



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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January 3, 2021

TO THE MEMBERS OF CITY COUNCIL CITY OF HARRISONBURG, VIRGINIA

SUBJECT: *Consider a request from Frederick B. and Laurinda F. Peters Trustees for a special use permit per Section 10-3-34(7) of the Zoning Ordinance to allow for a short-term rental within the R-1, Single-Family Residential District. The +/- 14,600 square foot property is addressed as 43 Maplehurst Drive and is identified as tax map parcel 18-M-7.*

EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: December 8, 2021

Chair Finnegan read the request and asked staff to review.

Ms. Dang said that the Comprehensive Plan designates this site as Low Density Residential. These areas consist of single-family detached dwellings in and around well-established neighborhoods with a target density of around 4 dwelling units per acre. The low density residential areas are designed to maintain the character of existing neighborhoods. It should be understood that established neighborhoods in this designation could already be above 4 dwelling units per acre.

The following land uses are located on and adjacent to the property:

- Site: Single-family detached dwelling, zoned R-1
- North: Single-family detached dwelling, zoned R-1
- East: Nonconforming multiple-family dwelling, zoned R-1
- South: Single-family detached dwelling, zoned R-1
- West: Single-family detached dwelling, zoned R-1

The applicant is requesting approval of a short-term rental (STR) operation at 43 Maplehurst Drive, which is located between South Main Street and Moffett Terrace. The applicant desires to rent the entire residence for STR, which includes five accommodation spaces. (“Accommodation spaces” means any room offered for sleeping. This would not include living spaces or rooms where guests would not be sleeping.) The applicant is seeking approval for up to eight guests at a time, with the

ability to host up to 12 guests during 12 nights each calendar year. The applicant describes that the property is their primary residence.

The applicant explains in their letter that their “initial request was for approval to host up to 12 guests at any time. Staff comments noted concern over the number of guests initially proposed and the proposal has been revised in response to those concerns while seeking to preserve the ability to capitalize on major event weekends (e.g. homecoming, parents’ weekend, graduation, etc.).”

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 five accommodation spaces, the property should provide five 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. Off-street parking is available in the rear of the property, accessed by an alley; two parking spaces are available within the detached garage and a third parking space is available on the east side of the garage. Rather than creating new off-street parking areas, staff recommends a condition to limit the number of guest vehicles during a rental period to no more than three. It should be known that Maplehurst Avenue and surrounding neighborhood streets are subject to Brown Zone permit parking restrictions.

With the following conditions, staff recommends approval:

1. All STR accommodations shall be within the principal structure.
2. There shall be no more than five STR guest rooms or accommodation spaces.
3. The number of STR guests at one time shall be limited to eight.
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. There shall be no more than three guest vehicles during a rental period.
6. Only two off-street parking spaces are required; the spaces do not have to be delineated.
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.

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 five. Condition #3 limits the total number of STR guests to not more than eight at all times. 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 limits the number of guest vehicles during any rental period to three. Condition #6 requires the applicant to provide two off-street parking spaces for the STR use and provides flexibility for the property owner to maintain the residential appearance of their property by not requiring them to delineate off-street parking

spaces. (NOTE: As a reminder, a third off-street parking space is required for the non-transient dwelling unit.) Finally, condition #7 allows PC or CC to recall the SUP for further review if the STR becomes a nuisance.

As noted above, staff is recommending approval only with the suggested conditions; the conditions would not allow the applicant to operate as they requested in their application. If PC disagrees with staff, it has the authority to recommend different conditions to CC, who may accept or reject any of staff's or PC's recommended conditions or, if they so choose, establish their own conditions for approval or deny the request.

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.

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 we received a comment saying that the SUP should be non-transferable and applicable to this owner only. That is not feasible, right, from what I heard you say? It conveys with the property, correct?

Ms. Dang said that is correct.

Commissioner Whitten asked if this is permit parking.

Ms. Dang said yes, it is in Brown Zone Permit Parking. In Brown Zone Permit Parking, a permit is required 24 hours a day to park on the street. It is a towable zone. The Brown Zone is around the Maplehurst area and portions of the Purcell Park neighborhood. All the residential permit parking zones allow the owners to get two guest passes. The guest passes are for vehicles parked within 500 feet of the property and only for those visiting the property.

Chair Finnegan asked if there any comments received that were not reflected in the two comment emails received earlier.

Ms. Dang said that those were the only two comments received.

Commissioner Armstrong said that if the SUP is conveyed with the property in a sale, this condition number 7 "if it becomes a nuisance" could be invoked?

Ms. Dang said that is correct.

Commissioner Armstrong said that would be some reassurance to the neighborhood.

Councilmember Dent said that the applicant was requesting 12 nights a year when they could have 12 guests for special events. Staff is not recommending considering that, correct?

Ms. Dang said that is correct.

Chair Finnegan acknowledged that Commissioner Byrd joined the meeting.

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.

Josh Peters, son of the applicant, came forward to speak to the request. I have not seen the emails, so I would like a chance to speak to those.

Copies were provided to the applicant.

Chair Finnegan said that there was a comment from Kathleen Kelley, stating that they would like for this permit to be non-transferable and approved as a limited time permit. We will enter that into the record. Mr. Sellers said that his concern was the alteration to the R-1 character of the Maplehurst neighborhood. He wants it to remain R-1. Those were the comments.

Mr. Peters said I will try to address the things that I see here. There is the question of character of the neighborhood, parking, the non-transferable comment which I believe was already addressed. Any approval would run with the property, so we understand that is how that works. The staff report recommends approval. It recommends approval with a set of conditions. We appreciate that recommendation and are generally in agreement with all those conditions, with the exception of one. That is the maximum number of guests. Staff is recommending that the number be set at eight at all times. We agree that is a generally appropriate number. What we are asking for is to be able to host slightly larger groups during 12 calendar days which would be six weekends out of the year. The idea is that if there is a graduation gathering for a graduating senior, and their family comes from out of town, there would be a number of people coming. It could be two parents, two adult siblings, a significant other for each sibling, and two children, takes you to eight right away. It would not allow for the graduating senior to stay at the house. It is those exceptional weekends out the year, we would like to accommodate that slightly larger family gathering. That is the intent. We want to do justice by our request and to stand by that request. That said, we respect that there are norms that get established along the way. If in the Commission's deliberations eight is deemed to be the appropriate number, we accept that. That is not a critical point for us. We do need to do justice by our initial request for those 12 people just a couple times out of the year.

As far as parking goes, staff is recommending as condition of approval that no more than three vehicles be allowed to come to the property at any time. We are in agreement with that condition. The property would be marketed that way, that no more than three vehicles could come to the property, even with the exception for 12 people, if that were granted. As far as character of the

neighborhood is concerned, I do respect that concern. If it is compared to the impact that is caused by a typical single-family use, we have more than eight people come stay at the house with us on family gathering weekends, like Christmas or any major event weekends in our family. If you think about a Christmas gathering, if our family were to go somewhere out of town instead of our house, the impact would be more or less equivalent.

Chair Finnegan said I wanted to clarify that it is stated in this request that it is the primary residence of the applicant.

Mr. Peters said that is correct.

Chair Finnegan said that is an important distinction for me, that we are not taking people out of houses and turning houses into full-time hotels in these neighborhoods. That is an important distinction, that it is a primary residence.

Commissioner Whitten said, so your mother lives in this house?

Mr. Peters said yes, my mother lives there full-time. That is her home.

Commissioner Whitten asked what the rental rate would be for the nights.

Mr. Peters said that he did not know. I do not know if it has been decided yet.

Chair Finnegan said my understanding is that it fluctuates. The rent would be higher on Parent's Weekend and would be lower in the off season.

Commissioner Whitten said that there must be an idea if there is a business plan for this. It certainly does seem like it is a business.

Mr. Peters said I could tell you what our next steps would be. If we were granted approval, we would check Airbnb looking for comparable places and seeing what they are charging. I did that three or four weeks ago, but I cannot remember what those prices were.

Commissioner Whitten said that for that number of people it might be \$500 to \$800 a night.

Mrs. Peters, from her seat, said that is what I am thinking, somewhere in there.

Chair Finnegan said, for the record and because the applicant did not speak into the microphone, that the property owner said that is what they were thinking about.

Commissioner Whitten said that she said that for context for the Planning Commission and for the public. When we start to run businesses from home and we are making a lot of income from homes, we are putting ourselves into a situation of the cost of housing going up. We do have concerns about affordability. What I would say is that if 12 people want to come to Harrisonburg for a weekend like homecoming or graduation, we have hotels for that. Those are businesses that also support the community. We have to keep all that in mind and balanced.

The other concern that I have is, who is going to enforce the three car rule? It seems to me that we are putting that on the neighborhood. Living in a neighborhood where parking is at a premium, I do not love that.

Chair Finnegan said this is a brown-zone permit parking area. Can staff speak to parking enforcement for on street parking.

Ms. Dang said that she cannot speak to the permit parking. I assume that someone would contact the police department to enforce the towable zone. In that case, if there were someone who would arrive without a guest pass or in general, not necessarily because of the STR. In terms of zoning enforcement, yes, it would be based on the neighborhood to file a complaint with the Planning and Zoning Division of Community Development to inform us that they have concerns. We would either do a site inspection or reach out to the property owner to discuss it with them. I discussed with Mr. Peters the expectation of when they market the property, they would disclose the requirement on their listing. When people are booking, they would know in advance that is the limit.

Commissioner Armstrong said that she is in the brown permit parking zone. They have two off-street and the garage. Typically, we have two guest passes. As long as the person is on premise, it is permissible for them to use those guest passes. That covers three spaces. They would just have to use that guest pass.

Chair Finnegan asked if there were any questions for the applicant's representative. Hearing none, he asked if there was anyone in the room or on the phone wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Chair Finnegan said that each neighborhood has its own concern around something new, like Airbnb or whatever it may be. I have voted for several of these in my neighborhood, where they are owner occupied and they rent out several rooms. I have seen new people and cars from out of town parked on the street. I have not seen any problems with the Airbnbs that have been approved in my neighborhood. I am inclined to support this, with staff's recommendations and limitations, not the twelve people from the original request. I think there is no way to enforce specific weekends. Making a condition that is contingent on once or twice a year is difficult.

Commissioner Whitten said I think that we have had that request before. That was always my concern. Who was going to keep up with that? I do not think anybody can.

Chair Finnegan said I would be inclined to support with the conditions, all seven conditions, listed by staff.

Councilmember Dent said I appreciate the confirmation that the owner is occupying the residence. That is one of the key provisions of the STR SUP, so that we do not get people buying up properties just to serve as STRs. With that and the conditions by staff, I support it as well.

Chair Finnegan said I like history and I like newspaper archives. I want to speak to the comment about the character of the single-family neighborhood. I have a subscription to the DNR archives. I searched for Maplehurst. There were several stories about the Catholic Campus Ministry Building. There is one from 1970, before this community was downzoned. There are ads in the paper for Maplehurst Avenue duplex or single-family. They all say, “located near Madison College.” A listing from 1940 states “Apartment for rent on Maplehurst Avenue, 28 Maplehurst apartment for rent, 5 rooms”. There were apartments and duplexes on this street. I think it is important when we are talking about maintaining the historical character of the neighborhood.

Commissioner Orndoff made a motion to recommend approval of the SUP with conditions, as presented.

Councilmember Dent seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Whitten	No. I am concerned about the cost of housing increasing related to this kind of use of property in the City.
Commissioner Byrd	Abstained.
Councilmember Dent	Aye
Commissioner Baugh	Aye
Commissioner Armstrong	Aye
Commissioner Orndoff	Aye
Chair Finnegan	Aye

The motion to recommend approval of the SUP request passed (5-0). The recommendation will move forward to City Council on January 11, 2022.