



Town of Shelburne, Vermont

PLANNING COMMISSION AGENDA

Thursday, July 13, 2023

7:00 P.M.

Meeting will be hybrid: in person and via Zoom

Join Zoom Meeting

<https://us02web.zoom.us/j/89107397063?pwd=SUJ4TEsxSStCR0JWc1dqS0NMeGhaUT09>

Meeting ID: 891 0739 7063

Passcode: mCUhH2

Dial by your location

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|--|-----------|
| 1. Call to order/roll call | 7:00 P.M. |
| 2. Approve agenda | 7:05 P.M. |
| 3. Approve meeting minutes of June 08, 2023 | 7:10 P.M. |
| 4. Disclosure related to potential conflicts of interest | 7:11 P.M. |
| 5. Public comments on matters not on the agenda | 7:12 P.M. |
| 6. Legal framework and structure of land use regulations | 7:15 P.M. |
| 7. Other Business | 8:15 P.M. |
| 8. Adjourn | 8:30 P.M. |

Next Meeting: Farmer's Market tabling on July 15, Regular meeting on August 10

TOWN OF SHELBURNE

**TOWN OF SHELBURNE
PLANNING COMMISSION
MINUTES OF MEETING**

June 8, 2023

***Hybrid meeting.**

MEMBERS PRESENT: Steve Kendall (Chair); Stephen Selin, Tom Karlhuber, Jeff Hodgson, Marla Keene. (Jean Sirois and Shawn Sweeney were absent.)

STAFF PRESENT: Aaron DeNamur, Planning Director; Matt Lawless, Town Manager.

OTHERS PRESENT: Rowland Davis, Don Rendall, Jim White, Persis Worrall, Rosemary Sadler, Gail Albert, Pete Serisky, Brandy Saxton, Rod Francis, Media Factory.

AGENDA:

1. Call to Order
2. Approval of Agenda
3. Approval of Minutes (5/18/23)
4. Disclosures/Potential Conflicts of Interest
5. Open to the Public
6. Discussion: Consultant Report on Bylaw Review
7. Update from Planning Director
8. Other Business
9. Adjournment

1. CALL TO ORDER

Chair, Steve Kendall, called the meeting to order at 7 PM.

2. APPROVAL OF AGENDA

MOTION by Stephen Selin, **SECOND** by Marla Keene, to approve the agenda.

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

3. APPROVAL OF MINUTES

May 18, 2023

MOTION by Jeff Hodgson, **SECOND** by Stephen Selin, to approve the minutes of 5/18/23 as presented. **VOTING: unanimous (5-0); motion carried.**

4. DISCLOSURES/POTENTIAL CONFLICTS OF INTEREST

None.

5. OPEN TO THE PUBLIC

Matt Lawless, Shelburne's new Town Manager was introduced.

Announcement was made of Aaron DeNamur's promotion to Planning Director.

6. DISCUSSION: Consultant Report on Bylaw Review

The consultants reviewed their responses to question from the Planning Commission. The following was noted:

- Energy requirements in the bylaws – There is no way to verify if energy code requirements are being met.
- Traffic generation – Conditional use review considers traffic generation while site plan review does not so if the town feels there is a potential traffic issue with a development that should trigger conditional use review.
- Housing types – The current focus with zoning is on what is being regulated which is the structure, not the occupants of the structure.
- Building frontage – The purpose of building frontage is to set a pattern of lots.
- Land use regulations and other town ordinances and policies – The goal is to have all town regulations mutually reinforcing and consistent.
- Density bonus for affordable housing beyond state requirements (Home Act; S.100) – If the 20% requirement of building affordable units is met then the developer automatically gets a density bonus. Consistency with state statute should be maintained with regard to the definition of ‘affordable housing’. The town should not implement its own measures.
- Maximum residential density – Some town do not have a maximum residential density, but use other criteria to regulate density such as lot size, lot coverage, parking, building size.
- Cite or restate state statute – Statutory language should be used in the town regulations.
- Resource protection - There could be a requirement that a development must have a lot layout that creates continuous open space, for example.

The consultants will discuss at a future meeting the following:

- Waterfront resources
- Expanding design review
- Landscape requirement with higher densities
- Priorities
- Building orientation
- Multiple buildings on a lot in a rural setting
- Neighborhood Overlay District

There was discussion of the following:

- Consolidating and retaining some components of form based code for integration into the base code.
- Having narrower streets to control speed and layers from the street of street trees, bike path/sidewalk, green space then the building.
- Meeting fire department requirements on what is allowed in the town right-of-way.
- Having dense nodes of development on Shelburne Road then moving toward less dense development.

- Where stormwater management happens can impact the look and feel of a development from the road.
- Not allowing parking to the street should continue.
- Porches facing the street help scale down the building and avoids having a wall of building facing the street.
- Depth of lots on Shelburne Road may not accommodate the building, parking, landscaping, stormwater, and bike/ped paths.
- The principles of form based code should be maintained for all building types.
- Landscaping requirements in form based code should be folded into the base regulations.
- Objective(s) to be achieved with the regulations needs to be identified.

PUBLIC COMMENT

There was public comment on:

- Cycling infrastructure in town is needed.
- There is concern Shelburne will look the same as surrounding towns (no uniqueness).
- Building height and setbacks in form based code are not preserving the character of the town.
- DRB needs to have latitude with review of projects under form based code so there are checks and balances.
- Trees and bike paths are welcomed, but there is not much opportunity for this with the existing buildings along Shelburne Road.
- Who does the energy inspections or who is responsible to build bike paths needs to be specified. There could be a required set aside to fund these amenities.
- The focus in Shelburne to date on resource protection has been conserving what is irreplaceable and important for the environment. There are some places that need absolute protection, but other places that are conserved can be used as a community resource.
- There should be more cluster type development in rural areas.
- Conservation subdivision regulations from other towns should be reviewed for ideas.
- Certain conservation design principles can be applied.
- The town should look at how to prioritize natural resource and open space issues.

The consultants will continue the meetings with town committees and boards to gather comments and present the overall structure of the bylaw document and base information on zoning at a future meeting.

7. UPDATE FROM PLANNING DIRECTOR

Staff will have a booth at the farmers market to discuss the bylaw rewrite with the public.

8. OTHER BUSINESS

Meeting Schedule

Next Planning Commission meeting is July 13, 2023.

9. ADJOURNMENT

MOTION by Marla Keene, SECOND by Tom Karlhuber, to adjourn the meeting.

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

The meeting was adjourned at 9:14 PM.

RScty: MERiordan

MEMO

To: Shelburne Planning Commission
From: PlaceSense
Date: 6 July 2023
Re: Online Comments and Email List

There are currently 69 subscribers to the project email list. The following comments or questions have been posted to the the project website to date:

From Allyson Myers on June 17: I appreciated you attending the DRB meeting and introducing some of your findings. I've been ruminating on one of your observations – specifically that we have not achieved the “connectivity” desired as outlined in the Town Plan. My impression upon re-reading the Town Plan is that the town residents desire pedestrian and bicycle connectivity NOT more automotive connectivity. I suspect most residents are happy that neighborhoods do not have connecting streets that become shortcuts and bypasses for Route 7. Caution should be used as we consider revisions to the zoning when it comes to the word “connectivity” and be sure it is very clearly defined.

I'd also point out that the Town Plan indicates the rate of new construction for housing should be 25-50 dwelling units per year. In the last 2 1/2 years (January 2021 thru June 7 2023), the DRB has approved projects that potentially result in 287 new housing units. That works out to an average of 114 per year, nearly 4x the rate desired in the Town Plan.

From Jim White on June 25: I know the Shelburne Regulatory Audit prepared by PlaceSense (PS) is just the first step in a process, but the first step sets the tone for what follows so it's important.

This document from page one on focuses very heavily on housing. The audit, along with oral remarks by PS consultants in the planning commission meeting where the audit was presented, justified this concentrated focus in part by referencing state level actions to promote housing, including housing bill S.100. At the time of the audit and the meeting, S.100, later to become Act 47, had not yet been passed. It existed only in draft form.

While clearly highlighting state support for housing, the audit by contrast ignores state support for natural resource protection.

Act 47 is now law, and while it undoubtedly promotes creation of needed housing, it also provides real options for municipalities to protect natural resources. The bill carves out the following areas from the new housing rules:

...flood hazard or inundation areas as established by statute, river corridors or fluvial erosion areas as established by statute, shorelands, areas within a zoning district or overlay district the purpose of which is natural resource protection, and wherever year-round residential development is not allowed...

These exceptions allow So Burlington, for example, to preserve municipal level rules that serve four major types of protected area: 1) waterways and associated buffers, 2) forest habitat and wildlife corridors, 3) "natural resource protected areas" (including some farms, etc.) and the South Quadrant of town where only 30% of a property can be developed. 70% must be left undeveloped.

Act 47 thus is not just about saying yes to housing. It gives towns considerable discretion for protecting natural resources.

The legislature gave other striking signals of support for natural resource protection:

1. After much debate, the legislature chose not to make substantial changes to Act 250, Vermont's land use law. They might have done otherwise, but recognizing the high priority of resource protection, they decided to move slowly and carefully.

2. The legislative priority attached to natural resource protection was also evident in the Community Resilience and Biodiversity Protection Act, which, like Act 47, became law at the conclusion of the session. PS' audit took no notice of this piece of legislation. This new law joins Act 171, passed in 2016, in affirming the state's intention to expand natural resource protection.

Shelburne's Town Plan, of course, talks a lot about natural resource protection. In fact, the plan gives at least as much attention to resource protection as it does to growth and housing, perhaps more so. The Town Plan is the essential document because reg. reform must correspond to the goals and objectives in the Plan. The Town Plan emphasizes the need to balance development and protection, two sides of the same coin. The audit does give a nod to the need for balance, but I'm left feeling it's a half-hearted nod.

The audit mostly addresses natural resource protection with respect to the rural zone only. What it overlooks is that the Town Plan states very emphatically that resource protection is an issue that must be addressed, obviously in different ways, in all areas (regulatory zones) of the town.

Oral commentary by PS in a later planning commission meeting seemed to suggest that they are aware that both development and protection must be on the table. I really hope the process fully embraces both topics. Natural resource protection can't be treated as an afterthought in this reg. review process if the intention is to use the Town Plan as a guide.

SHELBURNE UNIFIED LAND USE REGULATIONS PROPOSED OUTLINE (30 MAY 2023)

1. General Provisions

- 1000. Enactment
- 1100. Applicability
- 1200. Vested Rights
- 1300. Nonconformities

2. Administrative Procedures

- 2000. Roles and Responsibilities
- 2100. Fees and Filing Requirements
- 2200. Zoning Permits
- 2300. Development Approvals
- 2400. Appeals
- 2500. Notice, Hearings and Decisions
- 2600. Violations and Penalties

3. Zoning District Standards

- 3000. General
- 3100. Serviced Districts
- 3200. Rural Districts
- 3300. Overlay Districts

4. Site Design Standards

- 4000. Vehicular and Pedestrian Movement
- 4100. Public Realm and Private Frontage
- 4200. Parking
- 4300. Stormwater Management
- 4400. Landscaping and Screening
- 4500. Site Lighting
- 4600. Signs

5. Use and Performance Standards

- 5000. General
- 5100. Residential Uses
- 5200. Commercial Uses
- 5300. Industrial Uses
- 5400. Civic Uses
- 5500. Assembly Uses
- 5600. Recreation Uses
- 5700. Resource Uses

6. Environmental Protection Standards

- 6000. Surface Waters
- 6100. Soils and Slopes
- 6200. Ecosystems and Habitats
- 6300. Working Lands
- 6400. Scenic Views

7. Subdivision and PUD Standards

- 7000. General
- 7100. Land Suitability
- 7200. Blocks and Lots
- 7300. Necessary Improvements
- 7400. Paths, Parks and Open Space
- 7500. Planned Unit Development

8. Definitions

- 8000. Interpretation
- 8100. Terms

Hi Aaron,

My thoughts below after reviewing the PlaceSense Audit and the follow-up discussions. Sorry for the delay. It's taken me a bit to get through it all and organize my thoughts.

-Tom

TK Notes:

State Standards and Regs: I am inclined to cite the state requirements/standards in the new zoning language where applicable, and then require the regs to keep up with any state changes. (ie. new housing initiatives, ADUs, residential care, storm water, etc) This may help some of these topics from becoming a distraction during public discourse and allow us to focus on less clearly defined issues. These also strike me as topics and metrics that the Planning Commission could analyze in greater depth when the regs rewrite is complete.

Housing: The recently passed S.100 Housing Bill ties many of the housing initiatives to areas with municipal sewer and water. This establishes the areas it applies in Shelburne, helping us focus on the districts where zoning can positively impact the housing crisis (with state support/authority). Much of this area overlaps with Route 7, and development/community building opportunities identified there.

Sewer and Water: I want to state clearly that the new wastewater work the town is undertaking will provide a modern and robust infrastructure that provides substantial capacity for future growth.

Mapping: I am interested in the overlay of the various natural resources and open space maps, with the purpose of identifying/creating/encouraging/protecting congruous open space through Shelburne.

- Where can we maximize this connectivity for both environmental and public amenity opportunities?

Establish goals for & identify areas for:

- open space / resource connectivity
- street / development connectivity
- path connectivity (walkability)

State Planning Atlas / GIS Mapping Resource

- <http://maps.vermont.gov/ACCD/PlanningAtlas/index.html?viewer=PlanningAtlas>

Administrative Review & A Simplified Process: In the interest of promoting development encouraged by the new zoning regs and town plan (and simplifying the process), the identification and clear definition of projects qualifying for Administrative Review is important. It seems we want to strategically maximize the application of Administrative Review to help the DRB focus its efforts and spread out the review work to keep things moving. Where do we define the limits to make Administrative Review effective and appropriate (maintaining the needed scrutiny)? PlaceSense advocates for clarity in site design and engineering standards.

Two approval tracks:

- Administrative Review: aligned with clear regulatory goals
- Design Review: challenging districts/areas or challenging/unclear intent

Form Based Code – I think PlaceSense sums up the FBC well with this comment in the Audit:

Shelburne invested heavily in the creation of the FBC. It will be important to retain the core planning concepts that underpinned that work – walkability and public realm improvements, compact mixed-use development that expands housing choice and affordability, and high-quality site design, amenities and buildings that reflect local character. It will also be important to find a regulatory approach that can be easily administered and meets community expectations.

I would add: Where in the Rt. 7 corridor are the opportunities for zoning to make a difference and substantially realize the goals of the FBC? How can we focus our efforts/regs to impact the character of Rt 7 coming into Shelburne Village (supporting the town center with connected nodes)?

Village Character: I support regs dictating lot coverage, setbacks, frontage, footprints, height etc to drive scale & character. Rather than building type.

I would like to learn more about how designated Neighborhood Development Areas (NDAs) would impact Shelburne's zoning goals and the approval process. (<https://accd.vermont.gov/community-development/designation-programs/neighborhood-development-areas>)