



City of Harrisonburg

City Hall
409 South Main Street
Harrisonburg, VA 22801

Master

File Number: ID 19-241

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Type: PH-Special Use Permit

Status: Draft

Version: 1

**Agenda
Section:**

In Control: City Council

File Created: 08/05/2019

Subject:

Final Action:

Title: Consider a request from Anna L. Wilkins for a special use permit to allow short-term rental at 130 South Brook Avenue.

Internal Notes:

Sponsors:

Enactment Date:

Attachments: Memorandum, Site maps, Application, applicant letter, and supporting documents, Public Hearing notice, Surrounding Property owners notice

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	08/14/2019	recommended to full council	City Council	09/10/2019		Pass

Action Text: Commissioner Finnegan moved to recommend approval of the SUP, with conditions, as presented.

Commissioner Colman seconded the motion.

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

Ms. Dang said that the Comprehensive Plan designates this site 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 dwellings, zoned R-2
West: Across South Brook Avenue, single-family detached dwellings, zoned R-2

The applicant is requesting approval of a short-term rental (STR) operation at 130 South Brook Avenue located west of the downtown central business district and east of Westover Park. The applicant desires to rent their entire home, which includes four STR accommodation spaces, to single groups of up to eight STR guests. (“Accommodation space” means any room offered for sleeping. This would not include living spaces or rooms where guests would not be sleeping.) The applicant describes that the property is their primary residence and that they would not be present during the lodging period. They plan to stay with family nearby while guests are renting.

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 for STR four accommodation spaces the property should provide four off-street parking spaces. 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 unit. There are currently no off-street parking accommodations available on the property.

The applicant explains in their letter that there is “ample parking available” on South Brook Avenue and that guests would park in front of the subject property. Since South Brook Avenue is not restricted by permit parking, nor are there regulatory controls on where individuals can park vehicles along South Brook Avenue (i.e. anyone can park in front of any property), the applicants could not entirely control where lodgers could park their vehicles. Given that the subject parcel is +/- 90 feet wide and that a standard parallel parking space is 20 feet long, it is possible that at least four vehicles—depending upon individual vehicle lengths—could park in front of the subject property. Within this block of South Brook Avenue, there are four properties that are corner lots that face perpendicular streets and have relatively long rear yards ranging from about 100 to 170 linear feet. While a fifth property along this block of South Brook Avenue, located across the street, is about 50 linear feet wide and does not have off-street parking, staff believes that there is ample on-street parking for residents and visitors at this time and does not believe there should be issues created with allowing lodgers to utilize on-street parking. Staff is comfortable conditioning that off-street parking for the STR operation is not required.

If the request is approved, staff recommends the following conditions:

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 four STR guest rooms or accommodation spaces.
5. The number of STR guests at one time shall be limited to single groups of up to

eight 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. The STR has no minimum off-street parking requirements.
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 a 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 four. Condition #5 limits the total number of guests at one time to a single group of up to eight people. 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 the property by not requiring them to create 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 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 were to sell the property, then 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 in similar locations throughout the City and with comparable operating situations. 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.

Commissioner Finnegan asked if there was a concern about parking if there were eight cars.

Ms. Dang said that the concern was based on prior discussions of the Planning Commission regarding how many lodgers is too many. When I was discussing that potential concern with the applicant, the applicant explained that they were only planning to rent to single groups of people, so we recommended that as a condition. The Zoning Ordinance requires off-street parking spaces based on the number of accommodation spaces. There are four rooms, so there would be four off-street parking spaces required, however the Zoning Ordinance allows us to condition that no parking spaces be required, which is what we are recommending.

Commissioner Colman asked if the eight people would be related or unrelated.

Ms. Dang said that they would be unrelated. The condition does not say family.

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

Anna Wilkins, 130 South Brook Avenue, came forward to speak to her request. I am planning to rent out the entire house, to eight people, as one group. Usually, one person will book the house. They give me all the details of who is coming, their names, and why they are coming to town. I am not planning on renting multiple rooms at once. It is one rental. They usually come in one or two cars. It will be less cars with an Airbnb than it would be with myself there. I do not think that parking is going to be an issue.

Chair Way asked how many bedrooms the house has.

Ms. Wilkins said that it has three bedrooms and a back room with a trundle bed.

Commissioner Romero asked if the applicant has had any responses from the neighbors.

Ms. Wilkins said that she has not, except for the neighbor across the street who offered his driveway for parking. I think there are more problems with college students next door to me and in my neighborhood, and that is what I am trying to avoid. I am trying the Airbnb route so that I do not have to rent to college students. So far, I have had great experiences, both as a host and staying at Airbnbs across the country. Everyone is very respectful of the places.

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 Romero wanted to clarify that the applicant is planning to stay with someone nearby when the property is being rented.

Ms. Dang said that is their plan, but it is not a condition that we would be enforcing.

Commissioner Colman said that they would not be required to be there. I think it is interesting here that we have no neighbors complaining about it and that changes the way we look at it and what we consider. In the previous request, the fact that the neighbors complained about it made us think more about it. My concern, on something like the previous one, would be that if a group of people do not like certain neighbors, they could come and complain about it and make us decide against because they were complaining about it. I do not think that we can always substantiate their complaints and that is a concern. In this case, we do not have that issue which makes it easier for us because we have very little to discuss given that everything seems to be in order.

Chair Way said that back when we set this up, staff had some commentary regarding distance to destinations or major thoroughfares. Is that less of a concern now? Is that consciously being retired as a rationale?

Ms. Dang said that based on City Council's approvals, it does not seem to be relevant.

Chair Way said that, in this case, its location close to downtown and close to some major roads, this will be one of those cases where there is quite a strong rationale for doing that. It could work the other way in terms of this neighborhood being under some pressure.

Commissioner Whitten said that she wonders if the Airbnb guests will like that it is a college party type neighborhood. That could be a problem.

Commissioner Colman asked how long the applicant has been operating a STR.

Ms. Wilkins said that she has been operating for a couple of months.

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

Commissioner Colman seconded the motion.

Commissioner Whitten and Chair Way expressed that they still have some concerns regarding the request.

All members voted in favor of recommending approval of the SUP, with conditions as stated. The recommendation will move forward to City Council on September 10, 2019.

