

Montgomery Planning Commission Minutes

Regular Meeting

Public Safety Building

April 11, 2023, 6:00 p.m.

Present: Alissa Hardy, Peter Locher, Barry Kade, Kenny Miller, Joe Sherman & Gwen S.

Meeting called to order at 6:05pm

1. Additions / Deletions to the Agenda

None

Barry & Joe arrived 6:09pm

2. Approval of the March 22nd 2023 Regular Meeting Minutes

Alissa motioned to approve. Barry 2nd. All in favor 5-0.

3. Discuss Regional Planning Grant

Grant has been signed off on. Planning Commission (PC) to follow up w/ Regional planning to verify next steps & progress on this grant.
Peter volunteered to connect with Gretta/ Regional Planning.

4. Discuss By-Law Modernization Grant

No update. Peter volunteered to follow up with Gretta/ Regional Planning w/ next steps & progress on this grant.

Peter noted an email received from the Town of Jay. Jay sent proposed by-law updates to some of the PC members as courtesy. Jay by-law changes include land use & zoning updates. Peter to forward email to rest of PC.

Although ordinance route suggested by Regional Planning to address short term rentals (STR), current best method appears to be addressing STRs via By-law updates.

Peter motioned to end efforts towards developing an STR ordinance, and to address STR issue via By-laws.

Discussion: Lots of time & efforts of many were spent on ordinance development. Peter delegated to write a statement summarizing the efforts of the Planning Commission, and to serve as a basis for discussion. **Statement follows:**

Short Term Rental Ordinance Status

At the request of the Development Review Board (DRB) at our Feb 8 th 2022 meeting, we were asked to create guidelines to help control conditional use to comply with the Town Plan. We spent months researching how other towns address short term rentals impact on housing stock in our communities (STRs are far more profitable than long term rentals). We consulted with the Northwest Regional Planning Commission. On their recommendation, we drafted an ordinance to create a registry of STR operators, regulate many safety issues, and address such things as compliance and neighboring quality of life issues , which are associated with STRs. Many of the points in our ordinance draft mirrored Vermont State safety regulations and the DRB tick-list but also added the elements of a registry, actual verification, and compliance.

We presented our draft ordinance to the Selectboard at their Jan 2, 2023 meeting. The SB declined to act on it. The SB felt that the DRB's guidelines for conditional use already included all the points in the Planning Commission's draft ordinance. For the most part, the DRB guidelines had in fact included many of the points of our proposed ordinance. As we see it, the major missing elements of the DRB guidelines are:

- 1. no provision for verification of compliance beyond the word of the applicant*
- 2. no registry of STR operators other than those who applied for conditional use*
- 3. a failure to account for STRs operating without conditional use approval*

After we reviewed the individual DRB member's written positions on the ordinance it was clear that there was little will on either the DRB or SB to address STR issues via

an ordinance. The DRB was unanimously against any ordinance that had verifiable compliance and mandated registry.

After the ordinance failed to move forward, the SB offered to pay for a subscription to the Air DNA organization to help the Planning Commission continue researching STR impacts on Montgomery housing stock. We already have 3 recognized industry organization's tallies and see little added value to add a forth with Air DNA. There is no compelling reason to accept one tally over another. All document the unchecked growth of STRs without regulation in place.

In conclusion, rather than devoting time and resources to redundant housing counts, it would be more useful to ask the SB to support a comprehensive mailing in town to quantify residents support for by- law revisions to address STR growth. STR growth continues to deplete housing stock in our community as it did before the PC spent well over a year framing an ordinance to impact that.

- End Statement -

5. Discuss Zoning By-laws Housing Definitions

STR related definitions were briefly discussed.
No resolutions or motions were made.

Discussion:

Barry gathered the existing definitions within Montgomery By-laws for review & platform for initial discussion on by-law updates. Attachment A.

- Format of attachment, 1st definition is current definition, 2nd is suggested

Definitions gathered for review based on the focus areas of numbers, safety & affordable housing. General findings, definitions around owner occupied STRs & size of STRs were of greatest question.

First definition discussed: Bed & Breakfast. Talking points:

- Bed & Breakfasts in Montgomery today
- Single family homes vs public spaces

- Alissa looked up multiple definitions for Bed & Breakfasts. Reading from Vermont Small Business Fact sheet,
 “Bed and breakfast establishments are generally situated in private homes that take overnight guests in spare bedrooms and serve breakfast to the guests only. A bed and breakfast is a public building, not a single family dwelling, because the public is served in it.”
- Another online resource describing lodging businesses like a hotel, motel, tourist home or B&B that offers three or more guest rooms OR fewer units if you also prepare food.
- State definition, vs our definition, and the definition suitable for Montgomery vary
- Discussion of adding definitions STR Owner Occupied & STR Stand Alone

Definition discussion to continue with more research.

Gwen volunteered to look up the definitions of housing found in other ski towns to see how they have addressed STRs. Additional definitions to those Barry provided to be reviewed at next PC meeting.

6. Discuss Survey Development

Short Term Rental survey development in progress with multiple moving parts.

- a. Preference to provide State & Fire Safety Requirements as first page vs last pages, under debate
- b. Ideally PC, Development Review Board & Selectboard to sign off on survey and proposed survey questions
- c. Cost and effectiveness of survey discussed.
- d. Concerns of validity discussed.
- e. Modern survey methods discussed.
- f. No new survey questions added.
- g. Gwen to type up survey questions for review at next PC meeting

7. Public comment

None

8. Other Business

New business for next meeting, FEMA map updates & their potential impact on Montgomery & future by-law changes

Barry motion to Adjourn, Peter 2nd - all in favor 5-0. Meeting adjourned 7:51 PM

Attachments

- a. Definitions re STR from BK

Bed and Breakfast: A single family dwelling unit in which the resident owner or permanent occupant provides short-term lodging and meals to transient paying guests.

Suggestions BK: strike ~~and meals~~; change name, perhaps "STR Owner Occupied."

Add "no more than X transient paying guests." Suggest "8" for X

Rationale: This category requires minimal regulation [safety] and poses the least threat to affordable housing. No reason to require meals be served. Maybe add language permitting service of meals. Or keep name and just add "may" in front of meals. But there should be a limit on number of guests. Also need to clarify that children are counted as "paying guests."

Camp Ground: A place or business providing tenting or camping vehicle⁹ accommodations for commercial purposes, including travel trailer parks and¹⁰ the like.¹¹

This can be a subcategory of STR, if there's a reason to regulate as such??

Commercial Facility: Includes office space, retail store, auto service station, equipment sales and services, light industry and like uses. Also, buildings with five (5) or more rental units, such as multi-family dwellings, rooming houses, dorms, ski lodges etc.

bk: A rooming house (do we have any?) that rents for more than 30 days is not a STR. I'm unclear about one that offers shorter and longer periods.

We do need to add STRs, excluding B&B [or whatever name is chosen].

Dwelling Unit: Buildings or part thereof used as living quarters for one¹ family. The terms "dwelling", "one-family dwelling", "two-family dwelling", or² "dwelling group" shall not include a motel, hotel, boarding house, tourist³ home or similar structure or use.

BK: need to go through body of regs to see where this term is used. We may need to exclude STRs, B&B excluded from this definition.

Montgomery Zoning Regulations 2018

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Dwelling Unit: Buildings or part thereof used as living quarters for one¹ family. The terms "dwelling", "one-family dwelling", "two-family dwelling", or² "dwelling group" shall not include a motel, hotel, boarding house, tourist³ home or similar structure or use.⁴

BK: Add STR, excluding B&B

Dwelling, Accessory: An accessory dwelling unit is an efficiency, one-6

bedroom apartment, or accessory structure, that is clearly subordinate to a⁷ single-family dwelling and has facilities and provisions for independent living,⁸ including sleeping, food preparation, and sanitation. The owner may occupy⁹ either unit.

BK: This can be added to allowed as B&B, provided owner present.

Home Business Accessory Use of an accessory building or minor portion of a dwelling for a business that exhibits no external indications that a business exists.

BK: I think going on at an STR would exhibit indications of a business.

s.²⁰

²¹

Home Occupation: Accessory Use, conducted within a dwelling or²² accessory building by the residents thereof, to use a minor portion of a²³ dwelling for an occupation that is customary in residential areas and does²⁴ not have an undue adverse effect upon the character of the residential area²⁵ in which the dwelling is located ²⁴ V.S.A. §4412(4)

BK: I think “occupation” takes it out of STR

Household: One or more persons, living, sleeping, cooking and eating on²⁸ the same premises as a single housekeeping unit.

BK: perhaps add “on a permanent basis”

Lodging Establishment: A building or buildings containing rooms which are rented for commercial purposes, such as sleeping units for transients, each sleeping unit²⁶ consisting of at least a bedroom and use of a bathroom. Included are hotels, motels, tourist courts, cabins, motor lodges, "bed and breakfast", and the like.

BK need to add language excluding B&B and perhaps STRs altogether. Possibly “to x or more individuals.”

Parking Space: Off-street space used for the temporary location of one (1) licensed¹¹ motor vehicle, which is at least eight (8) feet wide and eighteen (18) feet long, not¹² including access driveways, and having direct access to a street, right-of-way or alley

BK No change, but the DRB should be aware.

Residential Use: Includes single-family, two-family, and multi-family dwellings.
BK add B&B and exclude STR rental of entire structure.

That's it.