



# 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: July 9, 2019 (Regular Meeting)  
Re: 973 Smith Avenue – Special Use Permit (Short Term Rental)

### **Summary:**

Public hearing to consider a request from David Kraybill and Mary Hershberger 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. 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. The +/- 42,500 sq. ft. property is addressed as 973 Smith Avenue and is identified as tax map parcel 48-I-12.

### **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:** Vacant parcels; zoned R-2

**East:** Single-family detached dwelling, vacant parcels, across Smith Avenue, duplexes; zoned R-2

**South:** Vacant parcels; zoned R-2

**West:** Single-family detached dwellings fronting Summit Avenue; zoned R-2

### **Key Issues:**

The applicants are requesting approval of a short-term rental (STR) operation at 973 Smith Avenue. The applicants desire to rent for STR a five-bedroom single-family detached dwelling with six accommodation spaces and a maximum of 13 STR guests at a time. The property is currently not the applicant’s primary residence; however, there is a long-term tenant residing in the home who will be present during the STR lodging period as the operator.

The applicants have informed staff that along with the five bedrooms in the home there is a couch in a living area that is intended for use as an accommodation space. It is the intent of the applicant to accept only guests who come as a single family or group, and not to rent out individual rooms. The applicants have described in their letter that they are able to provide seven parking spaces, five in the driveway and two in the garage, for the STR.

The property is located in the northwest area of the City, within Parkhill Subdivision, about 0.6-miles from the nearest arterial or collector street (Chicago Avenue) and 300-feet from the end of Smith Avenue, which ends in a temporary cul-de-sac. Although Smith Avenue does intersect with Mt. Clinton Pike (a major collector street) to the north, about 0.2-miles north from the subject property, there is no public right-of-way in place to connect the northern and southern sections of Smith Avenue to make it a through street; there is a private access that is only open to bicyclists and pedestrians.

This segment of Smith Avenue is developing and is unlikely to have pedestrian and vehicular traffic that is not from residents of the street, their relatives, friends, or other visitors. Staff believes that introducing a STR at this location could create neighborhood instability because STRs introduce high turnover of people who are unknown to the neighbors and could change the character of the neighborhood with increased vehicle trips.

Given the location of the property within this residential area of the City, staff 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 during the lodging period.
3. All STR accommodations shall be within the principal structure.
4. There shall be no more than six STR guest rooms or accommodation spaces.
5. The number of STR guests at one time shall be limited to a family or a group of not more than 13 individuals.
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 six. (“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 a family or not more than a group of 13 individuals. 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 six accommodation spaces within the dwelling for STR, the property would be required to provide six 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. 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 applicants have 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. 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) Approve the special use permit request as submitted; or
- (b) Approve the special use permit request with suggested conditions; or
- (c) Approve the special use permit with other conditions(s); or
- (d) Deny the special use permit.

**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 Permit – 973 Smith Avenue (Short-Term Rental)***

Public hearing to consider a request from David Kraybill and Mary Hershberger 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. 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. The +/- 42,500 sq. ft. property is addressed as 973 Smith Avenue and is identified as tax map parcel 48-I-12.

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:**

Staff recommends alternative (d) denial of the special use permit.

**Attachments:**

1. Planning Commission Extract
2. Site maps (2 pages)
3. Application, applicant letter, and supporting documents (4 pages)
4. Written public comment received as of June 7, 2019 (1 page)

**Review:**

Planning Commission recommended to approve (5-1) the special use permit request with the following conditions:

1. The site shall be the operator’s primary residence.
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 six STR guest rooms or accommodation spaces.
5. The number of STR guests at one time shall be limited to a family or a group of not more than 13 individuals.
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.