



City of Harrisonburg

City Hall
409 South Main Street
Harrisonburg, VA 22801

Master

File Number: ID 19-295

File ID: ID 19-295	Type: PH-Special Use Permit	Status: Approval Review
Version: 1	Agenda Section:	In Control: City Council
Subject:		File Created: 09/30/2019
		Final Action:

Title: Consider a request from Claudia M. McClean for a special use permit to allow short-term rental at 907 Ridgewood Road.

Internal Notes:

Sponsors:

Enactment Date:

Attachments: Staff Report SUP (907 Ridgewood Road), Site Maps, Application, applicant's letter and supporting documents, Public Comment Received as of October 3, 2019

Enactment Number:

Contact:

Hearing Date:

Drafter: thanh.dang@harrisonburgva.gov

Effective Date:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Planning Commission	10/09/2019	recommended to full council		11/12/2019		Fail

Action Text: A motion was made by Finks, seconded by Finnegan, that this PH-Special Use Permit be recommended to full council to the City Council, due back on 11/12/2019. The motion failed with a recorded roll call vote taken as follows:

Notes: Chair Way read the request and asked staff to review.

Ms. Banks said that the Comprehensive Plan designates this site as Low Density Residential. These areas consist of single-family detached dwellings in and around well-established neighborhoods with a target density of around 4 dwelling units per acre. The low-density residential areas are designed to maintain the character of existing neighborhoods. It should be understood that established neighborhoods in this designation could already be above 4 dwelling units per acre.

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

Site: Detached single-family dwelling, zoned R-1

North: Detached single-family dwellings, zoned R-1
East: Detached single-family dwellings, zoned R-1
South: Detached single-family dwellings, zoned R-1
West: Detached single-family dwellings, zoned R-1

The applicant is requesting approval of a short-term rental (STR) operation at 907 Ridgewood Road, which is situated within the Forest Hills Neighborhood. The applicant desires to rent for STR two accommodation spaces located on the second floor of the dwelling. ("Accommodation space" means any room offered for sleeping. This would not include living spaces or rooms where guests would not be sleeping.) Each accommodation space can accommodate two guests, for a total of up to four guests during a lodging period. The applicant describes the property as their primary residence and explained that they only share the home with guests when they are at home.

Section 10-3-25(28) of the Zoning Ordinance (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 STR accommodation spaces, the property should provide two off-street parking spaces. In addition to the off-street parking spaces required for the STR, the ZO requires one off-street parking space for the non-transient dwelling unit. The property has a large driveway and a two-car garage. The applicant has explained that lodgers will park their vehicles in the driveway. 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.

If the request is approved, staff recommends the following conditions be placed on the SUP:

1. The site shall be an operator's primary residence.
2. If an operator is not the property owner, then 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 two STR guest rooms or accommodation spaces.
5. The number of STR guests at one time shall be limited to four 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. 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 four. 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. 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 the 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.

The City has approved multiple STR SUP applications with comparable operating situations in similar locations throughout the City. Considering those approvals and the suggested conditions, staff recommends approval of the special use permit request with the suggested conditions.

Chair Way asked if there were any questions for staff. Hearing none, he opened the public hearing and invited the applicant or applicant's representative to speak to the request.

Claudia McClean, 907 Ridgewood Road, came forward to speak in support of the request. I have lived at that location for fifteen years. I love the City. I am here to answer any questions you or my neighbors may have. I would point out that prior to the notification that I needed a SUP, I operated my STR for approximately ten months and my neighbors have not objected.

Commissioner Colman asked Ms. McClean if she has talked with her neighbors or if they have approached her about the application.

Ms. McClean responded that they have not. We are very private up there, at the top of our hill.

Chair Way asked if there was anyone else wishing to speak to the request.

Eugene Leffel, 1107 Ridgewood Road, came forward in opposition to the request. I absolutely oppose the request. The neighborhood we live in is one of the oldest single-family residential neighborhoods in the City. If we do not protect, if we do not provide a shield for that, what neighborhood would we protect? I do not fathom how we could do this. We all have single-family homes. We have been there for years. The neighborhood was established back in the 1800s. How can we do this and allow temporary rentals? I do not understand that. I do not want to act like I am anything other than a happy homeowner who has lived there for years. I think this will be a travesty if we allow this to happen and we do not protect single-family home neighborhoods. If we do not do that, where do we go to protect them? Do we just allow them all to go off the side? I do not understand it. I would strongly request a no vote.

Carissa Henriques, 911 Ridgewood Road, came forward in opposition to the request. I appreciate you taking the time to consider the voices of the neighborhood. As a mother of three young children who often play in the neighborhood, via bike, scooter and walks around the block, I am constantly concerned for the safety of my children. You may not be aware, but there are no sidewalks in our neighborhood. It is a very old neighborhood. My children bike up and down the street, especially around the bend where my property abuts 907 Ridgewood Road. They ride up and down the street. There is limited vehicular traffic around that bend and I have a moderate level of concern when they ride up and down the street. Were the home to be rented out to upwards of four different people, maybe with four different vehicles, that would greatly increase the traffic, potentially going around the bend at high speeds, putting not just my children in danger, but also the children of the other homeowners in our neighborhood. In the past five to seven years, there has been almost 80 percent turnover in homeownership in our neighborhood. Many of the new homeowners have small children under the age of ten. Children bike to and from each other's houses in the neighborhood. I imagine that the increased traffic and potential "stranger danger" of people coming and going poses a hazard to our families. I was completely unaware that the house was used as an Airbnb for ten months. Had I known that, I would have voiced my dissent before this SUP was brought before you, today. By no means do I support this. I know that many of my neighbors also oppose this. I believe fourteen, or so, letters were posted on your website from the neighbors who oppose this. As you are aware, SUPs transfer from one property owner to the next. Were someone to purchase this home, they could re-appropriate it and keep that permitting, so that also causes a major concern for the future homeowners as well as everyone else in the neighborhood. Improper management could lead to many problems including noise disturbances and disruptions in

the neighborhood. The street adjacent to our neighborhood, Greenbriar Drive, is an unfortunate example about how the loss of single-family homes has degraded the appearance, safety and character of that neighborhood. If you want to look for a precedent, look one street over. I believe the Planning Commission helps the City thrive through an appropriate mix of single-family residential and mixed-use zoning. I also think this mix is important to keep some of the neighborhoods strictly as single-family homes. Repurposing homes for STR that might otherwise be for long-term residential housing can strain an already supply-short residential housing market. As a faculty member at JMU, I listen to my colleagues constantly comment about the shortage of homes that they can find within a mile or two commute to the university. It is in the interest of safety for my family and the overwhelming voices in our neighborhood that I strongly oppose the permit.

Abe Shearer, 802 Oakhill Drive, came forward in opposition to the request. It was noted that there was precedent in the City for other Airbnbs being approved like this and that being used as the logic for staff's favorable recommendation. I hope that is not what this body is looking at when they are making these decisions. As was noted, each neighborhood is uniquely different and comes with a different set of considerations. I do not think that the precedent should be a reason to say that it should be done here. There are a lot of new families living in this old neighborhood. A lot of people have moved out and young families have moved in. I would venture to say that it is precisely why those people bought in this neighborhood, including single-lane streets and less traffic. They paid a premium for their homes and they desired this location for those characteristics that they bought into. By changing the use from R-1 single-family to a much more intensive use, you are bringing in not a single-family, but potentially multiple families on a night by night basis with new cars travelling through our neighborhood on a night be night basis. Our streets are narrow. There are weird turns, including a "Y" that merges. If an unfamiliar car does not recognize that one needs to stop they will get hit, there will be accidents. There is so much uniqueness and subjectivity that needs to go into a decision like this, so I hope that you have not just looked at it on paper, but have been up to the neighborhood and visited the neighborhood to see how it is very unique. There are about 30 homes in the neighborhood. You got about fifteen letters in opposition. I spoke with several that did not write letters that could not be here tonight that are elderly. There is an overwhelming opposition to this. I hope that is a part of this consideration for all of you. That is why there is a SUP process, to get the support or not the support of the neighbors. The neighbors have overwhelmingly said that we do not want to have this in our neighborhood. If we are not going to listen to the view of neighbors, then why even have a public forum for us to voice our opposition? I hope you take into account the overwhelming opposition to this request.

Chair Way 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 Colman said that he is conflicted on this request because of what has been approved in the past. Neighborhoods are unique. Each neighborhood has its own character. This one is very interesting with its narrow streets, beautiful and secluded lots.

People who do not know the neighborhood could run a stop sign. On the other hand, if the Airbnb has been operating for ten months and no issues have been found, that makes me question some of the concerns. I am not saying that they are not valid, however, someone said that they did not know it was in operation.

Commissioner Finks said that we have to look at each case and each neighborhood separately. The fact that they are asking for two rooms, four people, I would be very surprised if we were talking about four individuals and cramming them into two rooms. I assume it would be two couples. When I think about that, I think about by right abilities which you can already do in an R-1 neighborhood. Is the SUP more than what you can already do, by right, in any of those houses? We are simply saying that they can rent for less than 30 days. In an R-1, they can have two unrelated people. Are we really asking for more than that entire neighborhood could start doing tomorrow without coming before this body or City Council? If it was four, five or six rooms, then a lot of those concerns would really speak to me and seem like a real problem in that neighborhood. It is practically what you could do by right in an R-1 neighborhood. We could vote this down tonight and next week someone could decide to start renting out their two rooms. Those concerns could happen regardless of whatever decision we make here.

Commissioner Colman clarified that it would be long-term rentals.

Commissioner Finks said that I see it in terms of fairness to the neighborhood, but fairness to the applicant, as well.

Commissioner Finnegan said that he agrees with Mr. Shearer on one point; why have these SUP hearings if we are not going to listen to the neighbors? I do not think that we should be having these hearings at all; because I think we are regulating this the wrong way. This has come up several times. No other city, that I am aware of, in Virginia does it this way. We are looking at changing how we regulate this.

So, if we deny this request, and then we change the regulation, folks could come back and perhaps operate STRs by right. That is a possibility. We have approved a lot more rooms in other neighborhoods. More than two accommodation spaces in similar neighborhoods. We have seen people show up and speak out against an application, like we have seen tonight, and then, the next month in the same neighborhood, another one was requested, and no one showed up to speak against it.

Commissioner Colman said that in terms of the number of guests we have made a mistake in allowing large numbers in certain areas. We should consider the zoning in each area to see how appropriate it is. If we are going through the SUP and we are going to evaluate the requests, zoning and land use should be considered. We should do the same thing here. In terms of land use, what is the occupancy and how does it relate to the zoning here? In the ones where we did not consider that, I believe we made a mistake.

Chair Way said that there are many interesting, thoughtful and well-reasoned comments here. My inclination is to vote in opposition to this request. One of the reasons is the particular neighborhood's conditions. This is the neighborhood where recently we had the request on Greenbriar Drive. Part of our rationale in opposing that request was because of what it was doing to this neighborhood. This neighborhood is somewhat isolated. It is somewhat of an island. It has development coming in from all sides. Given our stated desire to protect single-family neighborhoods, this is one that we should particularly keep our eyes on. I am also convinced by arguments that pose a slight distinction from the by right situation. The assumption is that they would be long-term rentals rather than the transient aspect of the STR. The concerns in the letters from the neighbors was regarding the transience, the movement of people through there, different people coming and going. I completely see the point of what is allowed at the moment in an R-1 neighborhood.

Regarding the purpose of having a public forum, it is our job to weigh the planning regulations and ordinances with the people who know their neighborhoods the best. I do not make any claims to know this neighborhood. Here we are getting at least half, perhaps a preponderance of that neighborhood, saying that they have serious concerns about this. They are well reasoned, nothing inflammatory, reflecting on the roads, the state of the infrastructure, the state and the culture of the neighborhood. This clearly seems to cause concern. In my judgment there is nothing here that seems unreasonable. I do not think that we have to agree with everything, but clearly there is a strong neighborhood sentiment here, and I want to be respectful of that.

I think everyone is right that this comes back to some problems that we have with the SUP process for STR. We have talked about the crudeness of having a blanket kind of operation across all different zoning districts. This is an example where we do want to have a different approach potentially to a single-family neighborhood.

There is also the concern with the transferability of the SUP. I am sure that the neighbors would agree that the current owner is doing a good job. Over the past ten months it has been successful. What about down the road? What happens next? What could happen with someone who is less careful? That is my concern. I have stated these before and other people have, as well.

Commissioner Ford-Byrd said I do appreciate the sentiment of the community being expressed. I also appreciate the opportunity to write down what I think are facts. Several have been presented. I want to ask staff, we have the report and you recommended approval, had you heard from the community prior to recommending approval? What led you to recommend approval?

Ms. Banks said that the decision on the recommendation was made prior to the letters coming in.

Mr. Fletcher said that staff does not take into consideration community input in our land use

decisions. We base them solely on land use and other issues that we have dealt with previously, such as other SUP, other circumstances, submissions, comparisons, etc. We could be flooded with letters, but that makes no change in how we look at items.

Commissioner Finks said that as Planning Commissioners I do want to raise caution that it is important to have these hearings and to hear the support or opposition of the community, but we have to be careful. Opposition to something in the past in a neighborhood was used in rather heinous ways. I am not making that connection here, but it is something that we have to be aware of. We cannot simply respond to the neighborhood, saying that the majority rules, because that has been used as a tool, not necessarily in Harrisonburg, but in a variety of areas. We have to be careful. We have to weigh the facts, what we are looking at in the neighborhood, and the input of the neighborhood. It cannot just be one of those considerations in our decisions.

Commissioner Finnegan said one other thing that I would like entered into the public record and I have checked on this before, and that is these notices for these public hearings get sent out to property owners, not to tenants or renters. We also have a situation, in addition to what Commissioner Finks was saying, we have a system that naturally favors property owners in getting the word out about these hearings. We have some neighborhoods that have high homeownership and other neighborhoods that have low homeownership and are predominantly renters. That should be taken into consideration.

Commissioner Finks moved to recommend approval of the SUP with conditions, as presented.

Commissioner Finnegan seconded the motion.

Commissioner Colman said that his concerns were about how we protect the neighborhoods. How do we handle these things? Our record on SUPs has been all over the place. I think it is because we are conflicted in how we handle these requests. I would rather not have anything to do with this and have this be something that is regulated in a different way or by right. As our vote goes to City Council, I will be voting in the affirmative, with the caution that I would like for City Council to consider the request in terms of what we are looking for long-term.

Commissioner Romero said that this is a very challenging spot to be in. We have talked about this before. It makes it harder on City Council, as well. At the end of the day, we have to consider the deliberations that take place here, but also keeping in mind staff's recommendation and public opinion as well. I would like for us to move forward with a date where we can have a joint meeting with City Council and the Planning Commission. I would hate to come back every month and go through this over and over again. Many of us are not feeling very good about the decisions that we are making because of the impact that it is having on people. I always have a second opportunity. I know you do not. What I tend to do, in the meantime, is to get more information. If I vote no tonight, it means that I need

more time to recognize what is missing for me to have a more sound decision. I wish to leave tonight with a better idea, potentially a timeline, of when we can meet for a joint meeting.

Chair Way said that we will discuss that and a work session during Other Matters.

Commissioner Finnegan said that he hears the concerns about safety. I have those same concerns in my neighborhood. I approved one of these in my neighborhood, just a few houses down from me. That is one of many things that attracts traffic to my neighborhood, but it is not the primary one. I would also add that part of the reason that I intend to vote in the affirmative is that we saw last month no opposition in the same neighborhood to a SUP for a STR that the month before there was a lot of opposition in that exact same neighborhood.

Chair Way called for a roll call vote.

Commissioner Colman: Aye
Commissioner Finks: Aye
Commissioner Finnegan: Aye
Commissioner Ford Byrd: No
Commissioner Romero: No
Chair Way: No

The roll-call vote resulted in a tie (3-3). The matter will move forward to City Council without a recommendation on November 12, 2019.

Yes: 3 Colman, Finnegan and Finks
No: 3 Way, Ford-Byrd and Romero
Absent: 1 Whitten
