

Attachment A - Staff Analysis

STAFF PERSON: Rebecca Ragsdale, Principal Planner
BOARD OF SUPERVISORS: February 17, 2021
PROJECT: SE202000024
PROPERTY OWNER: Fraidoon Hovaizi or Ghassemi Shahnaz
LOCATION: 126 Fontana Court
TAX MAP/PARCEL: 078E-00-00-01260
MAGISTERIAL DISTRICT: Rivanna

APPLICANT'S PROPOSAL:

The applicant requests a special exception to increase the number of guest rooms for an existing homestay from two (2) to four (4). Guest rooms are located on the first and second floor of the home with guests having access to the outdoor deck and pavilion. The owners reside in the basement level of the home during rental.

A special exception request has been submitted as Attachment B. 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 homestay, with up to four guest rooms, has been previously offered for rent since 2018. The applicant was made aware of zoning requirements during the County's proactive compliance program for homestays.

ZONING AND PLANNING HISTORY:

B199901882SF- The existing single-family home was constructed in 2000. The applicant has owned the home and resided there since 2000.

CHARACTER OF THE AREA:

The property is 0.32 acres. The lot is located in the northern portion of the Fontana subdivision, across from the Fontana Clubhouse. To the rear of the lot is Cascadia open space. Neighboring homes to the front and rear of the homestay are more than 150' away. Neighboring homes to the right and left side of the homestay are approximately 40' away, based on Albemarle County GIS. (Attachment E)

COMPREHENSIVE PLAN:

The property is designated Neighborhood Density in the Pantops Master Plan, which provides the following guidance:

Intent: Low-density residential development supported by small-scale neighborhood serving commercial, retail, and institutional uses

Primary Use: Residential at a density of 3-6 units/acre

Secondary Use: Religious assembly uses; Schools and child care; Institutional; Commercial/retail

Building Type & Form Guidance: Residential: townhomes, single-family attached, single-family detached; Commercial/retail/office/ institutional: uses should be located in small buildings or as part of mixed-use buildings with small shop-fronts along streets

ABUTTING PROPERTY OWNER COMMENTS:

Notice to abutting property owners was provided January 15, 2021. To date, staff has not received any questions or comments regarding the homestay.

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.

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 four. Based on the factors below, staff believes that the increase in guest rooms from two to four 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 property is uniquely situated with non-residential uses (clubhouse) adjoining the front of the property and open space adjoining the rear.
2. To date, there have been no concerns or complaints regarding operation of the homestay.

Staff finds the following factors unfavorable to the requests:

1. The property is designated Neighborhood Density and is not in an area of the Pantops Master Plan designated for commercial/tourism development.
2. Neighboring homes located to the left and ride sides of the homestay are within close proximity and are not fully screened/buffered.
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 (SE202000024).

Move to adopt the attached resolution (Attachment F) 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 four (4) guest rooms within the existing residence as depicted on the Parking and House Location Exhibit dated January 26, 2021.
2. The Homestay use is limited to eight (8) occupants.
3. Rental of up to four (4) guest rooms is limited to no more than seven (7) days a month.

ATTACHMENTS:

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