



## CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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To: Eric Campbell, City Manager  
From: Adam Fletcher, Director – Department of Community Development, and Planning Commission  
Date: February 9, 2021 (Regular Meeting)  
Re: Special Use Permit – 165 New York Avenue (Short-Term Rental)

### **Summary:**

On October 13, 2020, City Council held a public hearing regarding a special use permit request for a short-term rental at 165 New York Avenue. After closing the public hearing and having discussion, City Council did not take action on the request. Recently, Vice Mayor Romero requested for this item to be placed back on an agenda.

The item, as originally presented, was regarding a request from Orange Sky Investments LLC 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. The +/- 11,250 sq. ft. property is addressed as 165 New York Avenue and is identified as tax map parcel 24-O-13.

### **Background:**

The property owner's desire to operate a short-term rental (STR) at 165 New York Avenue was first presented to Planning Commission (PC) on August 14, 2019. PC received a request to operate a STR at 165 New York Avenue to a maximum of 14 STR guests during the lodging period. At that time, staff recommended that the special use permit (SUP) request be denied because the property was not the applicant's primary residence and there would be no STR operator present during the lodging period. PC also recommended denial (6-0) of that SUP request.

Between the August 14<sup>th</sup> PC meeting and the September 10, 2019 City Council (CC) meeting, the applicant amended the application stating that the applicant/property owner would be moving to the subject property and would make the property his primary residence. The applicant had also reduced the requested number of STR guests at any one time from 14 to 12. Staff presented the updated request to CC on September 10<sup>th</sup>. Given that the circumstances of the request had changed and made it similar to previously approved requests, staff's recommendation also changed and staff recommended approval of the SUP with conditions.

Given the changes to the application since PC's first review, CC did not take action during the September 10<sup>th</sup> meeting and referred it back to PC for review and recommendation. On October 9, 2019, PC again recommended denial of the SUP (6-0). Then, on November 12, 2019, City Council denied the request (5-0).

Almost 11 months later, on September 8, 2020, CC approved amendments to the Zoning Ordinance that modified the regulations for STRs while also creating a second option for individuals wanting to operate

a transient lodging accommodation within certain types of dwelling units. In brief, the revised regulations allowed property owners to have a by-right homestay use or, if they did not want to abide by the restrictions of a homestay use, they could still apply for a SUP to operate a STR. Among other regulations, what mainly sets apart a homestay use from a STR use, aside from it being a by-right use, is that homestay operators may only have a maximum of four lodgers at one time, and the use may only operate for 90 nights per calendar year. Both uses, however, require the property to be the operator's primary residence.

On September 9, 2020, one day after CC adopted the revised regulations, PC held a public hearing for a STR to allow for the six-bedroom home to accommodate a maximum of eight individuals within five accommodation spaces. Staff recommended approval of the request with conditions. PC (with a 4-2 vote) also recommended approval of the special use permit with conditions.

On October 13, 2020, after staff's presentation and the public hearing was held, Vice Mayor Romero moved to approve the request with the suggested conditions. The motion failed as it was never seconded. Ultimately, after further discussion, City Council concluded with this agenda item without taking action on the request.

Since the October meeting, the property owner applied for and received approval of the by-right homestay use. As noted above, the homestay operation, among other regulations, limits the operation to a maximum of four guests at one time and lodging may only occur a maximum of 90 nights per calendar year.

**Key Issues:**

Please reference all information previously presented to City Council on October 13, 2020.

**Environmental Impact:**

N/A

**Fiscal Impact:**

N/A

**Prior Actions:**

N/A

**Alternatives:**

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

**Community Engagement:**

There has been no community engagement on this item beyond what was required when the item was reviewed by Planning Commission and City Council last fall.

**Recommendation:**

Staff recommends alternative (b) approval of the special use permit request with suggested conditions.

**Attachments:**

Please reference all information previously presented to City Council on October 13, 2020.

**Review:**

Planning Commission recommended approval (4-2, Orndoff had technical difficulties and did not vote) of the special use permit with conditions.