



CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

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January 9, 2023

TO THE MEMBERS OF CITY COUNCIL CITY OF HARRISONBURG, VIRGINIA

SUBJECT: *Consider a request from Scott D. Huston and Merridy M. Gnagey for a special use permit to allow short-term rental at 965 Smith Ave*

EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: December 14, 2022

Chair Finnegan read the request and asked staff to review.

Ms. Rupkey said the Comprehensive Plan designates this site as Neighborhood Residential. These areas are typically older residential neighborhoods, which contain a mixture of densities and a mixture of housing types but should have more single-family detached homes than other types of housing. This type of land use highlights those neighborhoods in which existing conditions dictate the need for careful consideration of the types and densities of future residential development. Infill development and redevelopment must be designed so as to be compatible with the desired character of the neighborhood.

The following land uses are located on and adjacent to the property:

- Site: Single-family detached dwelling, zoned R-2
- North: Single-family detached dwelling, zoned R-2
- East: Across Smith Avenue, single-family detached dwelling and duplex unit, zoned R-2
- South: Single-family detached dwelling, zoned R-2
- West: Vacant land, zoned R-2

The applicant is requesting a special use permit (SUP) per Section 10-3-40 (8) to allow for a short-term rental (STR) within the R-2, Residential District. The parcel is +/- 17,329 square feet in size, is addressed as 965 Smith Avenue, and is located north of Greystone Street.

As defined in the Zoning Ordinance (ZO), a STR is “[t]he provision of a dwelling unit, a guest room or accommodation space within the dwelling unit, or any accessory building that is suitable or intended for transient occupancy for dwelling, sleeping, or lodging purposes and is offered in exchange for a charge for the occupancy.” STRs are further regulated by Article DD of the ZO.

Among other things, a STR differs from the by right homestay use by allowing operators to exceed 90 lodging nights per year and in allowing more than four guests at one time.

As explained in the applicant's submitted letter, they will have two accommodation spaces located in the basement of the dwelling. The applicant explains that they would typically rent to no more than four adults at a time, but would like the ability to host families with three children, and therefore are requesting the ability to have up to five guests at a time.

While the applicant has explained their operation plans for the STR, the SUP is not restricted to only the current applicant/operator. All SUPs transfer to future property owners; thus, if the applicant sells the property, any future property owner could operate a STR so long as they meet the requirements of the ZO and any conditions placed on the SUP. How the STR could be operated by any future property owner should be considered and evaluated as part of this request.

The ZO requires one off-street parking space for the single-family detached dwelling. If the STR is approved as requested, the property must have two more off-street parking spaces—one for each approved accommodation space. Unless City Council allows for a reduction in off-street parking spaces as a condition of the SUP for the STR, the site must ultimately accommodate three off-street parking spaces—one for the dwelling unit and two for the STR.

The City has approved many STR SUP applications throughout the City including within this neighborhood. Staff believes this request is similar to other applications that have already received approval; thus, staff recommends approval of the request, but only with the following conditions:

1. All STR accommodations shall be within the principal building.
2. There shall be no more than two STR guest rooms or accommodation spaces.
3. The number of STR guests at one time shall be limited to five.
4. Prior to operation, the operator shall submit to City staff a completed Short-Term Rental Pre-Operation Form. Furthermore, the operator shall maintain compliance with the items identified in the Pre-Operation Form when short-term rental guests are present.
5. Minimum off-street parking spaces do not need to be delineated and can be accommodated utilizing the driveway or other areas on the property.
6. If in the opinion of Planning Commission or City Council, the short-term rental becomes a nuisance, the special use permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

Staff believes that the proposed use is consistent with good zoning practice and will have no more adverse effect on the health, safety or comfort of persons living or working in the area and will be no more injurious, economically or otherwise, to property or improvements in the surrounding area than would any use generally permitted within the district.

Chair Finnegan asked if there were any questions for staff.

Chair Finnegan said there are other basement apartment STRs. On one, staff is recommending approval. On one, staff is recommending denial. With this one, the basement unit is not...

Ms. Rupkey said it does not have a full kitchen. It is one primary dwelling. It is not a duplex situation.

Commissioner Armstrong asked if the applicant has used the by-right homestay.

Ms. Rupkey said she would have to ask the applicant.

Chair Finnegan asked if there were any more questions for staff. Hearing none, he opened the public hearing and invited the applicant or applicant's representative to speak to their request.

Scott Huston and Merridy Gnagey, 965 Smith Avenue, came forward in support of their request.

Mr. Huston said it is a house that we built for ourselves during Covid. We have been doing the homestay since April, to figure out how it would go and how we liked it. We got to our 90 days maximum in the beginning of December. We are not interested in doing more per month. Ten per month has been our average. That is what we would like to continue doing. A full year, if we had started in January, that would have run out after nine months, so we are applying for the STR.

Commissioner Whitten asked have you considered renting it otherwise?

Mr. Huston said we do not see this as precluding doing that in the future. At this point, our situation with two young daughters and my family. My parents and my sister live out of town. We have been living in a townhouse since we moved out here in 2016. With two bedrooms, we have never been able to host anybody. We have been enjoying being able to host family and friends from out of town, and also using the space for other types of gatherings. I am a contractor. I go down and do some work down there, using as a space where I can expand out of my garage to get some work done. We also have my in-laws. My wife's parents live in town. They may live with us down the road at some point. When our situation changes and our children are not at home, we would be open to doing a long-term rental.

Commissioner Whitten asked what do you rent it for?

Mr. Huston said per day it fluctuates weeks to weekends. Typically, it averages about \$100 per night. It is two bedrooms. The reason that we want to extend it to five instead of four is to accommodate a family of five, parents with three children. We are not interested in hosting five adults.

Commissioner Whitten asked you were averaging ten stays per month?

Mr. Huston said ten nights total. Most of them are two-nights, sometimes three. We do not open it up to single night stays. It has been a total of ten nights.

Chair Finnegan asked if there were any questions for the applicant's representative. Hearing none, he asked if there was anyone in the room or on the phone wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Commissioner Whitten asked what is the total number of STRs on Smith Avenue? Does this make three or four?

Ms. Dang said this would make the third STR SUP approval. There may be other homestays that we have not looked up.

Councilmember Dent said I am wondering why that location seems popular for STRs. I imagine it is close to EMU for families. Or it is conducive and some of the neighbors are catching on?

Mr. Huston said the proximity to EMU is beneficial. We have had quite a few people who have come to visit their children there. During the Bach festival we had musicians staying in our basement. That is an attraction.

Chair Finnegan said I would be in favor of this request for the same reasons that we have approved other requests that are similar to this where there is not a kitchen in the apartment. It is not currently a unit that is being rented out.

Councilmember Dent said I like it. I like the explanation too, that it is primarily geared to families and a combination of the applicant's own family which would help explain why they would not go for a full-fledged dwelling unit.

Commissioner Whitten said but, again, it goes with the property. So, it is five people that it would be approved for.

Commissioner Byrd moved to recommend approval of the SUP request, as presented.

Councilmember Dent seconded the motion.

Chair Finnegan called for a roll call vote.

Commissioner Armstrong	No
Commissioner Byrd	Aye
Councilmember Dent	Aye
Commissioner Orndoff	Aye
Commissioner Washington	Aye
Commissioner Whitten	No. I am voting no for the reasons that I have spoken about in previous requests, the disrepair that happens to neighborhoods when uses such as STR exist, and the increase in property value that I believe affects affordable housing.
Chair Finnegan	Aye

The motion to recommend approval of the SUP request passed (5-2). The recommendation will move forward to City Council on January 10, 2023.