



## CITY OF HARRISONBURG COMMUNITY DEVELOPMENT

409 SOUTH MAIN STREET, HARRISONBURG, VA 22801

OFFICE (540) 432-7700 • FAX (540) 432-7777

To: Planning Commission  
From: Department of Community Development  
Date: March 13, 2024 (Regular Meeting)  
Re: Special Use Permit – 1048 and 1048A College Avenue (To Allow Short-Term Rental in R-2)

### **Summary:**

Project name	N/A
Address/Location	1048 and 1048A College Avenue
Tax Map Parcels	48-D-6
Total Land Area	+/- 15,306-square feet
Property Owner	Matthew Swartzentruber and Maria Swartzentruber
Owner's Representative	N/A
Present Zoning	R-2, Residential District
Special Use Permit Request	To allow short-term rental per Section 10-3-40 (8)
Staff Recommendation	Tabling the request
Planning Commission	March 13, 2024 (Public Hearing)
City Council	If recommended to move forward, then anticipated April 9, 2024 (Public Hearing)

### **Background:**

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

- Site: Single-family attached dwellings; zoned R-2  
North: Single-family detached dwelling; zoned R-2  
East: Single-family detached dwellings; zoned R-8  
South: Nonconforming residential uses, zoned R-2  
West: Across College Avenue, single-family detached dwellings; zoned R-2

As part of the review for the special use permit request, staff discovered some unusual circumstances associated with the existing structure. The circumstances are important to understand because it impacts staff's recommendation to table the request.

In 2001, an application for a building permit was submitted to construct a new structure. The building permit describes the structure as a two-story dwelling, built on a full basement, where the basement was intended to have a two-bedroom, two-bathroom apartment. The structure was completed and received two certificates of occupancy, one for each dwelling unit, in 2002. In 2001, the property was zoned R-2, which is its current zoning. For all intents and purposes, it appears the residential use permissions in 2001 were the same as they are today, which due to the property's size continues to allow for a duplex (one structure with two units). Typically, this means that each unit is a separate unit, and someone cannot internally pass from one unit to the other.

Oddly, and incorrectly, the certificate of occupancy that was issued for the building classified each unit, from the Building Code perspective, in the R-2 use group. Each unit should have been classified in the R-5 use group. (NOTE: The "R" classification is unrelated to the "R" designation of the Zoning Ordinance.) The different "R" use groups in the Building Code require different types of construction. The R-2 use group is associated with multi-family buildings (also known as apartment buildings), whereas single family homes and duplexes (also known as two-family dwellings) are associated with the R-5 use group. What adds another layer of confusion to this situation is that this structure has a doorway that allows individuals to pass from one unit to the other. In other words, the spaces are not physically separated as individual units.

At this time, staff can only speculate that either 1) the structure was built with the doorway between the two spaces (or units) and previous City staff incorrectly classified the structure as a duplex, or 2) the structure was built as two separate units without a doorway connecting the two units and then a previous property owner—without applying for building permits—constructed a doorway to connect the two spaces. In either situation, City staff incorrectly classified the use group as R-2.

Given this situation, there remains questions as to whether the structure is a single family detached home with two kitchens or a duplex.

**Key Issues:**

The applicant is requesting a special use permit (SUP) per Section 10-3-40 (8) of the Zoning Ordinance (ZO) to allow for a short-term rental (STR) in the R-2, Residential District. The +/- 15,306-square foot property is addressed as 1048 and 1048A College Avenue and is identified as tax map parcel 48-D-6. The space in which they hope to become a STR is already being used as a by right homestay use.

In the applicant's letter they state that they would like to operate a STR within the basement apartment of their home. In the letter the basement apartment is described as having two bedrooms, two full bathrooms, a full kitchen, and a living room. Although not called out in the letter, in the link that the applicant has provided to their Airbnb listing there are three accommodation spaces – the two bedrooms and a pull-out sofa in the living room.

As defined in the 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 Zoning Ordinance. Among other things, a STR differs from the by right homestay use by allowing operators to exceed 90 lodging nights per year, in allowing more than four guests at one time, and in having the ability to use an accessory building as a transient lodging structure.

The ZO would require one or two off-street parking spaces for the existing residential structure depending on whether it is determined to be a single-family detached dwelling or duplex. Unless City Council allows for a reduction in the number of off-street parking spaces, the site must contain three additional off-street parking spaces for the STR. Staff requires more time to investigate whether the structure is a single family detached dwelling or duplex in order to make a determination on the total required number of off-street parking spaces.

#### *Land Use*

The Comprehensive Plan designates this site as Neighborhood Residential and states:

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.

#### *Transportation and Traffic*

A traffic impact analysis (TIA) was not required for the SUP request.

#### *Public Water and Sanitary Sewer*

Staff has no concerns with the requested SUP regarding water and sewer matters.

#### *Housing Study*

The City's Comprehensive Housing Assessment and Market Study (Housing Study) places the subject site within Market Type A. Among other things, this Market Type is characterized by high population growth. The study notes that Market Type A has "above median overall access to amenities such as public transit within walking distance, full-service grocery stores, and multiple parks and recreation facilities." The study also notes that "policies that are appropriate to Market type A areas include an emphasis on increasing density through zoning changes, infill development and housing rehabilitation to maintain the quality of housing."

#### *Recommendation*

Given the question as to whether the structure is a single family detached home or a duplex, staff recommends tabling the request to allow staff to further investigate and make a determination on the nature of the structure. Staff's recommendation on whether to approve or deny, as well as, recommendations for SUP conditions for the STR will differ depending on whether the structure is a single family detached home or a duplex.

If Planning Commission desires to move the request forward to City Council with a recommendation to either approve or deny, without tabling the request to allow staff to further investigate, staff requests the opportunity to share recommended conditions at the Planning Commission meeting should the request be approved by City Council.

#### **Environmental Impact:**

N/A

**Fiscal Impact:**

N/A

**Prior Actions:**

N/A

**Alternatives:**

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

**Community Engagement:**

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

***Special Use Permit – 1048 and 1048A College Avenue (To Allow Short-Term Rental in R-2)***

Public hearing to consider a request from Matthew J. Swartzentruber & Maria A. Swartzentruber for a special use permit per Section 10-3-40 (8) of the Zoning Ordinance to short-term rentals in R-2, Residential District. The +/- 15,306-square foot property is addressed as 1048 and 1048A College Avenue and is identified as tax map parcel 48-D-6.

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. Site maps
- 2. Application and supporting documents

**Review:**

N/A