



City of Harrisonburg

City Hall
409 South Main Street
Harrisonburg, VA 22801

Master

File Number: ID 19-268

File ID: ID 19-268 **Type:** PH-Special Use Permit **Status:** Approval Review

Version: 1 **Agenda Section:** **In Control:** City Council

File Created: 09/03/2019

Subject: **Final Action:**

Title: Consider a request from Christopher J. and Kirsten L. Moore for a special use permit to allow a short-term rental at 231 West Grace Street.

Internal Notes:

Sponsors:

Enactment Date:

Attachments: Memorandum SUP (231 West Grace Street), Site Maps, Application, applicant letter, and other supporting documents

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	09/11/2019	recommended to full council	City Council	10/08/2019		Pass

Action Text: A motion was made by Colman, seconded by Finnegan, that this PH-Special Use Permit be recommended to full council to the City Council, due back on 10/8/2019. The motion carried with a recorded roll call vote taken as follows:

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

Ms. Banks said that Comprehensive Plan designates this area 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: Across Beech Street, detached single-family dwellings, zoned R-1
- East: Across West Grace Street, James Madison University Memorial Hall, zoned

R-2

South: Detached single-family dwellings, zoned R-1

West: Detached single-family dwellings, zoned R-1

The applicants are requesting approval of a short-term rental (STR) operation at 231 West Grace Street, which is located in the western portion of the City in the Sunset Heights neighborhood. The applicant desires to rent for STR one accommodation space within their home that could accommodate a total of five individuals. (“Accommodation spaces” 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 the accommodation space would be in the studio-style basement of their home.

The surrounding streets have green zone permit parking and a parking pass is required for vehicles parking on-street Monday through Friday, 8:00 a.m. to 8:00 p.m. 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 one accommodation space, the property should provide one off-street parking space. It should be acknowledged that 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 no off-street parking accommodations. The property is a corner parcel and the applicant explained that STR guests can park their vehicle(s) on Beech Street, along the side of the subject property, with a displayed green permit parking guest pass. The City issues up to two guests passes per household. This property has approximately 100-feet of road frontage along Beech Street that could accommodate about five vehicles along that street frontage. Parking with the permitted green permit is also available along West Grace Street in front of the residence. Staff does not believe there would be issues created with allowing STR guests to utilize on-street parking and 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 one STR guest room or accommodation space.
5. The number of STR guests at one time shall be limited to five 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 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 one. Condition #5 limits the total number of STR guests to not more than five. 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. Condition #7 provides flexibility for the property owner to maintain the residential appearance of their property by not requiring minimum off-street parking requirements. 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 his 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 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. Hearing none, he opened the public hearing and invited the applicant or applicant's representative to speak to the request.

Christopher and Kirsten Moore, 231 West Grace Street, came forward in support of their

request.

Ms. Moore said that they bought a big house when they moved downtown. Now we have no children and we would like to share the house with out of town guests. We are in a great location to do that.

Commissioner Colman asked how large the studio style basement is. I ask that question because the number of guests is large.

Ms. Moore said that there is one queen bed, a pull-out couch and room for a cot for a child. Five adults would not want to stay there.

Mr. Moore said that it is intended to accommodate a family of five visiting the area, not five individual adult guests. I do not have the exact square footage, but it is the entire footprint of the house.

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 Finks referred back to the conversation during the previous STR discussion. If the concern that the operator is not going to be on-site and there could be issues when they rent it out, there are already situations of homeowners leaving town and their teenage children having a party, or their live-in brother-in-law creating an issue.

Commissioner Whitten said that we are talking about a business, not a family function in a residential neighborhood. It is different. We have a lot of guidelines for home-based businesses. If you have a home-based business, a home occupation, you may not have an employee outside of your home coming in.

Commissioner Finks asked what would be the difference in this situation? If there is a complaint, if there are problems, we have placed a condition that we can reevaluate the SUP. Is that where the business aspect of this comes in, where we reevaluate the SUP if there continue to be issues?

Commissioner Whitten said that is what we have said we would do.

Commissioner Finks said that is the difference where it is a transaction, a business situation. We have added that condition. We cannot have a condition that a person cannot ever leave their house unattended when they have guests.

Commissioner Whitten said this is a business, and we need to look at it as such. In a low-density neighborhood, there is not a place for that kind of a business.

Commissioner Finks said that at this point, going forward, you would vote against every

SUP that has that condition in it.

Commissioner Whitten said I do not know. I will look at each one and decide based on the numbers and the place. That is what we all should be doing.

Commissioner Finks said that if the concern is that it will convey with the property, that the owner does not have to be on-site, would that not apply to every single STR that is approved? How would the fact that it is a different property alleviate that concern?

Commissioner Whitten said that to know the property is a very important aspect to remember. Yes, absolutely.

Commissioner Finks asked if that is your concern, why would that not blanket all of these going forward? How would that not be a concern, with that condition on a different property?

Commissioner Whitten said that she cannot answer that question. I can only answer for myself on each one. I do have great concern for our residential neighborhoods. I have said that repeatedly. I have great concern when we invite uses in that are going to threaten the character of a family residential neighborhood. If A property wants to have a STR, then B property wants to have a STR and C property wants one too, then you get a whole street full of STRs; which we are working on with Summit Avenue right now. The character of that neighborhood could very likely change. I think that we need to be very careful.

Commissioner Finks said that he agrees. I would say that having a street full of STRs could be a danger to the neighborhood, but one in the neighborhood would not be a danger. With that argument, it seems like you are saying, "Why would we ever approve any of these going forward?"

Commissioner Whitten said that I cannot answer that.

Commissioner Finnegan said I believe that this body voted against regulating these STRs in this way, and City Council decided to go in another direction. I think we are regulating the wrong way. I have spoken to Planning Commissioners in Charlottesville. They do not do it this way. Next month are we going to be looking at our options?

Ms. Dang said that we would like to have a discussion. Next month we have a smaller agenda, allowing time at the end of the meeting to have discussion about the nuances and concerns that you all have.

Commissioner Finnegan said that this is the tool that we have now to address this. It is an imperfect tool. I do not like it. The first STR that we approved was in this neighborhood on Willow Street. We have approved others similar to it, so I will be voting in favor of this request.

Commissioner Romero said I mentioned at the last meeting that I, too, have great concerns about the way that this is going. I suggested that we should hold a joint meeting with City Council in the coming weeks to sit together and talk about what we are facing. It seems counterproductive to be heading in a direction that we have concerns with. I believe that City Council is willing to meet in a joint effort to align going forward. I do not want us to continue going in this direction with many of us voting every single month on properties, and then we are waiting to see what happens. If this body chooses, City Council is willing to call a joint meeting. At this point it is a matter of when we want to have it. I would want it sooner than later.

Chair Way said that the possibility of a meeting with City Council may be discussed during the Other Matters item in the agenda. One of the things that I am trying to do as Chair, is to reflect the debates and nuances behind what we are discussing. What we are talking about here is an interpretation about what residential character means in a neighborhood. Does this, the STR, affect the neighborhood character? We have different perspectives on this question. What we are trying to do here, as we recommend these requests to City Council, is to capture these nuances in our interpretations of what residential neighborhood character is and how we protect families and communities.

Commissioner Colman moved to recommend approval of the request with the conditions as presented by staff.

Commissioner Finnegan seconded the motion.

Chair Way called for a roll call vote.

Commissioner Finnegan:	Aye
Commissioner Finks:	Aye
Commissioner Colman:	Aye
Commissioner Whitten:	No
Commissioner Romero:	Aye
Chair Way:	No

The motion to recommend approval of the SUP, with conditions, as presented passed (4-2). The recommendation will move forward City Council on October 8, 2019.

Yes:	4	Colman, Finnegan, Finks and Romero
No:	2	Whitten and Way
Absent:	1	Ford-Byrd
