



City of Harrisonburg, Virginia

Department of Planning & Community Development

409 South Main Street
Harrisonburg, Virginia 22801
(540) 432-7700 / FAX (540) 432-7777
www.harrisonburgva.gov/community-development

Building Inspections
Engineering
Planning & Zoning

July 1, 2019

TO THE MEMBERS OF CITY COUNCIL CITY OF HARRISONBURG, VIRGINIA

SUBJECT: Public hearing to consider a request from David P. Miller for a special use permit per Section 10-3-40(8) of the Zoning Ordinance to allow for a short-term rental within the R-2, Residential District. The +/- 25,850 sq. ft. property is addressed as 957 Summit Avenue and is identified as tax map parcel 49-B-8.

EXTRACT FROM MINUTES OF HARRISONBURG PLANNING COMMISSION MEETING HELD ON: June 12, 2019

Vice Chair Colman read the request and asked staff to review.

Ms. Dang said that the Comprehensive Plan designates this area 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: Single-family detached dwelling, zoned R-2
- South: Single-family detached dwelling, zoned R-2
- West: Agricultural uses located in Rockingham County, zoned A-2

The applicant is requesting approval of a short-term rental (STR) operation at 957 Summit Avenue. The principal structure on the property is currently a single-family dwelling. However, a second dwelling unit is currently being constructed that will make the structure a duplex for two dwelling units. The applicant desires to rent for STR one entire dwelling, which has seven accommodation spaces, to a single group of up to 12 persons. ("Accommodation space" is used here to mean any room offered for sleeping. This would not include living spaces or rooms where guests would not be sleeping.) The applicant describes that the property is their primary residence and that they plan to be present in the second dwelling unit during the lodging period.

The property is located in the northwestern section of the City about 0.7-miles from the nearest arterial or collector street (Chicago Avenue and Mt. Clinton Pike) and 0.1-miles from the end of Summit Avenue, which ends in a cul-de-sac. Staff has learned from the applicant and from neighbors on Summit Avenue, that Summit Avenue receives pedestrian, bicycle, and vehicular traffic from visitors who are not relatives

or friends of neighbors on the street who visit this street for the views and because there is relatively low volumes of traffic the street is comfortable to walk and bicycle on. However, staff feels that adding one or more STRs in this neighborhood could change the character of the neighborhood with increased vehicle trips.

Generally, when someone purchases a home in a residentially zoned neighborhood, there is a degree of confidence that, although properties within the neighborhood could be rented to different people every month, such a residential environment is not likely to occur. Thus, there is some certainty that residents of the neighborhood will be relatively permanent, which in turn offers stability and community building. Staff believes a STR is approved within this neighborhood could result in community instability because STRs introduce high turnover of different people who are unknown to the neighbors.

Staff believes that STRs should not negatively impact a community, an individual's quality of life, or an individual's often biggest investment: their home and property. Given the location of the property within this residential area of the City and the nature of the request, staff believes a business operation of this nature should not be promoted at this location and further believes that a STR at this location would have adverse effects on other residents in the neighborhood and recommends denial of the special use permit request.

If Planning Commission, however, desires to recommend approval of the applicant's request to City Council, staff recommends the following conditions be placed on the SUP:

1. The site shall be the operator's primary residence.
2. An operator shall be present on the site during the lodging period within any dwelling unit.
3. All STR accommodations shall be within the principal structure.
4. There shall be no more than seven STR guest rooms or accommodation spaces.
5. The number of guests at one time shall be limited to a single-group of up to twelve people.
6. 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 Pre-Operation Form when short-term rental guests are present.
7. Minimum off-street parking spaces do not need to be delineated and can be accommodated utilizing the driveway or other areas on the property.
8. 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.

Condition #1 helps to prevent the City's housing stock from being purchased by investors and then being reallocated from homeownership and long-term rentals to STRs. Condition #2 protects neighbors by ensuring that there is on-site accountability by the STR operators. Condition #3 prevents the ability for the STR operator to convert or construct an accessory building into space for STR that was not previously vetted for impacts to the surrounding properties. If the applicant later wishes to create living spaces within an accessory building for STR, they must return to Planning Commission (PC) and City Council (CC) with a new SUP request. Condition #4 limits the total number of guest rooms and accommodation spaces on the entire property to seven. ("Accommodation spaces" means any room offered for sleeping. This would not include living spaces or rooms where guests would not be sleeping.) Condition #5 limits the total number of STR guests to not more than twelve. Condition #6 requires that prior to beginning operations that the operator shall submit to City staff a completed Short-Term Rental Pre-Operation Form and shall maintain compliance with the form when STR guests are present. The form includes a checklist to guide STR operators through a self-inspection of guest rooms and accommodation spaces and means of egress.

Condition #7 provides flexibility for the property owner to maintain the residential appearance of their property by not requiring them to create and delineate additional off-street parking spaces. Section 10-3-

25(28) of the ZO requires STRs to “provide one parking space for each guest room or accommodation space, or as may be more or less restrictive as conditioned by a special use permit.” With a request to rent seven accommodation spaces within the structure for STR, the property would be required to provide seven off-street parking spaces unless conditioned otherwise. It should be acknowledged that in addition to the off-street parking spaces required for the STR, the ZO requires off-street parking spaces for the non-transient dwelling units. It appears that all the required off-street parking could be provided on the site in the existing driveway areas. Regardless, staff believes the applicant should be provided the flexibility to meet the off-street parking requirements by allowing customers to park on the existing driveway or other area of the property without delineating parking spaces.

Condition #8 allows PC and CC to recall the SUP for further review if the STR becomes a nuisance.

It should be acknowledged that while the applicant has explained his plans for using this property, the SUP is not restricted to the applicant or operator and transfers to future property owners. If the applicant sold the property, future property owners could operate a STR so long as they meet the conditions for the SUP. How the property could be used by any future property owner should be considered when deciding on SUP conditions.

Vice Chair Colman asked if there any questions for staff. Hearing none, he opened the public hearing and invited the applicant to speak to the request.

David Miller, 957 Summit Avenue, came forward to speak in favor of his request. My goal is to live in the home, all the time. In the main part, as well as the apartment when the main part is rented. I would like to have the flexibility to leave the house. I used to own Dave’s Taverna. Due to an undiagnosed illness, I lost my restaurants and my properties, except for this house. This is the only way that I can hold onto it at this time. I have gone to all my neighbors and met with all 25 neighbors, property owners. That is probably one hundred people. Maybe two out of a hundred said that they had concerns but would be willing to accept it if I was available. There is a lot of traffic on the street. It is a loop that people use to bike, to walk. People drive up there to look at the view and park to watch the city lights on the eastern side and the sunset on the western side. It is the reason why people go there. I do not believe STRs bring in additional traffic. There are long term renters, some of which are multi-families that have six or eight people renting from the same house, in which case they all have their own cars. That is six or eight cars. I am renting to one group at a time, which is one, two, or three cars.

Commissioner Finks clarified that the expectation for the requirement “operator shall be present” means that the operator would have to sleep there, not necessarily be there 24 hours a day.

Mr. Miller asked what would happen if something comes up and he cannot spend the night there. For example, if he has to pick his daughter up from New York, when she is in school.

Vice Chair Colman said those situations are circumstantial. Is that your primary residence? Would you rather remove condition two which states that the operator shall be present during the lodging period?

Mr. Miller said he would leave it up to the Planning Commission.

Commissioner Finnegan said that there was a STR at the end of the cul-de-sac which was approved last month. There was a request in 2013 to turn this property into a Bed and Breakfast.

Mr. Miller said that when he lost the restaurants, he was trying to make some income, so he applied for a SUP for a Bed and Breakfast at that time. It had initial support from staff, until we had concerns from the neighbors. I then withdrew my application because I did not want to disrupt the neighborhood. What is interesting is that the person with the greatest concern just got a permit for a STR.

Commissioner Finnegan asked if there was any petition in opposition to the STR request as there was for the 2013 Bed and Breakfast request.

Mr. Miller said that there was not. The neighbors said that was different. I tend to agree that a Bed and Breakfast that would serve meals would be more intrusive. That is what was a little shocking when the recommendation was for denial. I think that things have changed. People are cautious. Condition eight is available to revoke a STR if it becomes a problem.

Vice Chair Colman asked if there was anyone else wishing to speak to the request.

Mr. Giannakaouros came forward in favor of the request. The principle has come up now that a neighborhood not wanting strangers around. It is not a good principle to guide your decision making.

Vice Chair Colman asked if there was anyone else wishing to speak to the request. Hearing none, he closed the public hearing and opened the matter for discussion.

Ms. Dang said noted that condition number five is different from the other conditions seen in other applications. This applicant is limiting the STR to a single group up to twelve people. That would be a single reservation.

Commissioner Finks moved to recommend approval of the SUP request with conditions, as amended.

Commissioner Ford-Byrd seconded the motion.

Vice Chair Colman called for a roll call vote on the motion.

Commissioner Finnegan: Aye

Commissioner Ford-Byrd: Aye

Commissioner Whitten: No

Commissioner Finks: Aye

Commissioner Romero: Aye

Vice Chair Colman: Aye

Commissioner Finnegan asked why Commissioner Whitten voted against the recommendation.

Commissioner Whitten said it is the same concern that she shares with staff. Staff recommends denial due to concerns for the neighborhood and concerns over the ownership past this applicant to the next owner. This could create a trend that would be dangerous for the neighborhood.

The motion to recommend approval with conditions, as amended, passed (5-1). The recommendation will move forward to City Council on July 9, 2019.

Respectfully submitted,

Alison Banks

Alison Banks
Senior Planner