



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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December 5, 2022

TO THE MEMBERS OF CITY COUNCIL CITY OF HARRISONBURG, VIRGINIA

SUBJECT: *Consider a request from the William Allen Weech Revocable Trust for a special use permit to allow short-term rental at 1335 Wine Drive.*

EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: November 9, 2022

Chair Finnegan read the request and asked staff to review.

Ms. Dang said the Comprehensive Plan designates this site as Low Density Mixed Residential. These areas have been developed or are planned for residential development containing a mix of large and small-lot single-family detached dwellings, where commercial and service uses might be finely mixed within residential uses or located nearby along collector and arterial streets. Duplexes may be appropriate in certain circumstances. Mixed use buildings containing residential and non-residential uses might be appropriate with residential dwelling units limited to one or two dwelling units per building. Attractive green and open spaces are important for these areas and should be incorporated. Open space development (also known as cluster development) is encouraged, which provides for grouping of residential properties on a development site to use the extra land for open space or recreation. The intent is to have innovative residential building types and allow creative subdivision designs that promote neighborhood cohesiveness, walkability, connected street grids, community green spaces, and the protection of environmental resources or sensitive areas (i.e. trees and floodplains). Residential building types such as zero lot-line development should be considered as well as other new single-family residential forms. The gross density of development in these areas should be around 7 dwelling units per acre and 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.

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

- Site: Single-family detached dwelling, zoned R-1
- North: Across Wine Drive, Single-family detached dwelling, zoned R-1
- East: Single-family detached dwellings, zoned R-1
- South: Multifamily Residential-Duplex dwellings, zoned R-5 (Rockingham County)
- West: Single-family detached dwelling, zoned R-1

The applicant is requesting a special use permit (SUP) per Section 10-3-34 (7) to allow for a short-term rental within the R-1, Single Family Residential District. The parcel is +/- 10,121 square feet and addressed at 1335 Wine Drive, which is located north of the City/County boundary and west of Port Republic Road. The property has a two-car garage and a driveway that could park a few vehicles.

As defined in the Zoning Ordinance (ZO), a STR is “[t]he provision of a dwelling unit, a guest room 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.” STRs are further regulated by Article DD of the Zoning Ordinance. Among other things, a STR differs from the by right homestay use by allowing operators to exceed 90 lodging nights per year and in allowing more than four guests at one time.

As explained in the applicant’s submitted letter they will have two accommodation spaces, one bedroom within the principal building and a space within the accessory structure. The applicant stated that no more than six people would stay at the property at one time, two in the guest bedroom and four in the accessory structure. At this time, the applicant has not improved the existing accessory structure to accommodate the transient lodging use, but would ultimately be required to obtain proper building and sub-trade permits to appropriately convert the structure.

While the applicant has explained their operation plans for the STR, the SUP is not restricted to only the current applicant/operator. All SUPs transfer to future property owners; thus, if the applicant sells the property, any future property owner could operate a STR so long as they meet the requirements of the ZO and any conditions placed on the SUP. How the STR could be operated by any future property owner should be considered and evaluated as part of this request.

The ZO requires one off-street parking space for the single family detached dwelling. If the STR is approved as requested, the site must have two more off-street parking spaces—one for each approved accommodation space. Unless City Council allows for a reduction in off-street parking spaces as a condition of the SUP for the STR, the site must ultimately accommodate three off-street parking spaces—one for the dwelling and two for the STR.

The City has approved many STR SUP applications throughout the City and after review of this request, staff believes this request shares similar characteristics to other applications that have already received approval, and thus staff recommends approval of the request, but only with the following conditions:

1. All STR accommodations shall be within the principal building or one accessory structure.
2. There shall be no more than two 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 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.

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 were questions for staff.

Commissioner Armstrong asked when it is a separate accessory structure does a bathroom have to be included in that?

Ms. Dang said it does not. It is just a living space, but they could put one in if they would like to.

Councilmember Dent said that odd line between accessory structure and accessory dwelling, as long as it does not have a stove, or your call depending on the situation applies as well.

Ms. Dang said correct. It cannot have a full kitchen which we generally consider as the stove and oven. It cannot be a separate dwelling where another household would be.

Commissioner Whitten said condition 1 is written specifically “shall be within the principal building or one accessory structure.” Does that mean “and/or” or is it “or”, one or the other?

Ms. Dang said we intended it to be either one or both.

Commissioner Whitten said that is confusing.

Ms. Dang said you could consider amending that.

Commissioner Whitten said we have not had one where we have had a room in the house and in an accessory building.

Ms. Dang said usually the conditions are either the principal building or the accessory structure.

Councilmember Dent said she saw a similar case in City Council. The City Attorney said that “or” is now taken to mean “and/or.”

Mr. Russ said that is typically the way courts will construe “or” unless the context requires something else. There is no rule that you cannot say “and/or” if you want to make it absolutely clear that is what you meant.

Several members indicated support for amending condition 1 to add “and/or.”

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.

William Weech, 1335 Wine Drive, came forward in support of his request. Thank you for giving me the chance to speak. I hope that this is simple and straightforward. I am relatively new to the area. I am retired. I was not sure if I wanted to own real estate, but my kids encouraged me to buy property. They wanted to have a gathering space here in Harrisonburg. When I saw the property on Wine Drive, I thought the utility shed in the back would make a great accessory dwelling for my kids when we have family gatherings. I want to renovate it mostly for family use. It turns out that is rather expensive. Some folks in the neighborhood suggested renting it out on high demand weekends like homecoming and graduation to defray the expenses. I do not want to be a full-time Airbnb host. I am retired. It sounds like real work. I do not want that, but the idea of being able to rent it out a few times when there is high demand in Harrisonburg and defray my expenses is appealing to me. Because it is a small space, we thought to add the bedroom in the house. I would be more cautious about having people I do not know in my house. If they look like solid applicants and the accessory building is too small for them, I would consider allowing them to use the guest bedroom.

Commissioner Whitten asked did you consider a homestay instead of the STR SUP? I see, it is because of the accessory building.

Chair Finnegan asked if there were any questions for the applicant. 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.

Councilmember Dent moved to recommend approval of the SUP, with conditions, and amending condition one to add “and/or.”

Commissioner Armstrong said my only concern is that we are approving a SUP for a future intention. What is true is that granting this SUP raises his property value. It opens the possibility of applications to apply for the future intention of doing construction and then putting the house of the market and raising the value of the house. I would feel better if it was further along. I did not think about the accessory structure, 90 day limit for the homestay. That would be my only concern. It is not particular to this applicant. My experience with these STR is that once we grant one, we must grant them all. If we create this precedent, that is going to happen with that too. That is the way it operates here. Housing values is something... Affordability is a big deal. This works against that.

Commissioner Whitten said I do not feel that a low density neighborhood is an area where we should be putting more people as guests. In the same that we say that people who are related, people who are families belong in these neighborhoods. When you put guests from outside of that community, it stops being a community and starts being something else. I think that Commissioner Armstrong has provided some strong evidence that that is occurring. I think we should pay closer attention to that. I think that it is detrimental to communities.

Commissioner Orndoff seconded the motion.

Chair Finnegan said, as a historical note, I am currently reading the first Harrisonburg Zoning Ordinance from 1939. I found it interesting that at the very beginning, under definitions, it has family housekeeping unit. The second definition is boarding house. The third definition is lodging house which is any dwelling other than a hotel where lodging for compensation is provided for five or more persons. Adding that to say that Harrisonburg has been trying to regulate this as far back as 1939.

Commissioner Whitten said obviously the economic situation in our country was a lot different then and so were family structures. There were many boarding houses because there were not places for people to live at the time. That is not the situation now for short-term stays. We have lots of accommodation spaces. It is apples and oranges.

Chair Finnegan said it is not apples and oranges in my opinion. It says boarding house is any dwelling where lodging and meals for compensation are provided. This is a historical footnote about that.

Commissioner Armstrong said it is apples and oranges to the extent that we did not have internet.

Commissioner Whitten said that there are too many things that are different.

Chair Finnegan asked if there was any further discussion. Hearing none, he called for a roll call vote.

Commissioner Armstrong	No
Commissioner Byrd	Aye
Councilmember Dent	Aye
Commissioner Orndoff	Aye
Commissioner Washington	Aye
Commissioner Whitten	No
Chair Finnegan	Aye

The motion to recommend approval of the SUP request passed (5-2). The recommendation will move forward to City Council on December 13, 2022.