is provided on site. The 3,700 +/- square foot property is located at 333 Old South High Street and is identified as tax map parcel 25-G-4.

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); to approve the special use request with the following condition:

- All vehicles shall be able to turn around on the property and cannot back out onto South High Street.

**Attachments:**

1. Planning Commission extract (5 pages)
2. Site maps (2 pages)
3. Application, applicant letter, and supporting documents (5 pages)

**Review:**

Planning Commission voted in favor (6-0) of alternative (b) to approve the special use request with the following condition:

- All vehicles shall be able to turn around on the property and cannot back out onto South High Street.