

MINUTES  
FAYSTON PLANNING COMMISSION  
May 10, 2021  
Unapproved

Members Present: Doug Day (Doug), Don Simonini (Don), Pete Ludlow (Pete), Carol Chamberlin (Carol), Rick Swanson (Rick), Karen Sauther (Karen); ZA: John Weir (JB); Public: None

1. Call to Order. 5:33 p.m.
2. Announcements and Agenda Modifications: None
3. Approval of Minutes of Last Meeting on April 12, 2021: Pete moved to accept the minutes. Don seconded. There being no discussion, all in favor, motion carried.
4. Liaison Reports: Doug attended the Zoom presentation by Brad Long of Efficiency Vermont. The MRV has been declared a target community this year and each town will receive \$4,000 to put toward energy efficiency. The presentation had some good ideas with regard to promoting efficiency in new buildings. Discussion was had as to whether to promote the recommended efficiency measures via the LURs or within the Town Plan. Members agreed that, at the very least, the goals and objectives within the Town Plan would be one such area. Discussion was had as to we could otherwise promote energy efficiency measures. Members agreed this could be a good use of the Town mail chimp account. Members discussed how the \$4,000 stipend would be used and it appears that the money would be used toward weatherizing the Town office or the Town garage, for example. The primary focus is town infrastructure any other updates of town property. Members wondered what other community outreach would be possible. Don will reach out to Brad Long.

Don noted that there will not be much done toward improving pedestrian safety this year aside from small measures such as repainting crosswalks. More serious measures may be looked at in the next year or two.

Karen noted that the next installment of the Boyce Hill Town Forest community outreach/discussion will be on May 19 at 7:00 p.m. This will focus on biodiversity and natural resources.

5. Discussion of results of any suggested LUR or Town Plan revisions based on Brad Long from Efficiency Vermont presentation to the Fayston Select Board: (discussed above)
6. Review a letter to the DRB regarding the board's ability to hire an independent engineer for verification of compliance with Fayston LUR and specific DRB concerns. Vote on sending the letter to the DRB: Members discussed Don's pending letter to the DRB purporting to remind them that they have the ability, via several section within the LURs,

to request technical review/assistance (i.e. engineer) in the review of more complex development applications. This, per the LURs, can be done at the cost to the applicant. However, these sections apply to pre-construction not post-development. Via certificates of occupancy, the ZA has the post-development mechanism to ensure building projects were done according to the plans approved. But for conditional use applications dealing with steep slope development, the question is what can be done to ensure that, for instance, a driveway was put in according to the approved plans and that all erosion control measures were installed per an engineered EPSC plan. Members discussed how the DRB has begun to condition approval of complex projects on the engineer certifying that final construction was done according to the plans as approved by the DRB. Pete and JB will update the rest of the DRB about this conversation and remind them of the authority it has to request independent technical assistance, at cost to the applicant, in the review stages of a complex development application.

7. Review of draft LUR revision (prepared by JB) to require that submission of contour plans be color coded for steep slopes to assist the DRB review process. Bring to a vote following review: JB drafted language to include in Section 3.4 (E) (2) (a) requiring an applicant for conditional use review to submit “A site plan with color depiction of slope classes of 0-14.9%, 15-24.9%, 25-39.9%, and 40% or more, based on two (2) foot contours.” JB noted that the header uses the word “shall” and believes this new standard should not be required in every application but can be requested at the behest of the DRB. Carol wondered whether the proposed language would be better placed if it were incorporated into subsection (2) (a) as opposed to being a separate paragraph. JB will so revise.
8. Begin PUD discussions: (tabled for future meeting)

Begin Act 179 discussion: Karen prepared notes pertaining to the legislative changes to Act 179. The purpose of these changes was to promote more affordable housing. Per this Board’s discussion, JB had already revised the accessory dwelling section per the new legislation. The new changes allow a municipality to regulate short-term rentals by ordinance/law as long as it does not impact the availability of longer term housing. Karen noted that, pursuant to changes in Act 179, a multiunit dwelling project consisting of four or fewer units located in a district allowing multiunit dwellings may not be denied solely due to an undue adverse effect on the character of the area affected. Members discussed whether this could be added to Sec. 5.4 (A) (2) Review Standards (Character of the area affected). Karen also noted that Sec. 4. 27 V.S.A. § 545 nor reads that “Deed restrictions, covenants, or similar binding agreements added after January 1, 2021 that prohibit or have the effect of prohibiting land development allowed under a municipality’s bylaws shall not be valid.” Members were surprised with this new language and wondered how this would affect future conservation efforts by the Vermont Land Trust. JB will email VLCT to get more information. Karen also noted that towns can prohibit development on acres less than 1/8 an acre in size if the size limits the ability to have proper wastewater and water supply.

Members discussed the current legislative status of short-term rental regulations. STR legislation seems to have died in the discussion phase. Accordingly, it is left to the towns to regulate/register STRs for the time being.

Karen prepared some example bylaws pertaining to STRs. Members discussed creating a definition for short-term rental. The State defines an STR as “A furnished house, condominium, or other dwelling room or self-contained dwelling unit rented to the transient, traveling, or vacationing public for a period of fewer than 30 consecutive days and for more than 14 days per calendar year.” Some towns have modified definitions. Stowe is one. Rick will look at what Morrisville and Dover do with regard to regulating STRs. Karen also noted that it might be good to add a definition for either Residential Rental Units OR Long-Term Rental (LTR), as well as a definition for Dwelling Unit Capacity (DUC) as it relates to STRs. (The number of occupants allowed per STR unit.) One suggested definition is “When the unit is used as a short-term rental, the dwelling unit capacity may/shall be increased from the Certificate of Occupancy by an additional two occupants, except when a dwelling unit is subject to a VT Land Use (Act 250) Permit. DUC shall be limited to the capacity stated on that permit and shall not be increased when used as a short-term rental.” Another definition, which members found better, was “When the unit is used as an STR, the DUC shall not cause exceedance of the Certificate of Occupancy, the waste water or water supply capacity for the entire lot, including capacity for other dwelling units within the same lot. The DUC shall be limited to the capacity stated on any active Act 250 permits for the dwelling unit.” Members also discussed modifying the “Hotel” and “Inn/Lodge” definitions. The current definitions within the Fayston LURs could apply to STRs. Karen noted that one option could be to revise the “Hotel” definition to include a statement about STRs being referred to as “hotels” by the Secretary of State for the purpose of registering the business and paying VT meals and rooms taxes.

Members also discussed how the Town could register/regulation STRs. This could include requiring a zoning permit for each STR as well as a yearly registration fee. Registration would require proof of proper Wastewater and water supply permitting, inspection reports from the Division of Fire Safety or self-certification if less than X number of occupants.

Other potential regulations members discussed were:

- An application for short-term rental registration must include completion of application form (create application form) and submittal of registration fee. Registration fee will be returned if application is denied;
- Advertised occupancy of short-term dwelling unit shall not exceed dwelling unit capacity;
- Advertised number of bedrooms in short term dwelling unit shall not exceed the number of bedrooms approved for wastewater and potable water supply by the VT DEC;

- Advertised occupancy of short-term dwelling unit shall not exceed the number of available off-street parking spots, wherein there shall exist at least one off-street parking location for each bedroom or one off-street parking location for one car per every 2 adult occupants or guests;
- If the proposed Short-Term Dwelling Unit Capacity is for greater than 16 occupants ((7 bedrooms X 2) + 2), the use shall only be allowed in a Zoning District which allows “Hotel/Lodge” use and the applicant shall also obtain Site Plan Approval from the Development Review Board pursuant to §510 in addition to a Short-Term Rental Registration;
- No Registration for the Short-Term Rental of a Dwelling Unit shall be issued unless the applicant has self-certified (for Dwelling Units with an occupancy of 8 or less) or has submitted to the Zoning Administrator (for Dwelling Units with a capacity of greater than 8 occupants) the documents and permits set forth above;
- The duration of a Short-Term Rental Registration shall be one year from the date of issuance;
- The number of lessees, guests, or other persons using a Dwelling Unit pursuant to the Short-Term Rental lease or other agreement with the Short-Term Rental Registration holder shall not exceed the Short-Term Dwelling Unit Capacity of the Dwelling Unit;
- The use of a Dwelling Unit by a number of lessees, guests, or other persons in excess of the Short-Term Dwelling Unit Capacity shall constitute a violation by the Registration holder and/or the person with whom the Registration holder contracted for the Short-Term Rental of the Dwelling Unit; and
- The use of a dwelling unit as a short-term rental dwelling unit without approved registration by the ZA after date certain shall constitute a violation and will be enforced.

Members discussed whether trash could be regulated via regulating STRs if the rental of the units were deemed a business. That being said, any home occupation requires the landowner to reside on the property. Carol wondered whether we could use the LURs and its standards for hotels/inns/B&Bs to regulate STRs. This would require revisions to the current definitions, but should be discussed.

9. Other Business: The next meeting of the Fayston Planning Commission will be June 14, 2021 at 5:30 p.m. The Board will not meet the month of July, and then resume meetings on August 9, 2021.
10. Adjourn