



# 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: August 13, 2019 (Regular Meeting)  
Re: Special Use Permit – 1934 Park Road (Short-Term Rental)

### **Summary:**

Public hearing to consider a request from Jonathan and Kaitlin Ernest for a special use permit per Section 10-3-48.4(2) of the Zoning Ordinance to allow for a short-term rental within the R-3, Medium Density Residential District. The +/- 26,900 sq. ft. property is addressed as 1934 Park Road and is identified as tax map parcel number 53-H-18.

### **Background:**

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: Detached single-family dwelling, zoned R-3

North: Townhomes, zoned R-3 and property within Rockingham County, zoned A-2

East: Townhomes and detached single-family dwelling, zoned R-3

South: Detached single-family dwellings, zoned R-3

West: Detached single-family dwelling, zoned R-3 and property within Rockingham County, zoned A-2

### **Key Issues:**

The applicants are requesting approval of a short-term (STR) operation at 1934 Park Road, which is a cul-de-sac street located in the northern portion of the City. The property is approximately 0.5-miles from: Harmony Square, a shopping center that fronts on Virginia Avenue; Park View Mennonite Church; and Virginia Mennonite Retirement Community. Additionally, Eastern Mennonite University is within 0.7-miles of the site.

The applicants describe that the property is their primary residence and they desire to rent for STR three accommodation spaces in the basement of their home. (“Accommodation spaces” means any room offered for sleeping. This would not include living spaces or rooms where guests would not be sleeping.) The applicant explained to staff that the basement area contains a separate bedroom and a common area that is partitioned into two separate spaces. The accommodation spaces could accommodate two guests in each space for a total of up to six STR guests.

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. The property has a large driveway and a two-car garage. The applicants have explained that lodgers will park their vehicles in the driveway. It appears that all the required off-street parking could be provided on the site in the existing driveway area. 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.

If the request is approved, staff recommends the following conditions be placed on the SUP:

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 six.
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 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 or multi-family 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 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 STR guests to not more than six. 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. 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 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, location of the property, and staff's suggested conditions, staff believes 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.

- ***1934 Park Road*** – Request from Jonathan and Kaitlin Ernest for a special use permit per Section 10-3-48.4(2) of the Zoning Ordinance to allow for a short-term rental within the R-3, Medium Density Residential District. The +/- 26,900 sq. ft. property is addressed as 1934 Park Road and is identified as tax map parcel number 53-H-18.

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) approval of the special use permit request with suggested conditions.

**Attachments:**

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

**Review:**

During the public hearing at Planning Commission, the Planning Commissioners had questions for the applicants who were not in attendance at the meeting.

Planning Commission recommended (4-2) alternative (d) denial.