



# 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: June 11, 2019 (Regular Meeting)  
Re: Special Use Permit – 981 Summit Avenue (Short-Term Rental)

### **Summary:**

Public hearing to consider a request from Glen Stoltzfus 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 regulated by Article DD of the Zoning Ordinance. The +/- 21,000 sq. ft. property is addressed as 981 Summit Avenue and is identified as tax map parcel 48-C-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: Single-family detached dwelling, zoned R-2
- East: Single-family detached dwelling, zoned R-2
- South: Single-family detached dwelling and city-owned water tower, zoned R-2
- West: Agricultural uses located in Rockingham County, zoned A-2

On March 26, 2019, City Council adopted new Zoning Ordinance regulations associated with short-term transient lodging commonly referred to as “Airbnbs,” which is associated with the webservice [www.airbnb.com](http://www.airbnb.com). Although known as Airbnbs, operators may use other services including but not limited to VRBO, HomeAway, and FlipKey to advertise their properties. These operations, unless previously approved by the City as a bed and breakfast, have been illegal in the City of Harrisonburg. A short-term rental (STR) is defined 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.”

City Council granted a grace period where enforcement of the ordinance would not occur until August 1, 2019 and which would provide individuals wishing to operate STRs time to apply for and potentially receive approval of a special use permit (SUP). SUP applications are received on a rolling basis for upcoming Planning Commission reviews and subsequent City Council meeting agendas for final determination.

### **Key Issues:**

The applicant is requesting approval of a STR operation at 981 Summit Avenue, which is located in the northwestern section of the City. The applicant describes in his letter that he and his wife desire to rent for STR one space that could accommodate a total of four individuals. They describe that the property is their primary residence and that they plan to be present during the lodging period.

The building is currently described by staff as a single-family detached dwelling. However, during meetings with the applicant, staff became aware that the property has been used as a duplex, which has two dwelling units. The property is zoned R-2, Residential District and has approximately 21,000 square feet of lot area. A duplex is permitted by the Zoning Ordinance (ZO) to be located on this site so long as Building Code requirements are met. City records indicate that a building permit was applied for in 1996. The building permit was approved for the construction of a two-story dwelling with a basement apartment. Today, this type of building would be defined by the ZO as a duplex. However, there are no City records that a Certificate of Occupancy (CO) had been issued for the building. Once the applicants became aware of this issue, they began working with the Building Official to take the necessary steps to obtain a CO for the building for two dwelling units. If approved, staff recommends a condition that prior to beginning operations, a Certificate of Occupancy (CO) must be issued for the property.

Assuming that the necessary building inspections occur, and a CO is issued for how the owner desires to use the property, the building would be a duplex. The first larger dwelling unit makes up the majority of the structure and includes the space that the applicant plans to use as a STR. While the applicant’s letter describes the STR space as an “efficiency apartment,” staff considers this space as part of the first larger dwelling unit. The second smaller dwelling unit is described in the 1996 building permit as the “basement apartment.”

The applicant lives in the first dwelling unit with his family; his parents, who own the property, live in the second dwelling unit. The applicant desires to rent from the first dwelling unit a space on the second floor, which includes one accommodation space for a STR. (“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.)

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.” The applicant has described in their letter that they are able to provide two parking spaces on their property for the STR. However, since they only have one accommodation space, the ZO would only require that they provide one off-street parking space for the STR.

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 and within the two-car garage.

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 and offers this as a condition on the permit, if approved.

Staff believes that STRs should not negatively impact a community or an individual's quality of life or to a neighborhood individual's often biggest investment: their home and property. Zoning regulations offer some certainty for home buyers and property owners. The zoning regulations adopted by City Council in March 2019 created the opportunity to allow STRs in the City while also providing city staff, Planning Commission, and residents of the neighborhood to share their thoughts. The regulations also allow City Council to establish conditions on the SUP.

The property is located deep within a neighborhood, at the end of dead end street that is approximately 0.3-miles long (from Greystone Street) and approximately 0.8-miles from the nearest collector streets (Chicago Avenue and Mt. Clinton Pike), and is unlikely to have pedestrian and vehicular traffic that is not from relatives or friends or neighbors who live on Summit Avenue or their visitors. Staff believes that introducing a STR at this location could create neighborhood instability because STRs introduce high turnover of different 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.

However, if the request is approved, staff recommends the following conditions:

1. Prior to beginning operations, a Certificate of Occupancy (CO) must be issued for the building.
2. The site shall be the operator's primary residence.
3. An operator shall be present during the lodging period.
4. All STR accommodations shall be within the principal structure.
5. There shall be no more than one STR guest room or accommodation space.
6. The number of guests at one time shall be limited to four.
7. Prior to beginning operations, the operator shall have the guest rooms and accommodation spaces and means of egress inspected by city staff to confirm compliance with the Virginia Uniform Statewide Building Code and the Virginia Statewide Fire Prevention Code or as determined necessary by Building Code and Fire Officials.
8. Minimum off-street parking spaces do not need to be delineated and can be accommodated utilizing the driveway or other areas on the property.
9. 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 #2 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. This also means that if a CO is issued for the building for two dwelling units, then between the two dwelling units only one accommodation space may be rented as a STR at a time so long as they meet the other conditions of the SUP. Condition #3 protects the neighbors by ensuring that there is on-site accountability by the STR operators. Condition #4 prevents the ability for the STR operator to convert or construct an accessory building into space for a STR that was not previously vetted for impacts to surrounding properties. If the applicant later wishes to create living spaces within an accessory building for a STR, they must return to PC and City Council (CC) with a new SUP request. Condition #5 limits the total number of guest rooms and accommodation spaces

on the entire property to one. Condition #6 limits the total number of guests at one time to four. However, with Condition #7, which requires that prior to beginning operations that the guest rooms and accommodation spaces and means of egress are inspected by city staff to confirm compliance with the Building Code and Fire Code, the number of guests could be further limited if inspectors determine that four people could not be accommodated in the proposed spaces. While the SUP does not restrict the operator to using specific guest rooms or accommodation spaces within the dwellings (meaning that the STR operator could decide later to change which accommodation spaces are rented for the STR), Building Code and Fire Code requirements would be specific to the spaces. Condition #8 provides flexibility for the property owner to maintain the residential appearance of their property by not requiring them to create delineated parking spaces. Condition #9 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 applicants were to sell the property, then 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) Recommend approval of the special use permit request as submitted; or
- (b) Recommend approval of the special use permit request with suggested conditions; or
- (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 for City council's public hearing. The advertisement was published as shown below:

***Special Use Permit – 981 Summit Avenue (Short-Term Rental)***

Public hearing to consider a request from Glen Stoltzfus for a special use permit per Section 10-3-40(8) of the Zoning Ordinance to allow 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 regulated by Article DD of the Zoning Ordinance. The +/- 21,000 sq. ft. property is addressed as 981 Summit Avenue and is identified as tax map parcel 48-C-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) to deny the request.

**Attachments:**

1. Extract (6 pages)
2. Site maps (2 pages)
3. Application, applicant letter, and supporting documents (4 pages)

**Review:**

Planning commission recommended approval (5-2) of the special use permit request with the following conditions:

1. Prior to beginning operations, a Certificate of Occupancy (CO) must be issued for the building.
2. The site shall be the operator's primary residence.
3. An operator shall be present during the lodging period.
4. All STR accommodations shall be within the principal structure.
5. There shall be no more than one STR guest room or accommodation space.
6. The number of guests at one time shall be limited to four.
7. Prior to beginning operations, the operator shall have the guest rooms and accommodation spaces and means of egress inspected by city staff to confirm compliance with the Virginia Uniform Statewide Building Code and the Virginia Statewide Fire Prevention Code or as determined necessary by Building Code and Fire Officials.
8. Minimum off-street parking spaces do not need to be delineated and can be accommodated utilizing the driveway or other areas on the property.
9. 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.