



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: June 11, 2019 (Regular Meeting)
Re: Special Use Permit – 1451 Hillcrest Drive (Short-Term Rental)

Summary:

Public hearing to consider a request from John and Janet Hostetter for a special use permit per Section 10-3-40(8) of the Zoning Ordinance to allow for a short-term rental within the R-2, 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 regulated by Article DD of the Zoning Ordinance. The +/- 14,800 sq. ft. property is addressed as 1451 Hillcrest Drive and is identified as tax map parcel 51-K-17 and 18.

Background:

The Comprehensive Plan designates this area 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:

Site: Single-family detached dwelling, zoned R-2

North: Undeveloped lots, zoned R-2

East: Nonconforming multi-family dwellings, zoned R-2

South: Single-family detached dwelling, zoned R-2

West: Undeveloped lots in Rockingham County property, zoned R-2

On March 26, 2019, City Council adopted new Zoning Ordinance regulations associated with short-term transient lodging commonly referred to as “Airbnbs,” which is associated with the webservice www.airbnb.com. Although known as Airbnbs, operators may use other services including but not limited to VRBO, HomeAway, and FlipKey to advertise their properties. These operations, unless previously approved by the City as a bed and breakfast, have been illegal in the City of Harrisonburg. A short-term rental (STR) is defined 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.”

City Council granted a grace period where enforcement of the ordinance would not occur until August 1, 2019 and which would provide individuals wishing to operate STRs time to apply for and potentially receive approval of a special use permit (SUP). SUP applications are received on a rolling basis for upcoming Planning Commission reviews and subsequent City Council meeting agendas for final determination.

Key Issues:

The applicants are requesting approval of a STR operation at 1451 Hillcrest Drive, which is located in the northwestern section of the City and less than one block from the Eastern Mennonite University campus. The applicants desire to rent for STR up to three accommodation spaces that could accommodate a total of six individuals. They describe that the property is their primary residence and that they plan to be present during the lodging period.

The building is currently described by staff as a single-family detached dwelling. However, during meetings with the applicant, staff became aware that the property has been used as a duplex (two dwelling units). The property is zoned R-2, Residential District and has approximately 14,800 square feet of lot area. A duplex is permitted by the Zoning Ordinance (ZO) to be located on this site so long as Building Code requirements are met. City records indicate that a building permit was applied for in 1984. The building permit was approved for the construction of a single-family dwelling with a basement apartment to be leased, which today the ZO defines as a duplex. The building permit further described that the single-family dwelling (hereafter referred to as the “first larger dwelling unit”) was to also contain a kitchenette in the basement for use by the owner. However, there are no City records that a Certificate of Occupancy (CO) had been issued for the building. Once the applicants became aware of this issue, they began working with the Building Official to take the necessary steps to obtain a CO for the building. If approved, staff recommends a condition that prior to beginning operations, a Certificate of Occupancy (CO) must be issued for the property.

Assuming that the necessary building inspections occur, and a CO is issued for how the owner desires to use the property, the building would be a duplex. The first larger dwelling unit is accessible from the front, as well as from the basement level in the rear of the building. A second kitchen is located in the basement of the first dwelling, along with two rooms. The second smaller dwelling unit is accessible from the rear of the building.

The applicant desires to rent from the first dwelling unit the basement space, which includes two accommodation spaces for a STR. (“Accommodation spaces” is used here to mean any room offered for sleeping. This would not include living spaces or rooms where guests would not be sleeping.) Additionally, the applicant has explained to staff that they plan to continue renting the second dwelling unit to long-term tenants, however, as their future plans may change they have included in their application a request for approval to rent the accommodation space contained within the second dwelling for STR as well. In total, they are requesting permission to rent three accommodation spaces for STR; each accommodation space could accommodate two people for a total of six people.

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.” The applicant has submitted a map illustrating that three off-street parking spaces for STRs can be provided on their property.

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 addition to the large driveway in the front of the property, on the side, and in the rear of the building, the building also has a two-car garage. Regardless, staff believes that if the request is approved, 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 and offers this as a condition on the permit.

If the request is approved, staff recommends the following conditions:

1. Prior to beginning operations, a Certificate of Occupancy (CO) must be issued for the building.
2. The site shall be the operator's primary residence.
3. An operator shall be present during the lodging period.
4. All STR accommodations shall be within the principal dwelling.
5. There shall be no more than three STR guest rooms or accommodation spaces.
6. The number of guests at one time shall be limited to six.
7. Prior to beginning operations, the operator shall have the guest rooms and accommodation spaces and means of egress inspected by city staff to confirm compliance with the Virginia Uniform Statewide Building Code and the Virginia Statewide Fire Prevention Code or as determined necessary by Building Code and Fire Officials.
8. Minimum off-street parking spaces do not need to be delineated and can be accommodated utilizing the driveway or other areas on the property.
9. 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 #2 helps to prevent the City's housing stock from being purchased by investors and then being reallocated from homeownership and long-term rentals to STRs. This also means that if a CO is issued for the building for two dwelling units, and if the applicants live on the property in the arrangement that exists today, then the applicants could not rent the second smaller dwelling unit as a STR since that dwelling is not their primary residence. However, any long-term tenant they have in the second dwelling unit could rent the space as a STR so long as they meet the other conditions for the SUP. Alternatively, the applicants could rent a third bedroom in the first larger dwelling unit. Condition #3 protects the neighbors by ensuring that there is on-site accountability by the STR operators. Condition #4 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 PC and City Council (CC) with a new SUP request. Condition #5 limits the total number of guest rooms and accommodation spaces on the entire property to three. Condition #6 limits the total number of guests at one time to six. However, with Condition #7, which requires that prior to beginning operations that the guest rooms and accommodation spaces and means of egress are inspected by city staff to confirm compliance with the Building Code and Fire Code, the number of guests could be further limited if inspectors determine that six people could not be accommodated in the proposed spaces. While the SUP does not restrict the operator to using specific guest rooms or accommodation spaces within the dwellings (meaning that the STR operator could decide later to change which accommodation spaces are rented for the STR), Building Code and Fire Code requirements would be specific to the spaces. Condition #8 provides flexibility for the property owner to maintain the residential appearance of their

property by not requiring them to create delineated parking spaces. Condition #9 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 applicants were to sell the property, then 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.

The property is located close to Eastern Mennonite University and in an area of the neighborhood where there is likely more pedestrian and vehicular traffic than other sections of Hillcrest Drive further to the north. Guests of the STR would likely travel Parkway Drive or West Dogwood Drive to get to the STR. Both streets likely already receive non-resident traffic because of the activities associated with the university.

Given the nature of the request, location of the property within the neighborhood, and staff's 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.

Staff recommends approval of the special use permit request with the suggested conditions.

Environmental Impact:

N/A

Fiscal Impact:

N/A

Prior Actions:

N/A

Alternatives:

- (a) Recommend approval of the special use permit request as submitted; or
- (b) Recommend approval of the special use permit request with the suggested conditions; or
- (c) Recommend approval of the special use permit with other conditions(s); or
- (d) Recommend denial.

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 – 1451 Hillcrest Drive (Short-Term Rental)

Public hearing to consider a request from John and Janet Hostetter for a special use permit per Section 10-3-40(8) of the Zoning Ordinance to allow short-term rental within the R-2, 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 regulated by Article DD of the Zoning Ordinance. The +/- 14,800 sq. ft. property is addressed as 1451 Hillcrest Drive and is identified as tax map parcel 51-K-17 and 18.

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 request with the suggested conditions.

Attachments:

1. Extract (12 pages)
2. Site maps (2 pages)
3. Application, applicant letter, and supporting documents (3 pages)

Review:

Planning Commission recommended approval (7-0) of the requested SUP with the following conditions:

1. Prior to beginning operations, a Certificate of Occupancy (CO) must be issued for the building.
2. The site shall be the operator’s primary residence.
3. An operator shall be present on the site during the lodging period within any dwelling unit.
4. All STR accommodations shall be within the principal structure.
5. There shall be no more than three STR guest rooms or accommodation spaces.
6. The number of guests at one time shall be limited to six.
7. Prior to beginning operations, the operator shall have the guest rooms and accommodation spaces and means of egress inspected by city staff to confirm compliance with the Virginia Uniform Statewide Building Code and the Virginia Statewide Fire Prevention Code or as determined necessary by Building Code and Fire Officials.
8. Minimum off-street parking spaces do not need to be delineated and can be accommodated utilizing the driveway or other areas on the property.
9. 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.