



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 – 341 South Willow Street (Short-Term Rental)

Summary:

Public hearing to consider a request from Richard Scott Asbell, III and Jacqueline Mae Asbell for a special use permit per Section 10-3-34(7) of the Zoning Ordinance to allow for 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 regulated by Article DD of the Zoning Ordinance. The +/- 11,700 sq. ft. property is addressed as 341 South Willow Street and is identified as tax map parcel 24-D-30.

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: Across South Willow Street, Virginia National Guard Readiness Center, zoned R-2
South: Single-family detached dwelling, zoned R-1
West: Single-family detached dwelling, zoned R-1

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 341 South Willow Street, which is located in the western section of the City. The property is across the street from the Virginia National Guard Readiness Center and James Madison University. This section of South Willow Street has green zone permit parking on the west side of the street. A parking pass is required for vehicles parking on the west side Monday through Friday, 8am-8pm. The east side of South Willow Street has no restricted parking.

The applicants desire to rent for STR two accommodation spaces in their home that could accommodate a total of five individuals. (“Accommodation spaces” means any room offered for sleeping. This would not include living spaces or rooms where guests would not be sleeping.) They describe that the property is their primary residence and that they plan to be present during the lodging period.

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 two accommodation spaces for STR, the property should provide two off-street parking spaces. It should be acknowledged that in addition to the off-street parking spaces required for the STR, the ZO requires one off-street parking space for the single-family detached dwelling per Section 10-3-25(7) of the ZO for a total of three required parking spaces for the dwelling and STR.

The property has a one car garage that can be counted for the single-family detached dwelling. The driveway to access the garage is not located on the subject property, but is on the neighbor’s property with permission granted by a private access easement. The applicant has explained to staff that they can only use the private access easement to access their garage; no parking of vehicles is allowed in the easement. The applicants state in their letter that constructing new parking spaces on their property would be difficult due to the grade change between the street and their home. They plan to have STR guests park their vehicles either on the west side of Willow Street using their two green zone guest parking passes or on the east side of Willow Street where there is no restricted parking.

Given the large lots that exist in the neighborhood and that this property has approximately 80-feet of road frontage that could accommodate about four vehicles in front of it (it would be unlikely that STR guests would park in front of the homes of neighbors), staff is comfortable conditioning that minimum off-street parking for the STR would not be required.

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

1. The site shall be the operator’s primary residence.
2. An operator shall be present during the lodging period.
3. All STR accommodations shall be within the principal dwelling.
4. There shall be no more than two STR guest rooms or accommodation spaces.
5. The number of guests at one time shall be limited to five.

6. 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.
7. The STR has no minimum off-street parking requirements.
8. 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 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. Condition #2 protects the neighbors by ensuring that there is on-site accountability with operators being present during the lodging period. Condition #3 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 STR, they must return to Planning Commission (PC) and City Council (CC) with a new SUP request. Condition #4 limits the total number of guest rooms and accommodation spaces on the entire property to two. Condition #5 limits the total number of guests at one time to five. However, with Condition #6, 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 five 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 dwelling (meaning that the STR operator could decide later to change which accommodation spaces are rented for a STR), Building Code and Fire Code requirements would be specific to the spaces. Condition #7 provides flexibility for the property owner to maintain the residential appearance of the property by not requiring them to create parking spaces. Condition #8 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 across the street from the Virginia National Guard Readiness Center and James Madison University (JMU) and connects directly to West Market Street (a major arterial). Especially during times of the year when JMU is in session, the on-street public parking on the east side of Willow Street is heavily used. It is clear that this section of this residential neighborhood experiences a great deal of pedestrian and vehicular traffic that is not generated from the residents of the street or their relatives and friends. Staff believes that from a traffic perspective, allowing a STR at this location would have very limited impact. 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 the 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 (b) approval of the special use permit request with the suggested conditions.

Attachments:

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

Review:

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