

MEMORANDUM

TO: RECIPIENTS
FR: DEAN PIERCE, ON BEHALF OF PLANNING COMMISSION
RE: PROPOSAL TO AMEND ZONING BYLAWS
DA: MAY 24, 2019

BACKGROUND

At its April 25 meeting, and at several meetings prior, the Shelburne Planning Commission discussed a possible amendment to the Town's zoning bylaws. At the conclusion of its discussions, the Planning Commission voted to warn a Public Hearing on the changes. The hearing was conducted on Thursday, May 23, 2019. Following the hearing, the Commission voted to advance the proposal to the Selectboard. In addition, Staff was directed to forward a "zoning change report" as required by statute. This memo and other materials were prepared in response to that directive.

PROPOSED MODIFICATIONS

The Planning Commission proposal would simplify review procedures applicable to accessory apartments. More specifically, accessory apartments of one or two bedrooms would be treated in the same manner and as permitted uses. Currently, two bedroom apartments are subject to Conditional Use review, whereas one bedroom apartments are treated as permitted uses and thus are allowed administratively. The proposal also modifies the definition of accessory apartment to include an absolute cap on size. The Planning Commission has developed the change in response to recommendations offered by the Planning Commission's housing subcommittee. The Commission believes the proposed changes address the issues expressed by the property owners and a substantial aspect of the subcommittee's recommendations while also reflecting the policy input and prerogatives of the Commission.

A list of the sections modified by the proposal is presented below.

<u>Article</u>	<u>Section</u>
II	Table 2
III	310.4 and 320.3
IV	410.3 and 420.3
VI	610.3 and 620.2
VII	710.3 and 720.1
VIII	810.4 and 820.3
IX	910.3 and 920.3
X	1010.4 and 1020.4
XII	1210.2
XIII	1310.3
XXI	2110.1

The text of the language to be the subject of the hearing is presented in the documents attached. Language to be added to the bylaw is shown in color with underscore. Language to be deleted is shown in color with ~~strikethrough~~ (strikethrough). Highlights are an artifact and are not part of any proposal to change the bylaw.

ZONING CHANGE REPORT

A report prepared in accordance with 24 V.S.A. §4441(c) is also attached. This report describes how the proposal "Conforms with or furthers the goals and policies contained in the municipal plan..." and "Is compatible with the proposed future land uses and densities of the municipal plan."

**TABLE 1
TABLE OF PERMITTED (P) AND CONDITIONAL (C) USES**

	RUR	RES	V-RES	MUS	V-CENT	SF-MIX	MIX	COMM	COMM-S	CONS
RESIDENTIAL										
Single-Family	P	P	P	P	P	P	P		P(1)	P(3)
Two-Family	P	P	P	P	P	P	P			
Conversion to Two-Family	C		C		C	C	C			
Multiple-Family		C			P	C	P			
Mobile Home Park	C	C			C		C			
First Farm Labor dwelling	P									
Second Farm Labor dwelling	C									
Accessory Apartments (one <u>and two</u> bedroom)	P	P	P	P	P	P	P		<u>P</u>	P
Accessory Apartments (two bedroom)	C	-	-	C						

[table continues with Lodging uses]

...

(1) If existing prior to January 1, 1994.

(2) If existing as of March 17, 2009

(3) If existing as of March 17, 2009 or where allowed by easement.

ARTICLE III: RURAL DISTRICT

300 Purpose. The purpose of this district is to maintain and enhance open spaces, and to protect agricultural lands, soil, water and other scenic and natural resources. Development in this area shall be limited and must be designed to meet these goals. Land in this district will not be served by public sewer.

300.1 For the purposes of this Article, an agricultural structure existing on the effective date of these regulations shall be defined as an agricultural structure that existed prior to March 17, 2009, which was destroyed by fire or natural disaster, provided that:

- A. The structure was rebuilt within seven years of the date of destruction, and
- B. The structure was used for agricultural uses for at least three years after being rebuilt.

310 Permitted Uses.

310.1 Single-family dwellings.

310.2 Two-family dwellings.

310.3 One single-family dwelling per farm for on-site full-time agricultural employees, provided that the dwelling could be developed on a separate lot which meets the district standards.

310.4 Accessory Apartments located within an existing, expanded, or new owner occupied single family dwelling or an existing expanded, or new accessory structure, containing not more than one-two bedrooms, and consisting of not more than 350 percent of the total habitable floor area of the original dwelling, ~~and not requiring a change in the dimensions of parking areas.~~

...

320 Conditional Uses.

320.1 Conversion of a single-family structure built prior to June 1, 1981, to a two-family dwelling.

320.2 A second single-family dwelling per farm for on-site full-time agricultural employees, provided that the dwelling could be developed on a separate lot that meets the district standards.

~~320.3 Accessory Apartments which:~~

- ~~A. Contain two bedrooms, or~~
- ~~B. Are located in structures that are not preexisting, or~~
- ~~C. Require an increase in the height or floor area of a preexisting structure, or~~
- ~~D. Require a new parking area or an increase in the dimensions of an existing parking area.~~

...

ARTICLE IV: RESIDENTIAL DISTRICT

400 Purpose. The purpose of this district is to protect and provide for moderate density, pedestrian friendly, residential neighborhoods in areas surrounding the Village, that are served by municipal sewer systems, to help meet the Town's present and future housing needs.

410 Permitted Uses.

410.1 Single-family dwellings.

410.2 Two-family dwellings.

410.3 Accessory Apartments located within an existing, expanded, or new owner occupied single family dwelling or an existing, expanded, or new accessory structure, containing not more than one two bedrooms, consisting of not more than 350 percent of the total habitable floor area of the original dwelling, ~~and not requiring a change in the dimensions of parking areas.~~

...

420 Conditional Uses.

420.1 Multi-family dwellings.

420.2 Mobile Home Parks existing on January 14, 1986.

~~420.3 Accessory Apartments which:
Contain two bedrooms, or
Are located in structures that are not preexisting, or
Require an increase in the height or floor area of a preexisting structure, or
Require a new parking area or an increase in the dimensions of an existing parking area.~~

ARTICLE VI: VILLAGE RESIDENTIAL DISTRICT

600 Purpose. The purpose of this district is to continue to accommodate compact residential development in close proximity to the Village Center. This area is served by both municipal sewer and water and is close to available transit stops.

610 Permitted Uses.

610.1 Single-Family Dwellings.

610.2 Two-family dwellings.

610.3 Accessory Apartments located within an existing, expanded, or new owner occupied single family dwelling or an existing, expanded, or new accessory structure, containing not more than one-two bedrooms, and consisting of not more than 350 percent of the total habitable floor area of the original dwelling; and not requiring a change in the dimensions of parking areas.

...

620 Conditional Uses.

620.1 Conversion of a single-family structure built prior to June 1, 1981, to a two-family dwelling.

~~620.2 Accessory Apartments which:~~
~~A. Contain two bedrooms, or~~
~~B. Are located in structures that are not preexisting, or~~
~~C. Require an increase in the height or floor area of a preexisting structure, or~~
~~D. Require a new parking area or an increase in the dimensions of an existing parking area.~~

...

ARTICLE VII: MUSEUM DISTRICT

700 Purpose. The purpose of this district is to continue to accommodate the institutions and museums that are currently located in this portion of the Village. This area is served by both municipal sewer and water and is close to available transit stops.

710 Permitted Uses.

710.1 Single-family dwellings.

710.2 Two-family dwellings.

710.3 Accessory Apartments located within an existing, expanded, or new owner occupied single family dwelling or an existing, expanded, or new accessory structure, containing not more than ~~one~~ two bedrooms, and consisting of not more than 35 percent of the total habitable floor area of the original dwelling, ~~and not requiring a change in the dimensions of parking areas.~~

...

720 Conditional Uses.

~~720.1 Accessory Apartments which:~~
~~A. Contain two bedrooms, or~~
~~B. Are located in structures that are not preexisting, or~~
~~C. Require an increase in the height or floor area of a preexisting structure, or~~
~~D. Require a new parking area or an increase in the dimensions of an existing parking area.~~

...

ARTICLE VIII: VILLAGE CENTER DISTRICT

800 Purpose. This is the central, most compact, mixed-use core of the Village. It is intended to accommodate the variety of retail and office uses, government facilities, residential uses, churches and schools and other uses that serve the community while enhancing the pedestrian qualities of the area and, as reasonably practicable, preserving and protecting the historic structures and patterns located in the village. This area is served by both municipal sewer and water and is close to available transit stops. Note that a portion of this district is included in the Village Core Overlay District.

810 Permitted Uses.

810.1 Single-family dwellings.

810.2 Two-family dwellings.

810.3 Multiple family dwellings.

810.4 Accessory Apartments located within an existing, expanded, or new owner occupied single family dwelling or an existing, expanded, or new accessory structure, containing not more than one-two bedrooms, and consisting of not more than 350 percent of the total habitable floor area of the original dwelling, ~~and not requiring a change in the dimensions of parking areas.~~

...

820 Conditional Uses.

820.1 Conversion of a single-family structure existing on March 16, 2009, to a two-family dwelling.

820.2 Mobile Home parks existing on January 14, 1986.

~~820.3—Accessory Apartments which:~~

~~A.—Contain two bedrooms, or~~

~~B.—Are located in structures that are not preexisting, or~~

~~C.—Require an increase in the height or floor area of a preexisting structure, or~~

~~D.—Require a new parking area or an increase in the dimensions of an existing parking area.~~

ARTICLE IX: SHELBURNE FALLS MIXED USE DISTRICT

900 Purpose. The purpose of this district is to support the traditional compact, mixed-use, development pattern that has evolved around the LaPlatte River. This area is served by both municipal sewer and water, and is very close to the center of Shelburne Village.

910 Permitted Uses.

910.1 Single-family dwellings.

910.2 Two-family dwellings.

910.3 Accessory Apartments located within an existing, expanded, or new owner occupied single family dwelling or an existing, expanded, or new accessory structure, containing not more than one-two bedrooms, and consisting of not more than 350 percent of the total habitable floor area of the original dwelling, ~~and not requiring a change in the dimensions of parking areas.~~

...

920 Conditional Uses.

920.1 Conversion of single-family dwelling in existence on March 17, 2009, to a two-family dwelling.

920.2 Multi-Family dwellings.

~~920.3—Accessory Apartments which:~~

~~A.—Contain two bedrooms, or~~

~~B.—Are located in structures that are not preexisting, or~~

~~C.—Require an increase in the height or floor area of a preexisting structure, or~~

~~D.—Require a new parking area or an increase in the dimensions of an existing parking area.~~

...

ARTICLE X: MIXED USE DISTRICT

1000 Purpose. The purpose of the Mixed Use District is to accommodate the commercial uses presently in the area and to encourage an integrated, compatible mix of new commercial and residential development (with a variety of housing types) that is pedestrian friendly, to facilitate access among the various uses without utilizing Shelburne Road, to encourage development of small visual scale and “grain”, to present an interesting and varied streetscape along Shelburne Road, to avoid the appearance of “strip” development; and to encourage low traffic generating uses so as to minimize the number of turning movements on Shelburne Road. In addition, development in this district should be designed to encourage the use of public transit.

1010 Permitted Uses.

1010.1 Single-family dwellings.

1010.2 Two-family dwellings.

1010.3 Multiple family dwellings.

1010.4 Accessory Apartments located within an existing, expanded, or new owner occupied single family dwelling or an existing accessory structure, containing not more than one-two bedrooms, and consisting of not more than 350 percent of the total habitable floor area of the original dwelling, ~~and not requiring a change in the dimensions of parking areas.~~
...

1020 Conditional Uses.

1020.1 Conversion of a single-family dwelling existing on March 17, 2009, to a two-family dwelling.

1020.2 Mobile Home Park existing on (January 14, 1986).

1020.3 New Mobile Home Parks on 10 or more acres

~~1020.4 Accessory Apartments which:~~
~~A. Contain two bedrooms, or~~
~~B. Are located in structures that are not preexisting, or~~
~~C. Require an increase in the height or floor area of a preexisting structure or~~
~~D. Require a new parking area or an increase in the dimensions of an existing parking area.~~
.....

ARTICLE XII: COMMERCE AND INDUSTRY SOUTH DISTRICT

1200 Purpose. The purpose of the Commerce and Industry South District is to implement the goals and objectives of the Economic Development section of the Town Plan, and to protect and preserve scenic views from adjacent lands, Route 7, and other public vantage points.

1210 Permitted Uses.

1210.1 Motels existing on March 17, 2009.

1210.2 Single family dwellings in existence prior to January 1, 1994.

~~1210.2~~1210.3 Accessory Apartments located within an existing or expanded owner occupied single family dwelling or an existing, expanded, or new accessory structure, containing not more than two bedrooms, and consisting of not more than 50 percent of the total habitable floor area of the original dwelling.

...

ARTICLE XIII: CONSERVATION DISTRICT

1300 Purpose. The purpose of this district is to maintain, improve, and protect environmentally sensitive areas, and to protect irreplaceable natural resources located within these areas.

1300.1 The Conservation District shall include all lands designated as such on the Shelburne Zoning Map.

1310 Permitted Uses.

1310.1 Single-family dwellings existing on March 17, 2009.

1310.2 Single-family dwelling if permitted by any conservation easements on the property.

1310.3 Accessory Apartments located within an existing or expanded owner occupied single family dwelling or an existing, expanded, or new accessory structure, containing not more than one-two bedrooms, and consisting of not more than 350 percent of the total habitable floor area of the original dwelling, and not requiring a change in the dimensions of parking areas.

ARTICLE XXI: DEFINITIONS

2100 General. Definitions contained in the Vermont Planning and Development Act shall be applicable throughout these regulations unless otherwise specifically defined in this Section.

2110 Specific Definitions.

2110.1 Accessory Apartment - A dwelling unit, with a total floor area of 1,500 square feet or smaller, located within or appurtenant to and clearly subordinate to a principal single-family dwelling. The property owner of record shall occupy either the accessory apartment or the principal single-family dwelling. For the purpose of establishing the floor area of an Accessory Apartment, the total shall consist of the aggregate area of all floors within the apartment, plus any other affiliated areas intended primarily for the use of the apartment occupant(s). Such areas may include personal storage areas, porches and decks, and garages (or parts thereof).

2110.2 Accessory Structure – A structure on the same lot with and of a nature which is incidental and subordinate to the principal structure on the lot and which is typically associated with that principal structure. Accessory structures shall meet the same dimensional and yard requirements as the principal structure.

2110.3 Accessory Use – A use of land or of a building or portion thereof incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

2110.4 Adjacent -- Contiguous parcels and parcels separated only by a public road, private road or right-of-way, railroad right-of-way, or riparian feature (river, stream, or brook).

2110.5 Adult entertainment use means a store, theater, club, restaurant or other establishment that as a substantial component of the use offers: (i) adult oriented merchandise for sale, rental, exchange, loan or trade; (ii) live or recorded performances by entertainers who are clothed to reveal or emphasize specified anatomical areas and/or whose activities include or mimic specified sexual activities; and/or (iii) services by attendants who are clothed to reveal or emphasize specified anatomical areas and/or whose activities include or mimic specified sexual activities.

2110.6 Adult media means any magazines, books, movies, photographs, recordings or other forms of communication that are distinguished or characterized by an emphasis on matter depicting, describing or related to specified anatomical areas or specified sexual activities.

2110.7 Adult oriented merchandise means any goods, products, commodities or other wares that depict, describe or simulate specified anatomical areas or specified sexual activities including but not limited to sexually oriented toys or novelties and adult media.

Planning Commission Reporting Form for Municipal Bylaw Amendments

Approved for Forwarding to Selectboard, May 23, 2019

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 andinclude 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 if approved modify review procedures applicable to accessory apartments. More specifically, accessory apartments of one or two bedrooms would be treated in the same manner and as permitted uses. Currently, two bedroom apartments are subject to Conditional Use review, whereas one bedroom apartments are treated as permitted uses and thus are allowed administratively. The proposal also modifies the definition of accessory apartment to include an absolute cap on size.

Purpose

The Planning Commission has developed the change in response to recommendations offered by the Planning Commission’s housing subcommittee. The Commission believes the proposed changes address the issues expressed by the property owners and a substantial aspect of the subcommittee’s recommendations while also reflecting the policy input and prerogatives of the Commission.

Findings regarding how the proposal conforms with or furthers the goals and policies contained in the municipal plan, municipal including goals and policies pertaining to the availability of safe and affordable housing

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 HAVE AN ADEQUATE SUPPLY OF HOUSING TO ACCOMMODATE A DIVERSE ARRAY OF RESIDENTS, BUT WHICH DOES NOT ADVERSELY IMPACT ON THE TOWN'S SCENIC AND NATURAL RESOURCES OR THE ABILITY TO PROVIDE PUBLIC FACILITIES AND SERVICES.

OBJECTIVES:

4. Consistent with regional guidelines, the Town will develop and pursue policies that should result in, on average, ten percent of new housing units constructed being affordable to households with incomes between 80% and 120% of the county median income for the appropriate household size. Perpetual affordability shall be assured through binding legal mechanisms, where appropriate.
8. Continue to encourage the development of a variety of appropriately scaled housing options for elder residents (congregate housing, continuing care, assisted living, home care, nursing care, etc.) and young families (rental apartments, small condominiums, small detached dwellings).
9. Promote use of innovative and creative development layouts and construction techniques so that residential buildings fit their landscape and setting. Also encourage use of energy-efficient residential building designs.

RECOMMENDED ACTIONS:

9. Consider increasing the size limits on accessory apartments, on a district by district basis.

GOAL: TO MANAGE THE GROWTH OF THE COMMUNITY SO THAT POPULATION GROWS AN AVERAGE OF 110 PERSONS PER YEAR OVER THE COMING DECADE.

OBJECTIVES:

1. To achieve and maintain a manageable rate of residential growth that achieves the above goal without extreme fluctuations from year to year.
2. To ensure that the Town continues to house a diversity of residents including young families and elders, and residents with a wide range of income levels, and cultural backgrounds.

RECOMMENDED ACTIONS:

3. Amend the Town's Zoning Ordinance to encourage the development of diverse housing options, including affordable and workforce housing.

Planning Commissioners find that the proposal would positively address and advance the foregoing language as well as related Comprehensive Plan language. They believe that:

- By simplifying the review of accessory apartments having more than one bedroom, the Town is fostering the development of affordable housing options for elders, young families with children, and others and is responding to specific recommended actions contained in the Plan.

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. 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.