



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: July 9, 2019 (Regular Meeting)
Re: Special Use Permit – 1159 Nelson Drive (Short-Term Rental)

Summary:

Public hearing to consider a request from David Lee 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. 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. The +/- 19,000 sq. ft. property is addressed as 1159 Nelson Drive and is identified as tax map parcel 84-E-16.

Background:

The Comprehensive Plan designates this area 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: Single-family detached dwelling, zoned R-1
South: Single-family detached dwelling, zoned R-1
West: Single-family detached dwelling, zoned R-1

Key Issues:

The applicant is requesting approval of a short-term rental (STR) operation at 1159 Nelson Drive. The applicant desires to rent for STR a four-bedroom single-family detached dwelling with a maximum of eight STR guests at a time. The property is not the applicant’s primary residence and there will be no STR operator present during the lodging period.

The property is located in the southeast quadrant of the City, deep within the Ashby Heights and Ashby Estates neighborhood about 0.5-miles from the nearest arterial or collector street (Port Republic Road) and 422-feet from the end of Nelson Drive, which ends in a cul-de-sac. Nelson Drive is unlikely to have pedestrian and vehicular traffic that is not from residents of the street, their relatives, friends, or other visitors.

Generally, when someone purchases a home in a residentially zoned neighborhood, there is a degree of confidence that, although properties within the neighborhood could be rented to different people every month, such a residential environment is not likely to occur. Thus, there is some certainty that residents of the neighborhood will be relatively permanent, which in turn offers stability and community building. Staff believes if a whole home STR is approved within this neighborhood at this location, there is a greater chance that there would not be long-term permanent neighbors (either homeowners or long-term tenants) residing on the property, which could result in community instability because STRs introduce high turnover of different people who are unknown to the neighbors or could leave a house vacant for periods of time while the home is not being rented as a STR.

Additionally, at this location, allowing whole home rentals, where it is not the operator's primary residence decreases the housing stock available for long-term rentals and decreases the number of homes available for owner-occupied homeownership. While, some applicants may not consider themselves investors who are purchasing multiple homes to operate STRs, this home could be sold to an investor and the SUP and associated conditions would convey.

Staff believes that without a condition that the operator be present during the lodging period, and thus no on-site accountability, that there is a greater chance of nuisance activities occurring on the property and negatively impacting neighbors.

Staff also believes that STRs should not negatively impact a community, an individual's quality of life, or an individual's often biggest investment: their home and property. Given the location of the property within this residential area of the City and the nature of the request, staff believes a business operation of this nature should not be promoted at this location and further believes that a STR at this location would have adverse effects on other residents in the neighborhood and on the overall housing options in the City and recommends denial of the special use permit request.

If Planning Commission, however, desires to recommend approval of the applicant's request to City Council, staff recommends the following conditions be placed on the SUP:

1. All STR accommodations shall be within the principal structure.
2. There shall be no more than four STR guest rooms or accommodation spaces.
3. The number of STR guests at one time shall be limited to a family of not more than eight or not more than two unrelated persons.
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 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 #2 limits the total number of guest rooms and accommodation spaces on the entire property to four. (“Accommodation spaces” means any room offered for sleeping. This would not include living spaces or rooms where guests would not be sleeping.) Condition #3 limits the total number of STR guests to not more than eight.

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. The form requires STR operators to certify that STR accommodation spaces have the proper square footage for the number of STR guests planned, have a permanent heat source, have smoke detectors, have egress windows or exit doors, etc.

Additionally, it appears that the basement, where STR accommodation spaces are planned, was finished without obtaining building permits. The applicant is aware that a building permit and final inspection will be required by Building Code Officials prior to beginning operations.

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 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 four accommodation spaces within the dwelling for STR, the property would be required to provide four off-street parking spaces unless conditioned otherwise. 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 units. It appears that all the required off-street parking could be provided on the site in the existing driveway areas. Regardless, 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 applicant has explained his 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. How the property could be used by any future property owner should be considered when deciding on SUP conditions.

Environmental Impact:

N/A

Fiscal Impact:

N/A

Prior Actions:

N/A

Alternatives:

- (a) Approve the special use permit request as submitted; or

- (b) Approve the special use permit request with suggested conditions; or
- (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 City Council’s public hearing. The advertisement was published as shown below:

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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 (d) to deny the request.

Attachments:

- 1. Planning Commission extract
- 2. Site maps (2 pages)
- 3. Application, applicant letter, and supporting documents (5 pages)

Review:

Planning Commission recommended to deny (6-0) the special use permit request.