



City of Harrisonburg, Virginia

Department of Planning & Community Development

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Building Inspections

Engineering

Planning & Zoning

To: Eric Campbell, City Manager
From: Adam Fletcher, Director – Department of Planning and Community Development; and
Harrisonburg Planning Commission
Date: August 13, 2019 (Regular Meeting)
Re: Special Use Permit – 990 Summit Avenue (Short-Term Rental)

Summary:

Public hearing to consider a request from Elizabeth and Michael Goertzen 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 +/- 18,300 sq. ft. property is addressed as 990 Summit Avenue and is identified as tax map parcel 49-A-20.

Background:

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 and undeveloped parcel, zoned R-2
South: Undeveloped parcel, zoned R-2
West: Single-family detached dwelling, zoned R-2

Key Issues:

The applicant is requesting approval of a short-term rental (STR) operation at 990 Summit Avenue. The applicant desires to rent for STR two accommodation spaces. ("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 accommodation space can accommodate up to six STR guests. The applicants describe that the property is their primary residence and that they would be present on the property 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 understands 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.

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. Approving one or more STRs within neighborhoods could result in community instability because STRs introduce high turnover of people who are unknown to the neighbors.

STRs should not negatively impact a community, an individual's quality of life, or an individual's often biggest investment: their home and property. As has been stated in two previous staff reports for STRs on this street, 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 could have adverse effects on other residents in the neighborhood.

However, to date, Planning Commission has recommended in favor of and City Council approved the STR SUP for 981 Summit Avenue, and Planning Commission has recommended in favor of a STR at 957 Summit Avenue. City Council took action on the 957 Summit Avenue STR SUP request on July 9, 2019, the day before the subject request is being considered by Planning Commission. With City Council's approval of the request for 957 Summit Avenue on July 9, staff believes that a precedence is established that the allowance for STRs along this street is desirable and acceptable and that such a use in this location would not have an undue impact on or be incompatible with other uses of land since nearby property owners were already given such permission. Therefore, staff would recommend approving the request at 990 Summit Avenue with the following conditions:

1. The site shall be the operator's primary residence and the STR shall occur within the operator's dwelling unit.
2. If the operator is not the property owner, then the operator shall be present during the lodging period.
3. All STR accommodations shall be within the principal structure.
4. There shall be no more than two STR guest rooms or accommodation spaces.
5. The number of STR guests at one time shall be limited to six 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. Additionally, the subject property is large enough to allow a duplex structure and this condition prevents any future second dwelling unit on the site from being rented as a "whole home" STR that was not previously vetted. Condition #2 helps

to protect neighbors from nuisances arising from absentee operators. Along with condition #1, for property owners operating the STR for whom this property is their primary residence (and to be consistent with Planning Commission's recommended conditions on other applications), they are not required to be present during the lodging period. However, long-term tenants operating a STR would be required to be present during the lodging period. 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 two. Condition #5 limits the total number of STR guests to not more than six. 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 two accommodation spaces within the structure for STR, the property would be required to provide two 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 their 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 as approved. How the property could be used by any future property owner should be considered when deciding on SUP conditions.

Environmental Impact:

N/A

Fiscal Impact:

N/A

Prior Actions:

N/A

Alternatives:

- (a) Recommend approval of the special use permit request as submitted;
- (b) Recommend approval of the special use permit request with suggested conditions;
- (c) Recommend approval of the special use permit with other conditions(s); or
- (d) Recommend denial.

Community Engagement:

As required, the request was published in the local newspaper twice advertising for Planning Commission's public hearing and twice advertising for City Council's public hearing. The advertisement was published as shown below:

Special Use Permits – Short-Term Rentals

Public hearings to consider requests for special use permits to allow short-term rentals. A short-term rental is defined in the Zoning Ordinance as “[t]he provision of a dwelling unit, a bedroom 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.” Short-term rentals are further regulated by Article DD of the Zoning Ordinance.

- **990 Summit Avenue** – Request from Elizabeth and Michael Goertzen 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 +/- 18,300 sq. ft. property is addressed as 990 Summit Avenue and is identified as tax map parcel 49-A-20.

In addition, adjoining property owners were notified of the public hearing; the property was posted with signage advertising the request; and a notice was provided on the City's website at <https://www.harrisonburgva.gov/public-hearings>.

Recommendation:

If City Council approves the STR request at 957 Summit Avenue, staff recommends (b) approval of the special use permit request with suggested conditions.

Attachments:

1. Planning Commission extract
2. Site maps
3. Application, applicant letter, and supporting documents

Review:

Planning Commission recommended (4-2) alternative (b) approval of the special use permit with the suggested conditions.