

Planning Commission Reporting Form for Municipal Bylaw Amendments (Adult Entertainment)

Prepared for Consideration by Planning Commission on November 17, 2016
Approved for Distribution by Planning Commission on November 17, 2016

This report is in accordance with 24 V.S.A. §4441(c) which states:

“When considering an amendment to a bylaw, the planning commission shall prepare and approve a written report on the proposal. A single report may be prepared so as to satisfy the requirements of this subsection concerning bylaw amendments and subsection 4384(c) of this title concerning plan amendments..... The report shall provide (:)

(A) brief explanation of the proposed bylaw, amendment, or repeal and ...include a statement of purpose as required for notice under §4444 of this title,

(A)nd shall include findings regarding how the proposal:

- 1. Conforms with or furthers the goals and policies contained in the municipal plan, including the effect of the proposal on the availability of safe and affordable housing:*
- 2. Is compatible with the proposed future land uses and densities of the municipal plan:*
- 3. Carries out, as applicable, any specific proposals for any planned community facilities.”*

Brief explanation of the proposed bylaw amendment.

The Planning Commission proposal would modify the regulations by adding language intended to mitigate the adverse secondary impacts associated with adult entertainment facilities while not unduly limiting freedom of speech and expression.

Purpose

The Planning Commission has developed the proposal in response to concerns that began to emerge circa 2010, went dormant, and resurfaced in 2016. The proposal addresses these concerns in a manner the Commission believes is effective and efficient and serves the needs of the community while at the same time does not unduly limit freedom of speech and expression. The proposal also responds to Comprehensive Plan policies that promote the quality of life in Shelburne, as manifested in the community’s cohesive business community, thriving neighborhoods, agricultural areas, and cultural resources. The specific purpose of the proposal as stated in proposal itself is as follows:

The purpose of this subsection is to mitigate the adverse secondary impacts associated with adult entertainment facilities while not unduly limiting freedom of speech and expression. Restrictions on the location and operation of such facilities are necessary to protect residential neighborhoods, civic institutions and public gathering places from the adverse secondary impacts associated with adult entertainment facilities including, but not limited to, crime, nuisance, disturbance of public order and indecency, and to protect public health, safety and welfare.

Findings regarding how the proposal conforms with or furthers the goals and policies contained in the municipal plan

Under state law, the Zoning Regulations must be “in conformance with” the Plan. To be “in conformance with” the Plan, the bylaw must: make progress toward attaining, or at least not interfere with, the goals and policies contained in the Plan; provide for proposed future land uses, densities, and intensities of development contained in the Plan; and carry out any specific proposals for community facilities, or other proposed actions contained in the Plan.

The Planning Commission finds that the proposal conforms with or furthers the goals and policies contained in the municipal plan. Such policies include but are not necessarily limited to the following:

GOAL: TO CREATE AN AREA SURROUNDING THE VILLAGE THAT CONTAINS PLEASANT, MODEST DENSITY NEIGHBORHOODS, AND THAT WILL ACCOMMODATE APPROPRIATE LEVELS OF SUB-REGIONAL COMMERCIAL AND INDUSTRIAL ACTIVITIES.

... The Mixed Use Area: Along Shelburne Road north of Shelburne Village is a corridor which will contain a mixture of residential and commercial uses. This Mixed Use corridor may be broken up into clusters, separated by intervening areas of open land or public amenities...

OBJECTIVES:

1. Encourage non-residential development that is not suitable for the Village Area (Growth Area 1) but is well suited for other portions of the Town to locate in appropriate sections of Growth Area 2.
4. Create a true mixture of residential and commercial development in the Mixed Use Area along Shelburne Road north of the Village Area. This should range from apartments above commercial uses to various types of residential structures linked with and integrated into the commercial developments. Commercial uses should be oriented towards local and sub-regional markets (e.g. drug stores, hardware stores, neighborhood stores). More specifically, the following objectives should be achieved in the Mixed Use Area:
 - Encourage clustered development in the Mixed Use Area, with buildings sited in groups with varying setbacks and well landscaped areas between structures and the road. Manage the intensity and siting of development so that it does not overwhelm the capacity of Shelburne Road.
 - Ensure that the Mixed Use Area does not become a suburban strip. Encourage developers to build using physical forms and architectural styles that enhance the community. Identify appropriate breaks in development for open spaces and/or mini-parks. Require appropriate front set-backs along Shelburne Road. Continue to promote shared driveways, and the location of parking away from areas immediately adjacent to the Shelburne Road right of way. A mixture of one and two story buildings can provide variation in roof lines. A secondary access road, parallel to Shelburne Road, may provide local access to both commercial and residential development.

RECOMMENDED ACTIONS:

1. Zoning: Revise the Zoning to periodically re-examine uses, dimensional requirements, and access requirements for the Residential, Commercial/Industrial and Mixed Use areas.

GOAL: TO IDENTIFY, PRESERVE, AND PROTECT THE CHARACTER AND DEFINING ELEMENTS OF THE BUILT ENVIRONMENT AND LANDSCAPE. THESE ELEMENTS INCLUDE HISTORIC STRUCTURES, HISTORIC AREAS, SIGNIFICANT VIEWS, AND OBJECTS OF HISTORICAL, CULTURAL, ARCHITECTURAL, AND ARCHEOLOGICAL SIGNIFICANCE. THESE ELEMENTS CONTRIBUTE TO THE SENSE OF PLACE, IDENTITY, EVOLUTION, OWNERSHIP, AND COMMUNITY THAT DEFINES THE TOWN OF SHELBURNE.

OBJECTIVES:

3. Conserve the Town's historic and cultural resources, including, but not limited to, the resources identified on the Historic Resources Map (Map 15 in Volume 2 of this Plan). Conservation may involve protection of historic sites, structures, objects and areas as mentioned above, as well as adoption of measures to ensure the open public identification of resources.

RECOMMENDED ACTIONS:

1. On a regular basis, the Planning Commission will update the Historic Resources Map. The information depicted on the map will reflect the information from the historic sites and structures survey maintained by the Historic Preservation and review Commission.

GOAL: TO ENCOURAGE THE CONTINUED GROWTH AND DIVERSIFICATION OF SHELBURNE'S ECONOMY IN A MANNER THAT ENHANCES THE GENERAL WELL-BEING OF THE COMMUNITY, AND WHICH DOES NOT DETRACT FROM THE OVERALL CHARACTER OF THE COMMUNITY.

OBJECTIVES:

1. Ensure that commercial and appropriate industrial development, and associated employment opportunities, take place in accordance with the Land Use section of this Plan.
4. Actively encourage forms of economic development that complement and are compatible with existing institutions and businesses.

GOAL: TO PROVIDE, IN A COST EFFECTIVE MANNER, TOWN UTILITIES, FACILITIES, AND SERVICES CONSISTENT WITH THE PLANNED RATES OF POPULATION, HOUSING, AND ECONOMIC GROWTH.

Planned rates of growth are based on the understanding that the Town can continue to provide high quality utilities, facilities, and services while maintaining reasonable costs.

OBJECTIVES:

4. Ensure that the ability to continue to provide existing levels of services is applied as a criterion during reviews of proposed new development.

RECOMMENDED ACTIONS:

10. Amend the Zoning and Subdivision Regulations to make it clear that approval of proposed developments may not be granted unless there is clear demonstration that public services and facilities adequate to support the proposed developments will be available before the proposed developments are occupied or used.

GOAL: TO CONTINUE TO PROVIDE HIGH QUALITY AND ACCESSIBLE PARKS, FACILITIES, AND RECREATION PROGRAMS TO ALL SHELBURNE RESIDENTS AT REASONABLE COST TO THE COMMUNITY.

OBJECTIVES:

2. Continue to provide a reasonable variety of recreation opportunities, both passive and active, to Shelburne residents of all ages.

RECOMMENDED ACTIONS:

8. Ensure that land development decisions do not preclude the continued enjoyment of outdoor recreation resources such as the VAST trail system.

GOAL: TO ENSURE THE AVAILABILITY OF SAFE AND AFFORDABLE CHILD CARE AND TO INTEGRATE CHILD CARE ISSUES INTO THE PLANNING PROCESS; SPECIFIC TOPICS THE TOWN MIGHT FACILITATE DISCUSSION OF INCLUDE CHILD CARE FINANCING, INFRASTRUCTURE, BUSINESS ASSISTANCE FOR CHILD CARE PROVIDERS, AND CHILD CARE WORK FORCE DEVELOPMENT.

OBJECTIVES:

2. To enable the provision of childcare services in a variety of settings from small home day-care facilities to larger day-care centers.

RECOMMENDED ACTIONS:

1. Review the Zoning Ordinance to minimize other regulatory obstacles to the provision of child care services

Simply stated, Planning Commissioners find that the proposal would positively address and advance all of the foregoing language as well as related Comprehensive Plan language regarding housing, economic development, and growth. More particularly, they believe that the proposal would:

- By taking steps to avoid and/or mitigate secondary impacts, support economic activity and accommodate appropriate levels of commercial and industrial growth in the Mixed Use District while at the same time fostering neighborhood cohesion and promoting development of much needed-housing;
- By managing the intensity and siting of commercial development ensure that the Mixed Use Area does not become a suburban strip;
- By making an effort to avoid conditions that may lead to blight, help preserve and protect the character and defining elements of historic properties in the Town, and thus contribute to the sense of place and unique identity that defines Shelburne;
- By crafting regulations that minimize impacts on constitutionally protected rights, mitigate secondary impacts while encouraging economic growth, enhancing community well being, and maintaining property values;
- By careful and thoughtful land use planning preserve the ability of the Town to provide high quality utilities, facilities, and services, including ready and enjoyable access to recreation facilities such as Town parks and playgrounds, at reasonable costs; and
- By separating high impact land uses from low impact uses help enable the continuing successful operation of facilities such as childcare centers and home daycares.

Commissioners also recognize the potential for the proposal to promote other Comprehensive Plan goals and objectives.

Findings regarding how the proposal is compatible with the proposed future land uses and densities of the municipal plan

The default development densities authorized by the zoning bylaws are not affected by the proposal. In the view of the Planning Commission, the overall pattern of development would change relatively little in the short term. Thus, in conclusion, the Planning Commission finds that the zoning amendment proposal that is the subject of this report would be entirely compatible with the Comprehensive Plan.

Findings regarding how the proposal carries out, as applicable, any specific proposals for any planned community facilities.

The proposed amendment does not directly carry out specific proposals for any planned community facilities. In addition, the proposed amendment does not conflict with any specific proposals for planned community facilities.

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