



City of Harrisonburg

City Hall
409 South Main Street
Harrisonburg, VA 22801

Master

File Number: ID 19-215

File ID: ID 19-215 Type: PH-Special Use Permit Status: Agenda Ready

Version: 1 Agenda Section: In Control: City Council

File Created: 06/28/2019

Subject: Final Action:

Title: Consider a request from Glenn Loucks with representative David Sloop for a special use permit to allow short-term rental at 111 Campbell Street.

Internal Notes:

Sponsors:

Enactment Date:

Attachments: Staff Report SUP (111 Campbell Street) (5 pages), Site Maps (2 pages), Application, applicant letter and supporting documents (4 pages), Zoning Determination for 211 Campbell Street (2 pages), Public Hearing notice, Surrounding property owners notice

Enactment Number:

Contact:

Hearing Date:

Drafter: thanh.dang@harrisonburgva.gov

Effective Date:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Planning Commission	07/10/2019	recommended to full council	City Council	08/13/2019		Pass
<p>Action Text: Commissioner Colman made a motion to recommend approval of the SUP with the modified conditions, as stated. Commissioner Ford-Byrd seconded the motion. All members voted in favor of recommending approval of the SUP, with modified conditions. The recommendation will move forward to City Council on August 13, 2019.</p> <p>Notes: Chair Way read the request and asked staff to review. Ms. Banks said that 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:</p>							

- Site: Single-family detached dwelling, zoned U-R
- North: Across Campbell Street, multi-family dwelling, zoned U-R and professional office, zoned B-2
- East: Single-family detached dwelling, zoned U-R
- South: Multi-family dwelling, zoned R-3
- West: Single-family detached dwelling, zoned R-3

In early 2018, staff discovered occupancy violations upon the subject parcel, where there were eight unrelated individuals residing within the single-family detached dwelling and one person residing in two separate dwelling spaces within the accessory structure that had been illegally converted from a non-conforming one-unit dwelling to a duplex. Zoning staff issued a Certified Notice of Violation to the property owner requiring that the property's uses and occupancy be brought into conformance with the existing U-R zoning regulations. This meant the property could contain only a single-family detached dwelling occupied by a family or two unrelated individuals and the accessory structure could no longer be used as dwelling units because the non-conforming dwelling had been illegally enlarged to two dwelling units.

The property owner appealed the decision of zoning staff to the Board of Zoning Appeals (BZA). On June 4, 2018, the BZA upheld Zoning staff's determination that there was an occupancy and use violation existing on the site and therefore, the property would need to be brought into compliance with the U-R zoning district. The property owner discontinued the uses within the main house and the carriage house and placed the property for sale. In December 2018, the City's Zoning/Planning Specialist issued a formal letter to the property owner listing the allowable uses for 111 Campbell Street (the letter is attached with this staff report.) Please note within the letter under Uses Permitted by Special Use Permit, that subsection (6) Bed and Breakfast Facilities is, as of March 26, 2019, now listed as Short-term rentals.

The applicant is requesting approval of a short-term rental (STR) operation at 111 Campbell Street. The property is located mid-block, along the southern side of Campbell Street, across from the intersection of South Federal Street with Campbell Street. The property is also located about 300-feet from South Main Street and about 350-feet from City Hall. Situated on the property is a single-family detached dwelling and an accessory structure (often referred to as "the carriage house") which is non-conforming to required setbacks.

As stated in the applicant's letter, they desire to purchase the property for their personal residence and begin renovations on both the single-family dwelling and the accessory structure. Staff has discussed with the applicant the issue involving the illegal uses that previously existed on the property and informed them that building and trade permits will be required prior to beginning any renovations.

The applicants propose to renovate the existing accessory structure to be used as two accommodation spaces for short-term rental. ("Accommodation spaces" means any room offered for sleeping. This would not include living spaces or rooms where guests would not be sleeping.) Each space would accommodate three persons for a total of six guests within the accessory structure. The applicants must understand that any building improvements

made to the accessory structure could in no way renovate the spaces to a point where the spaces would be considered dwelling units.

Renovations are also proposed for the detached single-family dwelling, converting it from seven bedrooms to five bedrooms, along with other necessary updates to make it their primary residence. Once the single-family dwelling is renovated, the applicants desire the ability to rent the single-family detached dwelling as a “whole home” STR with five accommodation spaces and up to 15 guests during football weekends or graduation. The operator would not be present during the whole home lodging period. They describe that the whole home rental would be to a family or a single group; they would not be renting individual rooms within the single-family detached dwelling.

The applicants further explain that in the future, if they were to move from the property, they would still want the ability to operate the property as a whole home STR, even though it would not be their primary residence.

If approved as requested, there could be a total of 21 guests on the subject property lodging within the single-family detached dwelling and accessory structure, and the operator/property owner would not be present during the lodging period.

This section of Campbell Street has residential Red Zone parking; therefore, a parking permit is required when parking on the street between the hours of 4:00 am to 6:00 pm, Monday through Friday. If approved as submitted, a total of eight off-street parking spaces would be required (one for the single family detached dwelling and seven for the STR operations). This property has the ability to provide the required off-street parking within the driveway and parking areas on-site.

The subject site is in a transitional space between a major collector street (Mason Street) and a minor arterial street (South Main Street) and is within 200-feet of the Joshua Wilton House and other businesses fronting South Main Street. Additionally, it is walkable to James Madison University (JMU) and to the downtown central business district. Staff believes that a whole home STR could be appropriate at this location, but does not believe it is in the best interest of this neighborhood to allow such a high number of allowable lodgers (up to 21 persons as presented by the applicant) without the site being the property owner’s primary residence. Such a situation could become a nuisance to neighboring properties with large groups temporarily renting the space. Therefore, as indicated below, staff is recommending the condition that if the site is the operator’s primary residence, the STR can have up to 20 individuals. If, however, the site is not the operator’s primary residence, the site shall only allow up to 10 lodgers.

Staff recommends approval of the STR only with the following conditions:

1. All STR accommodations shall be within either the principal dwelling or the accessory structure (“the carriage house”).
2. There shall be no more than seven STR guest rooms or accommodation spaces.
3. If the STR is the primary residence of the operator, 20 individuals may be accommodated on the site. If the STR is not the primary residence of the operator, 10 individuals may be accommodated on site. Where lodgers reside within the seven accommodation spaces can be determined by the STR operator so long as all Building Code requirements are met.

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 Pre-Operation Form when short-term rental guests are present.
5. Minimum off-street parking spaces do not need to be delineated and can be accommodated utilizing the driveway or 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 any additional accessory buildings 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 #2 limits the total number of guest rooms and accommodation spaces on the entire property to seven. Condition #3 limits the total number of STR guests to not more than 20 or not more than 10 depending upon whether the property is the operator's primary residence. 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 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 #5 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 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 seven accommodation spaces, the property should provide seven off-street parking spaces. It should be acknowledged that in addition to the off-street parking space required for the STR, the ZO requires off-street parking spaces for the non-transient dwelling unit. This property has the ability to provide the required off-street parking within the driveway and parking areas on-site. 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 #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 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.

Chair Way asked if there any questions for staff.

Chair Way said he noted that the word "only" was emphasized when saying "only with the

following conditions.” If any of those conditions #1-3 were modified, you would have some discomfort with recommending approval. Correct?

Ms. Banks said that she would need to know what the modifications were. Our discomfort is the large number that could be accommodated there.

Chair Way opened the public hearing and invited the applicant to speak to the request.

David Sloop, currently living on Paul Street, came forward to speak to the request. We are excited about this home and how close it is to downtown. It has been a student rental for over two decades and would not be suitable for my family to live there. We would like to restore that home, and we think it would be beautiful. The only way that we could afford to do that is with the extra income from the back unit. Because of its proximity to downtown, if we did decide to move again, I would like to have the broad usage. We do not have any plans to move out.

Commissioner Whitten said that to be clear, your intent is to move into this house with your family, and having a STR with you being present. That would be your intent.

Mr. Sloop said yes. We are already under contract for our home on Paul Street, and we have contingencies in both contracts pending this approval. We intend to be present, with the exception of the mentioned game weekends and graduations. That would be the only time that we would rent the whole house.

Chair Way said that he wanted to address the three scenarios mentioned. The first one is the carriage house. You propose up to three persons in each of the areas in the carriage house. In addition to that, the potential whole house STR, up to fifteen people, on sports weekends and graduations. There is also an additional element here which warrants our attention. In condition #3, if you, as primary residents leave the property, you want to have the ability to operate it as a STR despite it not being your primary residence.

Mr. Sloop said yes.

Commissioner Ford-Byrd asked what the plan would be for management if the applicant is not living on the property.

Mr. Sloop said that if we were to do that third option, we have no plans to leave Harrisonburg, ever. I grew up here. I moved here in 1986 and moved back to town five years ago. We have no plan to leave. Our hope is to stay in Old Town. If we found something else, we would still operate it and live close by. If we were moving out of town, we would have no interest in that.

Chair Way said that you might do that, but the potential conveyance leads back to our previous case. It opens up a gray, tenuous area. I am more comfortable with the carriage house. Some of the issues will be on that last scenario, where you leave the property, or someone else buys it and they have the right to do all these things.

Mr. Sloop said that the proximity to downtown, the proximity to the Joshua Wilton House, the street is primarily student rentals and businesses. I have spoken at length with Roberta McCorkle who lives next door. She knows our intention with what we would like to do with the property. I feel like the location fits, but I understand the concern.

Commissioner Colman said that the main concern is having an operator on site. The number of people is a concern, but we have approved some SUP with large numbers. The operator is where our concern is. In the first scenario, where it is your home, I do not have a problem with you being there or not during the lodging period. If you move away, and this

is no longer your primary residence, then that is where the issue comes about. That is the reason that we are turning away other applications.

Chair Way said that we just had a good discussion about the nature of the primary residence question.

Commissioner Whitten said that she is not at all comfortable with condition #3. Furthermore, your short block of Campbell that goes to Mason Street continues on up the hill and is very residential. Noise carries, as we have found with that very house. We have here in front of us the U-R zoning regulations which state that a property can be occupied by a family or two unrelated individuals. The accessory structure could no longer be used as dwelling units because of the non-conformity of that structure. We are going from that, a family or two unrelated persons, to twenty unrelated people. That is a big stretch. I am not comfortable with that.

Chair Way asked if there was anyone else wishing to speak to the request.

Roberta McCorkle, 95 Campbell Street, came forward in opposition of the request. I feel absolutely betrayed. This may be a transitional area, and I may live in an R-3 residence, but I am a person living on lower Campbell Street. It is my neighborhood. I would hope that this City, no matter where anybody lives, would maintain the same standard of what Airbnb is supposed to be.

This is not what Mr. Sloop and I discussed. I can tell you many examples of what happens in that lovely home and the broad porch when twenty people, on a beautiful night, decide to sit outside and talk. I have central air. I have double-glass windows. I use fans. I can hear every word. I cannot sleep. I am forced to go over, in my bathrobe, and try to maintain my composure to be a decent individual to ask the individuals on the porch to please lower their voices, and that is not a responsibility that I am willing to take on. I share that driveway. I have had my driveway blocked before. I have to go over and ask the renters to move their cars so that I can get my car out of the driveway. With no one there, I become the property manager, and I am not willing to take that on. It is my home. It will be the home of my daughter, my son-in-law, my grandson.

Joshua Wilton House is my neighbor. They never have more than twelve people. They have five rooms for two people and they have two cots. They have an innkeeper on site at all times. We have an apartment in the back, managed by Matchbox Realty, that is a no-party zone. It is a lovely neighborhood. We have a counseling center where people come and find solace. We have a house where members of the Sigma Nu fraternity have lived for four years. We call that our legacy house. They have found a community there and we accept them. We guide them, and we help them, and we hope that they will remember their experience on Campbell Street.

Chair Way asked what is your level of comfort with the carriage house proposal? If we were to take out the whole house rental?

Ms. McCorkle said that someone, either the owner or the operator, needs to be present, at all times. Secondly, it would take housing stock. This house has been rented since April 7, 2019, on a six-month lease, to a lovely Congolese refugee family of nine. They told me that they want to stay, but they cannot stay. It is a Section 8 house. They cannot afford that house. They cannot afford that neighborhood. We will welcome the Sloops. They can make it their home, but they have to be reasonable and understand that this is the way

Airbnb works. Airbnb, as Mr. Lee pointed out to City Council last night, that occupancy is based on the satisfaction of the guest. If the guests are not satisfied because they were not given proper information, or the old bat next door keeps coming over in her bathrobe, then the occupancy will be diminished. I am happy for the Sloops to live there. I wrote a letter. I have no problem and I clearly stated that. I am not a NIMBY person. This is not a NIMBY neighborhood. This is a welcoming neighborhood. I have no problem with up to ten people on the property. That is what it used to be when it had an illegal use. And that member of the family or an operator be present. That individual could stay in one of the carriage house rooms. I do not want to have an acrimonious relationship with my closest neighbor and do not want to have to worry about this constantly. On the last ESPN day, two vehicles in my driveway were hit by a driver. That skinny driveway goes back to a parking lot, so it is in very close proximity, so it requires extra special recognition of that.

Mr. Sloop said that he wants to apologize publicly to Roberta. I did not intend to deceive or betray. The part that I added to the end of that application is not part of our plan. I see why that came across the way that it did. Our goal is to live in this home.

Commissioner Whitten asked if he would like to remove that option.

Mr. Sloop said yes, if you are comfortable with ten. My primary goal is not to launch a business plan. I added it in because I wanted to have a broad use for the SUP. I knew that this was a one-time thing. This is my first time ever doing something like this. I apologize.

Glenn Loucks, owner of the property and co-signer of the application with Mr. Sloop, came forward. This is the first time that I have heard about fifteen people in the house. My understanding, from when our contract was written, was for two units in the carriage house. That is where I thought we were going with that. I think that is a reasonable use for that property. My understanding is that the Sloop family would be living in the primary house and would be able to use some of the income from the carriage house to help renovate the property. Was this added later, the fifteen people, or was it part of the original application?

Ms. Banks said that it was in the application.

Mr. Loucks said that it is news to him that it was added to the application.

Chair Way asked if there was anyone else wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Commissioner Finnegan referred to Commissioner Whitten's thoughts on condition #3 and asked how she would amend condition #3.

Commissioner Whitten said that she was asking Mr. Sloop if he would be interested in removing #3. That would be up to him. The conditions would have to be reworked.

Commissioner Colman said that he likes the idea of the carriage house being the only one for STR. That is six people.

Commissioner Finnegan asked if that can be changed between now and City Council or if it would have to be tabled.

Mr. Fletcher said that the Planning Commission has the ability to recommend any conditions you like.

Chair Way said that, to be clear, what we are suggesting here is a rewrite of conditions #1-3 to make it more consistent with other STRs where we talk about primary residency, etc. and saying that the rentals would take place in the carriage house.

Commissioner Finks said that we would be adding conditions #1 and #2 that we have had

in the other STR.

Ms. Dang asked why would they limit the STR to just the carriage house? Why not consider limiting the number of total people on the entire site.

Chair Way said that it was because, as we heard from the neighbor, there was a desire for the owner to be present as much as possible.

Commissioner Whitten said that the point is that a bedroom in the main house could also be used.

Ms. Dang said that staff could offer suggestions based on what we are hearing from you.

Ms. Banks suggested the following conditions:

1. The site shall be the operator's primary residence.
2. If the operator is not the property owner, then the operator shall be present during the lodging period.
3. The number of STR guests at one time shall be limited to ten.

Chair Way said that six is the number we were considering.

Ms. Banks said that it would be whatever number you choose. We were hearing ten. Our thoughts are utilizing both the carriage and the main building.

Commissioner Finks asked if they might consider tabling the request because it sounds like we are trying to make some major edits of these conditions.

Mr. Sloop said that he added the number, which came about during discussions with staff, where they were considering three people per bedroom. I am not saying that this is not my fault, it clearly is. It is a rookie mistake and I apologize. I am happy to remove #3. My intention here was to rent out the carriage house and I shot for more. I did not realize that this was going to be such a mistake.

Chair Way said that we are trying to give you some flexibility here.

Mr. Fletcher said that the application letter says that each unit of the carriage house can have three people. The letter goes on to state that the house can accommodate up to fifteen people. That is where the 21 guests comes from, six from the carriage house and fifteen from the house.

Chair Way said that is why we were suggesting keeping it at six because that accommodates the carriage house.

Commissioner Colman said that you have the ability to use bedrooms in the main house, one or the other. You could do both, half in one and half in the other.

Commissioner Ford-Byrd asked if this is a case that would benefit from the operator being on-site, due to the response from the neighbor.

Chair Way said that he would prefer that. I know that there are differences on the Planning Commission regarding operators being present or not during the accommodation period.

Commissioner Finks said that the difference would be if it is the property owner or the renter. If it is the renter that is the operator, then they have to be on-site. If they are the property owner, they do not necessarily have to be on-site, but it has to be their primary residence.

Commissioner Colman said that this is a SUP. If we have standard conditions, then they might as well be part of the ordinance. We can vary the conditions. We can have the condition that the operator is on-site, whether it is the owner or not seems reasonable in this case.

Commissioner Finks said that he does not feel comfortable changing any of these conditions, at this point, and voting on it because there seems to be confusion among what was discussed with the current neighbor of the property and with City staff. I am a little concerned that this has not been completely fleshed out.

Commissioner Whitten said that Mr. Sloop seems to be clear about what he is asking.

Commissioner Finks said that he is referring to Ms. McCorkle's thoughts, that things were not laid out to her.

Commissioner Whitten said that her understanding was that it was only supposed to be the carriage house.

Mr. Sloop asked if it would solve the problem if they drop the whole house rental portion of the request. I had hoped for that, but it was a secondary point. I do not want to lose this issue over something that was not a primary issue for me in the first place. I am happy to adjust to the carriage house.

Planning Commission and staff worked through the language to be applied to the recommended conditions and read the following into the record:

1. The site shall be the operator's primary residence.
2. If the operator is not the property owner, then the operator must be present during the lodging period.
3. All STR accommodations shall be within the accessory building ("the carriage house").
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 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.

Commissioner Colman made a motion to recommend approval of the SUP with the modified conditions, as stated.

Commissioner Ford-Byrd seconded the motion.

All members voted in favor of recommending approval of the SUP, with modified conditions. The recommendation will move forward to City Council on August 13, 2019.
