



Town of Shelburne, Vermont

PLANNING COMMISSION AGENDA

Thursday, August 10, 2023

7:00 P.M.

Meeting will be hybrid: in person and via Zoom

Join Zoom Meeting

<https://us02web.zoom.us/j/85377092475?pwd=OCtIMzFtdnhzWFRoVlhuRzU5SSDRTZz09>

Meeting ID: 853 7709 2475

Passcode: 2EWvHS

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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 July 13, 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. Review and discussion of draft Article 2 (links to documents below) | 7:15P.M. |
| <u>Draft Article 2 Memo</u> | |
| <u>Draft Article 2</u> | |
| 7. Other Business | 8:15 P.M. |
| 8. Adjourn | 8:30 P.M. |

Next Meeting: September 14, 2023

TOWN OF SHELBURNE

**TOWN OF SHELBURNE
PLANNING COMMISSION
MINUTES OF MEETING
July 13, 2023**

***Hybrid meeting.**

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

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

OTHERS PRESENT: Rowland Davis, Sarah Ray, Brandy Saxton, Rod Francis, Media Factory.

AGENDA:

1. Call to Order
2. Approval of Agenda
3. Approval of Minutes (6/8/23)
4. Disclosures/Potential Conflicts of Interest
5. Open to the Public
6. Discussion: Legal Framework & Structure of Land Use Regulations
7. Other Business
8. 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 Shawn Sweeney, to approve the agenda.

VOTING: unanimous (6-0)[Marla Keene not present for vote]; motion carried.

3. APPROVAL OF MINUTES

June 8, 2023

MOTION by Shawn Sweeney, SECOND by Jeff Hodgson, to approve the minutes of 6/8/23 as presented. VOTING: 5 ayes, one abstention (Jean Sirois)[Marla Keene not present for vote]; motion carried.

4. DISCLOSURES/POTENTIAL CONFLICTS OF INTEREST

None.

5. OPEN TO THE PUBLIC

Rowland Davis, resident, mentioned the comment by a DRB member on rapid growth in the town and the request at the Selectboard meeting for information on the wastewater treatment plant capacity and ability to support the town's annual growth rate.

Matt Lawless, Town Manager, stated the Planning Commission will be asked for recommendations on the capital improvement plan update as more details on capital projects that are coming up are developed.

6. DISCUSSION: Legal Framework & Structure of Land Use Regulations

Consultants, Brandy Saxon and Rod Francis, reported meetings held to date with various town committees/groups include Housing, Equity & Diversity, DRB, Natural Resources, Historic Preservation & Design Review. The consultants reviewed the history of Euclidean zoning in the country and the redlining of land uses. Vermont is a Dillon's Rule state where the state grants authority to towns versus Home Rule (local control). After the interstate was built in Vermont growth happened and in 1968 24VSA117 was drafted to govern town land use. In 1970 Act 250 was enacted for planning, regulation, land use, and development. Shelburne adopted zoning in 1963 and subdivision regulations in 1986. Relevant sections of the land use law 24VSA117 to Shelburne's bylaw update/rewrite include:

- 24VSA4411 (use of land, structures, public health, safety, and welfare)
- 24VSA4412 (what a town must do and cannot do)
- 24VSA4413 (state limits on what a town can regulate)
- 24VSA4414 (types of regulations a town can have)
- 24VSA4416 (site plan review: parking, traffic circulation, landscaping, screening, lighting, signs)
- 24VSA4417 (planned unit developments)
- 24VSA4418 (subdivision bylaws)

The consultants noted the rewrite will begin with Article 2 (Administrative Procedure) followed by Article 4 (Site Design Standards), Article 3 (Zoning District Standards), Article 5 (Use & Performance Standards), Article 6 (Environmental Protection Standards), Article 7 (Subdivision and PUD Standards), Article 1 (General Provisions), and Article 8 (Definitions). There was a question on building design and traffic impacts. Brandy Saxton assured the items are discussed under the Use Standards.

The Planning Commission was asked to focus on the sections identified in the memo that require policy decisions or substantive change, and to flag any language or sections that are not clear and understandable. Planning Commission comments and questions will be included in the meeting packet.

There was brief discussion of financial lending institutions requiring a plat for an individual condo in a building complex.

7. OTHER BUSINESS

Table at Farmers Market

A table will be staffed at the local farmers market to explain to the public the scope of the zoning project, the impetus for the project, support by the town, schedule of work, and how the public can engage and participate.

DRB Application

Aaron DeNamur mentioned there is an application before the DRB for an amendment to the Final Plan for relocation of a utility easement.

8. ADJOURNMENT

MOTION by Stephen Selin, SECOND by Jean Sirois, to adjourn the meeting.

VOTING: unanimous (7-0); motion carried.

The meeting was adjourned at 8:54 PM.

RScty: MERiordan

Comments from Marla Keene

Hi Aaron,

I am going to be out of town for the August 10 meeting. I have reviewed Chapters 2000 through 2200 inclusive, and am out of time to review the remainder, though if time allows tomorrow I'll try and provide comments on at least the cover memo for 2300 onward.

20001.A Replace "administrative officer" with "Administrative Officer." Consistency - if ZA and AO are interchangeable, use one term throughout regulations.

2102.B Disagree with filing of impact fees prior to filing plat. I believe this is a potential legal issue - the Town should not collect fees when there is no development creating impacts (and subdivision of land does not create impacts)

2107.A Replace "filing" with "obtaining" or "demonstrating issuance of". Filing means in the land records.

Fig 2-01 and 2203.C(3) Disagree with 2 years to complete construction. Suggest substantially commence & good faith effort to complete. Some projects take more than 2 years and the Town gains nothing by expiring a permit when a good faith effort is ongoing.

2201.B(1) It is overly complex to require a letter. Applicant and owner signature on form (as indicated in (4)(a)) is sufficient.

2202.F(2) Consider requiring a performance surety for temporary permits to cover cost of removal of the temporary use

2202.H(2) and other locations. Filing in the land records of permits is not required, it is sufficient to have record of permits

2203.B add (4) Such request shall be made prior to expiration of the appeal period

2203.E take out entirely. Applicant may request buildings BE phases, but without specific phasing, how does the ZA know what infrastructure goes with what?

2203.H Leaving permit notice up during entire construction duration is more than is required. Consider changing to "during appeal period through conclusion of any subsequent appeal"

2206 Disagree with change to "certificate of compliance." If the concern is conflation with fire marshal's inspection, suggest "certificate of completion." Certificate of compliance is typically reserved for Bianchi ruling

2206A(1) Specify how the determination is made

2206A(3) Permits for development should include the required infrastructure for buildings and not be conditioned on them.

2206A(4) If the Town doesn't issue Bianchi letters, this shouldn't be hidden 3 subparts deep

2206.B There is no need for certificate of completion for subdivision of land

2206.E add (5) Issuance of a certificate of completion does not constitute public acceptance of approved infrastructure, which is subject to separate inspection and Selectboard action

2206.F Specify how the determination is made that a property is eligible for a temp certificate. What is the decision matrix?

Figure 2-03 Can 2304 - 2307 be consolidated into minor site plan?

Footprint lots - change "may be legally necessary" to "may be requested." This is never legally necessary but is instead a preference of financial institutions.

2301.A Consider changing "may request" to "shall request." PC discussion.

2301.F add "if applicable" to indicate not all applications must be referred to the DRB

2301.I and other locations. Deemed approval paragraph is repeated at least three times. Can it be used once?

Comments from Jeff Hodgson

Hi Aaron

Here are my questions / comments on Admin Procedures:

2302: Figure 2-04 General application Requirements.

3.) Drawing Standards: While a plan should be allowed at a larger scale to show the overall site design, it should not be a substitute for breaking the site down into 1" = 30' sheets for detail. It sounds like someone could just submit a 1" = 200' scale drawing and be done with it. You would never be able to read anything.....

4.) Lighting Plan Drawings: I think what you are asking for here is a Photometric Plan demonstrating compliance with the lighting standards.

5.) Landscape Plan Drawings: The plan should include size of plant material at time of installation. Also a cost estimate showing that they have met the minimum required landscape expenditure (if required). Something like:

Detailed landscaping plan, specification of materials, costs, and phasing plan, including vegetation to remain, types of new plant materials, identified by common name and botanical name, sizes of all new plant materials by height and/or diameter at time of planting and at maturity, quantities of each of the planting materials, and treatment of the ground surface (paving, seeding, or groundcover) for all plantings, screening, buffering, and stormwater infiltration.

2302: Figure 2-05 Site Plan application Requirements:

3.) Resources and Hazards: Shouldn't "steep slopes" be defined since we are requiring them to be shown?

4.) Landform & Grading: 5' contour intervals really do not show anything unless it is a really steep site. Should they be required to be 1' or 2' max?

2305: Figure 2-08 Environmental review criteria.

2.) Soils and slopes: Define "Moderate to steep slopes"?

10.) Energy efficiency: Seems vague

2404 Waivers:

2.) "not more than 50% to a dimensional standard" Does this also apply to building height or just horizontal dimensions?

2600 Violations & Penalties:

Is this just for administrative procedure violations? Will other violations be listed somewhere else? (Fences, abandoned cars etc..)

2604 Municipal Civil Complaint Ticket:

- I don't understand the waiver fee - what is this?

Jeff

Zoning Regulations Article 2 - Tom Karlhuber, General Thoughts

1. Add an Application Overview Spreadsheet to give a big picture description of the Shelburne Zoning Applications, Reviews, and Process
 - a. A “Shelburne Zoning for Dummies” - The Basics/General info for people who know nothing about the process
 - b. Application triggers
 - c. References to Regs sections
 - d. Staff can pull this out and walk people through in relation to their project/questions
2. I am interested in the relationship between the Regulations and the Design Review Criteria (eliminating redundancy, when do the regs override or deem design review unnecessary)
3. Does the scope of the Regulations Review/Reform include the application documents?
4. Will there be a Definitions section?
5. The “Purpose” paragraph is very helpful and should be added to most Sections if missing.
6. When the Zoning Administrator or DRB requests additional materials from an applicant, what defines what are appropriate requests?
 - a. Is there a list?
 - b. Where does the jurisdiction end?
 - c. Can this be challenged?
7. How do staffing, application load, etc impact the durations in the regs?

MEMO



To: Shelburne Planning Commission
From: PlaceSense
Date: 2 August 2023
Re: Online Comments and Email List

There are currently 80 subscribers to the project email list. The following comments or questions have been posted to the project website since July 6:

From Rowland Davis on July 8: Jim White’s comments are right on point, and clearly expressed. I would add that the consultant recommendation on page 22 of their report anticipates at least some of these issues: “Retain and strengthen the conservation subdivision provisions in the unserved areas of town. Consider a formalized process for site evaluation and resource area selection with SNRCC functioning in an advisory committee role as a pre-application step.”

At the last PC meeting I raised a comment about the conservation subdivision process — as referenced in the PlaceSense audit report. I asked if there was a good example of a VT town implementing this process into their bylaws.

The question was never really answered. Comments were made about how most of the recent subdivision activity in the rural Shelburne district have been just small (2-3 parcel) subdivisions, so the issue of clustered development and the application of the “standard” conservation subdivision process was not really applicable. That may be true for recent activity, but I certainly hope that this response was not intended to imply that future large subdivision activity is not a distinct possibility for Shelburne. There are 25 land parcels in Shelburne of 100+ acres, and 15 of these appear to be privately owned and could be developed in the future. The total area of these 15 parcels is over 3,000 acres — about 20% of the total Shelburne land area.

Here is a useful link to a VNRC document that includes a chapter on the principles for conservation subdivision and a description of how they have been implemented through the bylaws in the town of Warren. This particular subject chapter starts on page 54 of the document. These are the kinds of examples that I sincerely hope will be brought forward to the PC for consideration as part of the bylaw rewrite project.

<https://vnrc.org/wp-content/uploads/2019/08/VNRC-Forestland-Conservation-10-1-links.pdf>.

From Don Rendall on July 11: After meeting tomorrow night with SNRCC, how will I upload the meeting minutes into the public record here on the Shelburne page? And, I am not seeing any other meeting minutes from your other outreach meetings. I was hoping to get at the DRB notes for instance. Could they be displayed in the Task list of the informal meetings?

From Rowland Davis on July 26: I Thank you for the 7/18 meeting with representatives from the Shelburne Alliance For the Environment, where we focused on the details surrounding bylaw provisions that will help to protect Shelburne's natural spaces and resources, including open spaces. In discussions to date, these protections have often been linked to our rural districts, but there are also very important natural spaces within the town's growth zones (i.e. within the area served by wastewater infrastructure). These also need the same kind of protective measures, and this is a specific goal within the Town Plan (Chapter One: Future Land Use):

3. Within the Growth Areas, foster compact, walkable, and connected development patterns established with due regard having been given to conservation of exceptional natural resources.

From Don Rendall on July 31: I think I caught an error in the admin procedures draft. on page 2.24 section 2305.E describing the involvement of SNRCC figure 2-07 is referred to as what we will review. Should this actually be figure 2-08? Thanks for checking and I'll keep reading!

SAFE review of PlaceSense Audit Report

I EXECUTIVE SUMMARY

A. Housing Barriers: key findings

- 1) New housing bill: We acknowledge that we must change the density allowances and the types of housing permitted. However, the new law does not mandate ignoring any and all other laws still in place regarding natural resources
- 2) Walkable, interconnected neighborhoods: A high priority in our town plan: However, there is little in the Town Plan (TP), or elsewhere, that states that this should be attained by adding more roads and streets. In fact, the town plan emphasizes that all regulations should minimize (not increase or encourage) automobile use. 'Through streets' actually destroy neighborhoods. They do not connect them; they tend to divide them. On the other hand, neighborhoods connected by open spaces meets several town plan goals at once (decrease auto use and increase neighborhood connectivity).
- 3) Simplify the regulations: We acknowledge that the bylaws need simplifying. But, the essence of the town plan must not be ignored in the process.

B. Town Plan conformance with regulations: key findings

- 1) Natural Resources protection: PS states that these threats are in the past and that we've conserved enough. We do not believe this to be true. Please provide some basis for this assessment. Furthermore, currently 'conserved' lands have varied levels of protection, or none at all. These variations cannot be counted equally, or assumed to be permanent, or in perpetuity. There is nothing 'ensured' about the ability to preserve the rural character of Shelburne.
- 2) Improved stormwater regulations, best practices and brought up to the state standard: We agree.
- 3) FBC extended to other areas of town: There have been and continue to be significant problems in its current iteration. We would be very interested in any detail about proposed tweaks to the FBC, and/or any 'hybrid' version, along with explanations of why it would be better, how it would deal with existing problems, and why it should be expanded to less developed areas. What are the hoped-for benefits?
- 4) Basic standards: We do not believe that our open space objectives can be adequately met by conventional site plan review and subdivision standards. Why are we not looking to more fully incorporate 'conservation design' models (aka Randall Arendt) in all districts of Shelburne?
- 5) Dillon's rule: Yes. However, the state has granted the town authority over a broad range of issues, many of which focus on natural resources.

6) Omissions, Missing components or Questions not answered. We have questions about areas of the town regulations other than housing, and how they conform, or not, with the town plan and/or other state statutes: For example:

- a. There is very little mention/discussion of regulations around natural resources issues, despite recommendations throughout the TP to strengthen all regulations around natural resources. Does PS agree that we need to do a detailed analysis of these in this current review of our regulations? Does PS believe that the town regulations conform with our TP regarding the natural resources section?

Examples in the town plan recommending regulation changes:

- Clearly recommends that both zoning bylaws and subdivision regulations be amended so that development reviews use a ‘stepwise’ process, beginning by “...identifying resources that are high priorities for protection. Determine priorities for protection by reviewing (maps, docs, etc.) ... and by conducting on-site investigations. Then, look for ways that development might fit in around those features and resources.” (TP, p. 26, Objective #1.1).
 - subdivision criteria: limit or restrict development in core forested areas, and requires compliance with 2017 Vt Forest Action Plan; Act 171 (TP, p. 26, objective 1.1).
 - site plan and design review process that does not jeopardize rare or threatened habitat types, species, geological formations, other natural features. Requires pre-development site visit (TP, p. 30, objective #2.2)
 - develop land use regulations that result in developments that maintain and enhance ... natural resources. (TP, p. 39, Objective #6.1, emphasis added).
- b. There is no mention of Act 171 in the audit report. Does PS believe that our town regulations conform with our TP regarding Act 171, forest blocks (FB) and habitat connectors (HC)?
 - c. There is no mention of possible upcoming obligations as a result of H. 126 (the Community Resilience and Biodiversity Protection Act). Does PS believe that our town regulations conform with our TP regarding H. 126 and likely increased requirement for future set-asides? The audit deals with S.100; it should also address this upcoming mandate.

II ZONING REGULATIONS

p. 4 Purpose – PS suggests that this be more specific, especially regarding housing. There is no mention of natural resources, or other issues, needing more specificity. Why? Does PS believe all other issues in the purpose section are sufficiently specific to withstand challenges?

p. 4 Permitted Uses – Rural: PS refers to Enabling Better Places Guide (EBPG) for the Rural area. These guidelines are specifically and only intended for downtowns, village centers, and neighborhoods within walking distance to them. According to the guide itself, ‘neighborhood’ “...does not include the large lot exclusively single-family subdivisions in rural areas.” (EBPG, p. 13). It’s use here seems inappropriate.

p. 5 § 340 – PUD-Rural District: Reference to EBPG. Again, not appropriate for the rural area. Why raise the threshold for mandatory PUDs (i.e., # of lots; whether a new road required)? Why is PS recommending the reduced use of PUDs in this district while simultaneously recommending a continuation of their use, in section 1930.3 (Residential) on page 14 of its audit report?

p. 5 § 410 – Permitted Uses – Residential District – PS states that the new housing law requires the town to allow up to 4-unit dwellings in ‘serviced areas.’ PS suggests allowing this as a permitted use in all districts. This appears to be in direct conflict with both Act 171 and potentially with Act 126 as well. The Town Plan is explicit and frequent in speaking to the goal of protecting our forests, forest blocks, and habitat connectors. (throughout the TP: CH I: pgs. 8, 16, 18; all of CH II; even in the introduction to CH VI on housing!). Why does PS recommend this? Certainly, this would be a change in the policy in effect in the sewer service areas, and the town plan is very clear that when considering “...any changes to ... sewer service area policies...recognize the primacy of the Town’s Future Land Use map. That is, recognize the Future Land Use Plan as the primary vehicle for expressing Shelburne’s desired future land use pattern.” (TP, p.53, Objective #2 re: Growth and Development).

p. 6 § 430 – Dimensional Requirements – Residential district.

1) PS suggests that because Growth Area 2 is serviced with sewer and water, that “portions of the district could be eligible for an NDA designation.” Where does PS envision these portions of the district are, and on what basis? Our understanding of the Neighborhood Development Area (NDA) designation is that this is inappropriate in much of this district. The permissible location of an NDA is an area which measures out “...one-quarter mile from each point around the entire perimeter of the designated village boundary. [24 VSA § 2793e(b)(1)(B)].

2) PS suggests that EBPG recommends having no base density cap in the residential district because it is served by sewer. Please explain how PS intends to strike the required balance with the TP requirements of Act 171 and all the other natural resource goals in the TP.

p.9 § 1010 – Permitted Uses- Mixed Use District

PS suggests using NDA here: However, it appears that no part of this district is within the ¼ mile criteria for the designation (TP, p.24, Map 3, Composite Future Land Use).

p.10 § 1040 – PUD – Residential in Mixed Use District

PS suggests eliminating the PUD process, stating that the use of PUDs “indicates an underlying problem with the bylaws,” yet, has not indicated what that problem is. It is our understanding that the PUD process allows the DRB some flexibility in order to meet a town’s planning objectives (i.e., increase density in mixed use areas, increase affordable housing, and protect open spaces). We believe that PUDs should still be allowed, but the regulations ought to be specific as to where, when, and under what circumstances flexibility is allowed. Why PS is suggesting we do away with PUDs altogether?

p.10 Article XIII - Conservation District –

PS suggests reducing the minimum lot size to avoid fragmentation. We applaud efforts to avoid fragmentation. However, to the extent that development occurs in the Conservation District, we must also put in requirements for more compact, clustered designs. To do so without would certainly not comply with the town plan. Allowing development to be controlled only by non-

regulatory means (whether public or conservation organization ownership) simply abdicates our responsibilities. We believe we should follow our TP which suggests several, more nuanced approaches that can help in the conservation district with the fragmentation issue. (TP, p. 36, objective 3.4)

p.11 § 1900.3 – Site Plan Review Standards

PS states that site plan reviews which include traffic impacts exceeds the town's authority, while it is ok to include in conditional use reviews. The state authorizing statute seems to clearly say that it is ok to impose conditions and safeguards re: "...the adequacy of parking, traffic access, and circulation for pedestrians and vehicles..." [24 VSA § 4416(a)]. Please cite the legal authority for this view, and explain what we may have misconstrued.

p.12 § 1900.13 – Conditions

PS cites the new housing bill which will prohibit the DRB from placing conditions that prevent a maximum potential development within a zoning district (re: lot size, building size, height, and density), but neglects to indicate the required balancing inherent in the new law, which does preclude the DRB from doing this, UNLESS there are specific constraints, i.e., conditions related to natural restraints. We believe the Conditional Use review is a perfect place to ensure that the overarching goals of our town plan takes place – where we can abide by the new housing law, while taking into consideration the specific contexts within Shelburne and also complying with Act 171 regarding FB and HCs, within every district.

p. 14 § 1930.3 – PUD Residential

1) PS cites EBPB which, again, we believe is intended for village centers and those areas in close, walkable, proximity to them. Instead, we feel this is where we need a more detailed discussion of the specific contexts of Shelburne

2) PS again makes a reference to the use of PUDs as an indication of an underlying bylaw problem. Please elucidate what that problem is.

3) PS suggests that 'separate' residential developments are isolated if they are connected by an 'open space,' but without road connection. We are confident that people residing in those areas would greatly disagree. 'Through roads' destroy neighborhoods. This is contrary to the town plan goal of reducing automobile use and encouraging pedestrian/walkability. PS suggests that these 'open space' connectors are not suitable as recreation areas. They most certainly are. Why does PS believe they are not?

4) We are encouraged that PS suggests using a 'conservation subdivision' model here, but want to know whether this term is used to indicate a design type similar to that promoted by Randall Arendt's 'conservation design,' or whether PS uses the term indicating some other model. It is our understanding that the American Planning Association recommends at least 50% of lands be 'set aside' as permanently protected in any 'cluster' or conservation development models. We also ask whether the term used by PS refers to both the design and the process?

p. 15 § 1980.2 - Existing small lots

PS suggests eliminating the requirement of merging non-conforming lots in all but the lakeshore district. Why does PS believe a different standard is appropriate there?

OMISSIONS/MISSING/QUESTIONS:

There is little or no comment regarding either the Lakeshore Overlay, nor the Floodplain and Watercourse overlay Districts. Does this indicate that PS believes our bylaws in these areas all comply with the town plan and state statutes? Or does PS believe these are adequately dealt with elsewhere?

III SUBDIVISION REGULATIONS

p.17 Purpose –

PS suggests adding more specifics regarding a “full range” of housing options. The Town Plan (Ch. 6) uses terms such as ‘workforce,’ ‘affordable,’ ‘variety,’ ‘diverse,’ and ‘rental and ownership properties.’ Is the term ‘full range’ as used by PS an indication something different? In the town plan chapter on housing, the goal is “To have an adequate supply of housing to accommodate a diverse array of residents, but which does not adversely impact the town’s scenic and natural resources....” (p. 62).

p. 17 § 800 (10) – Fiscal Impact

PS suggests eliminating a required fiscal impact study. Why? Knowing the possible effects of a development on any or all parts of Shelburne and on town services is critical to encouraging the kind of development that improves Shelburne and enables the town to plan and prepare for burdens and increases the ability for the town to cope.

p. 18 § 810 – Site Preservation

PS suggests eliminating the standard of protecting natural resources anywhere except the rural district. There are many natural (and cherished) resources within every district. The Town Plan does not limit resource protection to the rural district. It distinguishes them by listing both, referring to “...areas of conserved and rural lands...” Not one or the other, but both rural and conserved lands (TP, p. 4, Vision). Much of the FBs, HCs, and other natural resources are in the growth and serviced areas. This does not seem to comply with the necessary balancing of interests require by our town plan.

This approach seems like a great oversimplification: An all or nothing, rural = natural resources and protection; everywhere else = development with little or no regard for natural resources. This also raises the question of whether PS believes the rest of this section is in compliance with regard to endangered species, wildlife habitat, etc. Again, an analysis of whether or not we are in compliance with 171 would allow a more nuanced and accurate discussion of the issue. Although one third of the funding for the zoning revision might be aimed at spurring housing creation, we are concerned with how little attention PS is giving to other legitimate issues.

p.18 § 900 (1) – Street Arrangement

1) PS suggests connecting and extending streets between subdivisions. As stated above, we believe this is in direct conflict with our town plan (to decrease auto use/reliance) and, in fact, works to destroy neighborhoods. Most roads are not pedestrian-friendly. Connecting

subdivisions via walking paths and sidewalks is a much better idea, and we agree. Design standards should be set to "...promote walkable neighborhoods..." and to "...pursue bicycle/pedestrian paths that connect residential neighborhoods to each other...." (TP, p.18, Objective #5, Growth Area 2). In the Municipal and Regional Planning and Development Goals [24 VSA §4302(a)], the state statute refers to "the invasion of 'through traffic'" as something to protect against.

2) PS suggests restricting cul-de-sacs for similar (and other) reasons. Again, we believe more roads encourage auto use, is contrary to many town plan goals, and has a negative effect on neighborhoods.

IV TOWN PLAN

p. 20 Future Land Use – General

PS suggests better definitions in the bylaws regarding terms that are used in the Town Plan. We agree. PS specifically notes that 'significant views' ought to be more clearly defined and that the bylaws should refer to its map. PS then suggests using the Quechee Test regarding 'aesthetics.' Why impose Act 250 standard here? Are there reasons why we should not impose other Act 250 standards elsewhere? The TP specifies that the desirable forms of development throughout the town, "...enhance existing scenic characteristics ... safeguard the integrity of natural resources." (TP, p. 8, objective #7, Emphasis added).

p. 20 Growth Area 1 – Village

1) PS suggests that it is inconsistent to have different standards between Growth Areas 1 and 2. Please explain why. They are two vastly different areas. They should not be subject to exactly the same standards and norms, simply because they both have sewer service. This seems to be a broad sweep without attending to the specific realities on the ground. The town plan clearly delineates a hierarchy of densities in the different districts with Growth Area 2 being the fourth out of 5 of least density:

- Highest residential density: Village Center Area
- Next highest residential density: Mixed Use Area
- Third highest residential density: Village residential and Shelburne Falls Areas
- Next to lowest residential density: Residential areas in Growth Area 2
- Lowest residential density: Rural Area (TP, p. 23, CH I – Land Use Summary)

2) PS also suggests allowing for "other centers of development in the community," (emphasis added) not just the Village Center. PS suggests consolidating districts to make way for "small, neighborhood serving businesses ... in the serviced residential areas..." However, this does not conform with our town plan which repeats the state goal of planning development to "...maintain the historic settlement pattern of compact village and urban centers separated by rural countryside." (24 VSA § 4302 (c)(1). Our Town Plan does NOT call for multiple commercial centers.

p. 21 Future Land Use – Growth Area 2

1) PS suggests that FBC, or a hybrid/simplified form of it be maintained for Shelburne road, north, and be extended to growth area 2. There are many issues with FBC as currently written, and the public in Shelburne is not currently on board with this notion, to be sure.

2) PS also states that there are “relatively few large tracts of serviced land remaining for greenfield development.” Again, this feels as if there has been no inventory, exploration, or examination, on-the-ground in Shelburne. There are large swaths of forests and undeveloped land in Growth Area 2. (See recent Arrowwood and SNRCC layered mapping).

3) PS states that the development threats to Shelburne are in the past and are not happening now. Please provide a basis for this statement. The state planning statute requires that all plans and regulations “...shall be based on existing conditions and probable future trends, and shall be made in the light of present and future growth and requirements....” [24 VSA § 4302 (d)].

4) Please define what you mean by the term “underutilized land.” Does PS acknowledge that land left undeveloped has value.

5) PS suggests that the balance (required by our TP in several places) between growth and resource protection can be met by developing Growth Area 2 to the maximum potential, as long as the Rural District is not. This is not a balance, but a trade-off, and is in direct conflict with any notion of ‘conservation design’ as promoted by Arendt. We do not believe that ‘balance’ means giving up everything in one area to protect another. The goal for Growth Area 2, stated in the TP clearly mandates that “development shall be arranged to provide maximal protection to natural resources....” (TP, p. 16, goal). And, “everywhere in Growth Area 2 protect natural resources by pursuing smart or compact development policies that reduce auto-dependency, enhance water quality....” (TP, p. 17, objective #3)

6) PS states that there is a limited supply of buildable land within the serviced areas. Please provide the data and basis for this belief.

7) PS suggests prioritizing ‘functional’ resource protection. Please define what PS means by ‘functional’ protection. Where does that term come from, and who gets to decide whether ‘it’ is functional?

8) PS discourages ‘setting aside’ a specific percentage of ‘open space’ that it is not ‘programmed’ nor actively managed or maintained. Where in the town plan or state statutes does it say that is required.

9) PS uses the term “idle land” when referencing ‘open space’, and infers that the only or main purpose is to provide visual buffers. PS mentions ‘ecosystem services’ elsewhere, but then here dismisses as a mere attempt to save scenic views. We have requirements as a result of Act 171. There is much more to save than scenic vistas – a functioning ecosystem with FBs and HCs to enable wildlife to survive and continue to be a part of our town.

p. 22 Future Land Use – Rural

1) PS suggests ‘conservation subdivisions’ in the unserved areas. Please define PS’s use of the term, and indicate whether it is similar to and in line with the likes of conservation design by Arendt.

2) PS suggests we integrate all the maps from the Town Plan into the Bylaws. We heartily agree. PS references the “natural resource inventory currently being completed.” Is this a reference to the recently completed Arrowwood study?

3) PS refers to design standards with compact, clustered, high density, small units, with set asides for open space. We agree, if the intention is in line with Arendt’s ‘conservation design.’

p. 23 Natural and Scenic Resources and Land Conservation – Chapter 2

1) PS notes the history of subdivision in the rural area over the past 30 years or so. Please indicate the source of these statistics.

2) PS suggests that we emphasize natural and scenic resources in the Rural area, referring to it as two sides of the same coin. We strongly disagree. There are beloved resources in all districts. “Important natural and scenic resources are located throughout the town’s Rural and Conservation Districts as well as within designated growth Districts. ... It is important to plan for the conservation of these open and forested areas...” (TP, p. 25-26). The Rural District is not the only place, and this approach does not abide by the goals and aims of our town plan: to plan for conservation in all areas. For example, the TP refers to a village conservation area which “...provides informal recreation opportunities and visual and functional access to the LaPlatte River Nature Park.” (TP, p. 13). In the TP chapter on housing, it states: “It is important that Shelburne explore settlement patterns which help preserve forests, viewsheds, wildlife corridors, and water quality.” (TP, p. 61, Chapter Introduction).

3) PS suggests that resource protection can be attained via conventional zoning and subdivision, and infers that the existing standards merely emphasize buffering and viewscapes, and do not “maximize functional value” of other natural resources. We couldn’t disagree more fervently. First, please explain why PS believes existing standards address only viewscapes. Second, viewscapes and scenic characteristics are closely tied to our economic wellbeing in town. “Shelburne’s identity is intimately linked with its visual character...” and “Protecting Shelburne’s visual quality also makes good economic sense.” (TP, page 5). Third, our town plan is very clear that our regulations must be strengthened “...to minimize the overall impact of the built environment and to sustain the greenspace essential for preserving the future environmental and economic health of Shelburne...” (TP, p. 25, emphasis added). A lessening of standards is not warranted, nor in compliance with the TP.

p. 26 Parks and Recreation – Chapter 5

1) PS suggests that we require recreation lands and ‘amenities’ within developments and particularly in serviced areas, but that if not, a fee ‘in lieu’ might be required. We agree that recreation and/or open space, should be part of all development projects, but disagree with an in-lieu fee if it is not. Monies collected do not address the issue of space, greenery, habitat, etc.; It is not an equal trade-off, and therefore is not in compliance with the town plan.

2) PS suggests that ‘open space’ concept should be used to obtain ‘functional open space.’ How does PS define this term, and who gets to decide if a space is ‘functional,’ and to what standard?

3) PS suggests differentiating between the terms ‘open space’ and ‘recreation.’ We agree.

4) PS suggests requiring interconnected streets. This could be appropriate and in compliance with the town plan in some areas, but is not in a vast number of other areas.

5) PS suggests requiring interconnected sidewalks and paths. We enthusiastically agree.

P. 28 Transportation - Chapter 8

1) PS suggests – more streets! This is counter to one of the primary goals/aims of our town plan as well as the state planning statute (24 VSA § 4302(c)(7)(A): To discourage use of automobiles, and encourage walkability and the use of public transportation.

2) PS suggests decreasing parking area requirements in service/growth area to 1/du “to meet the requirements of NDA program.” We believe that much of the service/growth area 2 does not meet the requirements for being part of an NDA.

p. 29 Energy – chapter 9

PS suggests compact development patterns with smaller footprint, in walkable neighborhoods, served by transit, in proximity to basic services. We agree wholeheartedly.

Audit Report PRESENTATION Issues & Questions

- 1) PS made a claim that about 30% of the land in Shelburne has already been conserved. This is an apparent assumption that every method or level of protection is equal. This is not necessarily true. Please provide the numbers and source for that assessment.
- 2) PS made a statement about how much development in the rural district has taken place. Please provide the basis for that statement.
- 3) PS recommends that Shelburne rethink its resource protection implying that it has been based solely on ‘aesthetics.’ Please provide any background provoking that idea. Does PS acknowledge that there are other valid reasons for resource protection and/or conservation?
- 4) PS stated that the scope of the Town Plan exceeds its municipal authority. Please explain what is meant by this, and a source.
- 5) How does PS analyze the effect of Airbnb’s on our housing issue? Please describe whether and how a town’s regulations could address it.
- 6) Please define the term ‘open space’ or ‘conserved lands’ as used by PS.

BEGINNING LIST OF DEFINITIONS NEEDED

Conserved Land

Developable Land

Forest Block

Habitat Connector

Natural Resources

Open Space

Recreational Space

Serviced Area an entire district? X# feet from end of pipe? or some other criteria? Defining this could go a long way to lay to rest a lot of concerns.