



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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To: Ande Banks, City Manager
From: Adam Fletcher, Director, Department of Community Development and Harrisonburg Planning Commission
Date: November 8, 2022 (Regular Meeting)
Re: Special Use Permit – 375 Broad Street (To Allow for a Short-term Rental in R-2)

Summary:

Public hearing to consider a request from Robert E. Alford II and Havilah Alford 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. 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 +/- 6,123 sq. ft. property is addressed as 375 Broad Street and is identified as tax map parcel 34-K-6.

Staff and Planning Commission recommended denial (7-0) of the special use permit request.

Background:

The Comprehensive Plan designates this site as Mixed Use. The Mixed Use designation includes both existing and proposed areas for mixed use. Mixed Use areas shown on the Land Use Guide map are intended to combine residential and non-residential uses in neighborhoods, where the different uses are finely mixed instead of separated. Mixed Use can take the form of a single building, a single parcel, a city block, or entire neighborhoods. Quality architectural design features and strategic placement of green spaces for large scale developments will ensure development compatibility of a mixed use neighborhood with the surrounding area. These areas are prime candidates for “live-work” and traditional neighborhood developments (TND). Live-work developments combine residential and commercial uses allowing people to both live and work in the same area. The scale and massing of buildings is an important consideration when developing in Mixed Use areas. Commercial uses would be expected to have an intensity equivalent to a Floor Area Ratio of at least 0.4, although the City does not measure commercial intensity in that way.

Downtown is an existing area that exhibits and is planned to continue to contain a mix of land uses. The downtown Mixed Use area often has no maximum residential density, however, development should take into consideration the services and resources that are available (such as off-street parking) and plan accordingly. Residential density in Mixed Use areas outside of downtown should be around 24 dwelling units per acre, and all types of residential units are permitted: single-family detached, single-family attached (duplexes and townhomes), and multi-family buildings. Large scale developments, which

include multi-family buildings are encouraged to include single-family detached and/or attached dwellings.

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

Site: Duplex dwelling, zoned R-2

North: Single family detached dwelling, zoned R-2

East: Across Broad Street, single family detached dwellings, zoned R-2

South: Single family detached dwelling, zoned R-2

West: Across Community Street, 7-Eleven convenience store and Fire Station #4, zoned B-1

Key Issues:

The applicant is requesting a special use permit (SUP) per Section 10-3-40 (8) to allow for a short-term rental (STR) within one unit of a duplex on a property zoned R-2, Residential District. The parcel is +/- 6,123 square feet and is addressed at 375 Broad Street on the western side of the block between East Rock Street and East Gay Street. The property contains an unsubdivided duplex with one dwelling unit on the first floor and a second dwelling unit on the second floor. The rear of the property includes existing off-street parking spaces across the width of the property off of Community Street.

As defined in the Zoning Ordinance (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 and in allowing more than four guests at one time.

The applicant is the property owner, who noted that their son will reside in the upstairs unit with it being his principal residence, where he will be the operator of the STR located on the first floor. Since the operator will not be the property owner, the operator must be present at the property during the lodging period. As explained in the applicant’s submitted letter they will have three accommodation spaces with plans to allow up to six guests at one time.

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.

With regard to off-street parking matters, the ZO requires one off-street parking space for each dwelling unit and, unless conditioned otherwise, one parking space for each accommodation space of a STR. This means that five parking spaces would be needed to meet the requirements of the ZO—one for each unit of the duplex and one each for the three accommodation spaces of the STR. The ZO does not allow for a reduction in parking spaces for a duplex on this parcel, but it does allow City Council to approve the reduction of off-street spaces needed for a STR. The property owner noted that they believe the existing parking area at the rear of the parcel is large enough for about four vehicles. The width of the parcel, however, appears to be about 45 to 46 feet in width, thus there could technically be enough width for five vehicles as the standard width for a parking space is nine feet. Nonetheless, in this particular

situation, if the STR is approved as requested, the one unit of the duplex would not be used long-term and would only be used as a STR, therefore, staff can support a reduction in required parking for the STR from three to two off-street parking spaces.

Given the circumstances of this request, where the operator does not reside within the dwelling in which the STR will operate, staff believes the request should be denied. At the August 10, 2022, regular Planning Commission meeting, staff proposed amendments to the ZO that, if the amendments were already in effect, would have prevented the property owner from being able to apply for a STR as requested. In brief, among other amendments, staff had proposed to amend Section 10-3-205 (2) as shown below:

Sec. 10-3-205. General Regulations

(2) Operators shall maintain the ~~property~~ dwelling as their primary residence, as indicated on a state-issued license or identification card or other documentation deemed acceptable by the Zoning Administrator.

Planning Commission unanimously (7-0) recommended for City Council to approve all of the ZO amendments that were proposed at the August 10, 2022, regular meeting. However, at City Council's public hearing regarding the amendments at the September 13, 2022, meeting, while there appeared to be differing opinions on the matter, Council tabled the request and advised staff to draft an option that would allow one unit of a duplex property to be used as a STR by SUP. At this time, staff has not had an opportunity to draft those amendments.

While we respect City Council's direction noted above, under the current regulations and in this particular situation, staff believes it is in the best interest of the City to maintain Planning Commission's intent to require transient accommodations to only be permitted within the dwelling in which the operator resides. Staff believes the most recent proposed amendments for the STR and homestay regulations is a good middle ground for the many and diverse opinions as to how such uses should be permitted in the City.

At this time and at this location, staff believes it is in the best interest of the City to maintain the opportunity for both units of the duplex to be available for someone or a family to use for long term housing needs rather than one of the units only being used for a transient accommodation space.

However, if there is a desire to approve the request, staff recommends the following conditions:

- a. All STR accommodations shall only be permitted within the first-floor dwelling unit of the existing principal structure.
- b. There shall be no more than three STR guest rooms or accommodation spaces.
- c. The number of STR guests at one time shall be limited to six.
- d. 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.
- e. Minimum off-street parking spaces may be reduced to two and do not need to be delineated and can be accommodated utilizing the existing parking areas to the rear of the property or other areas on the property.
- f. 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.

Environmental Impact:

N/A

Fiscal Impact:

N/A

Prior Actions:

N/A

Alternatives:

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

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:

Public hearing to consider a request from Robert E. Alford II and Havialah Alford 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. 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 +/- 6,123 sq. ft. property is addressed as 375 Broad Street and is identified as tax map parcel 34-K-6.

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 (d) to deny the request.

Attachments:

- 1. Extract from Planning Commission
- 2. Site map
- 3. Application and supporting documents

Review:

Planning Commission recommended denial (7-0) of the special use permit request.