

CASE NUMBER: 20SN0538

APPLICANT: Jennifer Elliot



**CHESTERFIELD COUNTY, VIRGINIA
MATOACA DISTRICT**

**STAFF'S ANALYSIS
AND RECOMMENDATION**

Board of Supervisors (BOS) Hearing:

MAY 27, 2020

BOS Time Remaining:

365 DAYS

Applicant's Contacts:

JENNIFER ELLIOT (434-247-1363)

Planning Department Case Manager:

TYLER WALTER (804-318-8893)



2.7 Acres – 9711 Spring Run Road

REQUEST

REQUEST I – (Setback Exception). Conditional use planned development to permit a setback exception for a second dwelling unit.

REQUEST II – (Second Dwelling). Conditional use to permit a second dwelling (separate from the principle dwelling) for use by family members.

REQUEST III – (Tourist Home). Conditional use to permit a business (tourist home) incidental to a dwelling in an Agricultural (A) District.

Notes:

- A. Conditions may be imposed, or the property owners may proffer conditions.
- B. Conditions and exhibits are located in Attachments 1-3.

SUMMARY

The applicant converted the second floor of an existing (2) two-story detached garage into a second dwelling unit and has been leasing the space as a tourist home (short term rental). The applicant seeks to continue renting the space as a short-term rental through approval of a conditional use.

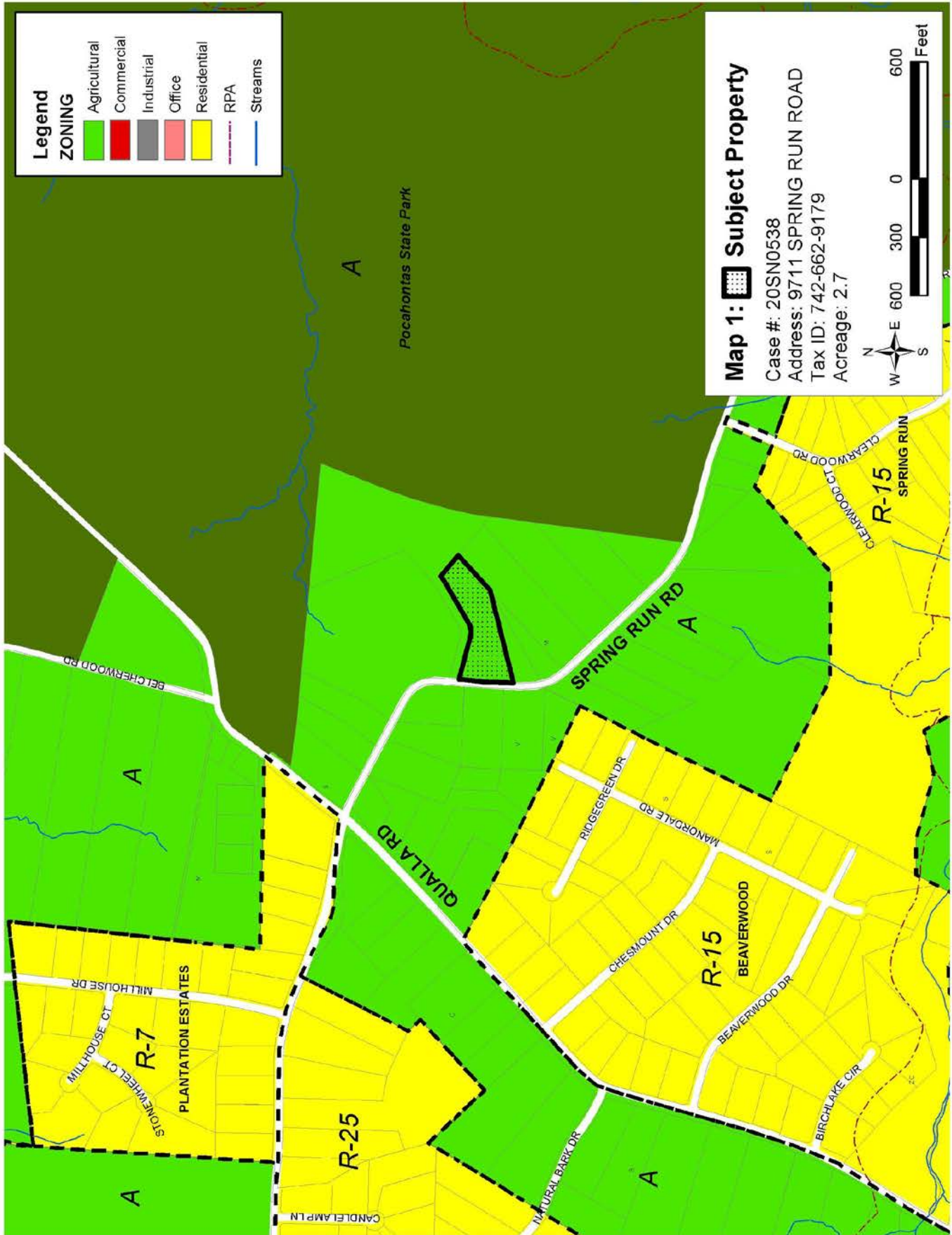
Since the detached garage was constructed without meeting the required side yard setback for a second dwelling, the applicant also seeks an exception of 1.3 feet to the required (15) feet side yard setback for a dwelling.

RECOMMENDATION

PLANNING COMMISSION	<u>REQUEST I – (Setbacks)</u> – APPROVAL <u>REQUEST II – (Second Dwelling)</u> – APPROVAL <u>REQUEST III – (Tourist Home)</u> – DENIAL
STAFF	<u>REQUEST I – (Setbacks)</u> – APPROVAL <ul style="list-style-type: none"> • As conditioned, the impact of the encroachment should be minimal.

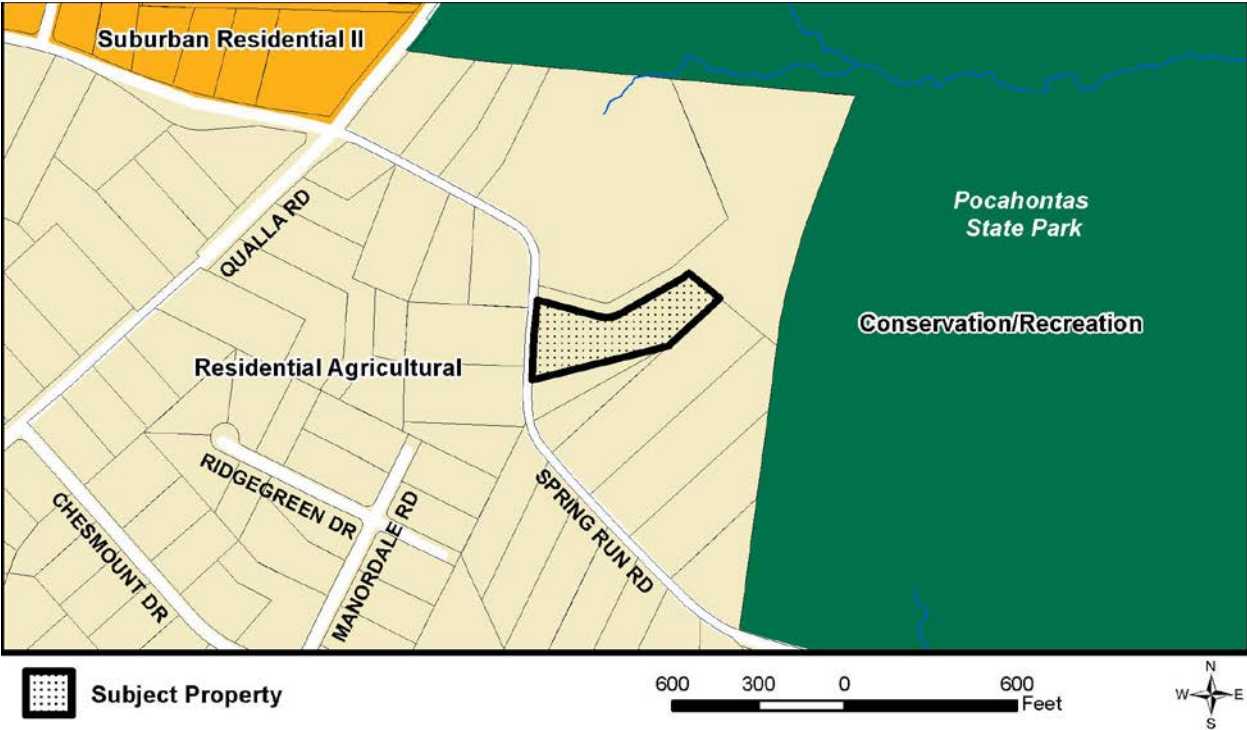
STAFF	<p>REQUEST II – (Second Dwelling) – APPROVAL</p> <ul style="list-style-type: none"> • Similar requests approved with no known adverse impacts • Conditions ensure residential character maintained <p>REQUEST III – (Tourist Home) – DENIAL</p> <ul style="list-style-type: none"> • Citizens purchased property in the area expecting to live in a single-family residential area. • Use would negatively impact the use and enjoyment of area properties for single-family residential uses as permitted by the A zoning. • Likely no conditions that would make use acceptable to neighbors. • The proposed tourist home would introduce commercial transient occupancy into an agricultural area zoned and developed for single-family use. • While the proposal limits the number of lodgers, approval would permit more than one (1) family to occupy a single-family residence at any given time. • Given the size and location of the property, there are likely no conditions that would fully mitigate the impact of the proposed tourist home on neighboring residents and properties.
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SUMMARY OF IDENTIFIED ISSUES	
Department	Issue
PLANNING	<p>Request III (Tourist Home)</p> <ul style="list-style-type: none"> • Use introduces commercial transient occupancy into a single-family residential neighborhood • Approval would permit multiple families to occupy a single-family residence at any given time • Likely no conditions that would fully mitigate impact of proposed use on neighboring residents and agricultural/residential areas

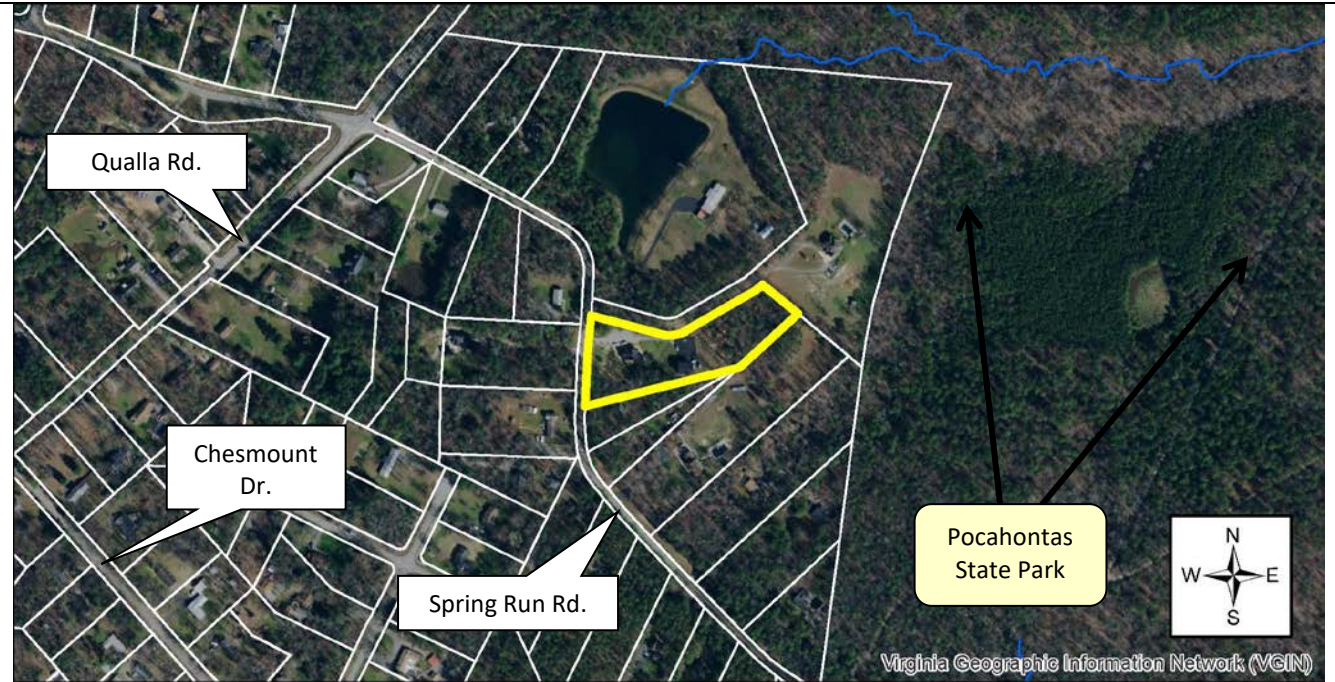


Comprehensive Plan
Classification: RESIDENTIAL AGRICULTURAL

The designation suggests the property is appropriate for residential use of a maximum of 0.5 dwelling units per acre.



Surrounding Land Uses and Development



PLANNING

Staff Contact: Tyler Walter (804-318-8893) waltert@chesterfield.gov

Proposal

In January 2010, under previous ownership, a building permit (Permit #20100121-006) was filed to construct a detached two-story garage to be used as an accessory structure on the subject property. The permit stated that the second floor of the garage was to remain unfinished. In January 2017, the current applicant purchased the property, and completed the construction of the garage, which included approved permits for completing the installation of HVAC and plumbing. In 2018, staff received a complaint contending that there was a limousine service operating on the property. Staff investigated the complaint and found no evidence of a limousine service from the property. During the site visit, it was discovered the second floor of the detached garage had since been remodeled to contain a bathroom, a kitchen sink, and a bedroom, and that the applicant was operating a short-term rental (tourist home) within the finished space. The applicant desires to continue to use the finished second floor of the garage as a second dwelling unit for both family members and as a short-term rental (tourist home).

Request I (Setback Exception)

The applicant is requesting conditional use to permit a second dwelling unit separated from the principal dwelling. Specifically, the applicant has converted the second floor of an existing garage into a dwelling to accommodate family members (Request II) and for use as a tourist home (Request III).

Conditional use planned development approval is requested to permit conversion of the detached garage (accessory structure) to a dwelling (principal structure). Approval of the setback exception will accommodate use of the existing garage structure as a dwelling. Setback exception is requested as follows:

- Side Setback – 13.7 feet (1.3 ft. exception to the 15 ft. side yard setback) (Condition 1)

Request II (Second Dwelling)

The following provides an overview of the proposed occupancy limitations for the second dwelling:

General Overview	
Requirements	Details
Occupancy	Limited to: occupants of principal dwelling; individuals related to them by blood, marriage, adoption or guardianship; foster children; guests; and any domestic help. <i>Condition 2</i>
Record Notice of Occupancy Limitation	Deed restriction to be recorded within thirty (30) days. <i>Condition 3</i>

As conditioned, the use should not adversely affect area residential uses. In addition, second dwelling units have been approved in other residential areas on similarly situated parcels with no apparent adverse impact.

Request III (Tourist Home)

The applicants stated they have operated a tourist home incidental to the dwelling without the requisite conditional use approval. The Zoning Ordinance requires approval of a conditional use to permit this type of business to operate incidental to a dwelling in an Agricultural (A) District.

The applicant has indicated that they market and book commercial transient occupancy for a detached second dwelling on the subject property through the Airbnb website. Airbnb’s website indicates their company was founded in 2008 and that they are a “trusted community marketplace for people to list, discover, and book unique accommodations around the world – online or from a mobile phone or tablet”. Through the Airbnb website, the applicant offers the second dwelling for temporary lodging (ranging from one (1) night to extended stays) for compensation.

Staff has outlined conditions in an attempt to address the impacts of the business on the surrounding residential area, should the Planning Commission decide to recommend approval of Request III, Staff recommends approval with conditions 4-10 in this report.

General Overview	
Requirements	Details
Non-Transferrable	Conditional use issued to the applicants only; not transferrable <i>Condition 4</i>
Time Limitation	2 years from the date of approval <i>Condition 5</i>
Use	Tourist home business provided: <ul style="list-style-type: none"> • Use is located within second dwelling only • Does not include offering meals or alcoholic beverages for lodgers (Note: This is not intended to prohibit lodgers from preparing food or consuming alcoholic beverages. The condition confirms these services will not be part of the applicants’ business operation.) • Does not permit operation of a special events business <i>Condition 6 and Exhibit A</i>
Compliance with Law	Business operation must comply with all federal, state and local laws <i>Condition 7</i>
Expansion of Use	No new exterior construction, additions or alterations permitted to accommodate use <i>Condition 9</i>

General Overview (Continued)	
Requirements	Details
Occupancy and Operations	<ul style="list-style-type: none"> • A maximum of 4 lodgers shall be permitted at any one time with maximum of 3 rental nights permitted each month • Applicants required to maintain a written log of all occupancies • Lodger check-in between 4 p.m. and 10 p.m., except in emergencies • Pet/animal boarding not permitted • Smoke detectors maintained in each bedroom • Require applicants to be on-site during times when the dwelling is occupied by lodgers <p style="text-align: right;"><i>Condition 8</i></p>
Signage	No signs shall be permitted to identify the use <p style="text-align: right;"><i>Condition 10</i></p>

LAND USE AND IMPACTS ON RESIDENTIAL AREA

Staff cannot support the request. The proposed business, while located in a second (separate) dwelling on the property, conflicts with the residential agricultural use suggested by the Plan. The request proposes to introduce a commercial use providing overnight accommodations for transient occupancy into an area of existing and anticipated single family residential use. Even with a limited number of lodgers being offered, approval would permit more than one family occupying a single-family residence at any given time.

Given the size and location of the request property, there are likely no conditions that would fully mitigate the impact of this use on the use and enjoyment of properties in the immediate vicinity for single-family residential purposes.

ENFORCEMENT

It should be noted that many of the proposed conditions for Request III, all designed to mitigate impacts, will be difficult for staff to monitor and enforce.

FIRE AND EMERGENCY MEDICAL SERVICES
Staff Contact: Anthony Batten (804-717-6167) battena@chesterfield.gov

This request will have minimal impact on Fire and EMS.

Nearby Fire and Emergency Medical Service (EMS) Facilities	
Fire Station	The Winterpock Fire Station, Company Number 19
EMS Facility	The Winterpock Fire Station, Company Number 19

COUNTY TRANSPORTATION

Staff Contact: Steve Adams (804-748-1037) adamst@chesterfield.gov

VIRGINIA DEPARTMENT OF TRANSPORTATION

Staff Contact: Willie Gordon (804-674-2384) willie.gordon@vdot.virginia.gov

UTILITIES

Staff Contact: C. Randy Phelps (804-796-7126) phelpsc@chesterfield.gov

ENVIRONMENTAL ENGINEERING

Staff Contact: Rebeccah Rochet (804-748-1028) rochetr@chesterfield.gov

PARKS AND RECREATION

Staff Contact: Janit Llewellyn (804-751-4482) llewellynja@chesterfield.gov

This request will not impact these facilities.

CASE HISTORY

Applicant Submittals

09/12/2019	Application submitted
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Community Meeting

02/20/2020	Meeting postponed due to inclement weather.
03/10/2020	Issues Discussed: <ul style="list-style-type: none"> • Intended uses on the property • Concerns over noise and strangers being in the vicinity of properties • History of business from home uses on the property

Planning Commission

04/21/2020	Citizen Comments: No citizens commented on this request. Commission Discussion: Mr. Owens noted that the applicant had purchased the property in 2015, after the garage had begun construction and was still in the building permit process. Mr. Owens felt that the setback relief and second dwelling requests were appropriate, while the tourist home was an inappropriate use for the property. Recommendation – APPROVAL OF REQUESTS I (SETBACK) AND II (SECOND DWELLING) WITH ACCEPTANCE OF TO THE PROFFERED CONDITIONS 1-3 IN ATTACHMENT 1. DENIAL OF REQUEST III (TOURIST HOME) WITH REJECTION OF CONDITIONS 4-10 IN ATTACHMENT 1. Motion: Owens Second: Petroski AYES: Freye, Sloan, Hylton, Owens and Petroski
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The Board of Supervisors on Wednesday, May 27, 2020, beginning at 6:00 p.m., will consider this request.

CONDITIONS

Note: Both the Planning Commission and staff recommend acceptance of the conditions only as specified in Request I and Request II. Planning Commission and staff did not recommend approval and acceptance of conditions in Request III.

Request I (Setback Exception)

1. Setback Exception. The setback exception (1.3 ft. exception to the 15 ft. side yard setback) is limited to the existing two-story garage, in its location depicted on Exhibit A. (P)

Request II (Second Dwelling)

2. Occupancy Limitations. Occupancy of the second (detached) dwelling unit shall be limited to: the occupants of the principal dwelling unit, individuals related to them by blood, marriage, adoption or guardianship, foster children, guests and any domestic servants. (P)
3. Deed Restriction. For the purpose of providing record notice, within thirty (30) days of approval of this request, a deed restriction shall be recorded setting forth the limitation in Condition 2. The deed book and page number of such restriction and a copy of the restriction as recorded shall be submitted to the Planning Department. (P)

Request III (Tourist Home)

4. Non-Transferable Ownership. This conditional use shall be granted to Jennifer R. Elliot and Timothy B. Elliot, exclusively, and shall not be transferable nor run with the land. (P)
5. Time Limitation. The conditional use shall be granted for a period of two (2) years from the date of approval and may be renewed upon satisfactory reapplication and demonstration that the tourist home has not proved a detriment to adjacent properties or the surrounding area in general. (P)
6. Uses. This conditional use shall be limited to the operation of a business (tourist home) within the second dwelling, as shown as "Two Story Garage" on Exhibit A. Prior to use as a tourist home, the second dwelling shall not be occupied by any person(s) permitted in Condition 2. This business shall not include offering meals or alcoholic beverages for lodgers and shall not permit operation of a special events business for lodgers or others. (P)
7. Compliance with Laws. The tourist home business shall be operated in compliance with all applicable federal, state and local laws. (P)
8. Operation & Occupancy. The operation of use and occupancy shall be as follows:
 - a. Except as may be required in emergency situations, lodger check-in shall be between the hours of 4 p.m. and 10 p.m.
 - b. Pet/animal boarding shall not be permitted.
 - c. A working smoke detector shall be provided and maintained in each bedroom.
 - d. Occupancy: Occupancy shall be limited to a maximum of four (4) lodgers at any one (1) time. Occupancy shall be limited to a maximum of three (3) rental nights

per calendar month. The applicants shall maintain a written log of all occupancies which shall include all lodgers' names, dates and durations of occupancies and total lodging fees collected. Such written log shall be made available to the County upon request.

- e. Area and Supervision. The applicants shall be on-site during times when the dwelling is occupied by lodgers to supervise guests and manage operations. (P)
9. Expansion of Use. There shall be no exterior additions or alterations to the existing second dwelling structure to accommodate this use. (P)
10. Signage. There shall be no signs permitted to identify the tourist home business. (P)

EXHIBIT A: SITE PLAN

