



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

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 10, 2019 (Regular Meeting)
Re: Special Use Permit – 443 Lee Avenue (Short-Term Rental)

Summary:

Public hearing to consider a request from Jeryl David and Mary Ann Kreider 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. The +/- 11,250 sq. ft. property is addressed as 443 Lee Avenue and is identified as tax map parcel 35-E-3.

Background:

The Comprehensive Plan designates this site 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, zoned R-2
North: Single-family detached dwelling, zoned R-2
East: Across Lee Avenue, single-family detached dwelling, zoned R-2
South: Single-family detached dwelling, zoned R-2
West: Across Chicago Avenue, Waterman Elementary School, zoned R-2

Key Issues:

The applicant is requesting approval of a short-term rental (STR) operation at 443 Lee Avenue in the northwest section of the City near Waterman Elementary School. The applicant desires to rent for STR three accommodation spaces for a total of up to nine STR guests. (“Accommodation space” means any room offered for sleeping. This would not include living spaces or rooms where guests would not be sleeping.) The applicants describe that the property is their primary residence and that they would be present on the property during the lodging period.

Section 10-3-25(28) of the Zoning Ordinance (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 for STR three accommodation spaces the property should provide three off-street parking spaces. 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 unit. There is a small driveway behind the home that can be accessed from Chicago Avenue that can be counted for the non-transient dwelling unit. There are no other off-street parking accommodations available on the property.

The applicant explains in their letter that there is enough space in front of their home for four on-street parking spaces and that STR guests would park their vehicles on the street in front of the house. Since Lee Avenue is not restricted by permit parking, nor are there regulatory controls on where individuals can park vehicles along Lee Avenue (i.e. anyone can park in front of any property), the applicants could not entirely control where lodgers could park their vehicles. Given that the subject parcel is +/- 75 feet wide and that a standard parallel parking space is 20 feet long, it is possible that three to four vehicles—depending upon individual vehicle lengths—could park in front of the subject property. Since the adjoining parcels along this section of Lee Avenue have similar lot widths, and thus ample on-street parking for residents and visitors, at this time, staff does not believe there should be issues created with allowing lodgers to utilize on-street parking and is comfortable conditioning that off-street parking for the STR operation is not required.

If the request is approved, staff recommends the following conditions:

1. The site shall be the operator’s primary residence and the STR shall occur within the operator’s dwelling unit.
2. If the operator is not the property owner, then the operator shall be present during the lodging period.
3. All STR accommodations shall be within the principal structure.
4. There shall be no more than three STR guest rooms or accommodation spaces.
5. The number of STR guests at one time shall be limited to nine.
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. The STR has no minimum off-street parking requirements.
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 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. Additionally, the subject property is large enough to allow a duplex structure and this condition prevents any future second dwelling unit on the site from being rented as a “whole home” STR that was not previously vetted. Condition #2 helps to protect neighbors from nuisances arising from absentee operators. Along with condition #1, for property owners operating the STR for whom this property is their primary residence (and to be consistent with Planning Commission’s recommended conditions on other applications), they are not required to be present during the lodging period. However, long-term tenants operating a STR would be required to be present during the lodging period. Condition #3 prevents the ability for the STR operator to convert or construct an accessory building into space for a STR that was not previously vetted for impacts to the surrounding properties. If the applicant later wishes to create living spaces within an accessory building for STR, they must return to Planning Commission (PC) and City Council (CC) with

a new SUP request. Condition #4 limits the total number of guest rooms and accommodation spaces on the entire property to three. Condition #5 limits the total number of guests at one time to two nine. 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 the property by not requiring them to create 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 applicant has 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 were to sell the property, then future property owners could operate a STR so long as they meet the conditions for the SUP as approved. How the property could be used by any future property owner should be considered when deciding on SUP conditions.

Given the nature of the request, the site's proximity to North High Street/Virginia Avenue (Route 42) and downtown, and with staff's suggested conditions, staff believes that that the proposed use is consistent with good zoning practice and will have no more adverse effect on the health, safety or comfort of persons living or working in the area and will be no more injurious, economically or otherwise, to property or improvements in the surrounding area than would any use generally permitted within the district.

Staff recommends approval of the special use permit request with the suggested conditions.

Environmental Impact:

N/A

Fiscal Impact:

N/A

Prior Actions:

N/A

Alternatives:

- (a) Recommend approval of the special use permit request as submitted;
- (b) Recommend approval of the special use permit request with suggested conditions;
- (c) Recommend approval of the special use permit with other conditions(s); or
- (d) Recommend denial.

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 Permits – Short-Term Rentals

Public hearings to consider requests for special use permits to allow short-term rentals. 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.

- **443 Lee Avenue** – Request from Jeryl David and Mary Ann Kreider 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. The +/- 11,250 sq. ft. property is addressed as 443 Lee Avenue and is identified as tax map parcel 35-E-3.

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 permit request with suggested conditions.

Attachments:

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

Review:

Planning Commission recommended (5-1) for alternative (b) to approve the special use permit request with suggested conditions.