

Attachment A - Staff Analysis

STAFF PERSON: Bart Svoboda, Zoning Administrator
Rebecca Ragsdale, Principal Planner

BOARD OF SUPERVISORS: November 4, 2020 (*deferred from September 16, 2020*)

PROJECT: HS201900026

PROPERTY OWNER: Darrick Harris c/o Terry Bentley

LOCATION: 2405 Northfield Road

TAX MAP/PARCEL: 062A1-00-0G-001B0

MAGISTERIAL DISTRICT: Rio

APPLICANT'S PROPOSAL:

The applicant proposes a homestay with up to five guest rooms offered in the basement level of the primary single-family dwelling (#2405 Northfield Road) on the property. The owner, Darrick Harris, proposes to reside in the upper level of the primary dwelling (#2405) and would be present during the proposed homestay rentals. One special exception request has been submitted to allow this proposal (Attachment B). This application was initially submitted on December 10, 2019 with a request that included an owner-occupancy waiver because the owner had placed the property in an LLC. The ownership of the property has now been changed from the LLC to Darrick Harris, and that special exception is no longer needed. The application will meet all parking, safety inspection, and addressing requirements of the County Code.

1. Number of guest rooms- Special exception request to increase the number of guest rooms permitted for a homestay pursuant to County Code § 18-5.1.48(j)(1)(iii) from two (2) to five (5). The Zoning Ordinance regulations found in County Code §18-5.1.48 (Attachment C) limit the number of guest rooms to two. County Code §18-5.1.48(i) allows for an increase in the number of guest rooms if a special exception is approved by the Board and after notice has been provided to abutting property owners. The definition of "Homestay" in County Code § 18-3.1 allows for no more than five guest rooms for lodging.

ZONING AND PLANNING HISTORY:

SUB201700107- A subdivision plat was submitted on July 10, 2017 to subdivide the parcel to create another lot that would front on Old Brook Road. That subdivision application was withdrawn on January 24, 2020.

B201701357SF- A building permit was issued on June 19, 2017 for a two-car garage with a second-floor office and bathroom located above the garage. (#2403) The permit was subsequently amended to expand the structure to a three-car garage. The permit was amended again most recently to propose a single-family dwelling to include living space above the three-car garage. This structure is approximately 2,750 square feet in size. A certificate of occupancy has not yet been issued for this dwelling. The owner has indicated that he intends to use the structure for personal use at this time.

B201801002AR- A building permit for additions to the front and rear of the existing dwelling (#2405) along with interior remodeling was issued on May 8, 2018. This results in a total square footage of approximately 5,380 square feet in size. A certificate of occupancy has not yet been issued for this

dwelling. Prior to issuing a zoning clearance for a homestay, this dwelling must also obtain a certificate of occupancy.

Zoning Complaints - Since 2017, various complaints were filed with the County regarding construction activity and uses of the property. Concerns were received regarding use of the property as a contractor storage yard, and a violation was found. That violation was abated in April 2018.

CHARACTER OF THE AREA:

The property is 1.20 acres in size in the Northfields subdivision. The lot is located at the front of the Northfields development near Rio Road with frontage on Northfield Road and Old Brook Road. This is an area of low-density single-family residential uses consisting primarily of single family detached units along with nearby non-residential use. The primary dwelling to be used for the homestay is approximately 70' from the property line with Northfield Road, 200' from the property line with Old Brook Road, 25' from the eastern property line, and 100' from the western property line. The side and rear of the yard are fenced, and ample parking is located off-street. Houses located on either side of the proposed homestay are approximately 60' and 150' away based on Albemarle County GIS. Across Northfield Road, the nearest house is more than 280' away and developed similarly to 2405 and 2403 Northfield Road with a main house of approximately 6,100 square feet and a garage and guest quarters of approximately 1,500 square feet. Across Old Brook Road from the homestay is Alliance Baptist Church. (Attachment E)

COMPREHENSIVE PLAN:

The property is located just beyond the boundaries of the Rio 29 Small Area Plan. The property is designated Neighborhood Density in the Comprehensive Plan:

Neighborhood Density Residential. This designation is used in areas around Centers where single-family detached and attached housing with a gross density range between 3 – 6 units per acre is desired. This designation is also applied to existing residential areas with densities within or below this range (see Land Use Table LU2). This designation is essentially the same as the Neighborhood Density Residential designation in the 1996 Land Use Plan. Primary uses: single-family residential, including two or more housing types. Secondary uses: retail, commercial, and office uses that support the neighborhood, live/work units, open space, and institutional uses. Retail, commercial, office, and institutional uses are encouraged to locate in Centers so they are accessible to residents throughout the surrounding area, and so they benefit from co-location with other neighborhood-serving businesses. However, they may be located by exception in areas around Centers designated Neighborhood Density Residential provided they are compatible with surrounding uses.

ABUTTING PROPERTY OWNER COMMENTS:

Notice to abutting property owners was initially mailed on February 6, 2020. The special exception has been deferred several times and revised from its initial submittal. The most recent request was received on August 17, 2020. Additional abutting owner notices were mailed on April 9, 2020, May 28, 2020, and August 24, 2020. Other interested neighbors and HOA representatives are also aware of the proposal and expressed interest in commenting on the

proposal. Numerous emails with comments and concerns have been provided. Two emails of support have been received. (Attachment C-Neighbor Comments) Comments received to-date have been in reference to the applicant's prior proposal, which included an owner-occupancy waiver, and the owner had previously proposed to reside in the new dwelling located above the garage (#2403).

NEIGHBOR CONCERNS	STAFF COMMENT
COMPLIANCE WITH HOA COVENANTS	<p>The dwellings comply with regulations of the Zoning Ordinance for R2 zoned parcels. The subject property is 1.2 acres in size, which allows two dwelling units. The structures comply with required Zoning Ordinance setbacks of 5' front and 5' sides. The property does not have a rear setback but two fronts (Northfield Drive and Old Brook Road).</p> <p>The requested special exception must be evaluated on its own merits under applicable factors in the Zoning Ordinance and not on whether the proposed use may conflict with private covenants. If the proposed use violates the covenants, it may be enforced by the homeowners' association. HOA representatives have indicated the covenants limit parcels to one single family dwelling, no resubdivision is allowed, and required setbacks are 35' Front, 20' sides, and 25' rear.</p>
SCALE OF PROPOSED HOMESTAY	<p>Concerns have been expressed that the proposed homestay is a "small hotel" out of character of with the neighborhood. Also, concerns have been expressed about the number of guests "up to 20 guests" and potential impacts to neighbors. As previously mentioned, these comments were prior to the applicant's amended proposal.</p> <p>Both dwellings comply with Zoning Ordinance regulations regarding setbacks and building height. Homestays are permitted as an accessory use to single family dwellings. The residence (#2405) proposed for homestay guest rooms is approximately 5,380 square feet in size and the owner would reside in the upper level of the dwelling. The proposed five guest rooms would be in the basement level of the primary dwelling on the property (Attachment F).</p> <p>If the Board approves the special exception, staff recommends mitigating conditions to alleviate potential impacts to neighboring properties, including limiting the number of guests to 10 and limiting parking locations.</p>
CONCERNS RELATED TO OPERATION OF ROCKBROOK MANOR	<p>Staff is aware of reported concerns at Darrick Harris's existing homestay at 7 Rockbrook Drive owned by The Manors, LLC, which was approved as accessory tourist lodging in 2017. Under the prior ordinance, there is no requirement that homestays be owner-occupied, though they must be an accessory use to the primary residential use of the property.</p> <p>Staff is evaluating the proposed homestay at Northfield separately from the Rockbrook Manor homestay and based on the characteristics of the subject property and factors to be considered under County Code.</p>
PRECEDENCE	<p>Each special exception request must be reviewed according to the Zoning Ordinance factors to be considered and on its own merits and unique set of circumstances, characteristics of the parcel and surrounding parcels, along with neighbor comments. Approval of a</p>

	special exception does not obligate the Board to approve future special exceptions.
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ANALYSIS OF THE SPECIAL EXCEPTION REQUEST:

Special exceptions are subject to approval by the Board under County Code §18-33.49:

Sec. 33.49 - Action by the Board of Supervisors.

The Board of Supervisors shall act on an application for a special exception as follows:

- A. *Action* . The Board may either approve the application, deny the application, or defer action to either allow changes to be made to the application or any proposed conditions prior to final action by the Board, or to refer the matter to the Commission for further consideration and recommendation within the time for an action provided in subsection (D).
- B. *Factors to be considered* . In acting on a special exception, the Board shall consider the factors, standards, criteria, and findings, however denominated, in the applicable sections of this chapter, provided that the Board shall not be required to make specific findings in support of its action.
- C. *Conditions* . In approving a special exception, the Board may impose reasonable conditions to address any possible impacts of the special exception. Except as the Board may specify in a particular case, any condition imposed on a special exception shall be deemed to be essential and nonseverable from the special exception itself. Any condition determined to be unreasonable, invalid, void, or unlawful shall invalidate the special exception.
- D. *Time for action* . The Board shall act on an application for a special exception within 90 days after the application is determined to be complete. The 90-day period may be extended if the applicant requests a deferral pursuant to [Section 33.52](#).

According to County Code §18-5.1.48(i)(2), special exceptions may be granted after notice to abutting property owners upon consideration of the following factors:

- (i) *There is no detriment to any abutting lot; and*
- (ii) *There is no harm to the public health, safety, or welfare.*

According to County Code §18-33.49(B), the Board is not required to make specific findings in support of its action. The Board may approve, approve with conditions, deny, or defer this application. Staff analysis of the special exception request is below.

Number of Guest rooms- The Zoning Ordinance allows by-right two guest rooms for homestay rental on residentially zoned properties. This special exception request is to increase the number of guest rooms to five, all of which would be located within 2405 Northfield Road where the owner would reside. Staff believes that this property is uniquely situated, and it's a larger parcel (1.2 acres) that is fenced. However, staff believes that the increase in guest rooms from two to five could result in additional activity on the property that could impact abutting neighbors. Therefore, staff does not support the request.

Staff finds the following factors favorable to the requests:

- 1. The nearest homes are situated 60', 150' and 280'+ away from the proposed homestay.
- 2. The property is uniquely situated near larger non-residential uses (religious assembly) and properties developed with a similar size and scale.
- 3. The property is fenced and will be gated, which provides privacy to neighboring properties and keeps guests from wandering over to other properties.

Staff finds the following factors unfavorable to the requests:

- 1. The property is designated Neighborhood Density and is not in an area of the Places 29 master plan for commercial/tourism development.

2. The number of homestay rooms for rent exceeds the recently established by-right number by three (3). The by-right number of two (2) homestay rooms for rent is more in keeping with the character of the surrounding neighborhood.

RECOMMENDED ACTION:

Based on the staff analysis, staff recommends denial of the proposed special exception (HS20190002).

Move to adopt the attached resolution (Attachment G) to deny the homestay special exception application for the reasons outlined in the staff report.

ALTERNATE ACTION:

If the Board chooses instead to **approve** the special exception request as proposed, the following conditions are recommended:

1. The Homestay use is limited to five (5) guest rooms within the existing residence as depicted on the Parking and House Location Exhibit dated March 16, 2020.
2. The Homestay use is limited to ten (10) occupants.
3. Homestay guest rooms must be located within the dwelling currently addressed as 2405 Northfield Road.
4. The owner must reside in the dwelling currently addressed as 2405 Northfield Road.
5. Parking for homestay guests is limited to the side and rear of the dwelling as depicted on the Parking and House Location Exhibit dated March 16, 2020.
6. The existing fence, as depicted on the Parking and House Location Exhibit dated March 16, 2020, must be maintained, or equivalent screening established and maintained that meets the minimum requirements of County Code § 18-32.7.9.7(b)-(e).

ATTACHMENTS:

- A. Staff Analysis
- B. Applicant's Proposed Homestay
- C. Neighbor Comments
- D. County Code § 18-5.1.48 Homestay Zoning Regulations
- E. Location Map
- F. Parking and House Location Exhibit
- G. Resolution to Approve