



# CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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January 9, 2023

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

**SUBJECT:** *Consider a request from WGG LLC for a special use permit to allow short-term rental at 524 Long Ave*

**EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION  
MEETING HELD ON:** December 14, 2022

Chair Finnegan read the request and asked staff to review.

Ms. Dang said the Comprehensive Plan designates this site as Medium Density Residential. These areas have been developed or are planned for development of a variety of housing types such as single-family detached, single-family attached (duplexes and townhomes), and in special circumstances, multi-family dwellings (apartments). Depending on the specific site characteristics, densities in these areas should be around 15 dwelling units per acre. Non-residential uses may also be appropriate.

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

- Site: Duplex structure (two dwelling units), zoned R-2
- North: Vacant parcel, zoned R-2
- East: Vacant parcel, zoned R-2
- South: Across Long Avenue, single-family detached dwelling and duplex, zoned R-2
- West: Vacant parcel, zoned R-2 and multiple-family dwellings, zoned R-5C

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 +/- 11,182 square feet and is addressed as 524 Long Avenue, located between Reservoir Street and Crescent Drive. The property contains an unsubdivided duplex with one dwelling unit on the lower-level and a second dwelling unit on the second-level.

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 ZO. 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 property owner has an approved and operating homestay use within the same unit in which they are requesting to operate the STR. Essentially, given the circumstances of the request, approving the SUP application would expand the property owner’s permission for the transient housing accommodation to exceed the homestay limit of 90 nights a year. The subject property and its approved homestay operation is the site and scenario that convinced staff to propose the ZO amendments (that are referenced below) that if ultimately approved would require homestays and STRs be allowed only within the unit in which the operator resides.

The applicant is the property owner, who noted that their brother will reside in the lower-level unit with it being his principal residence, where he will be the operator of the STR located on the upper-level. 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 two accommodation spaces within the unit with plans to allow up to four 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 four parking spaces would be needed to meet the requirements of the ZO—one for each unit of the duplex and one each for the two accommodation spaces of the STR. 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, and given the circumstances that there is a great deal of on-street parking available on Long Avenue, staff recommends not requiring off-street parking for the STR. The property, however, would remain nonconforming to off-street parking requirements for the two existing dwellings.

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 plans to bring this matter back to City Council's attention in February 2023. Also of note, is that at the October 12, 2022, regular meeting, Planning Commission received a similar request for a STR in one unit of an unsubdivided duplex at 375 Broad Street. Staff recommended denial of that application and Planning Commission also unanimously (7-0) recommended denial of that request. On November 22, 2022, City Council denied the request with a vote of 3-2.

While the outcome of the revised ZO amendment is still unresolved, under the current regulations and in this particular situation, staff believes it is in the best interest of the community to only allow such transient accommodations 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.

With regard to the subject application, at this time and at this location, staff believes it is in the best interest of the community to deny the request. Denying the request would not, however, prevent the applicant from maintaining and operating the same unit as a homestay since the current regulations allow this ability. Staff does not believe the existing transient accommodation should be expanded and would rather have 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 upper-level dwelling unit of the existing principal structure.
- b. There shall be no more than two STR guest rooms or accommodation spaces.
- c. The number of STR guests at one time shall be limited to four.
- 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. The STR may operate without providing any of the required minimum off-street parking spaces.
- 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.

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

Joel Graham, 150 Crescent Drive, came forward in support of his request. My wife and I own 524 Long Avenue. We are the owners and operators of the Friendly City Inn, the bed and breakfast immediately adjacent to this property. This STR operation is part of our livelihood and something that we have been able to gain some experience in for the last three years. My younger brother currently resides in the lower level of this property as the operator of a homestay and is the proposed operator if we are approved for the STR. Recognizing there is some conversation going on about the dwelling versus property language and how that plays out in the requests for STRs, this property being so close to the bed and breakfast is a property that makes sense to maintain as a place where staff from the bed and breakfast or other members of our property management group can live in one unit. It makes it more affordable for them and to help us financially being able to rent it out for more than 90 nights per year as a STR. This would be a tremendous help to the economics of that picture. The main motivation is that we know that there is the opportunity for more than 90 nights per year, given the proximity to downtown and JMU. Through our experience with the bed and breakfast we know there is a demand for that. This seems like a great location for our guests and for us to have operating as a STR.

Chair Finnegan asked do you own the adjacent vacant property that has a hill?

Mr. Graham said correct. On either side of the subject property there are vacant lots that we own.

Chair Finnegan asked do you have plans to build on those?

Mr. Graham said nothing imminent. Longer term, as finances allow it might make sense to develop in some way, but not in the near future.

Commissioner Whitten asked did you have another property on Long Avenue that you own?

Mr. Graham said my wife and I live on Crescent Drive, which is right around the corner, adjacent to Long Avenue.

Commissioner Whitten asked is there a STR associated with that?

Mr. Graham said yes. We operate a STR in the lower level of our house.

Commissioner Whitten asked what is the cost of a night's stay?

Mr. Graham said it varies tremendously based on what is going on in town and the time of year. Typically, on weekends in busier periods it would be between \$125 and \$150 per night. Weekdays or during slower seasons, between \$75 and \$100.

Commissioner Armstrong asked what is the reason you will not rent this long term?

Mr. Graham said it is not something that we would not have any interest in doing. Right now, the reason is that we feel we can bring in substantially more income from the property by renting more than 90 nights per year as a STR. This would allow us to make living in the lower level more affordable for the operator and help us afford to own the property. We have considered, in slower

seasons, exploring mid-term rentals, month to month for travelling nurses or businesspeople or people moving to the area as an option when STRs are not in high demand. We want to have the flexibility to do all those different things having a month to month lease. A traditional long-term rental lease would preclude us from those options.

Chair Finnegan asked if there were any questions for the applicant's representative. 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.

Commissioner Byrd said I still feel that duplex properties run against the spirit of STRs. I will not vote in favor of this application.

Councilmember Dent agreed. We just got the answer of why they want the STR. It provides more income. That adds to the argument that in order to preserve long-term rentals, we need to push back where needed in the duplex cases against STRs just for the income reasons.

Chair Finnegan said I agree with the comments that have been made. It is a fine line. I do think that everyone draws a line in a different place. This is where I draw the line between the last request and this request. To the casual observer this may seem the same, but the fact that this has been rented out in the past and could continue to be rented out as a place for a Harrisonburg resident to live full time, is where I draw the line. I am not in favor of this request.

Commissioner Orndoff said I concur with your position on that.

Commissioner Byrd moved to recommend denial of the request.

Councilmember Dent seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Armstrong	Aye
Commissioner Byrd	Aye
Councilmember Dent	Aye
Commissioner Orndoff	Aye
Commissioner Washington	Aye
Commissioner Whitten	Aye
Chair Finnegan	Aye

The motion to recommend denial of the SUP request passed (7-0). The recommendation will move forward to City Council on January 10, 2023.