



City of Harrisonburg, Virginia

Department of Planning & Community Development

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Building Inspections
Engineering
Planning & Zoning

To: Eric Campbell, City Manager
From: Adam Fletcher, Director - Department of Planning and Community Development; and
Harrisonburg Planning Commission
Date: July 9, 2019 (Regular Meeting)
Re: 845 College Avenue – Special Use Permit (Short-Term Rental)

Summary:

Public hearing to consider a request from Katrina and Ernest Didot 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 bedroom 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 +/- 19,595 sq. ft. property is addressed as 845 College Avenue and is identified as tax map parcels 125-A-16 and 17.

Background:

The Comprehensive Plan designates this area 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 and a second, non-conforming single-family detached dwelling; zoned R-2
- North:** Single-family detached dwelling fronting Hillside Avenue; zoned R-2
- East:** Across College Avenue, single-family detached and duplex dwellings; zoned R-2
- South:** Single-family detached dwelling; zoned R-2
- West:** Duplex and multi-family dwelling units, fronting Hillside Avenue; zoned R-2

Key Issues:

The applicants are requesting approval of a short-term rental (STR) operation at 845 College Avenue. On the property are two single-family detached dwellings, one of which is non-conforming. The non-conforming single-family detached dwelling is located on the second floor of a detached garage. The applicants desire to rent for STR the non-conforming single-family dwelling. The dwelling has two-

bedrooms for a total of two accommodation spaces and a maximum of four STR guests at a time. The property is the operator's primary residence and they will be present during the STR lodging period.

The property is located in the northwest area of the City, in the Park View area, about 0.5-miles from the nearest arterial or collector street (Chicago Avenue) and 225-feet from the end of College Avenue, which is a dead-end street.

It should be understood that this property was annexed into the City in 1983 as a single-family detached dwelling with the second, non-conforming dwelling above the detached garage. A non-conforming use is defined as "any lawful land, buildings, and structures and the uses thereof existing at the time of the enactment or subsequent amendment of this chapter which do not conform to the zoning prescribed for the district in which they are situated. Non-conforming land, buildings, and structures and the uses thereof may be continued only so long as: the then-existing or a more restricted use continues; such use is not discontinued for more than two (2) years; and, the buildings or structures are maintained in their then structural condition." In 1983 and still today, the R-2 district does not allow more than one single-family detached dwelling on a property. Duplexes are allowed if minimum lot size requirements are met. The non-conforming dwelling has been rented out to long-term tenants since its annexation into the City.

The applicants have described in their letter that they are able to provide up to six off-street parking spaces within the driveway for the STR. There is a separate driveway to accommodate parking for the applicant's principal dwelling.

This portion of College Avenue is unlikely to have pedestrian and vehicular traffic that is not from residents of the street, their relatives, friends, or other visitors. Staff believes that introducing a STR at this location could create neighborhood instability because STRs introduce high turnover of people who are unknown to the neighbors and could change the character of the neighborhood with increased vehicle trips. Staff also feels that approving a STR for this separate dwelling unit removes an available unit for long-term tenants from the City's housing stock.

Given the location of the property within this residential area of the City, staff believes that a STR at this location would have adverse effects on other residents in the neighborhood and recommends denial of the special use permit request.

If Planning Commission, however, desires to recommend approval of the applicant's request to City Council, staff recommends the following conditions be placed on the SUP:

1. STR accommodation shall be within either the principal dwelling or the non-conforming dwelling unit above the detached garage.
2. The site shall be the operator's primary residence.
3. An operator shall be present on site during the lodging period.
4. There shall be no more than two STR guest rooms or accommodation spaces.
5. The number of STR guests at one time shall be limited to four.
6. 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 Pre-Operation Form when short-term rental guests are present.
7. Minimum off-street parking spaces do not need to be delineated and can be accommodated utilizing the driveway or other areas on the property.

8. 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 additional structures on the property into space for STR that was not previously vetted for impacts to the surrounding properties. If the applicant later wishes to create living spaces within additional buildings for STR, they must return to Planning Commission (PC) and City Council (CC) with a new SUP request. Condition #2 helps to prevent the City's housing stock from being purchased by investors and then being reallocated from homeownership and long-term rentals to STRs. Condition #3 protects neighbors by ensuring that there is on-site accountability by the STR operators. Condition #4 limits the total number of guest rooms and accommodation spaces on the entire property to two. ("Accommodation spaces" means any room offered for sleeping. This would not include living spaces or rooms where guests would not be sleeping.) Condition #5 limits the total number of STR guests to four. Condition #6 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 form when STR guests are present. The form includes a checklist to guide STR operators through a self-inspection of guest rooms and accommodation spaces and means of egress. Condition #7 provides flexibility for the property owner to maintain the residential appearance of their property by not requiring them to create and delineate additional off-street parking spaces. Section 10-3-25(28) of the 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 two accommodation spaces within the dwelling for STR, the property would be required to provide two off-street parking spaces unless conditioned otherwise. It should be acknowledged that in addition to the off-street parking spaces required for the STR, the ZO requires off-street parking spaces for the non-transient dwelling units. It appears that all the required off-street parking could be provided on the site in the existing driveway areas. Regardless, staff believes the applicant should be provided the flexibility to meet the off-street parking requirements by allowing customers to park on the existing driveway or other area of the property without delineating parking spaces.

Condition #8 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 applicant or operator and transfers to future property owners. If the applicant sold the property, future property owners could operate a STR so long as they meet the conditions for the SUP. How the property could be used by any future property owner should be considered when deciding on SUP conditions.

Environmental Impact:

N/A

Fiscal Impact:

N/A

Prior Actions:

N/A

Alternatives:

- (a) Approve the special use permit request as submitted; or
- (b) Approve the special use permit request with suggested conditions; or
- (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:

Special Use Permit – 845 College Avenue (Short-Term Rental)

Public hearing to consider a request from Katrina and Ernest Didot 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 bedroom 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 +/- 19,595 sq. ft. property is addressed as 845 College Avenue and is identified as tax map parcels 125-A-16 and 17.

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) recommend denial.

Attachments:

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

Review:

Planning Commission recommended approval (6-0) of the special use permit request with the following conditions:

- 1. STR accommodation shall be within either the principal dwelling or the non-conforming dwelling unit above the detached garage.
- 2. The site shall be the operator’s primary residence.
- 3. If the operator is not the property owner, then the operator shall be present during the lodging period.
- 4. There shall be no more than two STR guest rooms or accommodation spaces.
- 5. The number of STR guests at one time shall be limited to four.
- 6. 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 Pre-Operation Form when short-term rental guests are present. Minimum off-street parking spaces do not need to be delineated and can be accommodated utilizing the driveway or other areas on the property.

7. 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.