



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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June 1, 2021

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

SUBJECT:

Consider a request from WGG LLC for a special use permit to allow a short-term rental at 150 Crescent Drive

**EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION
MEETING HELD ON: May 12, 2021**

Chair Finnegan read the request and asked staff to review.

Ms. Banks said that 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-2
- North: Detached single-family dwellings, zoned R-2
- East: Detached single-family dwellings, zoned R-2
- South: Detached single-family dwellings, zoned R-2
- West: Detached single-family dwellings, zoned R-2

The applicant is requesting approval of a short-term rental (STR) operation at 150 Crescent Drive. Crescent Drive is located between East Market Street, Franklin Street-extended, and Reservoir Street. The applicant desires to rent for STR three accommodation spaces within the home that could accommodate a total of six individuals. (“Accommodation spaces” means any room offered for sleeping. This would not include living spaces or rooms where guests would not be sleeping.)

The accommodation spaces are located within the basement, which has separate entrances from the main level of the home. The applicant describes that the property is their primary residence.

The applicant states that currently they are operating as a homestay; however, homestay uses are limited to four guests during a lodging period and are limited to operating for only 90 nights per calendar year. The applicant desires to increase the rental to six guests during a lodging period and for more than 90 nights per calendar year.

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. In addition to the off-street parking spaces required for the STR, the ZO requires one off-street parking space for the non-transient dwelling unit. Therefore, if approved, a total of four off-street parking spaces would be required. Currently, there is a driveway that can accommodate two vehicles. The applicant explains that during lodging periods guests could park on the street in front of the property. However, this section of Crescent Drive is along a curve, where the subject property is located on the inside of the curve. Due to sight distance issues that occur when vehicles are parked along the interior curve, staff has concern with promoting and allowing additional on street parking unrelated to non-transient individuals, directly in front of the property and along the other sections of this side of the street.

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

1. All STR accommodations shall be within the principal structure.
2. There shall be no more than three STR guest rooms or accommodation spaces.
3. The number of STR guests at one time shall be limited to six.
4. 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.
5. Minimum off-street parking spaces shall be provided but do not need to be delineated and can be accommodated utilizing the driveway, enlarging the driveway, or by using other areas on the property.
6. 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 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 a STR, they must return to Planning Commission (PC) and City Council (CC) with a new SUP request. Condition #2 limits the total number of guest rooms and accommodation spaces on the entire property to three. Condition #3 limits the total number of STR guests to not more than six. Condition #4 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 items identified in the form when STR guests are present. Condition #5 requires the applicant to provide off-street parking spaces due to issues with sight distance concerns that can occur with vehicles parking on the inside curve of this section of the public street while also providing flexibility for the property owner to maintain the residential appearance of their property by not requiring them to create delineated parking spaces. Condition #6 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 applicants or operator, and transfers to future property owners. If the applicants 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.

Because the City has approved multiple STR SUP applications in similar locations throughout the City and with comparable operating situations, staff recommends approval of the request with the 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.

Chair Finnegan asked if there any questions for staff.

Councilmember Dent said that when I saw the map, I thought they had plenty of space for parking. When I went to see the site, there is a rapid drop off next to the sidewalk. In saying that they have to provide off-street parking, we are saying that it is up to the applicant to figure out how to do that, whether to expand the driveway or the sidewalk or building something else on the level part of the street. It is going to be an expense for them and that is what they are going to have to do to meet the requirements. Is that right?

Ms. Banks said that the applicant is prepared to address this. The spaces can be within the grassed area. Am I correct on that or does it have to be gravel?

Mr. Fletcher said that his interpretation would be that, technically, they could park in the grassed area. If there is concern about what that might do to sightliness, muddying up areas and so forth, Planning Commission can make a condition for it to be gravel or some type of hard multi or hard weather surface. This is one of those scenarios where if a family or tenants resided here and they had multiple vehicles and they want to park them in the grass, they could do so. What we are doing here is promoting a non-residential use to use this space in that manner. In my mind, the best case scenario would be to make appropriate site accommodations. It is a relatively steep grade, but things can be designed, and earth be moved, and they can park in that lower area. There are definitely some steep driveways in the City of Harrisonburg. They can enlarge the driveway. There can even be parallel spaces for graveled areas and concrete spaces. While I do not like to see neighborhood spaces like that converted to more parking, in our view, the sight distance concern trumped it in this particular case. This is one of the first short term rentals where we have said that you have to provide all the parking on site. It is the first where they could not already do that with

a large enough driveway. This is one of the first scenarios we have had in this particular case. In many of our other locations where we required all of the parking to be on site, the site already had an accommodation for all of the vehicles to be able to be there or was a relatively flat site.

Commissioner Whitten said that we need to bear in mind that this is a business. It is a legitimate business expense to ask for parking to be provided. We should not shy away from that, nor feel badly for asking. These cars do not belong on the street. That is not our problem.

Commissioner Byrd said that when the City is saying parking, you are recognizing that there are two spaces on the existing driveway. You are saying that they need two more spaces?

Ms. Banks said correct.

Chair Finnegan said that we went through a lot of trouble to separate homestays from the SUPs and now someone that is doing the homestay wants a SUP. I think that it is within reason and within our purview to require off street parking. The way Condition #5 is currently worded, it does not specify whether they can park on the grass. Do we have to get more specific if we want some gravel or pavement?

Ms. Banks said yes. I would like to share the applicant's drawing. They have done some measuring as far as parking and some spaces. I will share the screen for them while they speak.

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

Becca Graham, 150 Crescent Drive, spoke on behalf of her request. My husband and I own the property and are the applicants. In the illustration provided, we did some measuring. We have enough space for three cars, as long as it is not a large pickup truck in the driveway. We have additional space on either side of the driveway that is grass but could easily fit a vehicle. That is our plan if it is permissible to have a grass spot be one of the available spots. We have been running this as a homestay for a few months now. I do not think that we have ever had more than one car. I think it would be rare to have three cars, even if there were six people staying in the accommodation spaces. I would be surprised if there were ever three cars. I do recognize that we still need to have that as an option. I do not think that the fourth grass space would really be used. If it were the case that the guests brought the three cars, we could always move our car to elsewhere, giving the guests all three driveway spaces. We are hoping that we would not have to install gravel anywhere, especially if it were not going to be used. We do not anticipate that we would need an additional space off of the driveway, at least not very often. We are hoping to do it without installing gravel, but we are open to your suggestions and recommendations and appreciate you helping us work through this.

Chair Finnegan asked if there were any questions for the applicant. Hearing none, he asked for the next caller.

Commissioner Byrd asked the applicant if the furniture in the driveway may have led the City to evaluate the driveway as having two potential parking spaces.

Ms. Graham said that is very likely and a very easy solution.

Commissioner Byrd asked if it provided for the homestay.

Ms. Graham said no. That is for personal use. The entrance into the upper floor is off of the carport area. The homestay is a separate entrance on the lower level. The furniture that is in the carport is not part of the homestay.

Commissioner Whitten referenced the letter that was included in the packet. Your neighbor across the street has concerns about the parking. Have you had any conversation with your neighbors? Have you had any complaints with the homestay accommodations?

Ms. Graham said that we have talked with several neighbors. I do not know what letter you are referring to. We talked to both neighbors directly across the street that share the corner opposite us. They are both very excited and enthusiastic and want to rent it out for when their families come to town and did not express any concerns. The neighbors up the hill, next door to us, are on board as well. We talked to the three in closest proximity who share the street and nobody has expressed concerns.

Commissioner Finnegan said that there is a letter from Joyce Foltz. She had concerns about parking, which we have addressed. She is concerned about cars and children riding bikes, general safety.

Commissioner Whitten said that she also alluded to quiet. It is a quiet neighborhood and she mentioned that.

Ms. Graham said thank you for clarifying. We have spoken with her, but not directly about this. I know that the previous owners of the house were doing a homestay as well. I do not know if she has experienced the issues that she has concerns about or maybe she thinks that this is a new development. We can certainly address those concerns with her.

Chair Finnegan said that there were no more callers. He closed the public hearing and opened the matter for discussion.

Mr. Fletcher said that what the applicant was showing was 15 feet in length for each vehicle. What staff would typically look at for design for traditional spaces is 9 feet by 18 feet. The compact space is 8 feet by 17 feet. We did not consider the length in that area. I do not know that I could say that I agree and that we were talking equivalently about the terms of what the parking spaces were. We would not look at that depth and say that is three parking spaces. With three 18 foot parking spaces you are looking at 54 feet, verses three 15 foot spaces at 45 feet, it is a nine foot difference in depth. It is hard to compare the two and be in agreement.

Chair Finnegan said that he used to live in this neighborhood on Long Avenue. There is a section of Long Avenue where there are no houses, behind the Friendly City Inn, which backs all the way up to Long Avenue. Because there are no houses there, there is a potential for on-street parking. I

would assume that would have to be the owners of the house parking there and walking. I do not know where the owners of the house would go other than parking on the street on Crescent Drive. We have approved similar STRs in other neighborhoods. I do agree with staff about the curve of this road being of special concern. I do think that Condition #5 is very important. We need to make sure that we get that right on this request.

Commissioner Byrd said that we have to address something with Condition #5 if we are considering approval. If you look at the property, there is a lot of curve or contour to the grass. I am not seeing where that fourth space would go, viewing from the applicant's perspective, or the third space, viewing it from the staff's perspective. I do not know the exact lines or how level it is. It did not look level enough that I would take my car and put it there. In practicality, if we approve this, unless we say some detail about Condition #5, we are recognizing that people are going to park on the street. I, personally, do not have an issue with it. I can look at that area and see where they would park. That curve would fit the other two cars. Around the bend, where the rest of the residents are, those people who live there have tons of cars on the street. I do not know how to be more specific, if we were to move to approve it.

Chair Finnegan said that Condition #5 currently reads:

Minimum off-street parking spaces shall be provided but do not need to be delineated and can be accommodated utilizing the driveway, enlarging the driveway, or by using other areas on the property.

Chair Finnegan continued saying, we can amend that language. We can strike "using other areas on the property." We can say "enlarging the driveway."

Commissioner Whitten asked could we not ask for a parking plan to be submitted to the City prior to the final approval.

Mr. Fletcher said that he does not see why the Planning Commission could not. I would like to clarify staff's recommendation that parking spaces do not need to be delineated. That terminology may not mean a lot to the public, but it means a lot to us. When we are talking about delineating parking spaces, typically that means that you are lining them off so that they can be counted, there are curb stops, there is a railroad tie or something. What we try to do in these scenarios is create enough flexibility for the STRs to have parking spaces, but they do not have to look like parking spaces, to keep that neighborhood feel. Staff is not a big proponent of wanting to have more parking. That is not what we are trying to do. This is about a safety issue. Our condition was a recommendation that they do not need to delineate them or look like parking spaces, but we are acknowledging that if they do parallel spaces right off of the curb, they might be gravel, pavers, concrete, or pavement. There are other options. They could do a driveway down the hill and park in the back. That was our intent and has been our intent with that condition on many others.

Commissioner Whitten said that it is not unreasonable to ask that we see, or that you see as staff, what the plan is for this. Would the section of the curb be painted yellow, so that there would not be parking allowed there? Otherwise, how are you going to keep people from parking on the curb and causing the very problem that you know you are creating.

Ms. Banks said that we cannot get the curb painted yellow because the neighbors can still park there. It is a public street open to the neighbors. The neighbors still have the ability to park along the street.

Chair Finnegan said that the on street parking in front of that house does not technically belong to that house.

Commissioner Whitten said I understand that, but if we are creating a safety problem by allowing cars to park there, it does not really matter whose cars it would be.

Mr. Fletcher said that we did not speak about it in those particular terms, but we did talk about it. We talked about the fact that if you have a home where it is a single-family or extended family and there are six vehicles. That is the single-family residence or the dwelling space of the family and that is where they are parking. This scenario is different. We are acknowledging that there is a business operating there. It is a non-residential use and we would in fact be promoting for the tenants, the customers, to park on the street. We do not think that is the proper approach, given the circumstances. There is a level of risk when it is your single-family home or your living space about where you are parking at home. Otherwise, we would be promoting more parking on the inside of that curve.

Chair Finnegan said that the way to address these concerns is to focus on #5, amending or removing some of that language on #5. "Minimum off-street parking spaces shall be provided but do not need to be delineated and can be accommodated ~~utilizing the driveway~~, by enlarging the driveway, or by using other areas on the property."

Councilmember Dent said that she is looking at the sidewalk going from the street to the stairway down to the rental property. Could that sidewalk be widened to make another parking space? That gets you one parking space. I agree. We need a more detailed parking plan from the applicant or make more specific conditions ourselves. That is one idea of how it could be accommodated, at least one more, maybe two.

Chair Finnegan said that if we were to require a parking plan, how do we word that in these conditions? Does staff have any suggestions as to how to condition that?

Councilmember Dent asked if it would have to come back to staff and to Planning Commission to approve the parking plan as part of it? I cannot imagine voting for it on City Council wondering whether the parking plan meets requirements.

Ms. Banks said that since they have to turn in their pre-operation form, that would be an opportunity that we have to collect and go out, measure and verify that the parking is in place. Unfortunately, that will not resolve what Councilmember Dent just brought up.

Mr. Fletcher said that you can table the request if that is where you are headed until you are more comfortable with what you are seeing. That is within your authority. You can ask for a parking

layout that works for the applicant, present it to staff, then present it to Planning Commission next month, and then you can make a decision that way.

Commissioner Whitten said that rather than tabling it, the condition can include that they need to have a parking plan to accommodate those spaces off-street. That can be presented at City Council and they can decide. Between staff and City Council, I do not see any reason that it should need to come back to Planning Commission.

Ms. Dang asked if the Commissioners feel that the parking plan that the applicant provided is not sufficient. The applicant has provided a plan. What are the criteria that you are looking for that would make you feel comfortable?

Commissioner Hull said that parking plan is not inviting. What is going to happen is that they are just going to park on the street anyway. Stacking cars in is not a convenient thing for most. If somebody has to go somewhere, they have to bother one of the other owners of the cars to move. Parking in a front yard, whether there is gravel or not, is not necessarily a first choice for most. I think that it will not get used and people will park in the street.

Mr. Fletcher said that another approach would be to condition the number of accommodation spaces, thereby reducing the parking. It would not give the applicant exactly what they are requesting. They want three accommodation spaces. But if they wanted two accommodation spaces instead, then they would need only two parking spaces. However, many accommodation spaces they are approved for is the number of parking spaces that is required.

Commissioner Whitten said that is reasonable.

Chair Finnegan said that currently they are operating a homestay where they can have up to four guests, correct?

Ms. Banks said that is correct. Four guests.

Chair Finnegan said that they are trying to take it from four to six.

Ms. Banks said correct.

Chair Finnegan asked how that would be worded in the conditions to say that if they would like to do six, they would have to have another off-street parking spot that is paved?

Mr. Fletcher said that if you disagree with the regulations and you do not think that they need to provide four parking spaces, you can condition it to less parking spaces than is required. I am saying four, one for the dwelling and three for the accommodation spaces. If you do not think that they need to provide four, you can override that regulation and not require them to provide all four parking spaces.

Mr. Russ said that is different from your initial suggestion that they could approve a lower number of accommodation spaces so that they would need to provide fewer parking spots.

Ms. Dang said that would be an amendment to Condition #2. What Mr. Fletcher initially said, and Mr. Russ brought up is that Condition #2 could be amended from three to two or one. That would in turn reduce the required number of parking spaces, if the regulations require one parking space per accommodation space unless conditioned otherwise by Council. It is worded something like that.

Councilmember Dent said that could be a question for the applicant. Would you prefer to have two accommodation spaces or add one or two paved parking spaces? Paved, I think is important.

Commissioner Byrd said that if we want to approve this, we could let them keep their two accommodations and change two and three to reflect those numbers accordingly. At the end of the day, #5 says minimum off-street parking spaces. The spot that says the total number of parking spaces never refers to that as minimum. For #5, are we assuming what the number of parking spaces are is in that particular line?

Commissioner Whitten said that it says in the report four off-street. It does not say it in the conditions, but it is clear. Somewhere in the Zoning Ordinance, it talks about spaces so that you do not have to move vehicles to accommodate parking. Am I right about that?

Ms. Banks said yes, but that does not include single-family homes and duplexes. This is still considered a single-family dwelling.

Commissioner Whitten said that we could condition it so that the parking would have to accommodate vehicles not having to be moved. I agree with Commissioner Hull. If you have to jockey cars in and out of a space, it is just not going to happen. People are on vacation. They are running out to dinner. They are going out to the football game. They are not going to inconvenience themselves by having to ask someone to move their car. I would be in favor of saying, this looks like a situation where two accommodation spaces makes a lot more sense than three and forget about the worry about the parking.

Chair Finnegan asked staff, if we change Condition #2 to read “no more than two” guest rooms, do we also need to change condition #3 to say “limited to four”?

Ms. Dang said that they could have three people or any combination of people in the bedroom. There is no requirement that it is only two people per accommodation space. That is generally how we think that people might rent them out.

Chair Finnegan asked what does that get them? It has to do with number of nights. It would be the same number of guests that they already have. We are increasing the number of nights that they can rent them out, right?

Ms. Dang asked if Commissioner Finnegan is suggesting that he is also going to amend #3 from six to four. You do not have to. You can, but it is not tied to the bedrooms.

Chair Finnegan said that we are talking about three accommodation spaces, two accommodation spaces. I have been in situations, myself, where you have one car per person. We could be talking about six cars. If friends from all over are meeting up in Harrisonburg for a reunion, you have potentially six cars. We are making certain assumptions. I would be amenable to changing #2 to no more than two guest rooms and leaving the rest.

Ms. Graham asked if she could ask a question.

Chair Finnegan allowed the question.

Ms. Graham asked if it would affect anything if we were to require a maximum number of cars for the guests that book the space. We can do that. We can say only parking for two cars and limit the guests for how many cars they bring.

Chair Finnegan said that is something that the City does not regulate directly. That is a condition of VRBO or Airbnb. That has to do with those third party sites.

Ms. Dang said we have not considered this, but is it possible to create a condition that limits the number of vehicles? Enforcement is always a concern, but can we condition no more than two guest vehicles could be associated with the STR at a time?

Mr. Russ said that in Alexandria, a lot of their conditions are related to their (the applicants) website or their advertising, where they need to mention the nearest Metro stop, to try to encourage people to use transit. I think that we could condition that in the third party advertising you include the number of parking spots.

Mr. Fletcher said that the other option is that we were comfortable moving forward with the conditions that we recommended because if the applicants do not want to meet the criteria of providing all of the off-street parking, they are self-regulating the number of accommodation spaces and the number of people. If they do not want to put in an additional parking space, they have in effect self-regulated.

Chair Finnegan said that knowing that neighborhood, if the owners are on-site when the guests are there, they are going to have to park down the block on Long Avenue, leaving those spaces in the driveway open. I think that leaving the conditions, as written, and adding a seventh condition that there shall be no more than two guest vehicles at a time. How would we word that?

Ms. Dang suggested amending #5. If you keep #5 you are still requiring the three spaces associated with the STR plus the one for the dwelling space. You need to work on number five.

Commissioner Byrd asked why it does not say a minimum of four or a minimum of three? It only says minimum off-street parking spaces.

Ms. Dang said that it is tied to the number of accommodation spaces. It allows flexibility.

Mr. Fletcher said that if I am understanding where the conversation is going, you are approving their request to have six individuals and to have unlimited nights of the year. They are going to have three accommodation spaces. You are saying that they have to provide two off-street parking spaces and limiting the guest vehicles to two at any one night.

Chair Finnegan said yes.

Mr. Fletcher said that you are not wanting them to change the aesthetic of the place because you want to keep it residential. You are trying to be sensitive to not having too many vehicles coming to this site. I think that might cover it.

Ms. Dang clarified that the regulations regarding parking for the dwelling cannot be amended, but the parking requirement for the STR can be adjusted.

Ms. Banks said that you are focusing on the three stacked spaces. There is also the ability to have one in the carport. The driveway itself is 12 feet wide. The addition of six feet on the side would allow two cars side by side. Three feet of pavers or gravel on either side of the driveway would provide the additional space.

Chair Finnegan asked whether #5 would need to be amended.

Councilmember Dent stated that she would like it to be clear that guests must be parked in the off-street parking.

Ms. Dang said that it has not been made a condition with other STR, but it can be considered.

Chair Finnegan said that it does not matter to him whose car is parked on the street. It is a car parked on the street.

Commissioner Whitten agreed and said that would be unenforceable. Does this street have permit parking?

Ms. Banks said that it does not.

Planning Commission and staff discussed proposed language to limit the number of vehicles during any given rental period. The proposal is to eliminate Condition #5 and add the following two conditions.

There shall be no more than two guest vehicles during a rental period.

Only two off-street parking spaces are required; the spaces do not have to be delineated and can be accommodated utilizing the driveway, by enlarging the driveway, or by using other areas of the property.

Commissioner Byrd made a motion to recommend approval of the STR request, with conditions, as amended.

Councilmember Dent seconded the motion.

Commissioner Baugh said that we found about the closest we are going to find to a spot that we can all live with. I think that our eyes ought to be open on this. I am not suggesting that we take another step down the path. There is value in stating this like this. Most people, if they are told the rules, will adhere to the rules. I do not know how we would enforce this. We go back to Commissioner Hull's point, if you have someone there with more, they are going to park on the street. I hope we have hit a decent balance between encouraging the right stuff. I cannot imagine what that complaint is going to look like by the time someone sorts it out to figure out that extra car that has ended up on the street. I think that is what is going to happen.

Chair Finnegan called for a roll call vote.

Commissioner Whitten	Aye
Commissioner Byrd	Aye
Commissioner Hull	Aye
Councilmember Dent	Aye
Commissioner Baugh	Aye
Chair Finnegan	Aye

The motion to recommend approval of the STR request passed (6-0). The recommendation will move forward to City Council on June 8, 2021.