

**TOWN OF SHELBURNE
PLANNING COMMISSION
MINUTES OF MEETING
December 15, 2016**

- MEMBERS PRESENT:** Jaime Heins (Chairman); Mark Brooks, Kate Lalley, Jason Grignon, Dick Elkins. (Don Posner and Ann Hogan were absent.)
- STAFF PRESENT:** Dean Pierce, Planning Director; Joe Colangelo, Town Manager.
- OTHERS PRESENT:** Gary von Stange, Joanne Rittwage, Emily Greenberg, Clint West, Nicole Debrul, Jessica Brumsted, Anthony Seidita.

AGENDA:

1. Call to Order
2. Approval of Agenda
3. Disclosure of Potential Conflicts of Interest
4. Approval of Minutes (12/8/16)
5. Commissioner Questions/Comments
6. Open to the Public
7. Public Hearing: Proposed Zoning Amendments
8. Other Zoning Issues
9. Other Business/Correspondence
10. Adjournment

1. CALL TO ORDER

Chairman Jaime Heins called the meeting to order at 7 PM.

2. APPROVAL OF AGENDA

There were no changes to the agenda.

3. DISCLOSURE OF POTENTIAL CONFLICTS OF INTEREST

None.

4. APPROVAL OF MINUTES

December 8, 2016

Postponed to the next meeting.

5. COMMISSIONER QUESTIONS/COMMENTS

None.

6. OPEN TO PUBLIC

None.

7. PUBLIC HEARING: Zoning Amendment on Adult Entertainment Facilities

The public hearing was opened at 7:06 PM. Jaime Heins explained the zoning amendment covers adult entertainment uses in the Mixed Use District as a conditional

use. The use must be located 400' back on the east side of Route 7. The western boundary is the railroad to the area north of Harbour Industries.

The Planning Commission reviewed the draft language and made the following edits:

- Form Based Overlay District, Section 1.1.2.D, first sentence – delete “the” before “Section 1910.8” and insert “of the Shelburne zoning bylaws at the end of the sentence.
- Section 1910.8.A – insert “sensitive and vulnerable populations” after “residential neighborhoods”.
- Section 1910.8.B.1 – insert “The impacts of” at the start of the first sentence.
- Section 1910.8.8.B.2 – change “600 feet” to “1000 feet” and delete “grade” in front of “school”.
- Section 1910.8.B.3 – delete “not located within the same building”.
- Section 1910.8.B.7, second sentence – change “warning sign” to “a prominent warning sign of four square feet with letters of at least four inches”.
- Add:
 - Section 1910.8.B.8 Screening. All buildings, openings, entries and windows of an adult oriented business establishment shall be located, covered, or screened in such a manner as to prevent a view into the interior from any public or semi-public area including public sidewalks, streets, arcades, hallways or passageways of any material which has as its primary theme matter depicting, illustrating, or describing specified anatomical areas or specified sexual activities.”

COMMENTS

Anthony Seidita, resident, asked about the following:

- Hours of operation being dictated much like a bar if alcohol is sold - Jaime Hines said the liquor license is the purview of the Selectboard. The town is aware this is a tool to use along with the noise ordinance to control hours of operation. Dean Pierce added review of a proposal could result in conditions of operation.
- Sidewalk considered the public access way - Dean Pierce said the edge of the right-of-way is used. The establishment would be pushed back and separated from the road to be less visible.
- Establishment 1000' from a house in the Mixed Use District per the zoning - Dean Pierce explained a residence in the Mixed Use District does not have the same benefit as those in the Residential District with regard to a buffer. An individual residence is not considered a sensitive land use like a daycare.
- Items to be addressed such as parking overflow onto residential streets, use of public services (police), problems resulting from the type of establishment. – Dean Pierce said the zoning regulations have parking requirements. Conditional uses have site plan review that includes parking, screening, site circulation. The Development Review Board (DRB) can issue conditions requiring the applicant to provide proof there is sufficient parking. The DRB can determine the parking requirement for this particular use. The public has opportunity to comment on applications being reviewed by the DRB.

Joanne Rittwage spoke of noise issues behind Shelburne Bay Plaza now and concern for large trucks going to the establishment under discussion. Ms. Rittwage asked why such a business would choose Shelburne. Jaime Heins said Shelburne has a major tourist corridor intended for high volume retail services and a major north-south artery. The Planning Commission reviewed how other municipalities handle this type of establishment for language in the bylaws. The Selectboard must approve and adopt the bylaw. Any applications for an establishment must be reviewed and approved by the DRB.

Gary von Stange commended the Planning Commission for a content neutral bylaw and considering secondary adverse impacts.

Jaime Heins noted correspondence from the following people expressing concern and/or opposition to adult oriented businesses due to the negative impact on the character of the town and its residents:

- Jennifer Prada
- Jay and Carey Kelly
- Jackie Kilrona
- Walsh Family

There were no further comments.

MOTION by Mark Brooks, SECOND by Kate Lalley, that the public hearing be closed on proposed changes to the zoning bylaw which add language intended to mitigate the adverse secondary impacts associated with adult entertainment facilities while not unduly limiting freedom of speech and expression. VOTING: unanimous (5-0); motion carried.

The public hearing was closed at 8:29 PM.

MOTION by Mark Brooks, SECOND by Kate Lalley, to forward to the Selectboard for consideration and action the package of proposed changes to the zoning bylaw adding language intended to mitigate the adverse secondary impacts associated with adult entertainment facilities while not unduly limiting freedom of speech and expression warned for public hearing on 12/15/16 and modified on this date and the Zoning Bylaw Report prepared to accompany the proposed changes. VOTING: unanimous (5-0); motion carried.

8. OTHER ZONING

Sidewalk/Path Requirements for New Development

The following edits to Section 1900.7 were made:

- In Section 1900.7.C - change “(refer to Table __)” to “in conformance with the Walking and Biking Facility Implementation Table”.
- If there is site generated demand the DRB can require a path. “Shared use path easement” should be used. The order should be sidewalks, easement, future trails.

Rural PUDs

There was discussion of a 10 acre lot that was subdivided into a one acre parcel and the remaining nine acre lot. Five acres of developable land was not used for development. An easement for conservation or as a buffer owned by both lots should have been required so the area could be better managed. Another option is to deed the land to The Nature Conservancy. PUDs require a 75' buffer. Half of that could be used as a connector for wildlife trails or land should be added along wetlands. Also, the location of septic systems should be shown.

There was also discussion of a subdivision of 14 acres that had two lots of at least five acres of developable land, but the way the line was drawn for a five acre lot only three acres of developable land were shown and two acres of wetlands.

The Planning Commission will continue discussion of Rural PUDs and review corridors, forest core block areas, neighboring communities addressing forest block areas, incentivizing what the town wants to have happen with the land.

Sign Ordinance

Dean Pierce stated Shelburne has lots of sign regulations. The sign ordinance needs to be simple and not create an advantage for any one particular group. Signs should not go beyond time, place, manner.

The Planning Commission will continue discussion of the sign ordinance.

9. OTHER BUSINESS/CORRESPONDENCE*Population Projections*

Regional Planning used the state forecast of regional population projections for the state transportation plan. There are low projections for the county (.2% annually). The prior forecast in the last regional plan was 1.13%. The numbers were tweaked and the current projection was increased to .39%.

Jaime Heins observed the number may be reflective of what is happening economically. People are leaving the state. Kate Lalley commented the population may likely grow due to climate change which will make Vermont a more attractive place.

10. ADJOURNMENT

MOTION by Dick Elkins, SECOND by Mark Brooks, to adjourn the meeting.

VOTING: unanimous (5-0); motion carried.

The meeting was adjourned at 9:35 PM.

RScty: MERiordan

Dean Pierce

From: Jaimesen Heins <jaimesenheins@gmail.com>
Sent: Wednesday, December 14, 2016 3:00 PM
To: Dean Pierce
Subject: Fwd: Fw: Resident Comment for 12/15 Meeting
Attachments: Members of the Shelburne Planning Commission.docx

----- Forwarded message -----

From: **Jaimesen Heins** <jaimesenheins@yahoo.com>
Date: Wed, Dec 14, 2016 at 2:36 PM
Subject: Fw: Resident Comment for 12/15 Meeting
To: Jaimesen Heins <jaimesenheins@gmail.com>

On Wednesday, December 14, 2016 2:30 PM, Jack Ewell <Ewell@NEFCU.com> wrote:

Good Afternoon-

I am a Shelburne resident who wishes to have my input entered for the record at Planning Commission meeting on 12/15 where the topic of Adult Entertainment business inquiries is going to be discussed.

I may be able to attend personally but in case I am unable to attend and read my comment, please consider reading this comment on my behalf.

Jack Ewell
Oak Hill Road
Shelburne
734-3672

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Members of the Shelburne Planning Commission

I would like this read and entered into the record of public comment regarding potential “Adult Entertainment” business establishments in Shelburne.

My family moved to Shelburne almost 30 years ago and we have lived in the same home on Oak Hill Road in the north end of Town since arriving. My work at the time caused me to travel periodically to Houston, Texas. On my very first trip at almost this exact time of year I saw some disturbing evidence of what happens when zoning and the public’s interests are not reflected in the development process.

In the early morning hours just after dawn, I was driven along a busy secondary road in Houston, much like the Shelburne Road, and as a passenger, was afforded an uninterrupted view of the community landscape in this suburban area. I remember being horrified to see a grocery/gas station sharing a parking lot with a building and a flashing bright sign advertising “Adult Entertainment- 24 Hour Peep Shows.” Even more disturbing was the group of young elementary age school children clustered together under the sign, waiting on this particular corner for the school bus. This sad scene was repeated at other places along the highway as these or similar businesses occupied space immediately adjacent to and connected to residential streets feeding directly into this major highway. The kids had to wait within view of and almost in the parking lot of, the kinds of places adolescents should never witness in the course of their young lives.

I remember my sadness for those kids and the relief I felt in returning to Vermont, and Shelburne, knowing that my children would never be exposed to such thoughtlessness and contempt for the right to be protected from unwanted exposure to sexual exploitation as a commodity. However, “never” seems in doubt today.

Unfortunately, Houston values may be knocking on the door in Shelburne. Form based Zoning and an absence of legal and effective tools for limiting these negative impacts on reputation and property values may now conspire to plant seeds which lead to a destruction of our town brand and dishonor Shelburne’s commitment to the quality of life homeowners and taxpayers have valued for decades.

In Vermont, then and now, things harmful to minors and objectifying women are kept away from direct line of sight. Examples are adult magazines in convenience stores, cigarettes, video material etc. Our neighbor, South Burlington experienced this problem many years ago and managed to accomplish the elimination of its adult entertainment problem. Shelburne needs to commit the energy, legal resources and focus to fight against this type of business too.

Residential areas in the north end of Shelburne are already suffering property devaluation as a result of changes in business and commercial activity and abandonments, and allowing the establishment of adult entertainment businesses in proximity to long established large residential areas on top of these deteriorating existing businesses will only serve to further escalate residential property devaluation for homeowners.

If zoning language is Shelburne's tool of choice for addressing adult entertainment threats, then laws which limit the location of such businesses away from residential neighborhoods, and entrance gateway streets to established residential neighborhoods is essential. If adult entertainment can't be ruled impermissible there must be adequate (several hundred foot or even yards) exclusionary zones for adult entertainment businesses away from residential neighborhoods and the gateways streets feeding into them. Citizens and neighborhood children should not easily see these businesses and their signage on their way to and from school each day. Adult entertainment businesses should be treated like storage containers or other undesirable visual impacts to the landscape. If they must exist, there need to be rigid rules associated with location, visibility, hours of operation, maximum sound, parking, allowable activities, liquor, food, and smoking, combined with aggressive enforcement. There are other communities to learn from regarding effective tools for discouraging this type of business activity.

My hope is that Shelburne will not let its citizens down and will fight vigorously with all available resources to send the message our town is not open to conducting this type of business and will use all available means to prevent it- just as South Burlington successfully did many years ago.

Sincerely,

Jack Ewell

Oak Hill Road Shelburne

Dean Pierce

From: Jaimesen Heins <jaimesenheins@gmail.com>
Sent: Wednesday, December 14, 2016 1:00 PM
To: Dean Pierce
Subject: Fwd: Fw: Planning commission meeting.

----- Forwarded message -----

From: Jaimesen Heins <jaimesenheins@yahoo.com>
Date: Wed, Dec 14, 2016 at 12:59 PM
Subject: Fw: Planning commission meeting.
To: Jaimesen Heins <jaimesenheins@gmail.com>

On Tuesday, December 13, 2016 11:16 AM, Jaimesen Heins <jaimesenheins@yahoo.com> wrote:

Jay & Kari -- Thank you for your comments and input on this issue. I will make sure that these remarks are included in the record as part of the public hearing process.

Best regards.
Jaime Heins
Chair, Shelburne Planning Commission

On Tuesday, December 13, 2016 9:29 AM, James Kelly <kellyjfp@gmail.com> wrote:

Hello,

I saw your post on Front Porch Forum. My wife and I bought a house in Shelburne 2.5 years ago. We have a 2 year old daughter and are adding to the clan next year. We decided on Shelburne because of all the good things we heard about the town. We live on Oak Hill rd. We saw a few neighbor's cars being broken into last summer. I don't want to correlate this to the CHT motel but there were no break ins before. I am very wary and anxious about an Adult business being located in Shelburne. We want to be here for a very long time. Unfortunately if one such business is allowed in the town it will cause us to rethink growing our family in Shelburne. The secondary effects of locating a business like this in Shelburne are a concern to us.

Thanks

Jay & Kari Kelly

Dean Pierce

From: Jaimesen Heins <jaimesenheins@gmail.com>
Sent: Wednesday, December 14, 2016 12:59 PM
To: Dean Pierce
Subject: Fwd: Fw: Adult-oriented Businesses in Shelburne

----- Forwarded message -----

From: Jaimesen Heins <jaimesenheins@yahoo.com>
Date: Wed, Dec 14, 2016 at 12:55 PM
Subject: Fw: Adult-oriented Businesses in Shelburne
To: Jaimesen Heins <jaimesenheins@gmail.com>

On Tuesday, December 13, 2016 11:21 AM, Jaimesen Heins <jaimesenheins@yahoo.com> wrote:

Jennifer -- Hope you are well. Thank you for your comments and input on this issue. To be clear (and this is part of the confusion I mentioned in my FPF), these types of businesses are already allowed and permitted under our current zoning. The effort by the PC is intended to limit (and restrict) the locations of where such businesses can be sited and operated. Despite what I believe is clear community consensus about the negative and detrimental impacts of these businesses, there are legal prohibitions on completely prohibiting this kind of use by a municipality.

I will make sure that these remarks are included in the record as part of the public hearing process.

Best regards,
Jaime Heins
Chair, Shelburne Planning Commission

On Tuesday, December 13, 2016 8:36 AM, Jennifer Prada <jennifer.prada@gmail.com> wrote:

Dear Members of the Planning Commission,

As a resident of Shelburne with two children, I am strongly opposed to any change that would allow adult-oriented businesses to open in town. This would negatively affect the character of the Shelburne community as a family friendly, quaint small town. I don't see any need for it, and I believe it would negatively affect our children who currently take pride in living here.

If there is any place suited for such an establishment, it should be in a more urban area, not a lovely, family-oriented town like Shelburne.

Sincerely,

Jennifer Prada

Dean Pierce

From: Jaimesen Heins <jaimesenheins@gmail.com>
Sent: Friday, December 16, 2016 10:23 AM
To: Dean Pierce
Subject: Re: Adult entertainment zoning

Thanks Dean. Did you happen to catch Anthony's last name last night (who spoke about his concerns about negative secondary effects)?

On Fri, Dec 16, 2016 at 9:49 AM, Dean Pierce <dpierce@shelburnevt.org> wrote:

Joe and Diana,

The proposal developed by the Planning Commission is attached, along with a cover memo and the bylaw change report. Paper copies will be in your office mailbox shortly. I've given Ann material to use for the Selectboard legal notice.

I have also asked Betty to modify the Web page.

Should you have any questions please let me know.

Dean

Dean L. Pierce, AICP

[802-264-5033](tel:802-264-5033) -v

Director of Planning and Zoning

[802-985-9550](tel:802-985-9550) -f

Town of Shelburne

dpierce@shelburnevt.org

www.shelburnevt.org

PO Box 88

Shelburne, Vermont 05482

*Please note that any response or reply to this electronic message may be subject to disclosure as a public record
under the Vermont Public Records Act*

Dean Pierce

From: Jaimesen Heins <jaimesenheins@gmail.com>
Sent: Wednesday, December 14, 2016 12:59 PM
To: Dean Pierce
Subject: Fwd: Fw: Fwd: How can we help?

----- Forwarded message -----

From: Jaimesen Heins <jaimesenheins@yahoo.com>
Date: Wed, Dec 14, 2016 at 12:58 PM
Subject: Fw: Fwd: How can we help?
To: Jaimesen Heins <jaimesenheins@gmail.com>

On Wednesday, December 14, 2016 12:50 PM, Jaimesen Heins <jaimesenheins@yahoo.com> wrote:

Thank you for your comments. We will make sure these are reflected in the public record at tomorrow night's public hearing.

Best regards.
Jaime Heins
Chair, Shelburne Planning Commission

On Wednesday, December 14, 2016 11:36 AM, Keith and Molly <keithandmolly@hotmail.com> wrote:

Hi Jaime, Im not sure this helps. We are not attempting to be judgmental, but it is hard not to be. You asked for a few clear points about our opinion on this...

We feel that there are two main categories that create the negative effect of having an adult entertainment establishment in our town of Shelburne. One is an issue of "tone" and the other is the "effect".

Tone-

It's hard to address this without stating the blatantly obvious:

An adult entertainment establishment is, quite simply, the exact opposite of the gentle, well educated, genuine, highly respectful, and family oriented quality of community that is the town of Shelburne.

Effect-

Shelburne is beautiful. Which is one of the main assets of the town. Strip clubs, and "adult" stores are not "beautiful". We degrade the look and feel of our environment. An environment, that at present, both invites

new families to move here, and also inspires the families that are already here, to invest their creativity, time, and finances into the home town that represents their values.

With "adult entertainments" in our town of Shelburne, families and resources will go elsewhere, in order to find those values if need be.

By adding retail and activity centers of this caliber, we scare away, wealthier, more educated, more positive acting, community oriented individuals and families. They would, (as we would) quite simply pick a different

town to invest their money, their energies, and their creative investments, and put their kids in different schools. We Lose quality families and resources.

Shelburne is safe. Which is another one of Shelburne's strengths as a community. The clientele of such a place, coincides with a level of drinking, drugs, and the crimes that, petty or otherwise, accompany that type

of establishment.

The Effect On Our children

If an established of that quality were in the midst of our town it creates a sense that that behavior, both to work there, or to be a customer there, is "ok". It normalizes the behavior by putting it in the middle

of an ordinary healthy community. Our kids will see that. Live next to it. Drive by it to school. Walk by it with their parents. Is that the message we want to send to our daughters? And to our sons? That this is an ordinary and acceptable part of our culture?

It's not, it's an aspect of our culture we can chose to rise above. We do not, as I know many wouldn't, want our kids to live in a town that that is part of the norm.

I'm not sure that this is helpful. We feel we are stating the obvious. But perhaps, the obvious needs to be stated at this time.

Thank you,

The Walsh Family

Sent from my iPhone

On Dec 12, 2016, at 6:28 PM, Jaimesen Heins <jaimesenheins@yahoo.com> wrote:

Thanks for the note. If possible, can you send me an email with a few bullet points detailing your

family's specific concerns and how such an establishment might impact quality of life considerations in Shelburne (in your opinion)?

Appreciate the outreach.

Best, Jaime

[Sent from Yahoo Mail for iPhone](#)

On Monday, December 12, 2016, 5:32 PM, Keith and Molly
<keithandmolly@hotmail.com> wrote:

Hi Jaime, we are a family for four -my husband and I and our two young kids. we were devastated to hear about the possibility of an "adult oriented establishment" ...(adult??!!) here in our beautiful town of Shelburne.

these euphemisms are pointless... "Gentlemens Club"?! As my husband said, its the farthest thing from a "Gentleman" that would even set foot in a place like that...slapping a name on something that is the opposite of what it is...doesnt make it better or cover

anything up.

anyhow...we are out of town this thursday. Is there anything we can do to help?

Thank you,

The Walsh Family

Dean Pierce

From: Jaimesen Heins <jaimesenheins@gmail.com>
Sent: Wednesday, December 14, 2016 12:58 PM
To: Dean Pierce
Subject: Fwd: Fw: Gentleman's club

----- Forwarded message -----

From: Jaimesen Heins <jaimesenheins@yahoo.com>
Date: Wed, Dec 14, 2016 at 12:56 PM
Subject: Fw: Gentleman's club
To: Jaimesen Heins <jaimesenheins@gmail.com>

On Wednesday, December 14, 2016 12:53 PM, Jaimesen Heins <jaimesenheins@yahoo.com> wrote:

Kristina -- Thank you for your comments and input on this issue. I will make sure that these remarks are included in the record as part of the public hearing process tomorrow night.

Best regards.
Jaime Heins
Chair, Shelburne Planning Commission

On Tuesday, December 13, 2016 9:10 PM, Kristina Sylvester <kristina.c.sylvester@gmail.com> wrote:

Hi Jaime

Thank you so much for posting on FPF and being willing to take on this cause. My husband and I are residents of Shelburne, and will be in San Antonio during the meeting. Here's what I have to say and feel free to only read the part you think matters =)

My husband and I moved to Vermont from Oregon when I found out I was pregnant in Oct 2015. We came in search of opportunity, and to raise our child in a family oriented, morally rich, and progressive community. We hoped to live in Chittenden county in a town where community matters and a great school system. We looked in Williston, Jericho, Hinesburg and Shelburne. We chose Shelburne because we believe it is a community of caring, progressive, and morally rich individuals with old school values, who prioritize family. Since buying our house in May 2016 every person we have encountered proved we made the right choice. That was until we read on FPF the town might share its space with a gentleman's club. Nothing good will come of such a space. It will be a lighthouse for crime, drinking, and sexual assault, and will corrupt the beautiful foundation of Shelburne. Can you imagine? Shelburne, home of Shelburne Farms *AND* a Gentleman's club? What a tragedy! My little girl doesn't need to learn about strip clubs by looking "next door." I hope Shelburne stands against opening a gentleman's club, and continues to exemplify our reasons for moving here.

Thank you so much for sharing!

Kristina Guerrero, Air Force Veteran

Dean Pierce

From: Jaimesen Heins <jaimesenheins@gmail.com>
Sent: Wednesday, December 14, 2016 12:59 PM
To: Dean Pierce
Subject: Fwd: Fw: adult entertainment

----- Forwarded message -----

From: Jaimesen Heins <jaimesenheins@yahoo.com>
Date: Wed, Dec 14, 2016 at 12:57 PM
Subject: Fw: adult entertainment
To: Jaimesen Heins <jaimesenheins@gmail.com>

On Tuesday, December 13, 2016 11:24 AM, Jaimesen Heins <jaimesenheins@yahoo.com> wrote:

Ruth -- Good to hear from you and thanks for the comments. The Town already has a noise ordinance in place but I think it's worth revisiting the scope of the current ordinance in light of this proposal to make sure it's adequate. A noise ordinance is an indirect zoning tool that can be used to regulate land uses.

I will make sure that these remarks are included in the record as part of the public hearing process.

Best regards.
Jaime Heins
Chair, Shelburne Planning Commission

On Monday, December 12, 2016 9:11 PM, Ruth Hagerman <ruth.hagerman@gmail.com> wrote:

Hi Jaime

Thanks for posting on FPF.

I wonder if the Town has considered using a noise ordinance to restrict certain types of businesses. Maybe that isn't zoning.

It works pretty well in Texas, a notorious no-zoning state.

See you around!

Ruth Hagerman
Vista Drive