



Jeffrey Z. Slavin
Mayor

TOWN OF SOMERSET

4510 Cumberland Avenue
Chevy Chase, MD 20815
301-657-3211
town@townofsomerset.com



Rich Charnovich
Town Manager/Clerk-Treasurer

September 5, 2017 Council Meeting Minutes

Town Officials Present

Jeffrey Slavin, Mayor
Marnie Shaul, Council Vice President
Barbara Condos, Council Member
Dudley Fowlkes, Council Member
Franny Peale, Council Member
Barbara Zeughauser, Council Member
Doug Lohmeyer, Engineering Consultant
Tolbert Feather, Town Arborist
Ron Bolt, Town Attorney

1. At the beginning of the meeting, before the consent agenda, the Town's newest part-time police officer, Merry Livingston, was introduced.

Consent Agenda

2. July 5, 2017 Council Meeting Minutes – Motion Shaul, second Zeughauser to approve the July 5, 2017 Council Meeting Minutes, Town Manager Charnovich was asked to correct the typo on item 19 for the final version. Motion passed 5-0.

Non Consent Agenda

3. Town Manager Charnovich discussed the August Administrative and Financial Reports

4. 4509 Cumberland Avenue permit requests – Motion Peale, second Condos to approve the following permits at 4509 Cumberland Avenue: demolition, building, dumpster, fence, retaining wall, driveway apront, and tree removals. Also included in the approval is the authorization for 3 vehicles to be allowed to park in the Town Hall lot during the project to alleviate parking on Cumberland Avenue near the Town Hall. The applicant must provide the height check and wall check once completed. The reforestation plan must include 3 canopy and 9 ornamental trees. The permit must also include the conditions in the reports of Doug Lohmeyer and Tolbert Feather. Motion passed 5-0.

5. 5525 Trent Street side yard setback waiver request – Motion Peale, second Condos, to approve a 5-foot side yard waiver request and 2.5 foot in the front yard. The Town Attorney read the waiver provision into the record from page 6-27 of the Town Code. No objections from neighbors were entered into the record. It was determined the waivers would not unduly affect neighboring properties, and the carport was an open design. Motion passed 5-0.

6. 5525 Trent Street permit requests – Motion Shaul, second Peale, to approve the following permits at this address: remove the existing garage and add a one-story addition, construction of a new deck, construction of a new carport, 2 tree removal, dumpster, and installation of a new HVAC unit. The applicant will be required to plant 2 new trees for reforestation. Motion passed 5-0.

7. 5710 Surrey Street Historic Preservation Commission Application - Motion Shaul, second Zeughouser to make a recommendation to the HPC, acting as the Local Advisory Panel, amending the existing approved plan to include a new wooden, double-hung window to the gable roof at the right side of the house. Motion passed 5-0.

8. 5813 Surrey Street Historic Preservation Commission Application – The Local Advisory Panel reviewed the following scope of work as submitted by the applicant:

- Add a second story over the existing first story on the side of the house. Width not exceeding the existing footprint.
- Add one story addition on the side of the house that's 6'8" wide to square off the space between the existing footprint and front setback per plans.
- Enlarge the garage on the side of the existing house by 6'8" to square off the space between the existing footprint and front setback per plans.
- Add one story on the rear of the existing house per plans.
- Add second story over the existing one story at the rear of the house per plans.
- Enlarge the existing driveway to a maximum width of 20 ft per plans.
- Add front steps at the house's front entrance per plans.
- Repaint the house and the proposed addition.

The Town Council was not considering this application as the Town Council; it was acting as the Local Advisory Panel to the HPC. Motion Peale, second Condos, to make a recommendation to the Historic Preservation Commission. Motion passed 3-2, with Shaul and Zeughouser against. The applicant would need to return to the HPC for further review.

9. 4701 Cumberland Avenue Historic Preservation Commission Application – Motion Shaul, second Zeughauser, to make a recommendation to the HPC, acting as the Local Advisory Panel, to add a basement door to the left side of the house. Motion passed 5-0.

10. Town Tree removals recommended by the Arborist – Motion Zeughauser, second Shaul to approve the following Town tree removals and adding 1 more tree located in Capello Park:

Flowering Cherry, 11” dbh Tree # 372 at 4710 Falstone Avenue
Zelkova, 8” dbh Tree #849 at 4801 Essex Avenue on Surrey St. side
Elm, 9” dbh Tree # 15 in Capello Park

Motion passed 5-0.

11. Conservation landscaping and storm water management plan for rain garden near the Town Hall – Motion Zeughauser, second Shaul to approve a conservation landscaping and storm water management plan designed by Backyard Bounty for the area near the Town Hall parking lot and tennis courts, at a cost not to exceed \$20,000.00. Motion passed 5-0.

12. Maintenance work on exterior of the Town Hall discussion – Lou Balodemas was in attendance at the meeting to discuss proposed future exterior and interior work at the Town Hall. A further update would be placed on the October Town Council Meeting Agenda.

13. Letter concerning County short term rentals (ZTA 17-03) that will be before the County Council on September 12, 2017 – Motion Shaul, second Peale to send a letter to the County Council concerning this topic. Motion passed 5-0. (final letter appended to these minutes)

14. Road closures for the Somerset Back to School Race on October 22, 2017 – Motion Shaul, second Zeughauser, to approve the following closure times for the race date:

Dorset and Wisconsin 8 am – 11 am
Greystone and River 9 am – 10 am
Dorset and Little Falls 9 am – 11 am

Motion passed 5-0.

15. Resolution of the Town of Somerset adopting a policy for Town owned trees to be planted as recommended by the Town Attorney and Town Manager – Item was tabled until a future meeting

16. Resolution of the Town of Somerset adopting rules and regulations concerning public information act requests, as recommended by the Town Attorney – Item was tabled until a future meeting

17. 33 comprehensive amendments to the Town Charter, copies available on the Town website and at the Town Hall, public hearing 1 of 2 – No public comment

18. General Code Update – No update at this time

19. Mayor's Report – Mayor Slavin provided his report to the Town Council and had it available for members of the public

20. Adjourn at 10:30 pm



Jeffrey Z. Slavin
Mayor

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Rich Charnovich
Town Manager/Clerk-Treasurer

September 11, 2017

Montgomery County Council
Council Office Building
100 Maryland Avenue 4th floor
Rockville, MD 20850

Sent via email

Dear President Berliner and County Council Members:

The Town of Somerset offers the following comments regarding proposed ZTA 17-03 (formerly 16-03). A copy of the Town's prior letter to the Planning Board is enclosed. For the reasons set forth in the enclosed letter and below, the Town opposes the ZTA.

Although short-term leasing is currently lawful, the County Council enacted Expedited Bill 14-15 to require short-term renters to pay the same tax required of hotel guests. This was done before an adequate study could be undertaken on the appropriateness of the land use. We understand the County has subsequently received significant revenue from such taxation (\$374,490.05 for the period of July 2016 through May 2017, or approximately \$34,000 per month and growing, from Airbnb alone).

Short-term leasing is currently unlawful because it has historically been deemed in the zoning context as operating a hotel, and therefore allowed only where hotel uses have been found appropriate. From a public policy standpoint, it appears nothing has materially changed to now justify allowing such hotel uses in single-family residential areas. Instead, it appears the initiative is being driven primarily to achieve tax revenue. This incautious legislation will be enacted at the detriment to residential character.

To limit the impact of the proposed legislation, Planning Staff initially recommended that rentals be restricted to a maximum of 14 days per month and 90 days per year (Preliminary

Recommendations for Regulating Short-Term Residential Rentals, Nov. 28, 2016).

Subsequently, the Planning Board recommended to the County Council that a 90-day limit apply only to days the owner is not present. This is seemingly impracticable to enforce and drastically eliminates the very minimum protection to residential character recommended by staff. As proposed, the ZTA would allow single-family units to become hotels, every day of the year, with up to 6 renters per night.

Planning Staff recommended that 1 off-street parking space be provided per 2 bedrooms. The Planning Board subsequently recommended 1 off-street parking space be provided per rental contract. Thus, as proposed, up to 6 cars could be brought to the residence on a single contract, with only 1 mandated parking space.

The protections to residential character initially recommended by Planning Staff should be strengthened and implemented. Also, as described in more detail in the attached letter, it appears the proposed self-regulating restrictions and self-reporting requirements cannot be adequately enforced. Before the zoning regulations are altered in such a drastic way, the administrative and enforcement mechanisms should be properly planned and vetted.

If the ZTA is adopted, the Town of Somerset strongly requests that Somerset be excluded from the expanded zoning.

Thank you for considering our testimony.

Respectfully submitted,



Rich Charnovich, Town Manager, on behalf of Jeffrey Slavin, Mayor

cc: Town of Somerset Council, action taken on September 5, 2017



Jeffrey Z. Slevin
MAYOR

TOWN OF
SOMERSET

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Edi Charnovich
Town Manager/Clerk-Treasurer

May 9, 2017

Mr. Casey Anderson, Chair
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, MD 20910
(Sent via email and U.S. Mail)

Dear Chair Anderson:

The Town of Somerset has reviewed the proposed Zoning Text Amendment (ZTA) concerning short-term leasing. The Somerset Town Council has voted unanimously to oppose the proposed ZTA.

The Council opposes this proposal because short-term residential rentals would damage our municipality. Such short-term leasing is currently prohibited by County zoning in the Town because of the detrimental impacts that are commonly associated with transient leasing, or operating a hotel, in a small community. The Town of Somerset requests that the current prohibition be maintained. The character of the Town has not changed such that the current zoning should be relaxed. Much to the contrary, it appears the primary basis for the proposal is simply that the County is not enforcing the current prohibition with respect to numerous unlawful listings throughout the County, and thus, the short-term leasing should be allowed (see, e.g., Councilmember Riemer's FAQ About Proposal to Regulate Airbnb, noting that the "prohibition is weakly enforced, and there are hundreds of Montgomery County listings on sites like Airbnb and HomeAway", <http://councilmemberriemer.com/2016/02/airbnb.html>, visited May 3, 2017).

We offer the following additional comments on the specific text of the draft ZTA.

Somerset residents rely upon our Town's shared commitment to our local character, rules, and regulations. Although the proposed ZTA would require compliance with HOA or condominium rules (by which such communities can prevent transient leasing by covenant or bylaw), the ZTA would not similarly require short-term tenants to comply with local laws, and a municipality lacks the same ability to prohibit such leasing by code. That places the Town of Somerset at an unfair disadvantage with respect to the orderly management of our neighborhood and preservation of character.

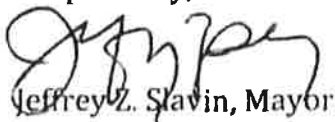
The Council reviewed the restrictions on short-term residential rentals that were outlined in the proposed ZTA and found that they lack important and necessary mechanisms for compliance and enforcement. The ZTA relies largely on self-regulation and reporting by applicants/landlords. The Town of Somerset is a small municipality and we do not have extra administrative staff available to monitor compliance. The County has not provided any assurance that short-term residential rental licensing will be funded and staffed properly for oversight, compliance, and enforcement.

The conditions that must be met in order for an applicant to obtain a license for short-term rental are minimal and insufficient. Although the applicant must notify neighbors, there are no requirements for a hearing on the application or standards set forth for a neighbor's objections to prevail. Although licenses would be valid for a term of one year, there are no meaningful standards set for renewal or requirements for proof of compliance. Although the proposal sets out a limit on the total number of adult guests, there are no limits set out for the total number of rental contracts that may be permitted. It is unrealistic to expect that all landlords will consistently comply with these proposed regulations.

As noted above, the County Council has indicated that the current short-term leasing prohibition is not enforced (and, thus, it would be better to regulate and allow the short-term leasing). However, little faith is thereby instilled by the proposal. If the current prohibition is not enforced, it does not appear that the proposed self-regulating restrictions and self-reporting requirements will be adequately enforced. Given the lack of clarity in the prospective enforcement procedures, the ZTA appears premature. The companion licensing bill and enforcement procedures should be clearly outlined along with the ZTA.

In conclusion, the Town of Somerset opposes the proposed change to the Montgomery County Zoning Ordinance because of our significant concerns about the negative effect of short-term residential rentals on our residents' quality of life, and about the insufficient enforcement regulations contained in the proposed ZTA.

Respectfully,


Jeffrey Z. Slavin, Mayor

cc: Montgomery County Council Members (sent via email)
Planning Board Members (sent via email)
Town Council, Town of Somerset (sent via email and hard copy)