



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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To: Ande Banks, City Manager
From: Adam Fletcher, Director of Community Development, and Harrisonburg Planning Commission
Date: April 25, 2023 (Regular Meeting)
Re: Special Use Permit - 511 East Market Street (to allow occupancy of not more than four (4) persons)

Summary:

Project name	Riner Rentals Special Use Permit
Address/Location	511 East Market Street
Tax Map Parcel	27-E-4
Total Land Area	+/- 15,686
Property Owner(s)	BISAPACA, LLC
Owner's Representative	Paul and Bill Riner
Present Zoning	R-2, Residential District
Special Use Permit Request	Section 10-3-40 (7) to allow occupancy, other than permitted by right, of not more than four (4) persons
Staff Recommendation	Approval
Planning Commission Recommendation	March 8, 2023 (Public Hearing) Approval (7-0)
City Council	April 25, 2023 (Public Hearing)

Background:

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

Site: Duplex dwellings, zoned R-2

North: Across East Market Street, professional offices, zoned R-3C

East: Multi-family dwellings, zoned R-2

South: Multi-family dwellings, zoned R-5C

West: Duplex, zoned R-3C

Key Issues:

The applicant is requesting a special use permit (SUP) per Section 10-3-40 (7) of the Zoning Ordinance to allow occupancy for up to four persons within each unit of a duplex dwelling, zoned R-2, Residential District. The property is located at 511 East Market Street. The property has a duplex and the applicant states that there are three bedrooms in each unit. In the R-2 zoning, a family or no more than two

unrelated persons may occupy a dwelling unit. In the applicant's letter they are requesting a SUP to allow for three unrelated persons per unit, for a total of six possible tenants. The property has a parking lot on site that will be able to provide adequate parking for tenants.

Land Use

The Comprehensive Plan designates this area as Mixed Use and states:

“The Mixed Use category includes both existing and proposed areas for mixed use. Mixed Use areas shown on the Land Use Guide map are intended to combine residential and non-residential uses in neighborhoods, where the different uses are finely mixed instead of separated. Mixed Use can take the form of a single building, a single parcel, a city block, or entire neighborhoods. Quality architectural design features and strategic placement of green spaces for large scale developments will ensure development compatibility of a mixed use neighborhood with the surrounding area. These areas are prime candidates for “live-work” and traditional neighborhood developments (TND). Live-work developments combine residential and commercial uses allowing people to both live and work in the same area. The scale and massing of buildings is an important consideration when developing in Mixed Use areas. Commercial uses would be expected to have an intensity equivalent to a Floor Area Ratio of at least 0.4, although the City does not measure commercial intensity in that way.”

While surrounding properties have requested rezonings to R-3C, Multiple Dwelling/Medium Density Residential Conditional and R-5C, High Density Residential Conditional, they typically have either proffered to have only professional office uses, or if dwellings were allowed, they had proffered to limit the number of unrelated persons that are allowed in a single unit.

While not an exhaustive list, examples of nearby rezonings and SUPs through the years include:

- In April 1995, City Council approved a rezoning at 510 East Market Street (TM 27-B-1) from R-2 to R-3C. That rezoning included proffers prohibiting all uses except for professional offices.
- In April 2001, City Council approved a rezoning at 503 East Market Street (TM 27-E-3) from R-2 to R-3C. That rezoning included proffers that allows any uses permitted by right in the R-1 and R-2 districts, restricts occupancy of dwelling units to a family or not more than two persons, and allows for professional offices to occupy the building.
- In July 2013, the property owner of 632 East Market Street (TM 33-V-5) applied for the same SUP as being requested herein. Staff and Planning Commission recommended denial and City Council denied the request.
- In February 2021, the City approved a rezoning for 518 East Market Street from R-2 to R-3C. The proffers prohibited a number of uses allowed in the R-3 district and did not restrict occupancy, which allows the property to have the by right ability of having a family or not more than four persons per unit. The property has a mixeduse building with professional offices and one dwelling.
- In February 2022, City Council approved a rezoning request at 50 and 52 Reservoir Street form R-2 to R-5C with proffers that limit the occupancy to a family or not more than three unrelated persons.

The R-2 zoning district shares the same occupancy restrictions as the R-1, Single-Family Residential District. Owner-occupied dwellings may be occupied by a family (regardless of the number of

individuals in the family) plus two tenants. Non-owner-occupied dwellings may include rental space for occupancy by not more than one person. In other words, when a dwelling is non-owner occupied, by right, property owners can rent to a family (regardless of the number of individuals in the family) plus one other person or they may rent to two tenants.

While the applicant has described to staff that they do not intend to rent this property to college students, staff understands that there are concerns that the property could be rented to college students and could cause an increase in traffic, parking, noise, and less accountability of the property. When comparing student housing and non-student housing units, there is typically a difference in lifestyles and schedules. These lifestyles sometimes have clashing elements that can cause tensions between neighbors.

However, staff is also aware of the housing needs within the City. According to the City's Comprehensive Housing Study that was completed in January 2021, the property is located in Market Type C and these neighborhoods are among the fastest growing neighborhoods in the city and are characterized by a large number of college-aged persons (age 18-24). In this particular situation at this property, staff feels that the need for more housing in the community outweighs some of the concerns that are surrounding the idea of student housing. As noted below, staff has added a suggested condition that if Planning Commission or City Council feels that the property becomes a nuisance, the special use permit can be recalled for further review.

Recommendation

Staff recommends approval of the SUP request with the following conditions:

- Dwelling units may be occupied by a family or not more than three (3) persons.
- If in the opinion of Planning Commission or City Council, the increased occupancy 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.

Note that the number that is conditioned is the maximum number of occupants requested by the applicant.

Environmental Impact:

N/A

Fiscal Impact:

N/A

Prior Actions:

N/A

Alternatives:

- (a) Approve the special use permit request as submitted by the applicant;
- (b) Approve the special use permit request with suggested conditions;
- (c) Approve the special use permit with other conditions(s); or
- (d) Deny the special use permit.

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 Permit – 511 East Market Street (To Allow Occupancy of Not More Than 4 Persons)

Public hearing to consider a request from BISAPACA, LLC for a special use permit per Section 10-3-40 (7) to allow occupancy, other than permitted by right, of not more than four (4) persons, provided one (1) off-street parking space per tenant is provided on site within the R-2, Residential District. The +/- 15,686 square foot property is addressed as 511 East Market Street and is identified as tax map number 27-E-4.

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 with suggested conditions.

Attachments:

1. Extract from Planning Commission
2. Site map
3. Application and supporting documents

Review:

Planning Commission recommended approval (7-0) of the special use permit with conditions.