



City of Harrisonburg, Virginia

Department of Planning & Community Development

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Building Inspections
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July 1, 2019

TO THE MEMBERS OF CITY COUNCIL CITY OF HARRISONBURG, VIRGINIA

SUBJECT: 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. The +/- 42,500 sq. ft. property is addressed as 973 Smith Avenue and is identified as tax map parcel 48-I-12.

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. Banks 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: 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

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.

Vice Chair Colman asked if there any questions for staff.

Commissioner Finks said this is the type of scenario where the way condition two is currently written is important. I do not see the need to change the wording for this request. If it is not the owner that is going to be the operator, I think it is important that, in protecting against potential violations, the operator be present during the lodging period.

Commissioner Finks said that, knowing that the STR will convey to the next owner, we can change the language to the way that we changed the other requests.

Vice Chair Colman said that would make sense and it would be consistent.

Commissioner Finnegan stated that the language would be: “if the operator is not the owner, then the operator shall be present during the lodging period”. That way it is not too specific to this request.

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

Mary Hershberger and David Kraybill, owners of 973 Smith Avenue. came forward to speak to the request.

Ms. Hershberger said they have long ties to Harrisonburg. We moved out of the area for work reasons. We have family and friends here. We moved back when we retired several years ago and built this house. Unexpected life events happened. Our daughter and her family live in the DC area. Their child had health concerns, so we moved to that area to help with our granddaughter. We want to stay there for a few years to help with her care. We keep this house and have access to it. If we rent it out long-term, we will not have access to it. If we do STRs, we can come back whenever we want to. We can have family gatherings here. It enables us to keep the house while we are temporarily away. We can then move back when this phase of life is over. When we built the house, we put in a mother-in-law suite for family and friends. Our daughter lived in there for a while. We have always had friends in it. Right now, the long-term renter and his wife are a young couple who are friends of ours. They are happy with the place and they want to stay. They will be on site. A STR will help us keep the house in a way that renting it out would not.

Mr. Kraybill said they rent out the in-law suite to friends. The rest of the house is vacant. We never intended to rent this house. It does not remove any property from the market. Given the fact that rest of the house is vacant, it seems like a poor use of space for it to remain vacant. We are retired. We were educators all our lives. We did not have those incomes that some people have. We live on a fixed income.

Given our family circumstances with our daughter and her family, the fact that we are living in the DC area and have this house, you can imagine that our expenses are substantial. Being able to use this house as a STR would give us some economic flexibility that we would highly value. Andrew, who lives in the house with his wife, will be the onsite operator. He is long-term. It is his primary residence and he will be there for onsite accountability. I love technology, so I have security cameras around the house. I monitor them frequently, according to Virginia law. We are able to surveil the house in that way.

The parking was addressed by Ms. Banks. We have plenty of parking. We take good care of the property and landscaping. The closest collector street is about 0.6 miles away from us, but almost half of that is industrial. It is not residential, so we are only about three tenths of a mile into a residential community. Smith Avenue is one of those subdivision streets that was built relatively recently. It is a wide street. It is difficult to imagine that the STR would create congestion. Our STR guest are mainly on weekends, so there is no increase in traffic during the week.

We met with residents. We care about being good neighbors. If any of our neighbors had any concerns, we would address them immediately.

Mike Trainum, 969 Smith Avenue, came forward in support of the request. We share a private access road to the property in question. I have written a letter and I will point out one paragraph. These are family groups that are visiting their kids at EMU or JMU, or they are cyclists. It has enhanced the neighborhood. My main point is that this type of property in the City accommodates visitors with lots of equipment such as bikes and kayaks or large families who would have a difficult time affording multiple hotel rooms. We need this type of property that well suits that purpose.

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.

Commissioner Finnegan said this is one of the few pipe-stem lots that we have in Harrisonburg. It is a good use. If you did not have these pipe-stem lots, you would have a lot of large back lots. Because of the pipe-stem lot, there are lots of neighbors that adjoin, but it sounds like there is no opposition to this request.

Commissioner Finks said it is an interesting one because it is the only one we have had where the operator is not the owner.

Ms. Dang said it is the only one where that this their plan, but it could occur with any of the other applications.

Commissioner Whitten asked about the rental potential of this home.

Vice Chair Colman said all of these homes have rental potential.

Commissioner Finnegan said what we need to vote on is not this specific family. We need to be thinking about how this conveys moving forward.

Vice Chair Colman said with the conditions that we are applying, we are allowing that to happen in many of the previous ones.

Commissioner Finnegan said we do need to keep that in mind as we read the letters that are in favor of a specific family or a specific case.

Vice Chair Colman said we have to consider the consistency of our position. How this one might compare to the other ones, even though they are not related.

Commissioner Ford-Byrd made a motion to recommend approval of the SUP with conditions, as amended.

Commissioner Finks seconded the motion.

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

Commissioner Whitten: No, due to the size of the property and the concerns as stated by staff.

Commissioner Finnegan: Aye

Commissioner Finks: Aye

Commissioner Ford-Byrd: Aye

Commissioner Romero: Aye

Vice Chair Colman: Aye

The motion to recommend approval of the SUP 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