



# 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: September 10, 2019 (Regular Meeting)  
Re: Special Use Permit - 130 South Brook Avenue (Short-Term Rental)

### **Summary:**

Request from Anna L. Wilkins 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 +/- 8,350 sq. ft. property is addressed as 130 South Brook Avenue and is identified as tax map parcel 25-A-13.

### **Background:**

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

### **Key Issues:**

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.

**Environmental Impact:**

N/A

**Fiscal Impact:**

N/A

**Prior Actions:**

N/A

**Alternatives:**

- (a) Recommend approval of the special use permit request as submitted;
- (b) Recommend approval of the special use permit request with suggested conditions;
- (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 advertising for City Council’s public hearing. The advertisement was published as shown below:

***Special Use Permits – Short-Term Rentals***

Public hearings to consider requests for special use permits to allow short-term rentals. 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 further regulated by Article DD of the Zoning Ordinance.

- ***130 South Brook Avenue*** – Request from Anna L. Wilkins 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 +/- 8,350 sq. ft. property is addressed as 130 South Brook Avenue and is identified as tax map parcel 25-A-13.

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 (b) approval of the special use permit request with the suggested conditions.

**Attachments:**

1. Planning Commission extract
2. Site maps (2 pages)
3. Application, applicant letter, and supporting documents (3 pages)

**Review:**

Planning Commission recommended approval (6-0) of the special use permit with the suggested conditions.