

Attachment A - Staff Analysis

STAFF PERSON: Bart Svoboda, Director of Zoning
Rebecca Ragsdale, Principal Planner
BOARD OF SUPERVISORS: June 2, 2021
PROJECT: SE202100018 Beauchamps
PROPERTY OWNERS: Incaam Jefferson Lake Inc. c/o Vipul Patel
LOCATION: 943 Jefferson Lake Drive
TAX MAP/PARCEL: 07700-00-00-03200
MAGISTERIAL DISTRICT: Scottsville

APPLICANT'S PROPOSAL:

The applicant is seeking a homestay zoning clearance and three (3) special exceptions for a proposed homestay (Attachment B) as follows:

1. **Increase the Number of Guest Rooms-** The first special exception request is to increase the number of permitted guest rooms to five (5). County Code §18-5.1.48(j)(1)(v) limits homestays on parcels of less than five (5) acres to two (2) guest rooms.
2. **Reduce Required Minimum Yards-** The second special exception is to reduce the required 125 ft. setbacks for the existing dwelling from the eastern and western property lines. For Rural Area (RA) parcels, County Code §18-5.1.48(j)(1)(iii) requires a minimum yard of 125 ft. from any abutting lot not under the same ownership for homestay parking and structures. The house is approximately 70 ft. from the eastern property line (with the Thomas Jefferson Foundation) and approximately 120 ft. from the western property line (with the cemetery). The parking for the homestay is located in front of the main house, approximately 80 ft. from the closest point of the eastern property line and 45 ft. from the closest point of the western property line.
3. **Owner-occupancy** – The third special exception request is to waive the owner occupancy requirement of County Code § 18-5.1.48(j)(1)(v) to instead allow occupancy by a resident manager, as authorized by County Code § 18-5.1.48(i)(1)(iv). During rental of the house, a resident manager would be required to reside on the property.

CHARACTER OF THE PROPERTY AND AREA:

The property is located at the corner of Jefferson Lake Drive and Thomas Jefferson Parkway, and consists of 3.28 acres. There is an existing historic main house (943 Jefferson Lake Drive) and an existing cottage (941 Jefferson Lake Drive) on the property. Parking is located in front of the main house. There is existing vegetation along the western and eastern property lines that provides screening. (Attachments D and E)

The property is adjoined by non-residential, undeveloped, and historic uses on all sides. Monticello Memorial Gardens cemetery is located to the west and north of this property, property owned by the Thomas Jefferson Foundation (Monticello) is located to the east, and Michie Tavern is to the south. Nearby are properties owned by the UVA Foundation, Carters Mountain orchard, the Saunders Trail, and Montalto.

The property is located within the Southern Albemarle Rural Historic District and is listed as a contributing structure. Route 53 (Thomas Jefferson Parkway) is designated as a National Scenic Highway and is on the Journey Through Hallowed Ground, which was established in 2009 as the primary touring route for visitors to explore the scenic and historic landscape along the 180-mile route along US Routes 15, 20, 231, 22, and 53.

PLANNING AND ZONING HISTORY OF PROPERTY AND AREA:

There are no zoning compliance or taxation/licensing compliance issues with the property. In 2019, the applicant applied for building permits to renovate the existing house and cottage.

COMPREHENSIVE PLAN: The property is designated Rural Area in the Comprehensive Plan and is a contributing resource to the Southern Albemarle Rural Historic District. Relevant Comprehensive Plan strategies and objectives that support tourism and historic resources are:

Historic, Cultural, and Scenic Resources

Strategy 2b: Continue to find ways for preservation of historic structures and sites to be financially viable for property owners. Rehabilitation, restoration, and maintenance of historic structures can be costly. These high costs combined with limited options for using historic properties, particularly in the Rural Areas where the majority of the County's historic buildings are located, threaten these valuable resources. A greater variety of allowable uses for historic buildings and sites could encourage historic property owners to spend the money required to maintain, rehabilitate and restore these buildings. Objective 5 in the Rural Area Chapter provides guidance for use of restaurants and artist residencies in the Rural Area. Additional uses that can be accommodated in older buildings and sites while maintaining conformity with Rural Area goals, objectives, and strategies should be considered.

Objective 5: Help protect Monticello's Viewshed. Monticello is among the many important Albemarle County historic sites. It is a National Historic Landmark and is the only house in the United States designated a UNESCO World Heritage Site. It is part of the same UNESCO World Heritage Site that extends to the Rotunda and Academical Village at the University of Virginia. Because of its significance as part of American history and its economic contribution to the community, Monticello stands out as resource that deserves special recognition. As the home of Thomas Jefferson and the only house in the United States designated as a UNESCO World Heritage Site, Monticello reflects the interests, values, and attitudes of its owner and the times in which he lived. It draws approximately half a million visitors each year, and the Rotunda and Academical Village, at the core of the University of Virginia grounds, draw additional students, families, and visitors. Monticello's elevated location near the County's Development Areas means that the view from that mountaintop is subject to significant change. Albemarle County, therefore, has a cultural responsibility and an economic interest in helping to protect Monticello's viewshed.

Strategy 1c: Promote tourism that helps preserve scenic, historic, and natural resources. Tourism brings visitors to enjoy the County's scenic rural landscapes and also to spend money in the County. Rural Area businesses that showcase the County's rich and diverse rural, agrarian, and historical resources provide sustainable economic development opportunities. In so doing,

these businesses also help preserve, protect, and in some cases restore the Rural Area characteristics that make Albemarle County a desirable destination. Tourism and agribusiness opportunities are discussed in more detail in the Rural Area Chapter of this Plan. Recent State legislation has made large gatherings for commercial events possible at farm breweries and other bona fide agricultural operations. Events can help promote tourism and provide for enjoyment of scenic and natural resources; however, the County needs to ensure that the health, safety, and welfare of the residents of the Rural Area are protected when large events occur.

Rural Area

Strategy 3a: Promote reuse of historic structures that support agricultural and forestal uses in the Rural Area. While valued by residents and tourists alike, historic buildings and sites can sometimes pose challenges for owners. Large farmhouses and historic mansions can be expensive to maintain and, at times, additional income is needed to ensure that historic buildings do not fall into disrepair. Historic buildings and sites can be maintained for their original use, such as a home, or converted to income producing properties, such as a restaurant at a crossroad community or a bed and breakfast. Care is needed when a building converts from one use to another to ensure that the historic integrity of a site is retained.

Objective 3: Protect the County's historic, archeological, and cultural resources. Most, but not all, of the County's historic, archeological, and cultural resources are found in the Rural Area. Some of these sites include Monticello, Ash Lawn-Highlands, Pine Knot, and the Journey Through Hallowed Ground. Many properties in the Rural Area are listed on the National Register of Historic Places. Historic features of the Rural Area contribute to the value placed by residents and visitors on Albemarle County. Historic buildings and sites also provide opportunities for tourism, which is discussed in the Economic Development and Historical, Cultural, and Scenic Resources Chapters of this Plan, as well as in the next section.

Objective 4: Promote rural and historic landscapes that enhance visitors' experience and give historic sites as authentic a setting as possible. Tourism is a vital part of Albemarle County's economy. Within the confines of the existing goals for the Rural Area, tourism provides for economic vitality and is a benefit to the County. Agriculture, historic and scenic preservation, and the maintenance of rural character help to create authentic rural places. It is important that care be taken with tourist activities so that they do not overwhelm or negatively affect the very resources that make rural Albemarle attractive to residents and tourists.

Economic Development:

Strategy 1c: Promoting tourism helps preserve scenic, historic, and natural resources.

ABUTTING PROPERTY OWNER COMMENTS:

Notice to abutting property owners was mailed on April 9, 2021. Staff has received no objections to date.

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.

Under County Code §18-5.1.48(i)(2), special exceptions for homestays 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.*

Pursuant 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. Approval of a special exception does not obligate the Board to approve future special exceptions.

1. **Increase the number of guest rooms** – Prior to August 2019, homestay rentals in the Rural Area (known as “Bed and Breakfasts”) were permitted five (5) guest bedrooms by right. The revisions to the zoning ordinance adopted in August 2019 reduced the number of by-right guest rooms for properties less than five acres in the Rural Areas to two (2) guest rooms, with the intention of treating “residential character” Rural Area properties consistently with residentially zoned properties. The property at 943 Jefferson Lake Drive is not located within an area with a primarily residential character, but is instead surrounded by non-residential uses, including a cemetery, historic tavern, and Monticello. Staff does not believe that increasing the number of guest rooms to five (5) would cause detriment to abutting properties.

With regard to health and safety, the entrance to the property is located on Jefferson Lake Drive, which is located along a curve on Thomas Jefferson Parkway. Jefferson Lake Drive is a private road that provides access to the homestay parcel, and previously provided access to parcels owned by the cemetery. In response to concern about additional traffic for the cemetery using Jefferson Lake Drive, a special use permit request to expand the cemetery was approved with a condition that the cemetery would no longer use Jefferson Lake Drive. This condition leaves the homestay property the

sole user of that entrance. Homestays are an accessory use to a single-family residence and are not expected to generate more traffic than a residential use. Therefore, staff does not believe that permitting up to five guest rooms would cause any harm to public, health, safety or welfare.

2. **Reduce Required Minimum Yards** – The homestay regulations require a setback of 125 ft. for any structure or parking area used for a homestay. The intent of the increased setback is to provide some buffer between the homestay and its abutting residential neighbors. Staff's opinion is that authorizing the homestay with reduced setbacks would not cause either (i) detriment to abutting lots or (ii) harm to the public health, safety, or welfare. This opinion is based on several favorable factors unique to this homestay property, primarily its location adjacent to non-residential uses. Special exceptions for a reduction in required yards for homestay guest rooms and parking have typically been approved with a condition for buffer and screening requirements, consistent with the standards applicable to commercial uses adjacent to residential and Rural Area properties. A 20 ft. buffer and screening meeting the standards of County Code § 18-32.7.9.7(b)-(e) must be maintained or established along the side or rear property lines. Screening and buffering are not required adjacent to streets, but the minimum setbacks of the district must be met. The proposed homestay is located along Jefferson Lake Drive and Thomas Jefferson Parkway. The property lines to the north and east have an established buffer and landscape screen of 20 ft. in depth. Staff has recommended that this screening remain in place as a condition of approval.

3. **Owner-occupancy** - *Albemarle County Code* § 18-5.1.48(j)(1)(iv) generally requires that for each homestay located on a parcel of less than five acres in the Rural Areas Zoning District (such as this parcel), the owner must reside on and be present at the subject parcel during the homestay use. A business entity (such as Icaam Jefferson Lake Inc., which purchased this property in 2015) cannot meet this requirement. However, a business entity may apply under *Albemarle County Code* § 18-5.1.48(i)(1)(iv) for a special exception for Resident Manager occupancy instead of owner occupancy as required by § 5.1.48(j)(1)(iv). Since the adoption of the current regulations in 2019, the Board has yet to consider a special exception for occupancy by a resident manager under business entity ownership.

The owner occupancy requirement is intended to address concerns that widespread purchase of homestays by business entities could (a) negatively impact surrounding residential neighborhoods and/or (b) reduce housing stock for residential use. Staff believes this proposed homestay does not raise either concern.

- a. **Surrounding Neighborhood** -- This property is surrounded by properties that are used for non-residential purposes (such as Monticello, Carter's Mountain, Michie Tavern, and Monticello Memory Gardens) and are also owned by business entities. It is also located along a tourist corridor of national significance.
- b. **Housing Stock** -- The proposed homestay would be located in the existing dwelling, where the resident manager would also reside. The second dwelling on the property, which has been used as a residential rental, would continue in that use, resulting in no loss of housing stock.

Based on these circumstances, staff believes that these special exceptions would not cause either (i) detriment to abutting lots or (ii) harm to the public, health, safety, or welfare.

The application will meet all other requirements of the County Code, including safety inspections/building code, neighbor notification of emergency contact, and addressing. These requirements, along with conditions of approval, are verified through the zoning clearance process, which would follow special exception approval.

RECOMMENDED ACTION:

Staff recommends that the Board adopt the attached resolution (Attachment F) to approve the requested homestay special exceptions subject to the following conditions:

1. Parking for homestay guests is limited to the existing parking areas, as depicted on the Parking and House Location Exhibit, dated May 10, 2021.
2. Homestay use is limited to a total of five (5) guest rooms, all of which must be within the existing dwelling, as depicted on the Parking and House Location Exhibit dated May 10, 2021.
3. The existing buffer and screening located along the northern and eastern property lines, as depicted on the Parking and House Location Exhibit dated May 10, 2021, must be maintained, or equivalent screening that meets the minimum requirements of County Code § 18-32.7.9.7(b)-(e) must be established and maintained.

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, dated May 10, 2021
- F. Resolution