County of Albemarle
COMMUNITY DEVELOPMENT DEPARTMENT
401 McIntire Road, North Wing
Charlottesville, VA 22902-4579
Telephone: 434-296-5832
WWW.ALBEMARLE.ORG

POSTPONED

due to the limitation of facilities for in-person meetings.

ALBEMARLE COUNTY
BOARD OF ZONING APPEALS AGENDA
COUNTY OFFICE BUILDING
401 MCINTIRE ROAD
LANE AUDITORIUM
TUESDAY, MAY 3, 2022 at 2:00 P.M

1. Call to Order

2. Establish a Quorum

3. Public Hearings:
   A. WITHDRAWN BY APPELLANT AP2021-003 Appeal of LOD2021-013 Homestays Ownership Eligibility
      Property Owner: Howe Whitman/Howe D. Whitman Jr. Family Trust
      Appellant: 5600 Turkey Sag Road, LLC/Bradford Manning
      Staff: Lea Brumfield/Bart Svoboda

   B. AP2022-00001 WNG, LLC - Homestay
      Property Owner: WNG, LLC
      Appellant: WNG, LLC & Attila Woodward
      Staff: Lea Brumfield/Bart Svoboda

4. Approval of Minutes
   A. March 1, 2022

5. Old Business

6. New Business

7. Adjournment

The public hearing is also being conducted through electronic communication means. Opportunities for the public to access and participate in the public hearing will be posted at https://www.albemarle.org/community/county-calendar. Participation will include the opportunity to comment on those matters for which comments from the public will be received.

BOARD OF ZONING APPEALS ELECTRONIC MEETING GUIDELINES

Thank you for attending the Board of Zoning Appeals (BZA) electronic meeting. The following information is provided to help ensure the meeting proceeds as efficiently and effectively as possible. As a courtesy to others, please turn off all unused cell phones during the meeting.

General Information:

This meeting is recorded and later transcribed into minutes approved at a later meeting date.

Each item set for public hearing will begin with a presentation of the staff report. Next, the applicant or appellant for that item will be invited to speak. During the course of the process, the Chairman will open the public hearing to comments from the public. At the end of these proceedings the Chairman will announce that the public hearing is closed. Once the public hearing is closed, no further public comments will be allowed unless the Board asks for additional information from the applicant or appellant. For staff and applicants, there is a **15 minute time limit for presentations and a 5 minute time limit for rebuttal comments.**

The BZA reserves the right to digress from these guidelines in any particular case.

To Members of the Public:
If you wish to address the BZA during the public hearing, please follow the instructions below:
- Log in/call in early.
- Via Web: Use the "Raise Hand" icon to notify the BZA Clerk that you would like to sign up to address a public hearing item. The Clerk will acknowledge you and list your name on the sign-up sheet for the specific public hearing item. When the public hearing is opened, the Clerk will introduce each speaker for comment.
- Via Phone: Press *9 to notify the BZA Clerk that you would like to sign up to address a public hearing item. The Clerk will acknowledge you and list your name on the sign-up sheet for the specific public hearing item. When the public hearing is opened, the Clerk will introduce each speaker for comment.

If you do not sign up to speak prior to the meeting, an opportunity to sign up will be given prior to the close of the public hearing. When this opportunity is announced, follow the directions above to notify the BZA Clerk that you would like to provide comment on a public hearing item.

Time keeping is conducted through a timer. Each speaker is allotted **three (3) minutes** to comment. The timer will commence when you begin speaking; you will be notified when three minutes has ended, and you are requested to bring your comments to a close as your microphone will be muted after several seconds.

In order to give all speakers equal treatment and courtesy, the BZA requests that speakers adhere to the following guidelines:

- When called to address the BZA, please state your name. For uncommon spellings, please spell your name for the record.
- Address comments directly to the BZA as a whole - open public debate is prohibited.
- You may email written statements and other relevant material to BoardofZoningAppeals@albemarle.org to be included in the record.
- If you represent a group or organization, you may identify the group to be recognized.
- If you exceed your allotted time, you will be asked to end your comments and the microphone will be muted.
- If a speaker does not use all allocated time, the unused time may not be shared with another speaker.
- Speakers are permitted one opportunity to comment during each of the public comment periods per meeting.

Additional Guidelines for Applicants and Appellants addressing the Board:

- Understand that the Board of Zoning Appeals cannot change County ordinances.
- The BZA reserves the right to place additional time limitations on speakers, as necessary.

AP2021-003 Appeal of LOD2021-013 Homestays Ownership Eligibility Property Owner: Howe Whitman/Howe D. Whitman Jr. Family Trust Appellant: 5600 Turkey Sag Road, LLC/Bradford Manning Staff: Lea Brumfield/Bart Svoboda

From: Kelsey Schlein <kelsey@shimp-engineering.com>
Sent: Friday, April 15, 2022 1:54 PM
To: Lea Brumfield
Cc: Bart Svoboda; Bradford Manning; Marsha Alley
Subject: Re: Homestay Zoning Appeal - May 3 BZA

CAUTION: This message originated outside the County of Albemarle email system. DO NOT CLICK on
links or open attachments unless you are sure the content is safe.
Hey Lea,

Please withdraw AP2021-03 from review. Bradford will be submitting a SE, so we'll work to get that
submitted for review soon.

Best,

Kelsey

On Wed, Apr 13, 2022 at 4:56 PM Lea Brumfield <lbrumfield@albemarle.org> wrote:
Good afternoon,

Attached is a copy of the homestay regulations adopted by the Board of Supervisors on April 6, 2022.
The adopted regulations included a provision for permitting Rural Area parcels of over 5 acres in size to
apply for a Special Exception to permit a Resident Manager to fulfill the occupancy requirements for a
homestay.

As this adopted regulation applies to your property, please advise whether you will be pursuing or
withdrawing AP202100003. Also, please advise whether you plan to submit a special exception for a
Resident Manager for a homestay, so that staff can direct you appropriately.

Staff is currently preparing agenda information for the May 3, 2022 BZA meeting, so please let me
know by Friday, April 15, 2022 how you wish to proceed.

Best regards,

Lea Brumfield (she, her)
Senior Planner II, Zoning Division
Albemarle County

lbrumfield@albemarle.org
434-296-5832 x3023
401 McIntire Road, Charlottesville, VA 22902

--
KELSEY SCHLEIN
Project Manager / Land Planner
Kelsey@Shimp-Engineering.com

Shimp Engineering, P.C.
912 East High St. Charlottesville, VA 22902
434.227.5140 // shimpdesign.com

AP2022-00001 WNG, LLC - Homestay
Property Owner: WNG, LLC
Appellant: WNG, LLC & Attila Woodward
Staff: Lea Brumfield/Bart Svoboda

From: PO Garland <pogarland@gmail.com>
Sent: Thursday, April 14, 2022 6:53 AM
To: Lea Brumfield
Cc: Attila Woodward; Bart Svoboda; Marsha Alley
Subject: Re: Homestay Zoning Appeal - May 3 BZA

CAUTION: This message originated outside the County of Albemarle email system. DO NOT CLICK on
links or open attachments unless you are sure the content is safe.
Good morning Lea,
We will be pursuing a Special Exception under the new homestay regulations. For now we would like to
defer AP202200001 until July when if all goes well we will withdraw it.
Thank you for your help.
Phil

Philip Garland
434-326-6970

On Apr 13, 2022, at 4:54 PM, Lea Brumfield <lbrumfield@albemarle.org> wrote:

Good afternoon,

Attached is a copy of the homestay regulations adopted by the Board of Supervisors on
April 6, 2022. The adopted regulations included a provision for permitting Rural Area
parcels of over 5 acres in size to apply for a Special Exception to permit a Resident
Manager to fulfill the occupancy requirements for a homestay.

As this adopted regulation applies to your property, please advise whether you will be
pursuing or withdrawing AP202200001. Also, please advise whether you plan to submit a special exception for a Resident Manager for a homestay, so that staff can direct you
appropriately.

Staff is currently preparing agenda information for the May 3, 2022 BZA meeting, so please let me know by Friday, April 15, 2022 how you wish to proceed.

Best regards,

Lea Brumfield (she, her)
Senior Planner II, Zoning Division
Albemarle County

lbrumfield@albemarle.org
434-296-5832 x3023
401 McIntire Road, Charlottesville, VA 22902

<HS Ordinance 4-6-2022 BOS.pdf>

From: Marsha Alley
Sent: Wednesday, February 23, 2022 11:00 AM
To: PO Garland
Cc: Bart Svoboda; Lea Brumfield; Andy Herrick
Subject: RE: WNG - Homestay Zoning Appeal - Deferral

Hi Mr. Garland,

I cannot confirm future action of the BZA; however, historically, they have accepted an
applicant’s request for deferral. I will send you a meeting invitation so that you can attend to
answer any questions that may arise.

Thank you,
Marsha

From: PO Garland <pogarland@gmail.com>
Sent: Wednesday, February 23, 2022 10:24 AM
To: Marsha Alley <malley3@albemarle.org>
Cc: Bart Svoboda <bsvoboda@albemarle.org>; Lea Brumfield <lbrumfield@albemarle.org>; Andy Herrick
<aherrick@albemarle.org>
Subject: Re: WNG - Homestay Zoning Appeal - Deferral

CAUTION: This message originated outside the County of Albemarle email system. DO NOT CLICK on
links or open attachments unless you are sure the content is safe.
Good morning Marsha,
That's correct. It is my intent and July 5 is the date. Though your email makes me ask
whether I need to be present and prepared to argue the appeal on March 1 since you said the "BZA will consider" the request, suggesting they could deny the request and

proceed with the appeal on March 1. Please let me know so I can plan accordingly.
Thank you,
Phil

On Wed, Feb 23, 2022 at 9:29 AM Marsha Alley <malley3@albemarle.org> wrote:
Good morning, Mr. Garland!

I am understanding that you are requesting a deferral of AP2022-001 to the BZA meeting on
July 5, 2022.

Please confirm that this is your intent and that the requested meeting date is correct.

I will include your request in the BZA packet that is scheduled for distribution tomorrow. The

BZA will consider your request at their scheduled meeting on March 1, 2022.

Thank you,
Marsha

From: Bart Svoboda <bsvoboda@albemarle.org>
Sent: Tuesday, February 22, 2022 2:31 PM
To: Marsha Alley <malley3@albemarle.org>
Subject: FW: WNG - Homestay Zoning Appeal - Deferral

From: PO Garland <pogarland@gmail.com>
Sent: Tuesday, February 22, 2022 1:56 PM
To: Bart Svoboda <bsvoboda@albemarle.org>
Subject: WNG - Homestay Zoning Appeal - Deferral

CAUTION: This message originated outside the County of Albemarle email system. DO NOT CLICK on
links or open attachments unless you are sure the content is safe.
Bart,

I talked with Attila Woodward, one of the family property owners about deferring WNG

LLC's March 1 appeal hearing until after the Board of Supervisors has a chance to adopt your department's amendment allowing 5+acre properties with residential managers to apply for Homestay Exemptions. Based on our conversation last week, it looks like we'd need to defer the hearing until July 5.
.
Is that something you can do for us or do I need to contact someone else in the County?

Thanks for your help,

Phil

Philip Garland
434-326-6970

STAFF: Bart Svoboda, Zoning Administrator
Lea Brumfield, Senior Planner II

PUBLIC HEARING: March 1, 2022

STAFF REPORT: AP2022-00001

APPLICANT/APPELLANT: WNG LLC
310 4th Street NE, Suite 102, Charlottesville VA

Attila Woodward
1682 Colle Lane, Charlottesville VA

Subject Tax Parcel Number:
1699 Colle Lane, Charlottesville, VA - Tax Parcel 92-45 (the "Property")

Location:
The Property is located southeast of Charlottesville at 1330 Thomas Jefferson Parkway, on the eastern corner of Thomas Jefferson Parkway (SR53) and Milton Road (SR732), as shown on the attached map (Attachment A).

Considering an Appeal:
The BZA's decision on appeal is limited to determining whether the decision of the Zoning Administrator was correct and whether the zoning ordinance was applied correctly. This appeal does not consider whether the proposed use is appropriate, whether it is in the public interest, or whether a zoning regulation is invalid or needs to be amended. The purpose this hearing is only to determine if the ordinance was applied correctly.

Homestay Ordinance Background:
On August 7, 2019, the Albemarle County Board of Supervisors adopted an ordinance regulating the use of homestays. These regulations replaced the regulations for the two uses formerly known as "Accessory Tourist Lodging" and "Bed and Breakfast" under the single use of "Homestays." This use is defined as:

> *"Homestay*. "Homestay" means an accessory residential use providing transient lodging and rooms for dining and meetings for use by homestay guests provided that the dining and meeting rooms are subordinate to the homestay use. A homestay use may offer no more than five guest rooms for lodging."
>
> (*County Code* § 18-3.1)

County Code § 18-5.1.48(j) differentiates between (1) homestays located on either (a) parcels of less than five acres in the Rural Areas Zoning District or (b) parcels of any size that allow residential use in the Residential Zoning Districts or Planned Development Zoning Districts, and (2) homestays located on parcels of five acres or more in the Rural Areas district.

The Property at 1699 Colle Lane is located in the Rural Areas district on a 24.91-acre parcel. The regulations governing a homestay use on the Property include the requirement of owner occupancy:

> (vi.) *Owner occupancy.* The owner of a parcel conducting a homestay use must reside on and be present at the subject property during the homestay use except during approved whole house rentals.
>
> (*County Code* § 18-5.1.48 (j)(2)(vi), emphasis added)

Homestay special exceptions are currently limited to the following waivers or modifications:

> (i.) More than two guest rooms and/or the use of an accessory structure in association with a homestay on parcels in the Residential or Planned Development districts, or Rural Areas district parcels of less than five acres.
> (ii.) Reduction in minimum applicable yards for a structure or parking used in whole or in part for a homestay.
> (iii.) The use of an accessory structure built after August 7, 2019.
> (iv.) Resident Manager occupancy instead of owner occupancy as required by 5.1.48(j)(1)(iv).
>
> (*County Code* § 18-5.1.48 (i)(1), emphasis added)

Note that eligibility for the Resident Manager special exception is limited to parcels regulated by section 5.1.48(j)(1)(iv), which applies to owner occupancy on: "(a) a parcel of less than five acres in the Rural Areas Zoning District or (b) a parcel of any size that allows residential use in the Residential Zoning Districts or Planned Development Zoning Districts."

Therefore, parcels of five acres or more in the Rural Areas Zoning District (such as the subject Property) are not eligible for this special exception.

The homestay regulations were originally adopted by the Board of Supervisors on August 7, 2019. At a Work Session on June 2, 2020, the Board discussed a possible ordinance amendment to allow large Rural Areas parcels to apply for the resident manager special exception. The Board expressly declined to pursue such an amendment, citing concerns about business entities operating homestays across multiple parcels.

Application History:

On June 28, 2021, the property owner, WNG LLC, applied for a Homestay Zoning Clearance (HS202100024 - Attachment B) at 1699 Colle Lane.

On July 13, 2021, Mr. Garland (Manager of WNG LLC) was informed by email (Attachment C) that staff was unable to approve the Homestay Zoning Clearance application because the property was owned by an LLC.

On August 13, 2021, on behalf of Mr. Attila Woodward and WNG LLC, Mr. Garland requested an official Zoning Determination (LOD2021-015 - Attachment D) regarding the denial of HS202100024.

On November 30, 2021, the Official Zoning Determination (Attachment E) was issued confirming the eligibility requirements for HS202100024.

On December 27, 2021, on behalf of Mr. Attila Woodward and WNG LLC, Mr. Garland filed an appeal (AP2022-001) of the Official Zoning Determination (Attachment E).

Grounds for Zoning Administrator's Determination:

Under *County Code* § 18-5.1.48(j)(2)(vi), the owners of parcels conducting a homestay use must reside on the subject property. Because business entities (such as limited liability companies) have no physical presence, they cannot reside on a property, and cannot qualify for a homestay use.

Because the "Property" is located in the Rural Areas Zoning District and is over five acres, it is not subject to *County Code* § 18-5.1.48(j)(1)(iv), and therefore is not eligible for a special exception to permit a resident manager under *County Code* § 18-5.1.48(i)(1)(iv).

Staff's Response to Appeal:

1.) There is no dispute with the appellants' statement that the LLC is the owner of the property. The law recognizes an LLC as a separate legal entity in its own right. This entity acts as a shield for an individual member or members; it is an intentional step to distinctly separate the owner from the members. The LLC does not lose its legal ownership of the property just because a member or manager resides on the property. If the LLC is the owner of the subject Property, then its member(s) are not.

The appellants' letter dated July 28, 2021 states that the property *"is titled in their family entity, WNG LLC."* As a limited liability company, registered with the State Corporation Commission, WNG LLC is actually a business entity. Regardless of what the appellant thinks the ordinance should allow, the resident manager option is not available on Rural Areas parcels larger than five acres.

2. The appellants argue that nothing in the County Code suggests that only a natural person can "reside" on a property. An LLC is an entity, it is not a person. The zoning ordinance lists a variety of regulations regarding the use and occupancy of a structure. The ordinance addresses the number of unrelated persons in a dwelling; it also differentiates between an owner, its agent, a resident manager, tenant, an employee, occupant, developer, subdivider, or family member. Although an entity or a person can own property or structures, only people can reside in structures or on a property.

Because a business entity, such as an LLC, is not a person, it cannot reside on a property; it can only own it. A property owned by an LLC would not meet the requirements of *County Code* § 5.1.48(j)(2)(vi) and could not be approved for a homestay use.

Summary:

On November 30, 2021, Official Zoning Determination LOD2021-015 (Attachment E) was issued, confirming the eligibility requirements for HS202100024. The evidence supports the determination that the application does not meet the requirements of *County Code* § 5.1.48(j)(2)(vi) and cannot be approved.

Because the Zoning Administrator's determination was and is correct, the Board of Zoning Appeals should affirm this determination.

Proposed Motions:

I move that the Board of Zoning Appeals affirm the Zoning Administrator's determination in LOD202100015.

Attachments:

Attachment A: Map WNG LLC Property

Attachment B: Homestay Zoning Clearance HS202100024

Attachment C: Email Denial 7-13-2021 WNG LLC

Attachment D: LOD202100015 Application WNG LLC

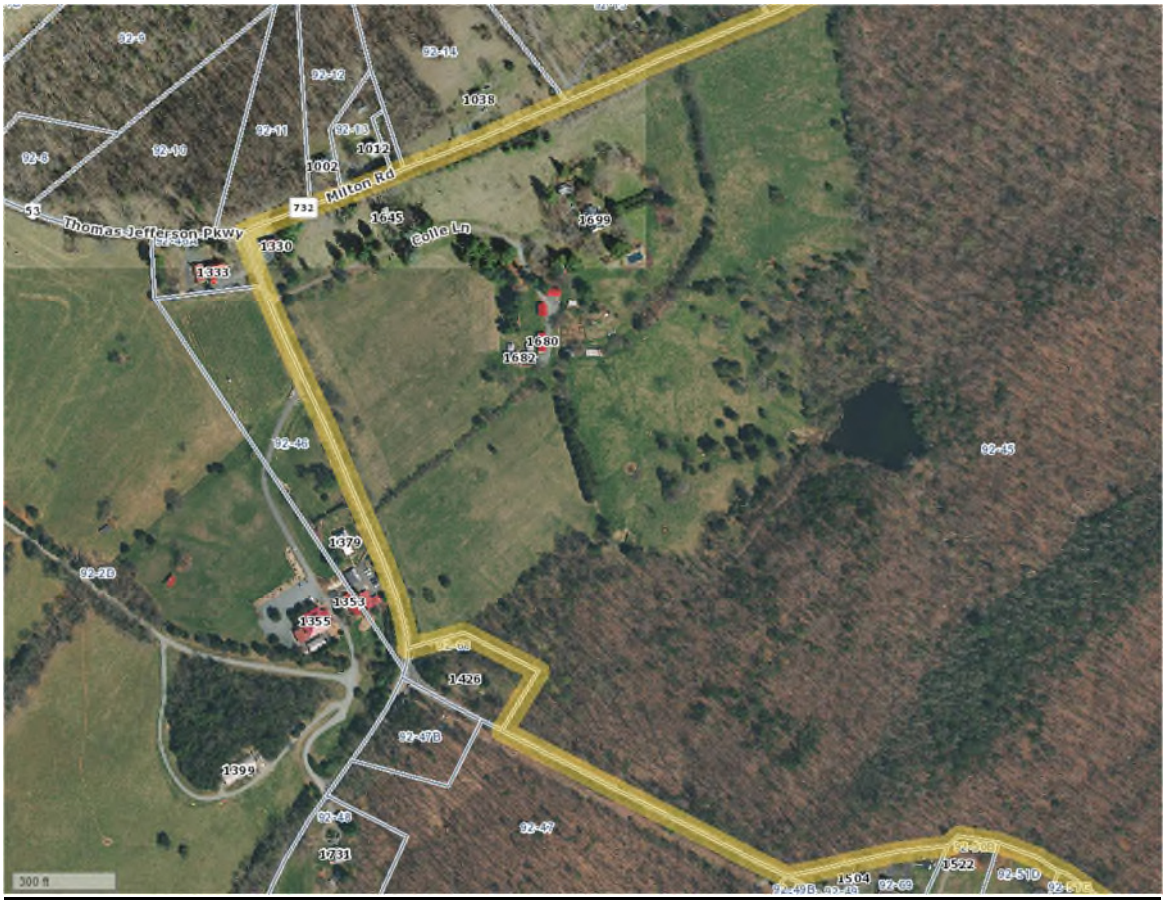
Attachment E: LOD202100015 Official Determination WNG LLC

Attachment F: Zoning Ordinance § 5.1.48 (Homestays)

Attachment G: AP202200001 Application - Justification WNG LLC

Attachment A





Z Homestay
Zoning Clearance

Attachment B

Albemarle County
Community Development
401 McIntire Rd., North Wing
Charlottesville, VA 22902
Phone 434.296.5832 | Fax 434.972.4126

FOR OFFICE USE ONLY HS# 202100024

Fee Amt: $158 Date Paid: 6/28/21 By: WNG LLC

Receipt #: 123590 Ck# 1834 By: Alicia Gigal

1. Applicant/Owner Information

NAME:	WNG LLC		
E-MAIL ADDRESS:	pogarland@gmail.com	PHONE:	434-326-6970
MAILING ADDRESS:	310 4th St. NE, Suite 102, Charlottesville, Virginia 22902		

2. Homestay Information

TAX MAP AND PARCEL NUMBER (OR ADDRESS, IF UNKNOWN):	TM 92-45 Parcel 09200000004500		
ZONING:	ACREAGE:	HOMESTAY NAME:	
Rural	205.93	Colle	
RESPONSIBLE AGENT NAME:	Attila Woodward	SAME AS ABOVE (OWNER)	
RESPONSIBLE AGENT EMAIL:	attila@jeffersonvineyards.com	RESPONSIBLE AGENT PHONE:	415-297-3896
RESPONSIBLE AGENT ADDRESS:	1682 Colle Lane, Charlottesville VA 22902		

3. Verification of Requirements

NUMBER OF GUEST BEDROOMS:	USING ACCESSORY STRUCTURES?	2 FORMS PROOF OF RESIDENCY PROVIDED?	FLOOR PLAN SKETCH PROVIDED?
5	YES ☐ NO ☑	YES ☑ NO ☐	YES ☑ NO ☐
PARKING REQUIRED:	TOTAL HOMESTAY USES ON PARCEL		
Dwelling 2 Number of Guest Rooms + 5 Total Off-Street Parking 10	1		

4. Applicant Signature

I hereby apply for approval to conduct the homestay identified above, and certify that this address is my legal residence. I also certify that I have read the restrictions on homestays, that I understand them, and that I will abide by them.

SIGNATURE OF OWNER/APPLICANT:	DATE:
	6/8/2021
PRINT NAME:	DAYTIME PHONE NUMBER:
Philip Garland, Manager WNG LLC	434-326-6970

Approved ☐ Approved with Conditions ☐ Denied ☒

Zoning Official: Ja Bramford Date: 7/9/21

VDH Approval Date: _____ Building Official Approval Date: _____ Fire Marshal Approval Date: _____

Conditions: _____

SUBMIT THIS PAGE, YOUR SKETCH, YOUR VDH APPROVAL (IF REQUIRED) , AND YOUR $158 APPLICATION FEE TO COMMUNITY DEVELOPMENT, 401 MCINTIRE ROAD, CHARLOTTESVILLE, VA 22902

Provide Sketch Here or Attach Sketch to This Application



GROSS INTERNAL AREA
FLOOR 1: 2671 sq ft, FLOOR 2: 1397 sq ft
EXCLUDED AREAS: , REDUCED HEADROOM BELOW 1.5M: 164 sq ft
TOTAL: 4068 sq ft

POWERED BY matterport

Attachment C

Lea Brumfield

From: Lea Brumfield
Sent: Tuesday, July 13, 2021 5:49 PM
To: PO Garland
Subject: RE: Homestay Zoning Clearance Rejected

Hi Phil,

To be clear, the current application you sent is not being rejected due to the form – even if you submit the new form, it legally *cannot* be approved while the property is held under an LLC. If you send in a new form that one will also be rejected. We cannot "consider" the application at all – it will be automatically denied as long as the property is held by an LLC.

Additionally, please note that you may not apply for a homestay as a second party. The property owners are required to sign the application, and are the responsible parties in regards to the homestay regulations, unless they are eligible for and approved for a "resident manager" on a smaller parcel (under 5 acres in size or in the residential districts). There is no "owner's agent" permitted for homestays.

We're certainly sympathetic with the goal of wanting to keep rural family properties intact, and the reasons for holding the property in an LLC while a sibling lives on it make sense, but unfortunately, there is no way to approve it. This is not a matter of interpretation – this is the regulation as it is written. We do not have any ability to interpret the regulation differently.

Unfortunately, the Board has been very specific on this point – we cannot "work around" a property held by a commercial entity. The only other fix I can suggest would be to subdivide to create a smaller parcel, under 5 acres. Due to a technicality in the regulations, parcels under 5 acres in size can apply for a Special Exception to be held by a commercial entity while the owner who holds the LLC lives on the parcel as a "resident manager." That is only possible, however, if the parcel has subdivision rights, and the subdivided parcel would meet all subdivision regulations, and the special exception would be decided by the Board of Supervisors.

I'm sorry to be the bearer of bad news, and I do understand it can be frustrating for property owners who want to use their property to make additional income with an Airbnb business, but this is the current ordinance we have to work with.

Please let me know if you have any additional questions.

Best regards,

Lea Brumfield (she, her)
Senior Planner II, Zoning Division
Albemarle County

lbrumfield@albemarle.org
434-296-5832 x3023
401 McIntire Road, Charlottesville, VA 22902

From: PO Garland <pogarland@gmail.com>
Sent: Tuesday, July 13, 2021 5:36 PM

To: Lea Brumfield <lbrumfield@albemarle.org>
Subject: Re: Homestay Zoning Clearance Rejected

CAUTION: This message originated outside the County of Albemarle email system. DO NOT CLICK on links or open attachments unless you are sure the content is safe.

Hi Lea,

Sorry I missed your call the other day. I've been out of town and in the mountains with really poor reception until yesterday.

Anyway, thank you for sending the link to the new form. I had reused a copy of the application the County sent out last year and had no idea it had been revised. I will work on submitting an application on the new form as soon as possible.

Some background information may be helpful to you and the County planners when considering the application. The property at issue has been in the LLC owners' family since the 1930s. The LLC owners are five adult siblings who transferred title of the property to the LLC a number of years ago to facilitate the management of the property and to deter the property from being split up and subdivided. One or more of the siblings have lived on the property since the LLC was established. A primary reason for the family members wanting to do short term rentals (as opposed to long term rentals) is to generate revenue to help cover some of the expenses of the property and keep it in the family for their use rather than sell it off to a developer or some business. I suspect the County shares the owners' goal to maintain the rural character of the property and the surrounding area, and in this instance the short term rentals is the best and most realistic way to accomplish that goal.

That said, I understand you're working with the County ordinance as it's currently written and I'm certainly open to suggestions that don't entail transferring title out of the LLC.

I'll be glad to call and discuss it with you if you think it would be helpful.

Thank you for your consideration and help.

Phil

Philip Garland
434-326-6970

On Fri, Jul 9, 2021 at 4:43 PM Lea Brumfield <lbrumfield@albemarle.org> wrote:

> Hi Phil,
>
> I just left you a voicemail regarding your application for the homestay at Colle Lane/Thomas Jefferson Parkway, and as I mentioned, unfortunately your application legally cannot be approved, and we have to reject it.

Under our ordinance, Section 18-5.1.48, "The owner of the parcel on which a homestay is located, must reside on the subject parcel for a minimum of 180 days in a calendar year." Unfortunately, since an LLC is not a natural person, the County Attorney has determined that an LLC cannot physically reside on a parcel.

If you would be interested in pursuing a different ownership type, the County Attorney has determined that a family trust is an acceptable form of ownership, or the property must be put in the name of the person owning and residing on the property. However, this application will be refunded, and if you do move the property into a different form of ownership, you may apply again with that form.

Additionally, please note that the form you applied with has been out of date for over six months. We now require proof of ownership during the inspection of the property, not submitted with the form, and there are different form fields required. The current form can be found at: https://www.albemarle.org/government/community-development/apply-for/homestay-clearance

Lea Brumfield (she, her)

Senior Planner II, Zoning Division

Albemarle County

lbrumfield@albemarle.org

434-296-5832 x3023

401 McIntire Road, Charlottesville, VA 22902

Attachment D

FOR OFFICE USE ONLY LOD # 2021-15

Fee Amount $ 123.76 Date Paid 8/13/21 By who? WNG, LLC Receipt # 23787 Ck# 1847 By: JS

Application for Official Letter of Determination

☐ **Official Letter of Determination of Parcel of Record and/or Development Rights = $123.76**
Official Letter $119 + Technology Surcharge $4.76

A separate fee is required for each parcel shown on the tax map.
(1 parcel is $119 + $4.76 = **$123.76**, 2 parcels are $238 + $9.52 = **$247.52**, etc.)

☑ **All other Official Letters of Determinations (including but not limited to Use, Zoning, Nonconformity, Parking, Floodplain, Vested Rights, Area & Bulk Regulations, De minimis) = $123.76**
Official Letter $119 + Technology Surcharge $4.76

☑ Certification that notice of this application has been provided to the property owner if the owner is different from applicant.

Project Name: WNG LLC - Homestay Application - 1699 Colle Lane

Tax map and parcel(s): 09200-00-00-04500 **Zoning:** Residential

Contact Person (Who should we call/write concerning this project?): Philip Garland

Address 310 4th St. NE, Suite 102 City Charlottesville State VA Zip 22902

Daytime Phone (434) 326-6970 Fax # (____) _____ E-mail pogarland@gmail.com

Owner of Record WNG LLC

Address 310 4th St. NE, Suite 102 City Charlottesville State VA Zip _____

Daytime Phone (434) 326-6970 Fax # (____) _____ E-mail pogarland@gmail.com

Applicant (Who is the Contact person representing?): Attila Woodward and WNG LLC

Address 1682 Colle Lane City Charlottesville State VA Zip 22902

Daytime Phone (415) 297-3896 Fax # (____) _____ E-mail attila.woodward@gmail.com

Submittal Requirements

Parcel of Record and/or Development Rights

- ☐ Tax Map Page
- ☐ Provide evidence showing when the parcel/parcels was/were created. This will include the following;
  - ☐ The last instrument of record in the Clerk's Office of the Circuit Court of Albemarle County, Virginia on or prior to December 10, 1980.
  - ☐ Include deeds that provide a plat or metes and bounds description of the property. (Highlight or underline references to the subject property).
- ☐ All plats and deeds of record after December 10, 1980, UP UNTIL THE PRESENT DATE. (Highlight or underline references to the subject property).
- ☐ Cover letter stating the assumed number of parcels and development rights, with explanation of same.
- ☐ Any other pertinent information.
- ☐ A fee is required for each separate parcel shown on the tax map.

All other Determinations

- ☑ Cover letter stating what is being requested. Provide all necessary information for the consideration of this decision including
- ☑ Tax Map Page if request is regarding a specific property.
- ☐ **If the request is regarding a nonconforming use, structure, or lot then you must provide enough probative material evidence to prove the nonconformity.**
- ☑ Provide justification for the request and any other pertinent information.
- ☑ Fee as noted above.

Please refer to the Albemarle County Land Use Law Handbook for more information regarding zoning determinations and nonconformities. http://www.albemarle.org/LandUseLaw

Determination may take up to ninety (90) days from submittal

Signature of Owner

7/28/2021
Date

Philip A Custard Comanager-WRHC
Print Name

434-326-6970
Daytime phone number of Signatory

Submittal Requirements

Parcel of Record and/or Development Rights

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  - ☐ The last instrument of record in the Clerk's Office of the Circuit Court of Albemarle County, Virginia on or prior to December 10, 1980.
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Signature of Owner

07/28/2021
Date

Attila S. Woodward (WNG, LLC Owner)
Print Name

415-297-3896
Daytime phone number of Signatory

Attila Woodward
1699 Colle Lane
Charlottesville VA 22902

July 28, 2021

Mr. Bart Svoboda
Director of Zoning
401 McIntire Road
Charlottesville VA 22902

RE: Request for Letter of Determination – Homestay Zoning Clearance
Parcel 09200-00-00-04500

Dear Director Svoboda,

WNG, LLC is the record title holder of the above-referenced parcel, TM 92-45 (the "Property"). We are writing to request a Letter of Determination that WNG LLC on behalf of its beneficial owners is eligible to apply for a Homestay Zoning Clearance under County Ordinance Section 5.1.48. Specifically, we seek a letter of determination that beneficial owners of an LLC can satisfy the Ordinance's "residency" requirement so long as at least one of the owners resides on the Property and can provide proof of residency.

The Property consists of approximately 207 acres, a main house, and several appurtenances including a couple houses, a cottage, and a historic country store. All structures on the Property were built prior to the 1980s. It is beneficially owned by five Woodward family siblings, but is titled in their family entity, WNG LLC.

The Property has been in the Woodward family since the 1930s when the current generation's grandparents purchased it and built the main house and surrounding buildings. Upon their grandfather's death in the early 1990s, the Property went into a life estate for their father, who later surrendered his life estate to them, and they in turn transferred title to WNG LLC. They created the LLC to facilitate the management and preservation of the Property. The ownership structure also serves important estate planning and liability protection purposes. WNG LLC is not a "commercial entity" in the general sense, but rather the best way for the family members to hold ownership of a family property just as many other families do in Albemarle County.

Woodward family members have consistently lived on the property since the 1930s and one or more of the siblings have lived on the property since the LLC was established. The owners treat the main house as a shared family house. Throughout their ownership, the family has been sensitive to the historic nature and location of the Property and have gone to lengths to preserve and protect it. Accordingly, they have no desire to convert it into a B&B or a long-term rental or use it as an event space. At the same time, it's important for the property to generate revenue to offset expenses, to maintain it as a family property, and to preserve

the rural character of the Property and the surrounding area.

Under County Ordinance Section 18-5.1.48, "The owner of the parcel on which a homestay is located, must reside on the subject parcel for a minimum of 180 days in a calendar year." In our case, the owners of the LLC and as such the beneficial owners of the Property reside on the Property year-round except when travelling on vacation. The relationship and residency of the title owner and beneficial owners is easy to identify and verify through an affidavit or other simple documentation, such as driver's licenses or voter registrations. Therefore, in situations like this where a beneficial owner of an LLC or another entity such as a trust resides on a parcel, there is no substantive reason for differentiating between a beneficial owner and a direct owner under the Homestay Zoning Ordinance. The Ordinance itself does not expressly draw such a distinction. Also, any distinction between types of entity owners (trusts v. LLCs) is unwarranted since ownership and residency can be established just as easily in each case.

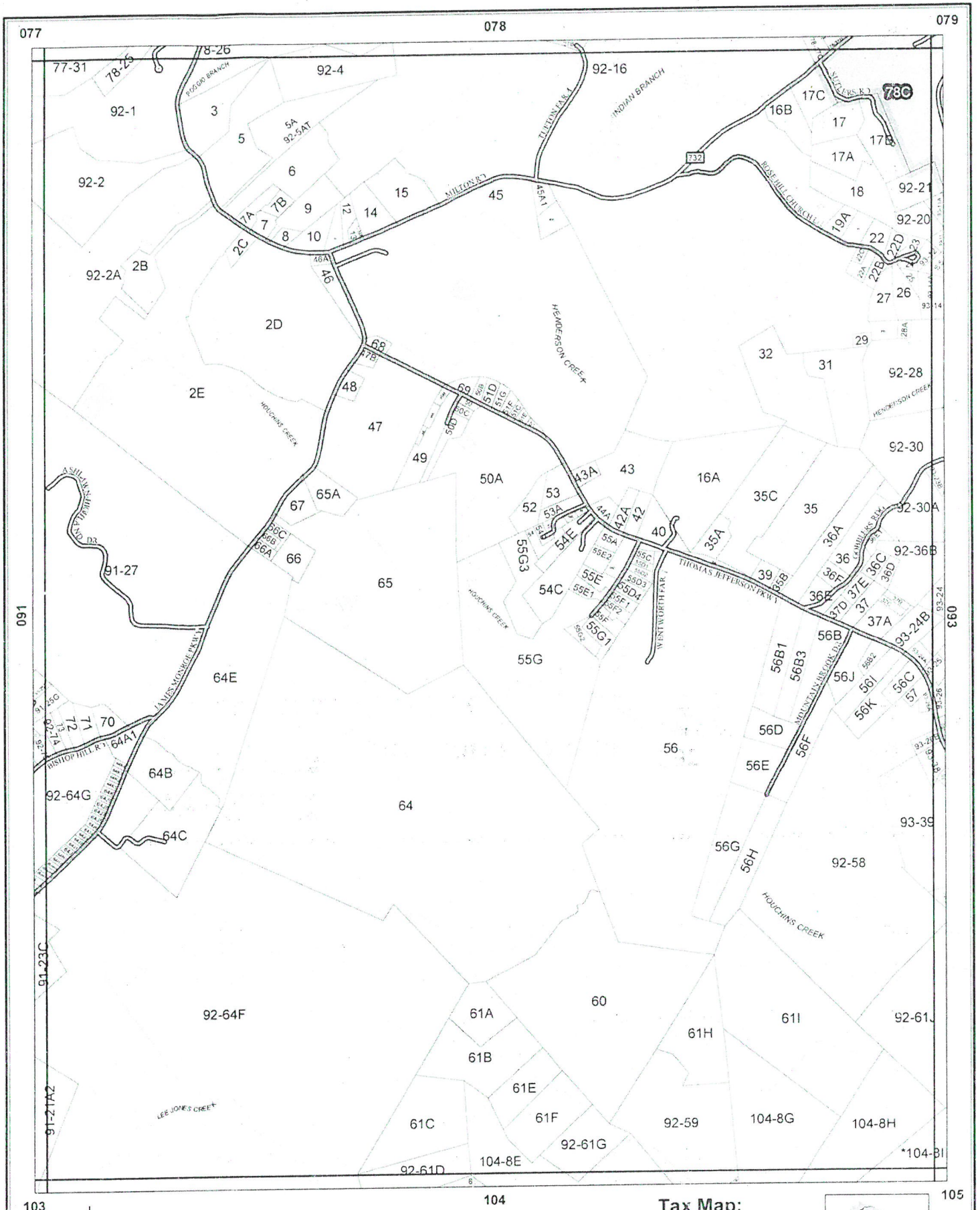
Furthermore, drawing a distinction between direct and beneficial owners does not appear to serve any purpose since in both cases a person who has an ownership interest in a subject parcel will be residing on the parcel. We have heard some people have concerns that a person could own multiple entities and thereby use multiple properties for short-term rentals and deplete the residential housing supply. Those concerns are unfounded because a natural person who is either a direct or beneficial owner can only reside in one place at a time and therefore only one parcel could qualify per owner for Homestay Zoning. Similarly other designed purposes for the Home Zoning Ordinance can be satisfied just as easily regardless of the ownership structure of a parcel.

Therefore, since a Woodward family member resides on the Property as a beneficial owner of the family LLC, we request a determination that WNG LLC can satisfy the Homestay Zoning Ordinance's "residency" requirement and apply for zoning clearance assuming it meets all other requirements of the Ordinance.

Respectfully,

Attila Woodward
WNG LLC Owner

Philip O. Garland
WNG LLC Manager


077
078
079
091
093
103
104
105
92-1
92-2
92-2A
92-4
92-16
92-20
92-21
92-28
92-30
92-30A
92-36B
92-64G
92-64F
92-58
92-59
92-61G
92-61D
104-8E
104-8G
104-8H
91-27
91-23C
91-21A2
93-24B
93-39
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64A1
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64E
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72
78C
232
POSSUM BRANCH
TUTTONS FK 1
INDIAN BRANCH
SUTTERS RD
MILTON RD
REESE HILL CHURCH LN
HENDERSON CREEK
HOUCHINS CREEK
LEE JONES CREEK
ASHLAWN CIRCUIT
JAMES MONROE PKWY
BISHOP HILL RD
THOMAS JEFFERSON PKWY
WENTWORTH FAR
MOUNTAIN BROOK DR
CAMBRIA'S RUN
Albemarle County
Tax Map:
092
Scale
0
800
1,600
2,400
Feet
Note: This map is for display purposes only and shows parcels as of 12/31/2019.
See Map Book Introduction for additional details.

Parcel Information

Parcel ID	09200-00-00-04500
Primary Prop. Address	1699 COLLE LN
Other Address(es)	1645 COLLE LN 1680 COLLE LN 1682 COLLE LN 1330 THOMAS JEFFERSON PKWY
Subdivision	N/A
Property Name	COLLE
Description	ACREAGE COLLE
Lot	04500
Property Card(s)	4
Total Acres	205.93

Owner Information

Owner	WNG LLC
Address	310 4TH ST NE SUITE 102 CHARLOTTESVILLE VA, 22902
Owner as of Jan 1st	WNG LLC

Most Recent Assessment Information

Year	2021
Assessment Date	01/01/2021
Land Value	$365,200
Land Use Value	$0
Improvements Value	$1,179,300
Total Value	$1,544,500

Most Recent Sales History

Previous Owner	WOODWARD, MANGENOT, ALEXANDRA WOODWARD, ATTILA SASHA WOODWARD ET AL
Owner	WNG LLC
Sale Date	12/28/2012
Sale Price	$0
Deed Book/Page	4281/457

Other Tax Information as of Jan 1st

State Code	Ag/Devel over 100 Acres
Tax Type	Conservation Use
Parcel Level Use Code	Arts & Crafts Bl -Elem/2nd Sch

Other Parcels...

...on COLLE LN

Improvements

Parcel ID	09200-00-00-04500
Primary Prop. Address	1699 COLLE LN
Card	1 of 4
Card Type	Residential

Infrastructure Improvements

Well/Septic

Primary Building Additions

Patio - Good Quality.....568 sq ft
Porch, Average Quality.....27 sq ft
Unfinished Attic.....600 sq ft

Outbuilding Improvements

Barn.....650 sq ft.....Year Built: 1774
Barn w/Loft.....800 sq ft.....Year Built: 1774
Canopy- Gas Market.....396 sq ft.....Year Built: 1774
Chicken House.....Year Built: 1774
Chicken House.....Year Built: 1774
Country Store.....824 sq ft.....Year Built: 1774
Garage.....Year Built: 1774
Gazebo.....Year Built: 1774
Granary.....412 sq ft.....Year Built: 1774
Greenhouse - Plastic.....130 sq ft.....Year Built: 1774
Office.....220 sq ft.....Year Built: 1774
Patio Brick.....1,027 sq ft.....Year Built: 1774
Pool Concrete.....800 sq ft.....Year Built: 1774
Pool House.....121 sq ft.....Year Built: 1774
Porch,Outbuilding.....77 sq ft.....Year Built: 1774
Shed-Attached Enclosed.....660 sq ft.....Year Built: 1774
Shop.....220 sq ft.....Year Built: 1774
Storage Bldg.....Year Built: 1774

Primary Building Details

Card Level Use Code	Retail Store
Year Built	1774
Year Remodeled	N/A
Condition	Average
Grade	A+2: A+2 Excellent Minus Quality
Number of Stories	2
House Type	1.25 / 1.75 Story
Finished Sq. Ft.	4,026
Basement Type	Cellar
Basement Garage Doors	None
Bsmt Fin. Sq. Ft.	0
Bsmt Tot. Sq. Ft.	0
Attic Tot. Sq. Ft.	0
Roof Material	Slate
Heating	Forced Hot Air -Oil
Cooling	Central Air
Fireplace(s) - Open	3
Fireplace(s) - Stacks	3
Fireplace Type	Brick
Wall Framing	N/A
Exterior Covering	Weather Board
Bedrooms	6
Dining Rooms	1
Family Rooms	0
Full Baths	5
Half Baths	0
Total Room Count	9

Every unit assumed to have kitchen and living room.
Bathrooms are not included in total room count.

Full Parcel Details

Click Here to View

Improvements

Parcel ID	09200-00-00-04500
Primary Prop. Address	1699 COLLE LN
Card	2 of 4
Card Type	Residential

Infrastructure Improvements

Septic

Primary Building Additions

Patio, Low Quality.....212 sq ft

Primary Building Details

Card Level Use Code	Single Family
Year Built	1754
Year Remodeled	1993
Condition	Average
Grade	C+1: C+1 Average Plus Quality
Number of Stories	1
House Type	1 Story
Finished Sq. Ft.	951
Basement Type	None
Basement Garage Doors	None
Bsmt Fin. Sq. Ft.	0
Bsmt Tot. Sq. Ft.	0
Attic Tot. Sq. Ft.	0
Roof Material	Slate
Heating	Forced Hot Air -Oil
Cooling	Central Air
Fireplace(s) - Open	0
Fireplace(s) - Stacks	0
Fireplace Type	None
Wall Framing	N/A
Exterior Covering	Weather Board
Bedrooms	2
Dining Rooms	0
Family Rooms	0
Full Baths	1
Half Baths	0
Total Room Count	4

Every unit assumed to have kitchen and living room.
Bathrooms are not included in total room count.

Full Parcel Details

Click Here to View

Improvements

Parcel ID	09200-00-00-04500
Primary Prop. Address	1699 COLLE LN

Card	3 of 4
Card Type	Residential

Infrastructure Improvements

Well/Septic

Primary Building Additions

Garage, Average Quality.....484 sq ft

Primary Building Details

Card Level Use Code	Single Family
Year Built	1754
Year Remodeled	N/A
Condition	Average
Grade	C+1: C+1 Average Plus Quality
Number of Stories	1
House Type	1 Story Contemp
Finished Sq. Ft.	2,007
Basement Type	None
Basement Garage Doors	None
Bsmt Fin. Sq. Ft.	0
Bsmt Tot. Sq. Ft.	0
Attic Tot. Sq. Ft.	0
Roof Material	Asbestos
Heating	Forced Hot Air -Oil
Cooling	Central Air
Fireplace(s) - Open	3
Fireplace(s) - Stacks	3
Fireplace Type	Brick
Wall Framing	N/A
Exterior Covering	Weather Board
Bedrooms	2
Dining Rooms	0
Family Rooms	0
Full Baths	1
Half Baths	1
Total Room Count	4

Every unit assumed to have kitchen and living room.
Bathrooms are not included in total room count.

Full Parcel Details

Click Here to View

Improvements

Parcel ID	09200-00-00-04500
Primary Prop. Address	1699 COLLE LN
Card	4 of 4
Card Type	Residential

Infrastructure Improvements

Well/Septic

Primary Building Additions

Porch, Average Quality.....112 sq ft

Porch, Screened.....152 sq ft

Primary Building Details

Card Level Use Code	Single Family
Year Built	1754
Year Remodeled	N/A
Condition	Average
Grade	C-1: C-1 Average Minus Quality
Number of Stories	2
House Type	2 Story
Finished Sq. Ft.	1,292
Basement Type	None
Basement Garage Doors	None
Bsmt Fin. Sq. Ft.	0
Bsmt Tot. Sq. Ft.	0
Attic Tot. Sq. Ft.	0
Roof Material	Metal
Heating	Forced Hot Air -Oil
Cooling	Central Air
Fireplace(s) - Open	2
Fireplace(s) - Stacks	2
Fireplace Type	Brick
Wall Framing	N/A
Exterior Covering	Weather Board
Bedrooms	2
Dining Rooms	0
Family Rooms	0
Full Baths	1
Half Baths	0
Total Room Count	4
	Every unit assumed to have kitchen and living room. Bathrooms are not included in total room count.

Full Parcel Details

Click Here to View

Land Value Information

Parcel ID	09200-00-00-04500
Primary Prop. Address	1699 COLLE LN

Market Value

Land Type	EAB - Easement Agriculture 2
Acre Type	N/A
Acres	21.94
Land Value	$9,200
Land Type	EAC - Easement Agriculture 3
Acre Type	N/A
Acres	9.91
Land Value	$3,100
Land Type	EAD - Easement Agriculture 4
Acre Type	N/A
Acres	3.54
Land Value	$900
Land Type	EFA - Easement Forestry 1
Acre Type	N/A
Acres	57.58
Land Value	$23,500

Land Type	EFB - Easement Forestry 2
Acre Type	N/A
Acres	47.71
Land Value	$17,800
Land Type	EFC - Easement Forestry 3
Acre Type	N/A
Acres	59.23
Land Value	$15,700
Land Type	HS1 - Homesite 1
Acre Type	N/A
Acres	3
Land Value	$115,000
Land Type	HS2 - Homesite 2
Acre Type	N/A
Acres	1
Land Value	$60,000
Land Type	HS2 - Homesite 2
Acre Type	N/A
Acres	1
Land Value	$60,000
Land Type	HS2 - Homesite 2
Acre Type	N/A
Acres	1
Land Value	$60,000

Transfer History

Parcel ID	09200-00-00-04500
Primary Prop. Address	1699 COLLE LN

Sale Date: 12/28/2012

Owner	WNG LLC
Previous Owner	WOODWARD, MANGENOT, ALEXANDRA WOODWARD, ATTILA SASHA WOODWARD ET AL
Sale Price	$0
Deed Book/Page	4281/457

Owner	WOODWARD, MANGENOT, ALEXANDRA WOODWARD, ATTILA SASHA WOODWARD ET AL
Previous Owner	WNG LLC
Sale Price	$0
Deed Book/Page	4281/438

Sale Date: 11/05/2010

Owner	WNG LLC
Previous Owner	WOODWARD, STANLEY JR LIFE ESTATE
Sale Price	$0
Deed Book/Page	3954/351

Sale Date: 08/12/1993

Owner	WOODWARD, STANLEY JR LIFE ESTATE
Previous Owner	N/A

Sale Price	$0
Deed Book/Page	686/650

Assessment History

Parcel ID	09200-00-00-04500
Primary Prop. Address	1699 COLLE LN

Tax Year 2021

Assessment Date	01/01/2021
Land Value	$365,200
Land Use Value	$0
Improvements Value	$1,179,300
Total Value	$1,544,500

Tax Year 2020

Assessment Date	01/01/2020
Land Value	$357,600
Land Use Value	$0
Improvements Value	$1,122,100
Total Value	$1,479,700

Tax Year 2019

Assessment Date	01/01/2019
Land Value	$318,900
Land Use Value	$0
Improvements Value	$929,900
Total Value	$1,248,800

Tax Year 2018

Assessment Date	01/01/2018
Land Value	$290,800
Land Use Value	$0
Improvements Value	$958,000
Total Value	$1,248,800

Tax Year 2017

Assessment Date	01/01/2017
Land Value	$292,200
Land Use Value	$0
Improvements Value	$956,600
Total Value	$1,248,800

Tax Year 2016

Assessment Date	01/01/2016
Land Value	$296,000
Land Use Value	$0
Improvements Value	$952,800
Total Value	$1,248,800

Tax Year 2015

Assessment Date	01/01/2015
Land Value	$305,400
Land Use Value	$0
Improvements Value	$930,200
Total Value	$1,235,600

Tax Year 2014

Assessment Date	01/01/2014
Land Value	$300,800
Land Use Value	$0
Improvements Value	$927,700
Total Value	$1,228,500

Tax Year 2013

Assessment Date	01/01/2013
Land Value	$293,200
Land Use Value	$0
Improvements Value	$930,200
Total Value	$1,223,400

Tax Year 2012

Assessment Date	01/01/2012
Land Value	$303,700
Land Use Value	$0
Improvements Value	$941,800
Total Value	$1,245,500

Tax Year 2011

Assessment Date	01/01/2011
Land Value	$304,300
Land Use Value	$0
Improvements Value	$953,400
Total Value	$1,257,700

Tax Year 2010

Assessment Date	01/01/2010
Land Value	$304,300
Land Use Value	$0
Improvements Value	$975,000
Total Value	$1,279,300

Tax Year 2009

Assessment Date	01/01/2009
Land Value	$301,500
Land Use Value	$0
Improvements Value	$989,200
Total Value	$1,290,700

Tax Year 2008

Assessment Date	01/01/2008
Land Value	$301,900
Land Use Value	$0
Improvements Value	$1,007,500
Total Value	$1,309,400

Tax Year 2007

Assessment Date	01/01/2007
Land Value	$303,000
Land Use Value	$0
Improvements Value	$1,042,300
Total Value	$1,345,300

Tax Year 2006

Assessment Date	01/01/2006
Land Value	$238,900
Land Use Value	$0
Improvements Value	$936,600
Total Value	$1,175,500

Tax Year 2005

Assessment Date	01/01/2005
Land Value	$238,900
Land Use Value	$0
Improvements Value	$936,600
Total Value	$1,175,500

Tax Year 2004

Assessment Date	01/01/2004
Land Value	$144,000
Land Use Value	$0
Improvements Value	$843,300
Total Value	$987,300

Tax Year 2003

Assessment Date	01/01/2003
Land Value	$144,000
Land Use Value	$0
Improvements Value	$843,300
Total Value	$987,300

Tax Year 2002

Assessment Date	01/01/2002
Land Value	$131,300
Land Use Value	$0
Improvements Value	$768,600

Total Value	$899,900

Tax Year 2001

Assessment Date	01/01/2001
Land Value	$131,300
Land Use Value	$0
Improvements Value	$768,600
Total Value	$899,900

Tax Year 2000

Assessment Date	01/01/2000
Land Value	$132,400
Land Use Value	$0
Improvements Value	$676,100
Total Value	$808,500

Tax Year 1999

Assessment Date	01/01/1999
Land Value	$132,400
Land Use Value	$0
Improvements Value	$676,100
Total Value	$808,500

Tax Year 1998

Assessment Date	01/01/1998
Land Value	$154,600
Land Use Value	$0
Improvements Value	$629,700
Total Value	$784,300

Tax Year 1997

Assessment Date	01/01/1997
Land Value	$154,600
Land Use Value	$0
Improvements Value	$629,700
Total Value	$784,300

Tax Year 1996

Assessment Date	01/01/1996
Land Value	$140,100
Land Use Value	$0
Improvements Value	$624,500
Total Value	$764,600

Other Parcel Characteristics

Parcel ID	09200-00-00-04500
Primary Prop. Address	1699 COLLE LN

School Districts (Unofficial)

Elementary	Stone-Robinson
Middle	Walton
High	Monticello
How to Determine Official School Districts	Click Here for More Info

Magisterial District & Voting Precinct Information

Magisterial District	Scottsville
Voting Precinct	Stone-Robinson

Census Information

Tract	104.02
Block Group	1

Historical and World Heritage Information

Virginia Landmark Register?	No
National Historic Landmark?	No
National Register of Historic Places?	No
World Heritage Site?	No

Zoning Information

Primary	Rural Areas
Secondary	Unassigned
Minor	Unassigned
Other	Unassigned
Proffered?	No* (data undergoing maintenance, please confirm with staff)
Airport Impact Area?	No
Dam Inundation Zone?	No
Entrance Corridor?	Yes
Flood Hazard Overlay?	No
Natural Resource Extraction Overlay?	No
Scenic Byways Overlay?	Yes
Scenic Stream Overlay?	No
Steep Slopes - Managed?	No
Steep Slopes - Preserved?	No

Comprehensive Plan Information

Comp Plan Area	Rural Area 4
Comp Plan Land Use - Primary	Rural Area
Comp Plan Land Use - Secondary	Unassigned
Comp Plan Land Use - Minor	Unassigned
Comp Plan Land Use - Other	Unassigned

Land Use Survey Information

Land Use - Primary	Commercial
Number of Structures - Primary	1
Number of Dwelling Units - Primary	0
Land Use - Secondary	Residential -- Single-family (incl. modular homes)
Number of Structures - Secondary	4
Number of Dwelling Units - Secondary	4
Land Use - Minor	Forest
Number of Structures - Minor	0
Number of Dwelling Units - Minor	0

Other Information

Subdivision	N/A
MPO/CHART Area?	No
Traffic Analysis Zone (TAZ)	N/A
Jurisdictional Area Designation	No Service
Watershed	Middle Rivanna River
Water Supply Protection Area?	No
Development Area?	No
Other Rural Land?	Yes
Ag/Forest District	N/A
Conservation Easement?	Yes
Open Space Use Agreement?	No

Parcel Photos / Sketches / Scans

Parcel ID	09200-00-00-04500
Primary Prop. Address	1699 COLLE LN

Parcel Photos

No records found

Parcel Sketches

No records found

Parcel Scans

No records found

Parcel Plat

Official plats are stored at the Circuit Court Clerk's Office
Click Here

Attachment E

County of Albemarle
COMMUNITY DEVELOPMENT

LEA BRUMFIELD
Senior Planner II, Zoning
lbrumfield@albemarle.org
tel: 434-296-5832 ext. 3023

November 30, 2021

Attila Woodward
1699 Colle Lane
Charlottesville, VA 22902
attila.woodward@gmail.com

RE: OFFICIAL DETERMINATION OF HOMESTAY OWNERSHIP ELIGIBILITY – 1699 Colle Lane at TMP 00920-00-00-04500 ("the Property")

Mr. Woodward:

In response to your request for a determination regarding the ownership qualifications of the Property for a Homestay Zoning Clearance, I have consulted with the Zoning Administrator and the County Attorney. It is my official determination that in order to meet the requirements for a Homestay Zoning Clearance, the Property must be held by a natural person residing on the Property, or a family trust whose beneficiary resides on the Property.

Background

On August 7, 2019, the Albemarle County Board of Supervisors adopted an ordinance regulating the use of homestays. These regulations replaced the regulations for the two uses formerly known as "Accessory Tourist Lodging" and "Bed and Breakfast" under the single use of "homestays." This use is defined as:

> *"Homestay.* "Homestay" means an accessory residential use providing transient lodging and rooms for dining and meetings for use by homestay guests provided that the dining and meeting rooms are subordinate to the homestay use. A homestay use may offer no more than five guest rooms for lodging."
>
> (*County Code* § 18-3.1)

County Code § 18-5.1.48(j) differentiates between (1) homestays located on either (a) parcels of less than five acres in the Rural Areas Zoning District or (b) parcels of any size that allow residential use in the Residential Zoning Districts or Planned Development Zoning Districts, and (2) homestays located on parcels of five acres or more in the Rural Areas district.

The Property at 1699 Colle Lane is located in the Rural Areas district on a 24.91-acre parcel. The regulations governing a homestay use at the Property include the requirement of owner occupancy:

> (vi.) *Owner occupancy.* The owner of a parcel conducting a homestay use must reside on and be present at the subject property during the homestay use except during approved whole house rentals.
>
> (*County Code* § 18-5.1.48 (j)(2)(vi), emphasis added)

Homestay special exceptions are currently limited to the following waivers or modifications:

> (i.) More than two guest rooms and/or the use of an accessory structure in association with a homestay on parcels in the Residential or Planned Development districts, or Rural Areas district parcels of less than five acres;
> (ii.) Reduction in minimum applicable yards for a structure or parking used in whole or in part for a homestay.
> (iii.) The use of an accessory structure built after August 7, 2019.
> (iv.) Resident Manager occupancy instead of owner occupancy as required by 5.1.48(j)(1)(iv).
>
> (*County Code* § 18-5.1.48 (i)(1), emphasis added)

Note that eligibility for the Resident Manager special exception is limited to parcels regulated by section 5.1.48(j)(1)(iv), which applies to owner occupancy on: "(a) a parcel of less than five acres in the Rural Areas Zoning District or (b) a parcel of any size that allows residential use in the Residential Zoning Districts or Planned Development Zoning Districts."

Therefore, parcels of five acres or more in the Rural Areas Zoning District are not eligible for this special exception.

The homestay regulations were originally adopted by the Board of Supervisors on August 7, 2019. At a Work Session on June 2, 2020, the Board discussed a possible ordinance amendment to allow large Rural Areas parcels to apply for the resident manager special exception. The Board expressly declined to pursue such an amendment, citing concerns about business entities running homestays across multiple parcels.

Analysis

Under *County Code* § 18-5.1.48(j)(2)(vi), the owners of parcels conducting a homestay use must reside on the subject property. Because business entities (such as limited liability companies) have no physical presence, they cannot reside on a property, and cannot qualify for a homestay use.

As your property at 1699 Colle Lane is a Rural Areas Zoning District parcel over five acres in size, it is not subject to *County Code* § 18-5.1.48(j)(1)(iv), and therefore is not eligible for a special exception to permit a resident manager under *County Code* § 18-5.1.48(i)(1)(iv).

A trust whose beneficiary is a natural person(s) may hold a property with a homestay use on it, as the trust is directly tied to the natural person(s). The natural person(s) named as beneficiary of the trust must reside on the property, and it must be their full-time residence.

Conclusion

The Homestay Zoning Clearance application submitted for the Property is Denied on the basis of ownership of the property by WNG LLC.

Because the LLC itself (rather than the individual owners of that LLC) own the subject property, the LLC's individual owners do not qualify as an "owner" for purposes of *County Code* § 18-5.1.48. It may, however, be held by a trust whose beneficiary resides on the property.

You may have a right to appeal this determination within thirty (30) days of this notice, in accordance with Virginia Code § 15.2-2311. This determination will be final and unappealable if not appealed within 30 days.

An appeal may be taken only by filing an appeal application with the Zoning Administrator and the Board of Zoning Appeals, in accordance with § 18-34.3 of the Zoning Ordinance, along with a fee of $295.36 plus the actual cost of advertising the appeal for public hearing.

Applications for Appeal of the Zoning Administrator's Determination are available at the Department of Community Development located at 401 McIntire Road, Charlottesville, Virginia 22902 or online at https://www.albemarle.org/government/community-development/apply-for/letter-of-determination-or-zoning-compliance. This form applies to the appeal of a decision of the zoning administrator or any other administrative officer pertaining to the Zoning Ordinance.

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If you have any questions, please contact me.

Sincerely,



Lea H. Brumfield
Senior Planner II, Designee of the Zoning Administrator

Albemarle County
401 McIntire Road, Charlottesville, VA 22902
lbrumfield@albemarle.org

Copy: Bart Svoboda, Zoning Administrator; Andy Herrick, Deputy County Attorney

Sec. 5.1.48 - Homestays.

Each homestay is subject to the following regulations:

a. *Residency.* The owner of the parcel on which a homestay is located, must reside on the subject parcel for a minimum of 180 days in a calendar year.

b. *Notice.* The owner of a parcel conducting a homestay use must provide the name, telephone number, and emergency contact information of the owner and other designated responsible agent to abutting parcel owners on an annual basis. The owner must retain and provide a copy of the notice to the Zoning Administrator within five business days upon request.

c. *Parking.* In addition to the parking required for a single-family dwelling, the number of off-street parking spaces required by County Code § 18-4.12.6 must be provided on-site and no alternatives to parking in § 18-4.12.8 may be authorized.

d. *Information and sketch plan to be submitted with request for zoning clearance.* The following documents must be submitted to the zoning administrator with each request for a zoning clearance under County Code § 18-31.5:

1. *Information.* Information pertaining to the following: (i) the proposed use; (ii) the maximum number of guest rooms; (iii) the provision of authorized on-site parking; (iv) the location, height and lumens of outdoor lighting; and (v) two forms of verification of the permanent residency of an owner. Acceptable proof of permanent residence includes: driver's license, voter registration card, U.S. passport, or other document(s) that the zoning administrator determines provide equivalent proof of permanent residence at the subject parcel.

2. *Sketch plan.* A schematic drawing of the premises with notes in a form and of a scale approved by the zoning administrator depicting: (i) all structures that would be used for the homestay; (ii) the locations of all guest rooms; and (iii) how access, on-site parking, outdoor lighting, signage and minimum yards will be provided in compliance with this chapter.

3. *Signatures.* The responsible agent and the owner of the parcel must sign the application.

e. *Building code, fire and health approvals.* Before the zoning administrator approves a zoning clearance under County Code § 18-31.5, the owner of the parcel must obtain approval of the use from the building official, the fire official, and the Virginia Department of Health.

f. *Uses prohibited.* The following uses are not permitted as uses accessory to a homestay use: (i) restaurants; and (ii) special events serving attendees other than homestay guests.

g. *Responsible agent.* Each applicant for a homestay must designate a responsible agent to promptly address complaints regarding the homestay use. The responsible agent must be available within 30 miles of the homestay at all times during a homestay use. The responsible agent must respond and attempt in good faith to resolve any complaint(s) within 60 minutes of being contacted. The responsible agent may initially respond to a complaint by requesting homestay guest(s) to take such action as is required to resolve the complaint. The responsible agent also may be required to visit the homestay if necessary to resolve the complaint.

h. *Lawfully pre-existing uses.* Any bed and breakfast or tourist lodging use approved prior to August 7, 2019 may continue, subject to conditions of the prior approval(s).

i. *Special exception.*

(1) Waiver or modification of this section is prohibited except to permit:

(i) More than two guest rooms and/or the use of an accessory structure in association with a homestay on parcels in the Residential or Planned Development districts, or Rural Areas district parcels of less than five acres;

(ii) Reduction in minimum applicable yards for a structure or parking used in whole or in part for a homestay.

(iii) The use of an accessory structure built after August 7, 2019.

(iv) Resident Manager occupancy instead of owner occupancy as required by 5.1.48(j)(1)(iv).

(2) Special exceptions may be granted after notice to abutting property owners upon consideration of the following:

(i) There is no detriment to any abutting lot; and

(ii) There is no harm to the public health, safety, or welfare.

j. *Parcel-based regulations.*

(1) Each homestay located on (a) a parcel of less than five acres in the Rural Areas Zoning District or (b) a parcel of any size that allows residential use in the Residential Zoning Districts or Planned Development Zoning Districts is subject to the following regulations:

(i) *Number of homestay uses.* Any parcel may have only one homestay use. An accessory apartment may not qualify as a dwelling unit for a homestay use.

(ii) *Dwelling types.* Homestay uses may only be conducted in a detached single-family dwelling.

(iii) *Number of guest rooms.* A maximum of two guest rooms may be permitted with each homestay use.

(iv) *Owner occupancy.* The owner of a parcel with a homestay use must reside on and be present at the subject parcel during the homestay use.

(v) *Minimum yards.* 1) In the Residential or Planned Development districts, the minimum applicable front, side, and rear yard requirements for primary structures apply to all structures used for homestays; 2) In the Rural Areas district, the minimum front, side, and rear yard shall be 125 feet from any abutting lot not under the same ownership as the homestay, for parking and for structures used in whole or in part to serve a homestay.

(2) Each homestay located on a parcel of five acres or more in the Rural Areas district is subject to the following regulations:

(i) *Number of homestay uses.* Any parcel may have up to two homestay uses, provided all other applicable requirements are met.

(ii) *Accessory structures.* Homestay uses may be conducted in accessory structures built on or before August 7, 2019.

(iii) *Number of guest rooms.* A maximum of five guest rooms may be permitted with each homestay use.

(iv) *Required development rights, density and limitation.* Each single-family dwelling to which a homestay use is accessory must comply with the following regulations:

(a) on any parcel less than 21 acres in size, the single family dwelling shall be authorized by a development right as provided in County Code § 18-10.3;

(b) on any parcel, regardless of size, the single family dwelling shall comply with the permitted density; and

(c) no single family dwelling may have more than one accessory homestay use.

(v) *Minimum yards.* The minimum front, side, and rear yard for parking and for structures used in whole or in part to serve a homestay shall be 125 feet from any abutting lot not under the same ownership as the homestay use.

(vi) *Owner occupancy.* The owner of a parcel conducting a homestay use must reside on and be present at the subject property during the homestay use except during approved whole house rentals.

(vii) *Owner occupancy during whole house rental.* The owner of a parcel conducting a homestay use that is approved for whole house rental may be absent during the rental period for up to seven days in any calendar month and up to 45 days in any calendar year. The owner shall maintain a log of all homestay uses including the date of each rental for which the owner is absent. This log shall be provided within five business days to the Zoning Administrator upon request.

(Ord. 12-18(3) , 6-6-12; Ord. 19-18(6) , 8-7-19)

Albemarle County

Attachment G

Community Development Department
401 McIntire Road Charlottesville, VA 22902-4596
Voice : (434) 296-5832 Fax : (434) 972-4126

Planning Application

PARCEL / OWNER INFORMATION

TMP: 09200-00-00-04500 Owner(s): WNG LLC

Application #: AP202200001

PROPERTY INFORMATION

Legal Description: ACREAGE COLLE

Magisterial Dist.: Scottsville Land Use Primary: Commercial

Current AFD: Not in A/F District Current Zoning Primary: Rural Areas

APPLICATION INFORMATION

Street Address: 1682 COLLE LN CHARLOTTESVILLE, 22902

Entered By: Jennifer Smith 1/10/2022

Application Type: Appeal of Zoning Administrator's Determination

Project: WNG LLC - HOMESTAY

Received Date	12/31/21	Received Date Final		Submittal Date		Total Fees	743.36
Closing File Date				Submittal Date Final		Total Paid	743.36
Revision Number							

Comments:

Legal Ad:

SUB APPLICATION(s)

Type	Sub Applicatio	Comment

APPLICANT / CONTACT INFORMATION

ContactType	Name	Address	CityState	Zip	Phone	PhoneCell
Owner/Applicant	WNG LLC	310 4TH ST NE SUITE 102	CHARLOTTESVILL	22902	4343266970	
Applicant	WNG LLC & ATTILA WOODWARD	1682 COLLE LANE	CHARLOTTESVILL	22902	4152973896	
Primary Contact	PHILIP GARLAND	310 4TH ST NE, SUITE 102	CHARLOTTESVILL	22902	4343266970	

Signature of Contractor or Authorized Agent

Date

FOR OFFICE USE ONLY AP # 2022-0001 SIGN #

ZONING ORDINANCE SECTION:

Fee Amount $ 743.36 Date Paid 12/31/21 By who? Philip Garland Receipt # 37N90785VV2408941H Ck# By: JS

received receipt 1/6/22

Application for Appeal of Zoning Administrator's Determination

☑ **Appeal of Zoning Administrator's Determination = $295.36**
Application $284 + Technology surcharge $11.36

☑ **Initial notice fee to be provided in conjunction with an application, for preparing and mailing notices and published notice = $448**

FEES for re-advertisement and notification of public hearing after advertisement of a public hearing and a deferral is made at the applicant's request

➢ Preparing and mailing or delivering each notice after fifty (50)	$237
➢ Preparing and mailing or delivering each notice after fifty (50)	$1.19 for each additional notice + actual cost of first-class postage
➢ Published notice (published twice in the newspaper for each public hearing)	Actual cost based on a cost quote from the publisher (averages between $150 and $250)

Contact Person (Who should we call/write concerning this project?): Philip Garland

Address 310 4th St NE, Suite 102 City Charlottesville State VA Zip 22902

Daytime Phone (434) 326-6970 Fax # (___) _____ E-mail pogarland@gmail.com

Owner of Record WNG LLC

Address 310 4th St NE, Suite 102 City Charlottesville State VA Zip 22902

Daytime Phone (434) 326-6970 Fax # (___) _____ E-mail pogarland@gmail.com

Applicant (Who is the Contact person representing?): WNG LLC & Attila Woodward

Address 1682 Colle Lane City Charlottesville State VA Zip 22902

Daytime Phone (415) 297-3896 Fax # (___) _____ E-mail attila.woodward@gmail.com

Project Name: WNG LLC - Homestay

Tax map and parcel: TMP 00920-00-00-04500 **Zoning:** Rural Areas

Physical Street Address (if assigned):
1699 Colle Lane, Charlottesville, Virginia 22902

Location of property (landmarks, intersections, or other):
Intersection of Rt 53 and Milton Road

The following information shall be submitted with the application and is to be provided by the applicant:

1) Completed application including subject of appeal.
2) Justification for applicant's position, including error in Zoning Administrators determination. You may use the space below to provide this information or submit an attached sheet.
3) If applicable, a copy of the latest deed for the property involved, and the approved and recorded plat.
4) If applicable, the appropriate drawings showing all existing and proposed improvements on the property and any special conditions for the situation that may justify the appeal.
5) Reference to the relevant Zoning Ordinance section or other applicable regulations or case precedence to justify the appeal.
6) Appropriate fee made payable to the County of Albemarle.

Explanation of error in determination and justification of applicant's position:

The determination is in error because of an apparent factual error in the determination letter and a flawed analysis regarding the relationship between the title owner and the beneficial (direct natural person) owner.

The factual background section of the Official Determination (see attached) refers to "The Property at 1202 Simmons Gap Road is located in the Rural Areas district on a 24.91-acre parcel" which is totally unrelated to the subject property and owner.

The analysis is flawed for a number of reasons, but specifically the Official Determination concludes that a trust (a legal entity with natural person beneficial owners) qualifies as an "Owner" under the Code, but an LLC (a legal entity with natural person beneficial owners) does not. This is an arbitrary distinction without any substantive basis related to a natural person's ownership interest in the entity.

For further explanation of our position, see the attached Request Letter to the Zoning Administrator.

Owner/Applicant Must Read and Sign

I hereby certify that the information provided on this application and accompanying information is accurate, true and correct to the best of my knowledge and belief.

Signature of Owner or Contract Purchaser, Agent

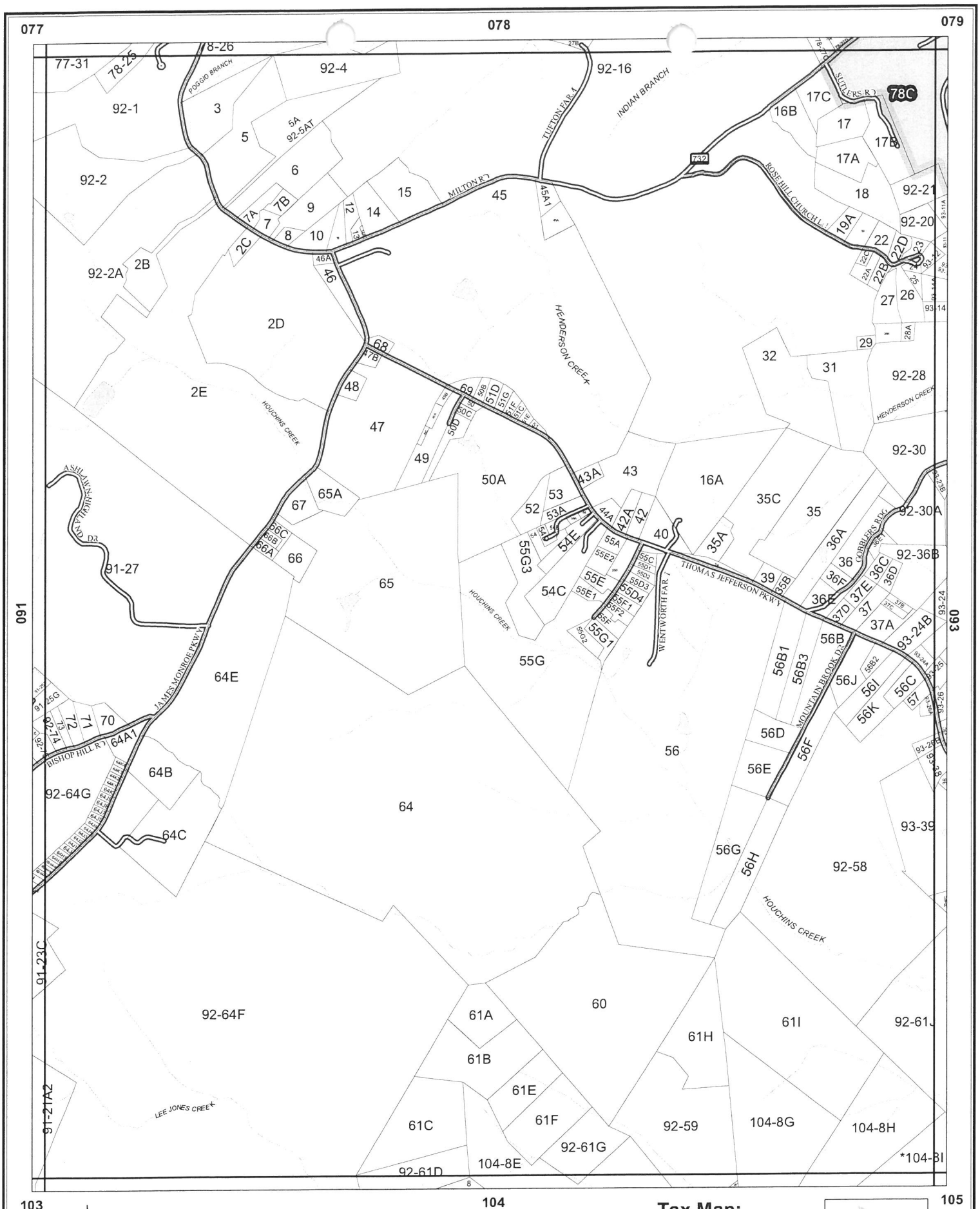
12-27-2021
Date

Philip Garland, Manager WNG LLC
Print Name

434-326-6970
Daytime phone number of Signatory

Board of Zoning Appeals Action/vote:

Board of Zoning Appeals Chairman's signature:_____ Date:_____


077
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093
103
104
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92-4
92-16
92-1
92-2
92-2A
92-5AT
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92-30A
92-36B
92-24B
92-64G
92-64F
92-58
92-59
92-61G
92-61D
104-8G
104-8H
104-8E
104-8I
91-27
91-23C
91-21A2
POGGO BRANCH
INDIAN BRANCH
TUETON FAR 1
MILTON RD
SUTLERS RD
ROSE HILL CHURCH LN
HENDERSON CREEK
HOUCHINS CREEK
LEE JONES CREEK
MOUNTAIN BROOK DR
GOBBLERS RDG
WENTWORTH FAR 1
THOMAS JEFFERSON PKWY
JAMES MONROE PKWY
BISHOP HILL RD
CUSHMAN DR
78C
732
Albemarle County
Tax Map:
092
Scale
0
800
1,600
2,400
Feet
Note: This map is for display purposes only and shows parcels as of 12/31/2019.
See Map Book Introduction for additional details.
47

Attila Woodward
1699 Colle Lane
Charlottesville VA 22902

July 28, 2021

Mr. Bart Svoboda
Director of Zoning
401 McIntire Road
Charlottesville VA 22902

RE: Request for Letter of Determination – Homestay Zoning Clearance
Parcel 09200-00-00-04500

Dear Director Svoboda,

WNG, LLC is the record title holder of the above-referenced parcel, TM 92-45 (the "Property"). We are writing to request a Letter of Determination that WNG LLC on behalf of its beneficial owners is eligible to apply for a Homestay Zoning Clearance under County Ordinance Section 5.1.48. Specifically, we seek a letter of determination that beneficial owners of an LLC can satisfy the Ordinance's "residency" requirement so long as at least one of the owners resides on the Property and can provide proof of residency.

The Property consists of approximately 207 acres, a main house, and several appurtenances including a couple houses, a cottage, and a historic country store. All structures on the Property were built prior to the 1980s. It is beneficially owned by five Woodward family siblings, but is titled in their family entity, WNG LLC.

The Property has been in the Woodward family since the 1930s when the current generation's grandparents purchased it and built the main house and surrounding buildings. Upon their grandfather's death in the early 1990s, the Property went into a life estate for their father, who later surrendered his life estate to them, and they in turn transferred title to WNG LLC. They created the LLC to facilitate the management and preservation of the Property. The ownership structure also serves important estate planning and liability protection purposes. WNG LLC is not a "commercial entity" in the general sense, but rather the best way for the family members to hold ownership of a family property just as many other families do in Albemarle County.

Woodward family members have consistently lived on the property since the 1930s and one or more of the siblings have lived on the property since the LLC was established. The owners treat the main house as a shared family house. Throughout their ownership, the family has been sensitive to the historic nature and location of the Property and have gone to lengths to preserve and protect it. Accordingly, they have no desire to convert it into a B&B or a long-term rental or use it as an event space. At the same time, it's important for the property to generate revenue to offset expenses, to maintain it as a family property, and to preserve

the rural character of the Property and the surrounding area.

Under County Ordinance Section 18-5.1.48, "The owner of the parcel on which a homestay is located, must reside on the subject parcel for a minimum of 180 days in a calendar year." In our case, the owners of the LLC and as such the beneficial owners of the Property reside on the Property year-round except when travelling on vacation. The relationship and residency of the title owner and beneficial owners is easy to identify and verify through an affidavit or other simple documentation, such as driver's licenses or voter registrations. Therefore, in situations like this where a beneficial owner of an LLC or another entity such as a trust resides on a parcel, there is no substantive reason for differentiating between a beneficial owner and a direct owner under the Homestay Zoning Ordinance. The Ordinance itself does not expressly draw such a distinction. Also, any distinction between types of entity owners (trusts v. LLCs) is unwarranted since ownership and residency can be established just as easily in each case.

Furthermore, drawing a distinction between direct and beneficial owners does not appear to serve any purpose since in both cases a person who has an ownership interest in a subject parcel will be residing on the parcel. We have heard some people have concerns that a person could own multiple entities and thereby use multiple properties for short-term rentals and deplete the residential housing supply. Those concerns are unfounded because a natural person who is either a direct or beneficial owner can only reside in one place at a time and therefore only one parcel could qualify per owner for Homestay Zoning. Similarly other designed purposes for the Home Zoning Ordinance can be satisfied just as easily regardless of the ownership structure of a parcel.

Therefore, since a Woodward family member resides on the Property as a beneficial owner of the family LLC, we request a determination that WNG LLC can satisfy the Homestay Zoning Ordinance's "residency" requirement and apply for zoning clearance assuming it meets all other requirements of the Ordinance.

Respectfully,

Attila Woodward
WNG LLC Owner

Philip O. Garland
WNG LLC Manager

County of Albemarle
COMMUNITY DEVELOPMENT

LEA BRUMFIELD
Senior Planner II, Zoning
lbrumfield@albemarle.org
tel: 434-296-5832 ext. 3023

November 29, 2021

Attila Woodward
1699 Colle Lane
Charlottesville, VA 22902
attila.woodward@gmail.com

RE: OFFICIAL DETERMINATION OF HOMESTAY OWNERSHIP ELIGIBILITY – 1699 Colle Lane at TMP 00920-00-00-04500 ("the Property")

Mr. Woodward:

In response to your request for a determination regarding the ownership qualifications of the Property for a Homestay Zoning Clearance, I have consulted with the Zoning Administrator and the County Attorney. It is my official determination that in order to meet the requirements for a Homestay Zoning Clearance, the Property must be held by a natural person residing on the Property, or a family trust whose beneficiary resides on the Property.

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> *"Homestay.* "Homestay" means an accessory residential use providing transient lodging and rooms for dining and meetings for use by homestay guests provided that the dining and meeting rooms are subordinate to the homestay use. A homestay use may offer no more than five guest rooms for lodging."
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> (iv.) Resident Manager occupancy instead of owner occupancy as required by 5.1.48(j)(1)(iv).
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> (*County Code* § 18-5.1.48 (i)(1), emphasis added)

Note that eligibility for the Resident Manager special exception is limited to parcels regulated by section 5.1.48(j)(1)(iv), which applies to owner occupancy on: "(a) a parcel of less than five acres in the Rural Areas Zoning District or (b) a parcel of any size that allows residential use in the Residential Zoning Districts or Planned Development Zoning Districts."

Therefore, parcels of five acres or more in the Rural Areas Zoning District are not eligible for this special exception.

The homestay regulations were originally adopted by the Board of Supervisors on August 7, 2019. At a Work Session on June 2, 2020, the Board discussed a possible ordinance amendment to allow large Rural Areas parcels to apply for the resident manager special exception. The Board expressly declined to pursue such an amendment, citing concerns about business entities running homestays across multiple parcels.

Analysis

Under *County Code* § 18-5.1.48(j)(2)(vi), the owners of parcels conducting a homestay use must reside on the subject property. Because business entities (such as limited liability companies) have no physical presence, they cannot reside on a property, and cannot qualify for a homestay use.

As your property at 1699 Colle Lane is a Rural Areas Zoning District parcel over five acres in size, it is not subject to *County Code* § 18-5.1.48(j)(1)(iv), and therefore is not eligible for a special exception to permit a resident manager under *County Code* § 18-5.1.48(i)(1)(iv).

A trust whose beneficiary is a natural person(s) may hold a property with a homestay use on it, as the trust is directly tied to the natural person(s). The natural person(s) named as beneficiary of the trust must reside on the property, and it must be their full-time residence.

Conclusion

The Homestay Zoning Clearance application submitted for the Property is Denied on the basis of ownership of the property by WNG LLC.

Because the LLC itself (rather than the individual owners of that LLC) own the subject property, the LLC's individual owners do not qualify as an "owner" for purposes of *County Code* § 18-5.1.48. It may, however, be held by a trust whose beneficiary resides on the property.

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If you have any questions, please contact me.

Sincerely,



Lea H. Brumfield
Senior Planner II, Designee of the Zoning Administrator

Albemarle County
401 McIntire Road, Charlottesville, VA 22902
lbrumfield@albemarle.org

Copy: Bart Svoboda, Zoning Administrator; Andy Herrick, Deputy County Attorney

APPELLANT SUBMITTAL

Albemarle County

Planning Application

Community Development Department
401 McIntire Road Charlottesville, VA 22902-4596
Voice : (434) 296-5832 Fax : (434) 972-4126

PARCEL / OWNER INFORMATION

TMP: 09200-00-00-04500 Owner(s): WNG LLC

Application #: AP202200001

PROPERTY INFORMATION

Legal Description: ACREAGE COLLE

Magisterial Dist.: Scottsville Land Use Primary: Commercial

Current AFD: Not in A/F District Current Zoning Primary: Rural Areas

APPLICATION INFORMATION

Street Address: 1682 COLLE LN CHARLOTTESVILLE, 22902

Entered By: Jennifer Smith 1/10/2022

Application Type: Appeal of Zoning Administrator's Determination

Project: WNG LLC - HOMESTAY

Received Date	12/31/21	Received Date Final		Submittal Date		Total Fees	743.36
Closing File Date				Submittal Date Final		Total Paid	743.36
Revision Number							

Comments:

Legal Ad:

SUB APPLICATION(s)

Type	Sub Applicatio	Comment

APPLICANT / CONTACT INFORMATION

ContactType	Name	Address	CityState	Zip	Phone	PhoneCell
Owner/Applicant	WNG LLC	310 4TH ST NE SUITE 102	CHARLOTTESVILL	22902	4343266970	
Applicant	WNG LLC & ATTILA WOODWARD	1682 COLLE LANE	CHARLOTTESVILL	22902	4152973896	
Primary Contact	PHILIP GARLAND	310 4TH ST NE, SUITE 102	CHARLOTTESVILL	22902	4343266970	

Signature of Contractor or Authorized Agent

Date

FOR OFFICE USE ONLY AP # 2022-[illegible] SIGN # [illegible]

ZONING ORDINANCE SECTION: _____

Fee Amount $ 743.36 Date Paid 12/31/21 By who? Philip Garland Receipt # 37N90785VV2608941H Ck# _____ By: JS

received receipt 1/6/22

Application for Appeal of Zoning Administrator's Determination

☑ **Appeal of Zoning Administrator's Determination = $295.36**
Application $284 + Technology surcharge $11.36

☑ **Initial notice fee to be provided in conjunction with an application, for preparing and mailing notices and published notice = $448**

FEES for re-advertisement and notification of public hearing after advertisement of a public hearing and a deferral is made at the applicant's request

➢ Preparing and mailing or delivering each notice after fifty (50)	$237
➢ Preparing and mailing or delivering each notice after fifty (50)	$1.19 for each additional notice + actual cost of first-class postage
➢ Published notice (published twice in the newspaper for each public hearing)	Actual cost based on a cost quote from the publisher (averages between $150 and $250)

Contact Person (Who should we call/write concerning this project?): Philip Garland

Address 310 4th St NE, Suite 102 City Charlottesville State VA Zip 22902

Daytime Phone (434) 326-6970 Fax # (___) _____ E-mail pogarland@gmail.com

Owner of Record WNG LLC

Address 310 4th St NE, Suite 102 City Charlottesville State VA Zip 22902

Daytime Phone (434) 326-6970 Fax # (___) _____ E-mail pogarland@gmail.com

Applicant (Who is the Contact person representing?): WNG LLC & Attila Woodward

Address 1682 Colle Lane City Charlottesville State VA Zip 22902

Daytime Phone (415) 297-3896 Fax # (___) _____ E-mail attila.woodward@gmail.com

Project Name: WNG LLC - Homestay

Tax map and parcel: TMP 00920-00-00-04500 **Zoning:** Rural Areas

Physical Street Address (if assigned):
1699 Colle Lane, Charlottesville, Virginia 22902

Location of property (landmarks, intersections, or other):
Intersection of Rt 53 and Milton Road

The following information shall be submitted with the application and is to be provided by the applicant:

1) Completed application including subject of appeal.
2) Justification for applicant's position, including error in Zoning Administrators determination. You may use the space below to provide this information or submit an attached sheet.
3) If applicable, a copy of the latest deed for the property involved, and the approved and recorded plat.
4) If applicable, the appropriate drawings showing all existing and proposed improvements on the property and any special conditions for the situation that may justify the appeal.
5) Reference to the relevant Zoning Ordinance section or other applicable regulations or case precedence to justify the appeal.
6) Appropriate fee made payable to the County of Albemarle.

Explanation of error in determination and justification of applicant's position:

The determination is in error because of an apparent factual error in the determination letter and a flawed analysis regarding the relationship between the title owner and the beneficial (direct natural person) owner.

The factual background section of the Official Determination (see attached) refers to "The Property at 1202 Simmons Gap Road is located in the Rural Areas district on a 24.91-acre parcel" which is totally unrelated to the subject property and owner.

The analysis is flawed for a number of reasons, but specifically the Official Determination concludes that a trust (a legal entity with natural person beneficial owners) qualifies as an "Owner" under the Code, but an LLC (a legal entity with natural person beneficial owners) does not. This is an arbitrary distinction without any substantive basis related to a natural person's ownership interest in the entity.

For further explanation of our position, see the attached Request Letter to the Zoning Administrator.

Owner/Applicant Must Read and Sign

I hereby certify that the information provided on this application and accompanying information is accurate, true and correct to the best of my knowledge and belief.

Signature of Owner or Contract Purchaser, Agent

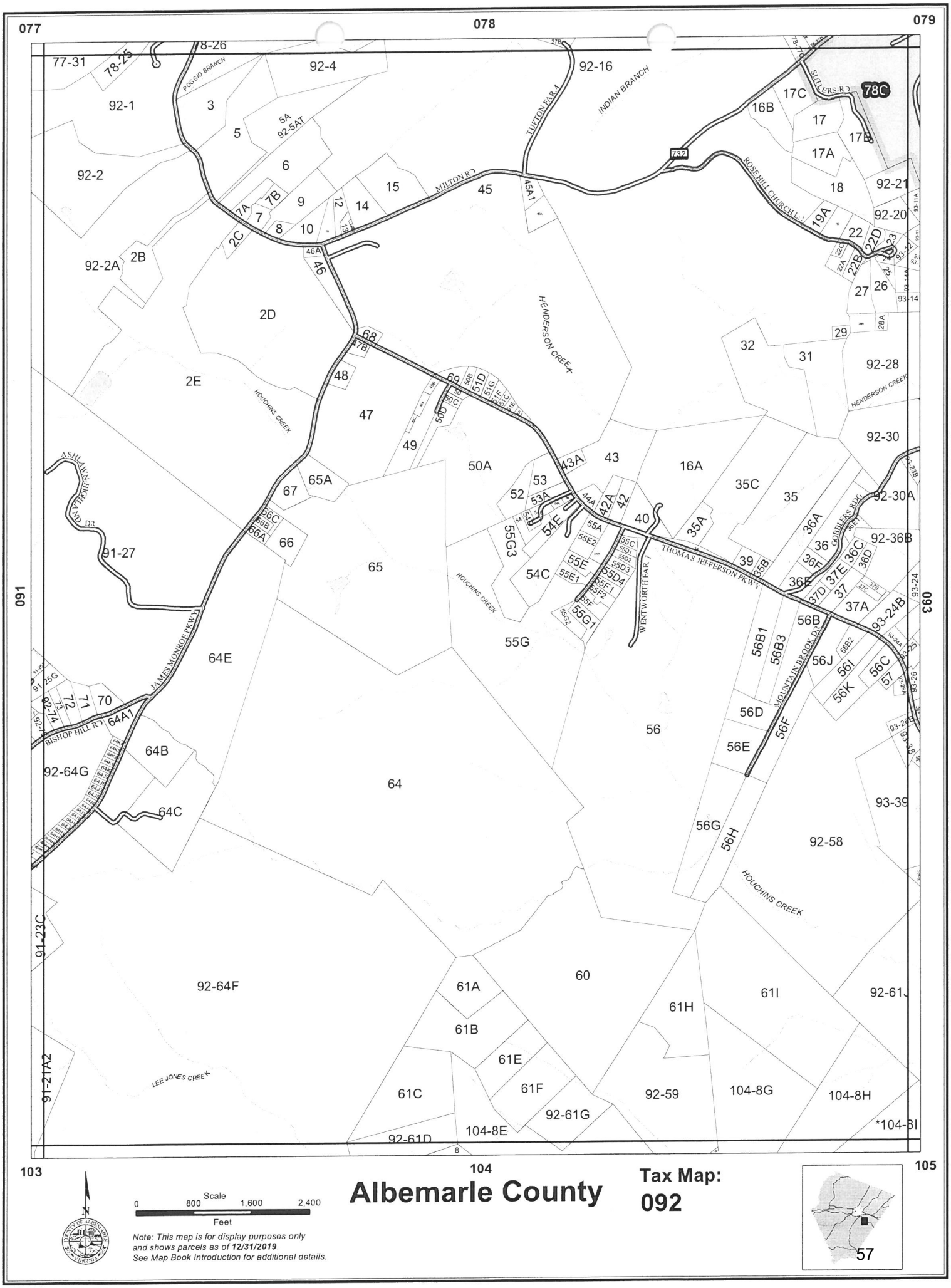
12-27-2021
Date

Philip Garland, Manager WNG LLC
Print Name

434-326-6970
Daytime phone number of Signatory

Board of Zoning Appeals Action/vote:

Board of Zoning Appeals Chairman's signature:_____ Date:_____


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TUETON FARM
INDIAN BRANCH
MILTON RD
ROSE HILL CHURCH LN
HENDERSON CREEK
HOUCHINS CREEK
LEE JONES CREEK
POGGO BRANCH
ASHLAWN CIRCLE
DR
JAMES MONROE PKWY
BISHOP HILL RD
THOMAS JEFFERSON PKWY
WENTWORTH FARM
GOBBLERS RDG
MOUNTAIN BROOK DR
N
Scale
0
800
1,600
2,400
Feet
Albemarle County
Tax Map:
092
Note: This map is for display purposes only
and shows parcels as of 12/31/2019.
See Map Book Introduction for additional details.
57

Attila Woodward
1699 Colle Lane
Charlottesville VA 22902

July 28, 2021

Mr. Bart Svoboda
Director of Zoning
401 McIntire Road
Charlottesville VA 22902

RE: Request for Letter of Determination – Homestay Zoning Clearance
Parcel 09200-00-00-04500

Dear Director Svoboda,

WNG, LLC is the record title holder of the above-referenced parcel, TM 92-45 (the "Property"). We are writing to request a Letter of Determination that WNG LLC on behalf of its beneficial owners is eligible to apply for a Homestay Zoning Clearance under County Ordinance Section 5.1.48. Specifically, we seek a letter of determination that beneficial owners of an LLC can satisfy the Ordinance's "residency" requirement so long as at least one of the owners resides on the Property and can provide proof of residency.

The Property consists of approximately 207 acres, a main house, and several appurtenances including a couple houses, a cottage, and a historic country store. All structures on the Property were built prior to the 1980s. It is beneficially owned by five Woodward family siblings, but is titled in their family entity, WNG LLC.

The Property has been in the Woodward family since the 1930s when the current generation's grandparents purchased it and built the main house and surrounding buildings. Upon their grandfather's death in the early 1990s, the Property went into a life estate for their father, who later surrendered his life estate to them, and they in turn transferred title to WNG LLC. They created the LLC to facilitate the management and preservation of the Property. The ownership structure also serves important estate planning and liability protection purposes. WNG LLC is not a "commercial entity" in the general sense, but rather the best way for the family members to hold ownership of a family property just as many other families do in Albemarle County.

Woodward family members have consistently lived on the property since the 1930s and one or more of the siblings have lived on the property since the LLC was established. The owners treat the main house as a shared family house. Throughout their ownership, the family has been sensitive to the historic nature and location of the Property and have gone to lengths to preserve and protect it. Accordingly, they have no desire to convert it into a B&B or a long-term rental or use it as an event space. At the same time, it's important for the property to generate revenue to offset expenses, to maintain it as a family property, and to preserve

the rural character of the Property and the surrounding area.

Under County Ordinance Section 18-5.1.48, "The owner of the parcel on which a homestay is located, must reside on the subject parcel for a minimum of 180 days in a calendar year." In our case, the owners of the LLC and as such the beneficial owners of the Property reside on the Property year-round except when travelling on vacation. The relationship and residency of the title owner and beneficial owners is easy to identify and verify through an affidavit or other simple documentation, such as driver's licenses or voter registrations. Therefore, in situations like this where a beneficial owner of an LLC or another entity such as a trust resides on a parcel, there is no substantive reason for differentiating between a beneficial owner and a direct owner under the Homestay Zoning Ordinance. The Ordinance itself does not expressly draw such a distinction. Also, any distinction between types of entity owners (trusts v. LLCs) is unwarranted since ownership and residency can be established just as easily in each case.

Furthermore, drawing a distinction between direct and beneficial owners does not appear to serve any purpose since in both cases a person who has an ownership interest in a subject parcel will be residing on the parcel. We have heard some people have concerns that a person could own multiple entities and thereby use multiple properties for short-term rentals and deplete the residential housing supply. Those concerns are unfounded because a natural person who is either a direct or beneficial owner can only reside in one place at a time and therefore only one parcel could qualify per owner for Homestay Zoning. Similarly other designed purposes for the Home Zoning Ordinance can be satisfied just as easily regardless of the ownership structure of a parcel.

Therefore, since a Woodward family member resides on the Property as a beneficial owner of the family LLC, we request a determination that WNG LLC can satisfy the Homestay Zoning Ordinance's "residency" requirement and apply for zoning clearance assuming it meets all other requirements of the Ordinance.

Respectfully,

Attila Woodward
WNG LLC Owner

Philip O. Garland
WNG LLC Manager

County of Albemarle
COMMUNITY DEVELOPMENT

LEA BRUMFIELD
Senior Planner II, Zoning
lbrumfield@albemarle.org
tel: 434-296-5832 ext. 3023

November 29, 2021

Attila Woodward
1699 Colle Lane
Charlottesville, VA 22902
attila.woodward@gmail.com

RE: OFFICIAL DETERMINATION OF HOMESTAY OWNERSHIP ELIGIBILITY – 1699 Colle Lane at TMP 00920-00-00-04500 ("the Property")

Mr. Woodward:

In response to your request for a determination regarding the ownership qualifications of the Property for a Homestay Zoning Clearance, I have consulted with the Zoning Administrator and the County Attorney. It is my official determination that in order to meet the requirements for a Homestay Zoning Clearance, the Property must be held by a natural person residing on the Property, or a family trust whose beneficiary resides on the Property.

Background

On August 7, 2019, the Albemarle County Board of Supervisors adopted an ordinance regulating the use of homestays. These regulations replaced the regulations for the two uses formerly known as "Accessory Tourist Lodging" and "Bed and Breakfast" under the single use of "homestays." This use is defined as:

> *"Homestay*. "Homestay" means an accessory residential use providing transient lodging and rooms for dining and meetings for use by homestay guests provided that the dining and meeting rooms are subordinate to the homestay use. A homestay use may offer no more than five guest rooms for lodging."
>
> (*County Code* § 18-3.1)

County Code § 18-5.1.48(j) differentiates between (1) homestays located on either (a) parcels of less than five acres in the Rural Areas Zoning District or (b) parcels of any size that allow residential use in the Residential Zoning Districts or Planned Development Zoning Districts, and (2) homestays located on parcels of five acres or more in the Rural Areas district.

The Property at 1202 Simmons Gap Road is located in the Rural Areas district on a 24.91-acre parcel. The regulations governing a homestay use at the Property include the requirement of owner occupancy:

> (vi.) *Owner occupancy*. The owner of a parcel conducting a homestay use must reside on and be present at the subject property during the homestay use except during approved whole house rentals.
>
> (*County Code* § 18-5.1.48 (j)(2)(vi), emphasis added)

Homestay special exceptions are currently limited to the following waivers or modifications:

> (i.) More than two guest rooms and/or the use of an accessory structure in association with a homestay on parcels in the Residential or Planned Development districts, or Rural Areas district parcels of less than five acres;
> (ii.) Reduction in minimum applicable yards for a structure or parking used in whole or in part for a homestay.
> (iii.) The use of an accessory structure built after August 7, 2019.
> (iv.) Resident Manager occupancy instead of owner occupancy as required by 5.1.48(j)(1)(iv).
>
> (*County Code* § 18-5.1.48 (i)(1), emphasis added)

Note that eligibility for the Resident Manager special exception is limited to parcels regulated by section 5.1.48(j)(1)(iv), which applies to owner occupancy on: "(a) a parcel of less than five acres in the Rural Areas Zoning District or (b) a parcel of any size that allows residential use in the Residential Zoning Districts or Planned Development Zoning Districts."

Therefore, parcels of five acres or more in the Rural Areas Zoning District are not eligible for this special exception.

The homestay regulations were originally adopted by the Board of Supervisors on August 7, 2019. At a Work Session on June 2, 2020, the Board discussed a possible ordinance amendment to allow large Rural Areas parcels to apply for the resident manager special exception. The Board expressly declined to pursue such an amendment, citing concerns about business entities running homestays across multiple parcels.

Analysis

Under *County Code* § 18-5.1.48(j)(2)(vi), the owners of parcels conducting a homestay use must reside on the subject property. Because business entities (such as limited liability companies) have no physical presence, they cannot reside on a property, and cannot qualify for a homestay use.

As your property at 1699 Colle Lane is a Rural Areas Zoning District parcel over five acres in size, it is not subject to *County Code* § 18-5.1.48(j)(1)(iv), and therefore is not eligible for a special exception to permit a resident manager under *County Code* § 18-5.1.48(i)(1)(iv).

A trust whose beneficiary is a natural person(s) may hold a property with a homestay use on it, as the trust is directly tied to the natural person(s). The natural person(s) named as beneficiary of the trust must reside on the property, and it must be their full-time residence.

Conclusion

The Homestay Zoning Clearance application submitted for the Property is Denied on the basis of ownership of the property by WNG LLC.

Because the LLC itself (rather than the individual owners of that LLC) own the subject property, the LLC's individual owners do not qualify as an "owner" for purposes of *County Code* § 18-5.1.48. It may, however, be held by a trust whose beneficiary resides on the property.

You may have a right to appeal this determination within thirty (30) days of this notice, in accordance with Virginia Code § 15.2-2311. This determination will be final and unappealable if not appealed within 30 days.

An appeal may be taken only by filing an appeal application with the Zoning Administrator and the Board of Zoning Appeals, in accordance with § 18-34.3 of the Zoning Ordinance, along with a fee of $295.36 plus the actual cost of advertising the appeal for public hearing.

Applications for Appeal of the Zoning Administrator's Determination are available at the Department of Community Development located at 401 McIntire Road, Charlottesville, Virginia 22902 or online at https://www.albemarle.org/government/community-development/apply-for/letter-of-determination-or-zoning-compliance. This form applies to the appeal of a decision of the zoning administrator or any other administrative officer pertaining to the Zoning Ordinance.

Regulations pertaining to the filing of an appeal to the Board of Zoning Appeals are located in Chapter 18, Section 34.3 of the Zoning Ordinance. They may be reviewed online at https://www.albemarle.org/government/community-development/advisory-boards/board-of-zoning-appeals.

If you have any questions, please contact me.

Sincerely,



Lea H. Brumfield
Senior Planner II, Designee of the Zoning Administrator

Albemarle County
401 McIntire Road, Charlottesville, VA 22902
lbrumfield@albemarle.org

Copy: Bart Svoboda, Zoning Administrator; Andy Herrick, Deputy County Attorney

ALBEMARLE COUNTY BOARD OF ZONING APPEALS
VIRTUAL MEETING
TUESDAY, MARCH 1, 2022 – 2:00 P.M.

Board Members:	John Shepherd Marcia Joseph Ed Robb Edward (Bo) Carrington Kurt Burkhart
Staff Members:	Bart Svoboda, Director of Zoning Francis MacCall, Deputy Zoning Administrator Lisa Green, Manager of Code Compliance Lea Brumfield, Senior Planner II Marsha Alley, BZA Clerk and Recorder
County Attorney:	Andy Herrick, Deputy County Attorney
BZA Attorney:	James Bowling, IV

1. Call to Order
The meeting was called to order at 2:00 p.m. by Chair Marcia Joseph. She read the following statement: This meeting is being held pursuant to and in compliance with Ordinance No. 20-A(16), An Ordinance to Ensure the Continuity of Government During the COVID-19 Disaster.

2. Establish a Quorum
Ms. Joseph established a quorum with the following statement:
The BZA members who are electronically present at this meeting are Ed Robb, Kurt Burkhart, John Shepherd, and Edward Carrington. She noted that the following staff members were in attendance: Andy Herrick, Bart Svoboda, James Bowling, Francis MacCall, and Lea Brumfield. She continued to state as follows: the opportunities for the public to access and participate in the electronic meeting are posted on the Albemarle County website on the Board of Zoning Appeals home page and on the Albemarle County calendar. Participation will include the opportunity to comment on those matters for which comments from the public will be received.

3. Public Hearings
Ms. Joseph stated that both applicants have requested deferral pursuant to Board of Supervisors contemplation of a change to the zoning ordinance.

Mr. Svoboda stated that the Board is considering a zoning text amendment (ZTA) and ordinance updates that include the ability to appoint a resident manager for properties larger than five acres in the rural areas.

Mr. Herrick confirmed that both applicants have requested deferral, and the County has no objection.

Ms. Brumfield clarified that the ZTA would allow for all homestays to apply for a resident manager; in the cases presented, the LLC could hold the property and the resident manager would be the person residing on the property.

Mr. Herrick stated that any motion for deferral should include a date specific to which the request would be deferred and should be one motion for each item.

A. AP2021-003 Appeal of LOD2021-013 Homestays Ownership Eligibility
Property Owner: Howe Whitman/Howe D. Whitman Jr. Family Trust
Appellant: 5600 Turkey Sag Road, LLC/Bradford Manning

The Chair opened discussion regarding the item. Ms. Kelsey Schlein stated that the applicant would seek a May 3, 2022 deferral date. There was discussion regarding the request and the timeframe for deferral.

MOTION: Mr. Burkhart moved to grant the deferral request for AP2021-003 Appeal of LOD2021-013 Homestays Ownership Eligibility to May 3, 2022, at the applicant's request. Mr. Robb seconded the motion, which passed unanimously (5-0).

B. AP2022-00001 WNG, LLC – Homestay
Property Owner: WNG, LLC
Appellant: WNG, LLC & Attila Woodward

The Chair opened discussion regarding the item. Mr. Philip Garland stated that the applicant requests the May 3, 2022 deferral date instead of the original July date as previously requested. There was discussion regarding the request and the timeframe for deferral.

MOTION: Mr. Carrington moved to grant the deferral of AP2022-00001 WNG, LLC – Homestay to May 3, 2022, at the applicant's request. Mr. Shepherd seconded the motion, which passed unanimously (5-0).

4. Approval of Minutes
A. February 1, 2022
There was a brief discussion regarding a needed correction on page 2, line 46 to revise "Ms. Burkhart" to "Mr. Burkhart."

MOTION: Mr. Shepherd moved to approve the minutes as amended. Mr. Robb seconded the motion, which passed unanimously (5-0).

5. Old Business

A. Review and Re-Adopt Rules of Procedure

MOTION: There being no comment for discussion, Mr. Shepherd moved to approve and re-adopt the BZA Rules of Procedure as amended from the last meeting. Mr. Robb seconded the motion, which passed unanimously (5-0).

Mr. Carrington referred to page 4, the end of the first paragraph regarding deferrals, and noted that it states "enabling the BZA to make the decision within 90 days of the application or appeal."

Ms. Joseph asked Mr. Herrick and Mr. Bowling for input.

Mr. Bowling stated that once the applicant requests deferral, the 90-day rule was not applicable to the

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BZA. He said what they don't have the authority to do is go beyond 90 days if the applicant wants to be heard, at which point the applicant is upheld.

Mr. Herrick said that Item 5 under "Deferrals" references Virginia Code Section 15.2-2312 and addresses the statutory requirement for the 90-day consideration, so it is already built into the rules of procedures.

6. New Business

Mr. Burkhart asked how many approved homestays were currently operating in Albemarle County and if there had ever been a review done to establish legal homestay ownership.

Mr. Svoboda indicated that ownership is identified as part of the approval process. Ms. Brumfield clarified that there are about 150 bed & breakfast and accessory tourist lodging permits, and there are 70 approved homestay permits since August 7, 2018. Mr. Svoboda confirmed that a special exception runs with the land unless it is conditioned otherwise. Ms. Brumfield confirmed that a homestay application is a commercial zoning clearance; so, if the property changes hands, a new application is needed. She also stated that the residency requirements in the proposed changes stipulate that at least one individual owner of the homestay parcel (not the LLC) reside on the subject parcel, which was suggested by Mr. Herrick.

7. Adjournment

MOTION: Mr. Shepherd moved to adjourn the BZA meeting. Mr. Robb seconded the motion, which passed unanimously (5-0).

The meeting adjourned at 2:48 p.m.

(Recorded by Marsha Alley and transcribed by Golden Transcription Services)

Respectfully Submitted,

_____

John Shepherd, Secretary Board of Zoning Appeals

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