



GOVERNMENT OF THE UNITED STATES VIRGIN ISLANDS
-----0-----
DEPARTMENT OF PLANNING AND NATURAL RESOURCES

Report on Petition to Amend Official Zoning Map No. SJZ-2

Application No. ZAJ-23-1

Petition of Giff Hill Land, LLC to amend the Official Zoning Map No. SJZ-2 from R-2 (Residential-Low Density-One and Two Family) to R-4 (Residential-Medium Density) for Parcel No. 9-3 Estate Glucksberg, No. 22 Cruz Bay Quarter, St. John.

PROJECT PROFILE

Owner/applicant: Giff Hill Land, LLC as per Warranty Deed dated October 13, 2022, Document No. 2022007314.

Acreage: The property consists of 1.11 acres as described on Drawing No. D9-1234-T75.

Current Use: Property not in use, however, a building permit was granted for two, two-story buildings, consisting of two, single-family dwellings which are under construction.

Proposed Use: To allow applicant to lease individual bedrooms under the category "Lodging/Rooming house."

Surrounding Uses/ Zones: Surrounding the property is a mix of empty lots and uses including short-term rentals, owner-occupied residences, a school, and the St. John Rescue office. The immediate area is zoned R-1 (Residential-Low Density), R-2 (Residential-Low Density-One and Two Family) and B-3 (Business Scattered).

Infrastructure: Water needs will be supplied by cistern, and wastewater will be handled by a performance-based septic system.

Public Response: Prior to and after the Department's May 22, 2023, public hearing, 73 letters/petitions were received. Support was expressed by 44 individuals while 78 individuals expressed opposition and/or concerns. There were 65 public hearing attendees and 22 expressed opposition, concerns, and/or questioned the applicant during the public hearing. The opposition, concerns, and questions received are summarized below:

1. Site not an appropriate location for an R-4 zoned community. If R-4 approved, it will be damaging.
2. There are several undeveloped R-4 zoned lands near Cruz Bay.
3. Rezoning to R-4 is illegal spot zoning that only benefits applicant. Within Estate Glucksberg, developed parcels comply with existing zoning laws and are single-family homes. The proposed rezoning is inappropriate and illegal, not in harmony with St. John's comprehensive plan and not in keeping with character of district.
4. Location is not the solution to the presented housing situation.
5. Housing of this density should be constructed in areas already appropriately zoned.
6. Inadequate provision for parking.
7. Proposed development presents concern of congestion on the streets, overcrowding in neighborhood, undue congestion of population in an area without adequate public transportation, water, sewerage, and increased population density beyond acceptable limits.
8. Proposed project neither safe, affordable, nor reasonably designed to target long-term tenants in need of housing on St. John. This type of housing is not what St. John needs or wants.
9. Proposal to house temporary workers in communal housing away from town isolates them from local people and discourages learning about the local culture and customs.
10. Road not safe for walking. Project should never be approved considering dangerous curves adjacent to site, lack of sidewalks and walking path, and existence of school across the street.
11. Impact on nearby school.
12. Inadequate water run-off control plan.
13. Increased traffic and trash.
14. Quiet R-2 zone is appropriate zoning for the available area and infrastructure.
15. Inadequate setback under R-4 zoning.
16. Environmental damage and habitat loss.
17. Proposed use of containers is unappealing. Container concept would introduce a new architectural style that could detract from the natural beauty of the island. Could become part of debris blown around in strong storm.

18. Questioned how many of applicant representative's friends and family live in containers.
19. Housing 12 people to one kitchen is invitation to sanitary and law enforcement problems. Permit granted to build two units with twelve residents isn't realistic.
20. Each individual living unit is tiny, marketable to only single individuals.
21. Consider granting variance rather than R-4.
22. Potential consequences of rezoning and deviation from the initial presented design. Conceptual design can be changed after rezoning.
23. Proposal submitted not in accord with the actual language of the Zoning Code nor consistent with its spirit.
24. Application for rezoning must be denied because the currently permitted two single-family dwellings do not comply with R-2 zoning and currently appealing permit with Board of Land Use appeals. Application substandard multi-family housing or short-term rental units.
25. Proposed development not consistent with neighborhood needs nor consistent with existing composition of mostly single-family homes. Will cause further fracturing of relationships between long-term residents and those recently appearing.
26. No change in neighborhood that would encourage reclassification to R-4.
27. Not in favor of "short term" housing being constructed. The noise and traffic from these apartment dwellers are troublesome. The housing being suggested in this project would be perfect for bar/restaurant employees. This is not the solution for long-term housing needed on St. John.
28. Public notice may have failed to meet Code requirements.
29. Impossible to tell what applicant is now asking for (boarding house, guesthouse, or lodging house).
30. Why was allowed to do bait and switch of receiving permit for two-story one family dwelling then four months later seek to change zoning to a use obviously contemplated at time of permit.
31. Lack of trust in the owner, his land clearing results, restaurant shown on plans.

32. What happens if rezoned and owner decides to sell property before building? In five years?
33. No reasonable and reliable public transportation at location.
34. Approval of application as submitted or modified will undermine the respect of the people of the law and process.
35. Conceptual drawings show features which applicant stated are not part of proposed including restaurant trailer, owner's apartment trailer, and different parking configuration. Drawings did not include details on proposed size or location of septic systems. Did not show cisterns.
36. Insufficient open space to accommodate wastewater generated by 72 units. R-4 should only be allowed in places where public sewer systems are available.
37. False claim that this project will benefit St. Johnians by freeing up apartments. If five individuals share a 2-bedroom apartment, it is highly unlikely they would move into individual rooms at \$1500 a month.
38. Question the affordability and types of professions that would live in a dorm-like setting. Proposed rent makes each unit more expensive than other St. John rental options.
39. How does master plan address the grade changes, considering site's slope?
40. Can runoff/drainage plan be provided/explained?
41. Why no silt mitigation was in place?
42. Violation for clearing onto adjacent property?
43. Will priority be given to people already living on island?
44. Target tenant average monthly income?
45. Archeological/endangered plants and animals survey already done and consultant used?
46. Demographic breakdown of those expressing interest in co-housing, how many are full-time St. John residents for a year or more, and their origin (from St. John or elsewhere)?
47. Legal regulations to guarantee remains long-term rental?

ANALYSIS:

Mr. Roosevelt David and Mr. Ari Goldschneider testified during the Department's public hearing that the intent is to allow construction of a co-housing development. Six, two-story container buildings consisting of six dwellings units would be constructed over a two-

to-three phase, three-year period. Each dwelling would have twelve bedrooms for a total of 72 bedrooms designed for single occupancy.

The intent is to offer each bedroom for rent under independent rental leases, targeting long-term workforce housing. In 2022, the earth change and building permit application was submitted and approved for two, two-story buildings consisting of two, single-family dwellings allowing for 12 tenants each, leasing a dwelling under a single, master lease. Rent is proposed at \$1550-\$1600 per month for a bedroom, private bathroom, and access to shared communal facilities consisting of kitchen, living, dining, and laundry rooms. Interior private space is approximately 1900 square feet, 1600 of interior shared space, and 500 exterior shared deck space. Individual rooms will have utility consumption monitored through utility submetering allowing the on-site property manager to monitor and promote conservation. Approximately 45 parking spaces are proposed with tenants notified if their bedroom rental unit has an assigned parking space.

For building permitting, habitable rooms shall have a floor area of not less than 70 square feet. In 2019, the department released approval guidelines for the conversion of steel containers used for shipping into residential/commercial office use. Containers that were originally designed for residential/office use were already being permitted under the same guidelines as masonry/wood constructed buildings. A complaint on the extent of land clearing was filed with claims that it went over an adjacent property boundary line. The department, however, does not survey land and boundary disputes are handled by private property owners hiring licensed land surveyors and remedied through the judicial branch.

The property’s current R-2 zoning allows for the parcel, as a matter of right, to be developed with two dwellings units (counted by the number of kitchens) once they comply with Section 229 of the Zoning Code (See below table).

R-2 zone	9-3 Glucksberg current permit
Maximum of two dwelling units allowed (two kitchens)	Two dwelling units permitted (two kitchens)
Max lot occupancy of 30%. 30% of 1.11 acres is 14,505.48 sq. ft. max. lot occupancy.	Two buildings permitted lot occupancy approximately 5000 square feet or 11%.

Minimum lot area is 10,000 sq. ft.	1.11 acres or 48351.6 sq. ft.
Front, side, and rear yards (in feet): 15, 10, and 10, respectively	Front yard is greater than 15 ft. Side and rear yards are 10 ft.
Max height limit of two stories	Two-story container buildings permitted

The R-2 zoning does not place a bedroom count restriction on dwellings and the USVI Zoning Code defines a family as “One (1) person or group of two (2) or more persons living together and inter-related by bonds of kinship, marriage, mutual consent, or legal adoption, occupying the whole or part of a dwelling as a separate housekeeping unit with a common set of cooking facilities. The persons thus constituting a family may also include foster children, gratuitous guests and domestic servants.” The Zoning Code does not restrict a family, unlike more restrictive family definitions of other jurisdictions, to being only related by blood, adoption and/or marriage and it does not place a restriction on the number of unrelated individuals constituting a family. The Zoning Code allows for group housing wherever dwellings are allowed, however, the department has determined the use has to occur under a single, master lease whether used on a short- or long-term basis.

The single, master lease determination was made to differentiate from our boarding and lodging/rooming house uses. These uses could also occur in dwellings, however, with individual leases thus indicating no mutual consent for a single-family determination. Boarding houses would provide meals for their tenants while lodging/rooming house would not provide meals.

At 1.11 acres the property has two development options under its current R-2 zoning, to allow for more than two dwelling units. 1. Subdivision, into minimum 10,000 square foot lots could possibly yield four lots. Each lot could then be permitted two dwelling units, resulting in a maximum of eight dwelling units. Subdivision plans require the DPNR Commissioner’s approval. 2. Group dwelling. This option allows for a maximum of eight dwelling units (property’s acreage multiplied by 8 dwelling units per acre allowed for R-2 zoned properties). They can be developed in two or more buildings, even in a clustered manner if sensitive areas are on the property like guts, historical and other important resources. The maximum

lot occupancy of 14,505.48 square feet could result in creative housing configurations to include triplexes, townhomes, fourplexes, etc.

The group dwelling option is a permit application that requires detailed plans that would be submitted to the department for review, and a public hearing would allow for public review and comments. The comments received could result in a final plan that satisfies the applicant, DPNR's, and neighbors' concerns. This permit would require the DPNR Commissioner's approval and conditions can be placed on phasing for performance review and prohibition on the developer using the project for short-term rentals.

As the territory tackles its housing crisis, alternative living arrangements have been gathering national attention from the planning field for almost a decade. Zoning reform is being encouraged at the national level to address the housing shortfall and reform is encouraged to either increase the density of housing allowed in various zoning districts and encourage different housing options by changing the family definition to allow for group/community residences. Group/community residences function and perform similarly to dwellings, with family-like settings. They are generally any communal housing arrangement for a group of unrelated individuals. Due to our Zoning Code's definition, group/community residences are already allowed in 12 out of 18 zones that allow dwellings. The exceptions being "Children's Homes," "Convalescent, Rest, Nursing, & Retirement Homes & Sanitariums," and transitional housing which is not addressed in our Code but has been allowed in the six multi-family housing zones since it is a residential activity closely resembling multiple-family housing.

The housing crisis was exacerbated after the 2017 storms with competition of the short-term rental market against long-term rentals. The Zoning Code does not have a definition for either and with the 2021 adoption of business licensing criteria, short-term rentals are 90 days or less and have been allowed in all zones where dwellings and the typical hotel/guesthouse uses have been allowed. As of July 21, 2023, the Department of Licensing and Consumer Affairs had 401 business licenses for St. John short-term rentals. In comparison, there were 62 long-term rentals with business licenses.

The applicant stated his intent for the requested R-4 zoning was to address the housing crisis by offering the alternative co-housing

option. He wanted the ability to lease individual bedrooms rather than lease the entire 12-bedroom dwelling to a single entity, under a single, master lease. The requested R-4 zoning was intended for a larger density and more uses than the typical R-1/R-2 single and two-family zones. Areas with access to public sewer lines, water lines, and transportation are most appropriately suited for the 120 persons per acre allowed under R-4 zoning.

The Estate Glucksberg area has only had two zoning map amendments. Parcel 9-5 was granted the ability to construct four dwelling units as a matter of right on 0.35 acres (Act 6282). Parcel 10-5b was granted B-3 zoning to allow for a convenience store and office (Act 7795).

There was much public opposition to the R-4 zone and the department compared it to the current R-2 zoning (See table below):

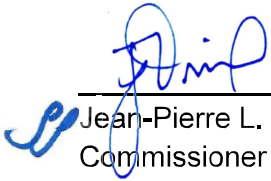
Section 228. Uses Section 229. Development Provisions	R-2 zone	R-4 zone
Uses	19 uses permitted as a matter of right. 18 uses permitted subject to conditions.	23 uses permitted as a matter of right. 12 uses permitted subject to conditions.
Parking	In accordance with Section 230.	In accordance with Section 230.
Density (maximum)	2 dwelling units	120 persons per acre
Lot occupancy (maximum)	30 percent	50 percent
Lot area (minimum)	10,000 square feet	3,000 square feet
Lot width (minimum)	75 feet	40 feet
Front, side, and rear yards (in feet)	15, 10, and 10, respectively	None
Height limit (maximum)	2 stories	3 stories

The department’s opinion is that the rezoning of the property to R-4 is not appropriate. Although it is recognized that the Virgin Islands has a housing shortage, the property’s acreage could allow for a maximum of eight dwelling units if subdivided or granted a group

dwelling permit. The issuance of granting separate leases for the bedrooms can be permitted with a use variance for lodging/rooming house. This would allow for the dwelling to be used by separate individuals not wanting to operate as a family under mutual consent and not being provided with meals by the property owner/manager.

Recommendation:

The Department of Planning and Natural Resources recommends that a use variance be granted to the R-2 (Residential-Low Density-One and Two Family) zoned Parcel No. 9-3 Estate Glucksberg, No. 22 Cruz Bay Quarter, St. John to allow for Lodging/Rooming House.



Jean-Pierre L. Oriol
Commissioner

21-July-2023

Date