



Town of Shelburne, Vermont

PLANNING COMMISSION MEETING AGENDA
SHELburne TOWN OFFICES, 5420 MAIN STREET
WEDNESDAY, AUGUST 25, 2021
IN PERSON MEETING; ZOOM OPTION DETAILS BELOW

PLEASE NOTE CHANGE FROM REGULAR MEETING DAY

Join PLANNING COMMISSION Zoom Meeting

<https://us02web.zoom.us/j/88276630589?pwd=RVVQOW9kTFA3aGVKbUs4aHZiSDQzZz09>

Meeting ID: 882 7663 0589; Passcode: hULUS9

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Meeting ID: 882 7663 0589; Passcode: 970673

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|--|------------------|
| 1. Call to order/roll call | 7:00 P.M. |
| 2. Approve agenda | 7:00 P.M. |
| 3. Approve meeting minutes of August 11, 2021 | 7:00 P.M. |
| 4. Disclosure related to potential conflicts of interest | 7:05 P.M. |
| 5. Public comments on matters not on the agenda | 7:10 P.M. |
| 6. Proposed zoning amendments, continued; including but not limited to: | 7:15 P.M. |
| Fences | |
| Boundary Line Adjustments | |
| Lot Mergers | |
| Subdivision Regulations | |
| Opportunities for Administrative Review | |
| DRB Review Process | |
| Sidewalk Requirements/"Sidewalk Fund" | |
| Planning Standards for Planned Unit Developments | |
| 7. Municipal Planning Grant proposal | |
| 8. Other business, including meeting schedule going forward | 8:30 P.M. |
| 9. Adjourn | 8:30 P.M. |

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

August 11, 2021

***Hybrid meeting held in-person and via teleconference.**

MEMBERS PRESENT: Steve Kendall (Chair); Jason Grignon (Vice Chair); Marla Keene, Stephen Selin, Deb Estabrook, Neil Curtis. (Jean Sirois was absent.)

STAFF PRESENT: Lee Krohn, Town Manager.

OTHERS PRESENT: Mark Sammut, Mike Major, Don Rendall, Gail Albert, Media Factory (Wendy).

AGENDA:

1. Call to Order
2. Approval of Agenda
3. Approval of Minutes (7/14/21)
4. Disclosures/Potential Conflicts of Interest
5. Open to the Public
6. Proposed Zoning Adjustments
 - o Fences
 - o BLA
 - o Lot Merger
 - o Subdivision Regulations
 - o Opportunities for Administrative Review
 - o DRB Review Process
 - o Sidewalk Requirement/"Sidewalk Fund"
7. Other Business/Correspondence
8. Adjournment

1. CALL TO ORDER

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

2. APPROVAL OF AGENDA

MOTION by Stephen Selin, SECOND by Deb Estabrook, to approve the agenda as presented. VOTING by rollcall: unanimous (6-0); motion carried.

3. APPROVAL OF MINUTES

July 14, 2021

MOTION by Jason Grignon, SECOND by Neil Curtis, to approve the minutes of 7/14/21 as presented. VOTING: 5 ayes, one abstention (Stephen Selin); motion carried.

4. DISCLOSURES/POTENTIAL CONFLICTS OF INTEREST

None.

5. OPEN TO THE PUBLIC

- Gail Albert urged the Planning Commission to address the comments on zoning adjustments sent in by Shelburne Natural Resources Committee.

6. PROPOSED ZONING ADJUSTMENTS

Fences

Staff noted the proposed definition clarifies when a permit is needed for a fence or when there can be administrative review or DRB review is necessary. Wording relative to the 800' threshold will be added. Also, wording will be added to address use of barbed wire fence for agricultural purposes.

There was discussion of the installation of a fence on the property line and the property owner's responsibility to know the location of the property line. There was agreement the text in the regulation should read: "Fences may be installed up to and upon a property boundary."

There was discussion of fences not interfering with wildlife corridors and how a wildlife corridor is determined to exist. There was agreement the language should say a fence "shall not interfere" with a wildlife corridor and objective sources, such as ANR BioFinder, will be used along with site specific study to determine where a wildlife corridor is located.

Neil Curtis urged showing contextual details in the proposed zoning adjustments document that will go to public hearing so both the old and new language can be seen.

Boundary Line Adjustment (BLA) and Lot Merger

Staff suggested the definition say "boundary line adjustment" and administrative approval should be allowed. Lot merger can be included in this section as well. The Planning Commission concurred.

Subdivision Regulations

The Planning Commission concurred with the following suggested changes:

- Remove land uses from the definition because, for example, a shopping center or multi-family building are typically on one lot that has multiple uses. The lot is not being subdivided.
- Remove the language about complying with the comprehensive plan because the plan is not a regulatory document. If there is uncertainty in the regulations then the comprehensive plan can provide guidance.
- Remove the \$2 million threshold for a fiscal impact analysis due to today's cost of construction.
- Maintain the 50-dwelling unit threshold for now.
- Remove "open fields and core forests" in Section 1930.3 – PUD Residential to avoid conflicting language that says houses should be built in the forest and continuous forest blocks should be maintained.

Opportunities for Administrative Review

Staff suggested non-material changes be approved administratively. The Planning Commission concurred. There was a question of whether a change of use in a conditional use approval needs a public hearing. Staff will get a legal opinion on this matter.

DRB Review Process

The Planning Commission concurred with a two step review process: Sketch to Final Plan.

Don Rendall urged involving Shelburne Natural Resources Committee in the earlier stages of review. Gail Albert said some developers have even asked for input prior to submitting a sketch plan.

Sidewalk Requirements/"Sidewalk Fund"

The Planning Commission concurred with requiring a developer to contribute to a reserve fund for a future sidewalk in town rather than build a "sidewalk to nowhere".

Mark Sammut, DRB Chair, urged looking at the big picture on pedestrian connectivity.

7. OTHER BUSINESS/CORRESPONDENCE*Meeting Schedule*

The goal is to have the Planning Commission meeting nights return to Thursdays in September.

8. ADJOURNMENT

MOTION by Deb Estabrook, SECOND by Stephen Selin, to adjourn the meeting.

VOTING: unanimous (6-0); motion carried.

The meeting was adjourned at 9:19 PM.

RScty: MERiordan

FENCES

Need to delete “fences” from the definition of Building or Structure (Section 2110.18)

Section 2110.18: Building or Structure - These terms are used interchangeably and mean any construction, erection, assemblage or other combination of materials upon the land for occupancy or use, including without limitation, buildings, mobile homes, walls, fences, signs, antennas, swimming pools, tennis courts, driveways and utility sheds.

Then: Create a new section under Article XIX, General Regulations, to follow Section 1980.10, Retaining Walls

New Section 1980.11 Fences

Fences may be installed up to and upon a property boundary. While it may be advisable to install a fence slightly within one’s property to allow for maintenance on both sides, no other setback requirement applies, unless:

Otherwise prescribed in an underlying subdivision or PUD permit;

Must be placed at least five feet back from a public sidewalk.

Fences shall be installed so that the smooth or finished side faces out toward adjoining properties.

Fences shall not:

Interfere with sight distances at intersections with streets, driveways, or other passageways;

Interfere with nor block natural drainage flows or surface water;

Interfere with mapped wildlife corridors as found on the Vermont Agency of Natural Resources BioFinder map < [Vermont ANR - BioFinder3](#)> or other verified source;

Be constructed of corrugated metal or fiberglass, barbed/razor/ribbon wire (although barbed wire is permitted for agricultural purposes), broken glass, or other similar materials. Chain link fences shall have closed loops or other protective material at the top.

Fences located within the Village Design Review Overlay District (or other design review overlay district as may exist in the future) require review and approval of the Historic Preservation and Design Review Commission. Otherwise, fences up to four feet tall that meet the above criteria are exempt from permitting, unless 800 feet in length or longer, in which case an administrative zoning permit is required. Fences between four and eight feet tall of any length require an

administrative zoning permit; fences more than eight feet tall and of any length require DRB review and approval (although fences up to ten feet tall and up to 800 feet in length to enclose tennis, basketball, or other similar facilities may be approved administratively; otherwise, DRB review and approval is required).

Then: Add a new section 1535.7: Fences to the list of subsequent administrative approvals for minor projects that are approved by the HPDRC.

1535 Allowance for Administrative Review in the case of minor projects.

Language in Section 1520 referring to DRB approval notwithstanding, certain qualifying activities may be administratively approved by the Zoning Administrator upon the issuance of a positive recommendation by the SHPDRC. (The SHPDRC shall retain authority to refer applications to the DRB when the activities do not clearly conform with sections 1535.1-1535.6). Those qualifying activities are:

- 1535.1. Alterations or additions to a single-family or two-family residential structure or residential accessory structure.
- 1535.2. Construction or installation of a single-family or two-family home residential accessory structure.
- 1535.3. Temporary signs.
- 1535.4. Fully conforming Permanent signs.
- 1535.5. Minor modifications to applications previously approved by the DRB, which in the judgment of the SHPDRC, have minimal effect on the appearance of the previously approved structure or have limited visibility from public vantage points.
- 1535.6. Minor alterations to a non-residential building or site, including changes of use, which in the judgment of the SHPDRC, have no effect on the appearance of the building or site, or have limited visibility from public vantage points.
- 1535.7 Fences

ARTICLE IIIA: BOUNDARY LINE ADJUSTMENTS and LOT MERGERS

Amend definition of Boundary Line Adjustment in Article II of the Subdivision Regulations:

Current: ~~BOUNDARY ADJUSTMENT—A division of land for the purpose of adjusting boundaries between adjacent lots or parcels where no new lot is created.~~

New: A change in the boundary or boundaries between adjoining lots or parcels where no new or additional lots or parcels are being created.

Amend definition of Legislative Body in Article II of the Subdivision Regulations:

Current: LEGISLATIVE BODY - The ~~Board of Selectmen~~ of the Town of Shelburne.

New: LEGISLATIVE BODY - The Selectboard of the Town of Shelburne.

Then: retain or replace existing sections of the Subdivision Regulations as noted below. This is a summary; the complete text as proposed to be changed is on the following pages.

300A: Boundary Line Adjustments – replace existing section to read:

Boundary line adjustments may be approved administratively where:

- _____ No new lots are created;
- _____ No new nonconformance is created;
- _____ No conditions of prior approvals are violated (building envelopes, PUD buffers, and the like).

The Administrative Officer retains the authority to refer any such application to the Development Review Board at the Officer’s sole discretion, if questions or concerns arise that are not resolvable at the administrative level. If referred for DRB review, then those notice and hearing requirements apply.

310A: Application materials: retain, but require only one copy of plans and materials, not three

320A: Planning Standards – delete as redundant; covered above in 300A

330A: Intiial Review – delete; no longer needed

340A: Notice – simply require notice as required by state statute

350A: Issuance of Decision – no longer needed; redundant; covered by new 340A

360A: Form of Mylar – retain in part; delete in part where not needed. By definition, if a new lot is being created, then it can't be approved as a boundary line adjustment, and by definition and operation of law, if further subdivision is proposed in the future, it will be governed by the bylaws in effect at that time.

370A: Recording of Mylar – retain

380A: Retention of Jurisdiction – delete. By definition and operation of law, if any further subdivision is proposed in the future, it will be governed by the bylaws in effect at that time.

ARTICLE IIIA: BOUNDARY LINE ADJUSTMENTS AND LOT MERGERS

300A BOUNDARY LINE ADJUSTMENTS

~~Applications for boundary adjustments shall be approved as described in this section. Any boundary adjustment, as defined in Article II, must satisfy the requirements of this section, must be approved in accordance with this section, and shall be submitted to Staff for filing with the Town Clerk.~~

Boundary line adjustments may be approved administratively where:

No new lots are created;

No new nonconformance is created;

No conditions of prior approvals are violated (building envelopes, PUD buffers, and the like).

Lot mergers may be approved administratively.

The Administrative Officer retains the authority to refer any such application to the Development Review Board at the Officer's sole discretion, if questions or concerns arise that are not resolvable at the administrative level. If referred for DRB review, then those notice and hearing requirements apply.

310A APPLICATION MATERIALS

Technical plans, drawings, property surveys, etc. shall be prepared by a licensed architect, engineer, or surveyor. A complete application shall include a written summary of the proposed project, a narrative describing how the proposed project complies with all applicable bylaws, names and addresses of adjacent property owners (if an adjoining property is owned as common land by an owners' association, the applicant shall provide the name and address of the president of the owners' association), ~~three (3) copies~~ one 11x17 size and one 24 x 36 size paper copy and a digital PDF copy of the proposed plan(s) and supporting written materials, and the following:

- (a) Identifying Information:
 - (i) Address of parcel being subdivided.
 - (ii) Name and address of owner(s).
 - (iii) Name and address of any professional advisors.
 - (iv) Date
 - (v) Zoning district(s) involved.
- (b) A fee as may be established by the Town Selectboard;
- (c) A scale drawing ~~submitted to Staff~~ showing the existing and proposed boundaries between the relevant lots;
- (d) An indication of whether or not either of the lots involved was part of a previous subdivision and is so, when that approval was granted. **NOTE: WHY IS THIS RELEVANT/NEEDED? EACH PROPOSAL IS A NEW APPLICATION TO BE CONSIDERED UNDER THE BYLAWS IN EFFECT AT THAT TIME. DO WE REQUIRE EVERY OTHER ZONING APPLICATION TO PROVIDE ALL HISTORICAL INFORMATION?**

320A PLANNING STANDARDS

A boundary adjustment must satisfy the following:

- ~~(a) The proposed boundary adjustment shall not create any new lots.~~
- ~~(b) No existing lot shall be made non-conforming or more non-conforming.~~
- ~~(c) The total acreage being transferred as a result of the boundary adjustment may not exceed the minimum lot size in the zoning district in which the property is located, or no more than one acre if the property is located in a zoning district that has no minimum lot size. If a larger area is being transferred, the proposal must be treated as a minor subdivision.~~

330A INITIAL REVIEW AND DEVELOPMENT OF A DRAFT DECISION

~~Upon determining that an application for a boundary adjustment is complete, Staff shall review the application, prepare a draft decision for the Development Review Board, and place the matter on the agenda for the Development Review Board as a consent item at the next available meeting.~~

340A NOTICE

~~Staff shall notify the applicant, adjacent property owners, and other interested parties of the application for a boundary adjustment, the draft decision, and the date on which the Development Review Board will consider the matter on its agenda as a consent item, at least fifteen days prior to the meeting. Notice shall be provided as required by state statute.~~

350A ISSUANCE OF DECISION

~~Following action by the Development Review Board, the decision shall be issued in accordance with Section 420 of these Regulations.~~

360A FORM OF MYLAR

When the proposed boundary line adjustment or lot merger has been approved, ~~by the Development Review Board,~~ the mylar suitable for recording shall be prepared showing all relevant information, bearings and distances of perimeter boundary lines, monumentation in accordance with Section 980 on all corners of each lot, and all easements, and certification by a registered land surveyor that information is based on deed research and field information. ~~In addition, the following language shall be printed on the mylar:~~

~~“This boundary line adjustment does not constitute the creation of a separate parcel of land. It only adjusts the physical location of the boundary of these adjoining parcels. Any future subdivision and/development of these new parcels must be approved by the Town of Shelburne Development Review Board. This plan is approved, subject to all requirements and conditions of this approval, on the _____ day of __, 20__.~~

~~by _____ Chair”~~

370A RECORDING OF MYLAR

The mylar shall be filed in accordance with the provisions of Section 1030 of these Regulations. A fee, payable by the applicant, will be charged to file the mylar and is due at its submittal.

380A RETENTION OF JURISDICTION

~~Any further subdivision of a lot created by the approved Boundary Adjustment shall require subdivision approval in accordance with these regulations.~~

SECTION 1900.11 AS IT EXISTS: GENERAL REGULATIONS, ADMINISTRATIVE REVIEW

Suggested complete strikeout and replacement as noted below

~~1900.11 Administrative Review. In accordance with 24 V.S.A., Section 4464(c), administrative review of very minor site plan review applications and requests for minor site plan amendments is hereby authorized. Department of Planning and Zoning staff may review and approve an application for site plan approval or amendment to an approved site plan if the applicable conditions listed below are satisfied.~~

~~A. An application is eligible for Administrative Review if:~~

- ~~1. The application is for construction of an accessory structure of less than 500 square feet of building footprint.~~
- ~~2. The application is for construction of a deck, access stairway, or patio of less than 500 square feet of area.~~
- ~~3. The application is for adjustment or relocation of any utility, utility box, stormwater facility, or other structure that is consistent with the intent and conditions of a previously approved site plan.~~
- ~~4. The application is for minor alterations to an approved landscaping plan such as substitution of appropriate species, provided that the total value of landscaping is equal to or above that approved by the Development Review Board.~~
- ~~5. The application does not involve the construction or relocation of a principal structure on the site.~~
- ~~6. The application involves the addition of parking, paving, or other impervious surface amounting to not more than five percent of the total impervious surface on the site.~~
- ~~7. The application involves the change in use of all or some of the existing building space from one permitted or approved conditional use to another permitted or approved conditional use.~~
- ~~8. The application does not involve an addition to a principal structure of more than 500 square feet of building footprint.~~
- ~~9. All coverage and other limitations set forth in these Regulations will be satisfied by the proposed development.~~

~~B. Notification of Development Review Board. Upon granting administrative approval, staff shall notify the Development Review Board of such action at its next meeting.~~

~~C. Appeal. Any administrative review decision by staff pursuant to this section may be appealed to the Development Review Board in accordance with the provisions of 24 V.S.A., Chapter 117, and these Regulations. Furthermore, an applicant may, at any time prior to the issuance of an administrative decision, request that an application otherwise eligible for administrative review be reviewed by the Development Review Board~~

SUGGESTED REPLACEMENT SECTION

1900.11: ADMINISTRATIVE REVIEW – suggested as a replacement for the entire existing section

Minor, non-material amendments to previously approved land development may be reviewed and approved administratively. “Non-material” means project elements proposed to be modified that do not undermine nor negate conditions deemed necessary in prior approvals to satisfy bylaw requirements. These may include, but are not limited to:

Relocation of site improvements or accessory structures, as long as all other relevant requirements (setbacks, site coverage limitations, etc) remain satisfied;

Reapproval of plans previously approved by the DRB that may have expired, where no material changes from those previously approved plans are proposed, and where no relevant zoning bylaws have changed would otherwise alter the approvability of those plans;

Approval of plans showing minor adjustments based on “as built” field measurements after construction that do not create material changes to underlying requirements or conditions of approval;

Minor changes to approved landscaping plans, such as substitution of species or materials that will still satisfy the qualitative and functional purposes intended.

Increases in building size and/or site coverage totaling less than 5000 sq ft or 3%, whichever is smaller.

Changes in use of buildings or sites, where all other site or permitting requirements remain satisfied.

The Administrative Officer retains the authority to refer any such application to the Development Review Board at the Officer’s sole discretion, if questions or concerns arise that are not resolvable at the administrative level.

DEFINITION OF SUBDIVISION

As discussed, the current definition is overly complex. It includes reasons for subdividing land, which are not our purview, and it includes land uses that are not necessarily subdivisions at all. This is an area where we have created needless redundancy, requiring projects that are not subdividing land to go through subdivision review. Projects should be reviewed for what they actually are.

This definition currently reads:

~~SUBDIVISION – Any land, vacant or improved, which is divided or proposed to be divided into two (2) or more lots, parcels, sites, or plots for the purpose of offer, sale, lease, or development. The term includes amended subdivisions and resubdivisions. The term shall also include: the development of a parcel of land as a shopping center complex, except those reviewed and approved under Article XXII of the Shelburne Zoning Bylaw; multi-family housing project, except those reviewed and approved under Article XXII of the Shelburne Zoning Bylaw; elderly housing project, except those reviewed and approved under Article XXII of the Shelburne Zoning Bylaw; planned unit development; and industrial park development. The term does not include condominium conversions that solely change the form of ownership of a parcel of land or a structure without new land development.~~

The definition is proposed to read:

SUBDIVISION - The division of any lot or parcel of land into two or more lots or parcels of land. The term does not include condominium conversions that solely change forms of ownership of lots or parcels of land or structures.

**1910 CONDITIONAL USES – clarify opportunity for administrative review
AWAITING LEGAL ADVICE**

Note that certain exemptions from further conditional review already exist as follows:

1910.3 Exemption. ~~Within a given zoning district, a change from one conditional use to another conditional use of the same category shall not require conditional use approval, provided that the new conditional use occupies no more floor area than the original conditional use. For example, within a zoning district that allows retail uses as a conditional use, a change from one retail establishment to another retail establishment in the same space shall not require conditional use approval.~~

I suggest a “strike all” of the above and replacement with the below. This actually provides a stronger approach than now exists. The current language only speaks to floor area, which is a poor proxy for potential impacts of a new conditional use. As proposed below, this would allow a more impact-related analysis, which is really the heart of conditional use review to begin with.

New 1910.3:

Exemption: Within a given zoning district, a change from one conditional use to another conditional use may be approved administratively, if found by the Administrative Officer to be a minor, non-material change in size or the nature of conditional use related impacts that can reasonably be anticipated as compared with the previously approved conditional use and as authorized as described in Section 1900.11.

The Administrative Officer retains the authority to refer any such application to the Development Review Board at the Officer’s sole discretion, if questions or concerns arise that are not resolvable at the administrative level.

SUBDIVISION REGULATIONS, ARTICLE VIII, PLANNING STANDARDS:

Suggest deleting references in Section 800 (5) to compliance with the Comprehensive Plan. It is backwards to have a zoning or subdivision bylaw require conformance with a town plan; the bylaws are supposed to be a way to help implement the plan. Town Plans are not (and by definition, are not intended to be) regulatory documents.

Please note two other suggested changes: add the word “relevant” as noted below; we shouldn’t be requiring compliance with “any other” bylaws at all, for many don’t apply. I’ve also suggested changing the passive language “is in compliance with” to the more active and proper “complies with”.

That section would then read:

Whether the proposed development complies ~~is in compliance~~ with the Shelburne ~~Comprehensive Plan~~ Zoning Bylaws and any other relevant bylaws then in effect. ~~Compliance with the Shelburne Comprehensive Plan shall be required when the proposed development is subject to Plan language that is specific and mandatory.~~

Suggest reconsidering the reference in Section 800 (10) to “construction costs exceeding 2 million dollars” as a threshold determinant for requiring a fiscal impact analysis. \$2M is no longer the significant project cost that it used to be. If 50 dwelling units is the truly useful threshold here, then stick with that as related to potential impact as has been agreed. Construction cost really has nothing to do with potential fiscal impact.

That section would then read:

Whether the anticipated tax return from the proposed development is equal to or exceeds the cost of anticipated municipal services and facilities directly attributable to the proposed development and whether the proposed development will place an unreasonable burden on the ability of local government units to provide municipal or governmental services and facilities. Preparation of a fiscal impact analysis (FIA) by a qualified professional shall be required of any development exceeding 50 dwelling units ~~or construction costs exceeding 2 million dollars.~~

Section 1930.3: Planned Unit Development – Residential

As suggested by NRCC to delete the phrase as shown below. It was agreed that if as written, building envelopes should avoid open fields and core forests, then where can they be placed? Note that this still maintains the more logical prohibition that building envelopes cannot include sensitive areas such as wetlands, floodplains, or steep slopes. Of course, this begs the question of where or whether “steep slopes” are defined in the regs. It may be, although there is no discrete definition. Many bylaws define steep slopes as being or averaging 20% or more, which at least used to be consistent with wastewater rules prohibiting septic systems on slopes of 20% or greater. Since we are working to simplify or clarify matters where we can, I suggest we accept the change below as suggested and agreed, and not dive too deeply here or elsewhere at this time. Otherwise, we’ll dig ourselves into the proverbial rabbit hole and make no progress. Let’s make simple, clear changes where we can, and not overcomplicate matters right now, realizing more work may still be needed later.

C. Design Standards for PUD-Rs, including those in the Rural District.

1. Where residential lots will abut agricultural lands or lands used for agricultural purposes within the preceding ten years, lot layouts shall be designed to minimize potential conflicts with agricultural operations. Whenever possible, property lines should follow existing manmade or natural features.
2. Building envelopes and no-cut zones shall be required by the Development Review Board to ensure the preservation of site features. Building envelopes ~~should avoid open fields and core forests and~~ shall not include sensitive areas such as wetlands, floodplains or steep slopes.
3. Roadways shall be designed to minimize site disturbance by following existing contours and site features.
4. Open space within PUD-Rs should preserve agricultural, recreational or natural resources, or serve as buffers to adjoining areas. Land set aside as open space should be of a size, type and location to meet its intended use.

DRB REVIEW – SUMMARY; ACTUAL BYLAW SECTIONS FOLLOW

There was clear consensus between the PC and DRB to change the current “three-step” process for subdivisions to a two-step process. This approach retains Sketch Plan Review, and then essentially combines Preliminary and Final Plan Review into a single process. As noted previously, this in no way decreases the depth and thoroughness of review. All substantive standards will still be upheld, and the overall review process can take as few or as many hearings as needed to ensure that those standards are satisfied. However, it will save considerable time, effort, and expense for all parties, and will also help to ensure that any desirable or necessary input from all involved is received earlier in the overall review process. Interestingly,

Article III: Sketch Plan would remain “as is” for the most part.

I do suggest eliminating Section 300 (2) which requires applicants to research adjoining landowners and submit addressed envelopes. It is far simpler and more efficient for Town staff to do this work, and then we know that all of the proper parties have been identified and notified. It is understood that not all agree with this approach.

Section 320: Classification would no longer be needed, for there will no longer be distinction between minor and major subdivisions. Interestingly, it appears that minor subdivisions can already proceed from sketch to final plan review, so we’re now just adopting that existing approach for all subdivisions.

Section 330: Review Checklist should be revised to eliminate reference to “conformity with the Town Comprehensive Plan”. Explanation was given above for this in another section.

Section 340: Effect of Sketch Plan Action – delete reference to preliminary plan.

Article IV: Minor Subdivision Application and Procedure – delete entire section.

Article V: Major Subdivision Application and Procedure – delete entire section.

Article VI: Application Submission Requirements – Section 600 is retitled ‘submission requirements’; the first sentence changes “preliminary plans” to ‘subdivision plans’; Section 610 is retitled simply “Final Plat”; and

Incorporate Sections 560: Final Plat Hearing and 570: Decision into appropriate locations, and delete reference to the Planning Commission in Section 560 and anywhere else it might appear (clearly a leftover reference to the ‘old days’, predating formation of the DRB).

ARTICLE III: SKETCH PLAN

300 APPLICATION AND PROCEDURE

For the purpose of classification and preliminary discussion, any subdivider of land shall, prior to submitting an application for subdivision approval and following a pre-hearing conference with Planning and Zoning Staff, submit to the Development Review Board Administrator at least twenty one (21) days prior to the regularly scheduled meeting of the Development Review Board at which the matter may be heard, a SKETCH PLAN of the proposed subdivision, which shall include the following information:

- (1) Name and address of the owner of record and applicant.
- (2) Submit a list and three (3) addressed envelopes for each current owner of record of all contiguous properties and owners of properties directly across any public right-of-way.
NOTE: I SUGGEST DELETING THIS; BETTER FOR STAFF TO DO. NOT ALL AGREE.
- (3) Names and addresses of all professional advisors, including license seals and numbers.
- (4) Boundaries and area (in area) of: a) all contiguous land belonging to the owner of record; and b) of proposed subdivision.
- (5) Existing and proposed layout of property lines; type and location of existing and proposed restrictions on land, such as covenants and easements.
- (6) Type of, location, and approximate size of existing and proposed streets, utilities, and open space.
- (7) Date, true north arrow and scale (both numerical and graphic).
- (8) Delineation of significant physical features such as water courses, drainage ways, marshes, wooded areas, geologic outcrops which are within or near a subdivision.
- (9) A location map showing the relation of proposed subdivision to adjacent property and surrounding area.
- (10) Sketch plan map to be on a topographic map at a scale not to exceed 1" - 200'.
- (11) A written statement of proposed development plans, general timing of development and construction and proposed covenants or restrictions.
- (12) If the owner of record is not the applicant, a letter from the owner of record authorizing the applicant to apply for subdivision approval must on submitted.
- (13) Copy of a statement certifying that, consistent with Act 146 of the Acts and Resolves of the 2009-2010 Legislative Session and 24 V.S.A. § 4463(d), the applicant has: a) been

informed they are responsible for identifying and obtaining state permits before beginning construction on a project and (b) discussed with the Regional Permit Specialist the preparation of a Project Review Sheet, which the permit specialist completes to provide preliminary jurisdiction for all state permits.

310 ATTENDANCE

The subdivider, or his/her duly authorized representative, shall attend the meeting of the Development Review Board on the sketch plan to discuss the requirements of these regulations for streets, improvements, Stormwater Management, sewerage, water supply, fire protection, and similar aspects, as well as the availability of existing services and other pertinent information. Notice of sketch plan review shall be sent to all parties identified in Section 300(2) of these regulations.

~~320 CLASSIFICATION~~

~~The Development Review Board shall classify the subdivision proposal as either a MAJOR SUBDIVISION or a MINOR SUBDIVISION, using the definitions given in Article II.~~

330 REVIEW CHECKLIST

The Development Review Board shall review the sketch plan taking into consideration the requirements of these subdivision regulations, the zoning ordinance, and other bylaws then in effect. ~~The Development Review Board shall also consider the Sketch Plan's conformity with the Town Comprehensive Plan.~~

The Development Review Board shall, where it deems necessary, make general or specific recommendations and/or suggestions to be incorporated by the applicant in his/her subsequent submissions. Such written recommendations shall be sent to the applicant after the expiration of the meeting or any continuation thereof. The Development Review Board may also require, where necessary for the protection of the public health, safety and welfare, that a Minor Subdivision comply with all or some of the requirements specified in these regulations regarding Major Subdivisions.

340 EFFECT OF SKETCH PLAN ACTION

Approval of a sketch plan shall not constitute approval of the subdivision plat and is merely authorization for the applicant to file a ~~preliminary plan~~ or final plan application. Should the Development Review Board disapprove a sketch plan, it shall notify the applicant in writing of the reason for such disapproval.

ARTICLE IIIA: BOUNDARY LINE ADJUSTMENTS – SEE SEPARATE PAGE FOR NEW LANGUAGE FOR BOUNDARY LINE ADJUSTMENTS AND LOT MERGERS

ARTICLE IV: MINOR SUBDIVISION APPLICATION AND PROCEDURE

400 — APPLICATION

~~Within six (6) months of receiving authority to proceed for a Minor Subdivision, the subdivider shall submit a complete application for final approval of a subdivision plat to the Development Review Board Administrator. If the application is not made within six (6) months, then a new Sketch Plan must first be submitted for review in accordance with Article III of these regulations. The application shall contain those items set forth in section 610 of these regulations and shall conform to the layout shown on the Sketch Plan plus any recommendations made by the Development Review Board. The aforementioned requirement notwithstanding, the six (6) month deadline for filing the Final application may be extended by the Development Review Board following discussion at a regularly scheduled meeting upon finding that good cause for such an extension exists.~~

410 — PUBLIC HEARING

~~A public hearing shall be initiated by the Development Review Board within forty five (45) days after the time of submission to the Development Review Board Administrator of an application for approval of a minor subdivision. Said hearing shall be warned in accordance with the public notice provisions of the Vermont Planning and Development Act and notice of the meeting shall be sent to adjoining landowners as identified in section 300(2) of these regulations and those required to receive notice under the provisions of the Act.~~

420 — DECISION

~~The Development Review Board shall, within forty five (45) days after the completion of the public hearing or any continuation thereof, approve, modify and approve or disapprove such plat. Failure to so act within forty five days shall be deemed approval according to the provisions established in 24 V.S.A. § 4464.~~

ARTICLE V: MAJOR SUBDIVISION APPLICATION AND PROCEDURE

500 — PRELIMINARY PLAN APPLICATION

~~Within six (6) months of receiving authority to proceed for a Major Subdivision, the subdivider shall submit a complete application for approval of a Preliminary Plan. The application shall contain those items set forth in Article VI of these regulations and shall conform to the layout shown on the sketch plan plus any recommendations made by the Development Review Board. The aforementioned requirement notwithstanding, the six (6) month deadline for filing the Preliminary Plan application may be extended by the Development Review Board following discussion at a regularly scheduled meeting upon finding that good cause for such an extension exists.~~

510 — PUBLIC HEARING

A public hearing on the study plan shall be held by the Commission after the time of submission to the Development Review Board Administrator of the Preliminary Plan Application. Said hearing shall be warned in accordance with the public notice provisions of the Vermont Planning and Development Act and notice of the meeting shall be sent to adjoining landowners as identified in Section 300 (2) of these regulations and those required to receive notice under the provisions of the Act.

520 — ACTION ON PRELIMINARY PLAN

Within forty five (45) days of the completion of the public hearing or any continuation thereof, the Development Review Board shall approve, modify and approve or disapprove said Preliminary Plan and the grounds for any modifications required or the grounds of disapproval shall be set forth in a written notice of decision. Failure of the Development Review Board to act within said forty five (45) day period shall constitute an approval of the Preliminary Plan according to the provisions established in 24 V.S.A. § 4464. Copies of the notice of decision of the Development Review Board shall be sent to the applicant and any interested parties appearing at the public hearing.

530 — PHASING

At the time the Development Review Board grants Preliminary Plan approval it may require the plat to be divided into two or more phases and may impose such conditions upon the filing of application for final plat approval for each phase as it deems necessary to assure the orderly development of the plat.

540 — EFFECT OF PRELIMINARY PLAN APPROVAL

Approval of the Preliminary Plan shall not constitute approval of the subdivision plat. Prior to approval of the final subdivision plat, the Development Review Board may require additional changes as a result of further study. The approval of a Preliminary Plan shall be effective for a period of one year. Any plat not receiving the final approval prior to the expiration of one year from Preliminary Plan approval shall be null and void, and the subdivider shall be required to resubmit a new plat for Preliminary Plan approval subject to all new zoning and subdivision regulations.

550 — FINAL PLAT APPLICATION

Within six (6) months of Preliminary Plan approval, the subdivider shall submit a complete application for approval of a final subdivision plat. The application must contain those items set forth in Section 610 of these regulations and shall conform to the layout shown on the Preliminary Plan plus any recommendations made by the Development Review Board. The aforementioned requirement notwithstanding, the six (6) month deadline for

~~filing the Final application may be extended by the Development Review Board following discussion at a regularly scheduled meeting upon finding that good cause for such an extension exists.~~

~~560~~ ~~FINAL PLAT HEARING~~

~~A public hearing shall be held by the Development Review Board after the time of submission to the Planning Commission of the complete final subdivision plat application. Said hearing shall be warned in accordance with the public notice provisions of the Vermont Planning and Development Act and notice of the meeting shall be sent to adjoining landowners as identified in Section 300 (2) of these regulations and those required to receive notice under the provisions of the Act.~~

~~570~~ ~~DECISION~~

~~The Commission shall, within forty five (45) days after the public hearing, approve, modify and approve or disapprove such plat. Failure to so act within forty five (45) days shall be deemed approval according to the provisions established in 24 V.S.A. § 4464.~~

ARTICLE VI: APPLICATION FINAL PLAT SUBMISSION REQUIREMENTS

~~600~~ ~~PRELIMINARY PLAN MAJOR SUBDIVISION~~

~~The Preliminary Final Plat Subdivision Plans shall consist of one or more maps or drawings which may be printed or reproduced on paper with all dimensions shown in feet or decimals of a foot, drawn to a scale of not more than one hundred (100) feet to the inch showing or accompanied by the following information:~~

- ~~(1) Proposed subdivision name or identifying title and the name of the Town.~~
- ~~(2) Name and address of owner of record, subdivider, and land surveyor of the Plat.~~
- ~~(3) Names of all subdivisions immediately adjacent and the names of owners of record of adjacent acreage.~~
- ~~(4) Total number of acres within the proposed subdivision, location of proposed lot lines, number of acres within each lot, structure, water courses, wooded areas, geologic outcrops, and other essential existing physical features, including any endangered species, necessary wildlife habitat, and rare and irreplaceable natural areas identified pursuant to Section 810 of this Bylaw.~~
- ~~(5) The location and size of existing sewer and water mains (on the property or serving the property) with letters from the Shelburne Water Department Superintendent, and the Shelburne Wastewater Superintendent stating that:~~

- adequate capacity exists for the proposed subdivision; or,
- if improvements and modifications are needed to accommodate the proposed subdivision, the subdivider's proposal to address these improvements and modifications is acceptable.

- (6) The location and size of any existing culverts, drains, and stormwater treatment practices on the property or serving the property (see item #25). The application shall also include a stormwater management plan, including provisions for minimizing and treating stormwater during construction and post-construction stormwater management systems. Any erosion prevention and sediment control and post construction stormwater management measures, treatment practices, and/or infrastructure shall meet the regulations and standards of the Vermont Department of Environmental Conservation, and any applicable Town regulations and standards.
- (7) The provisions of the Shelburne Zoning Regulations or other Town Regulations applicable to the area to be subdivided and any zoning district boundaries affecting the tract.
- (8) Location, names and widths of existing and proposed streets, private ways, sidewalks, curb cuts, paths, easements, parks and other public or privately maintained open spaces, as well as similar facts regarding adjacent property (also see item #25).
- (9) Contour lines at intervals of five (5) feet of existing grades and of proposed grades where change of existing ground elevation will be five feet or more.
- (10) Complete survey of subdivision tract by a licensed land surveyor.
- (11) Typical cross sections of the proposed grading, roadways and sidewalks.
- (12) Date, true north point and numerical and graphic scale.
- (13) Details of proposed connection with existing water supply or alternative means of providing water supply to the proposed subdivision. (Also see item #25).
- (14) Details of proposed connection with the existing sewage disposal system or adequate provision for on-site disposal of septic wastes. (Also see item #25).
- (15) If on-site sewage disposal system is proposed, then the location and results of tests to ascertain subsurface soil, rock, and groundwater conditions. All test and design criteria to be in accord with applicable State regulations or standards.

- (16) Provisions for collecting and discharging stormwater in the form of a stormwater management plan. The stormwater management plan must identify the construction disturbance area and demonstrate that stormwater runoff is minimized through the use of natural drainage systems and on-site infiltration and treatment techniques. The plan shall also demonstrate that soils best suited for infiltration are retained and that natural areas consisting of tree canopy and other native vegetation are preserved, preferably in contiguous blocks or linear corridors where feasible, for protection of the best stormwater management features identified in the site assessment.
- (17) Designs of any bridges and culverts which may be required.
- (18) The location of markers adequate to enable the Development Review Board to readily locate and appraise the basic layout in the field. Unless an existing street intersection is shown, the distance along a street from one corner of the property to the nearest existing street intersection shall be shown.
- (19) All parcels of land proposed to be dedicated or reserved for public use and the conditions of such dedication or reservation.
- (20) Location of all natural features or site elements to be preserved.
- (21) List of waivers the subdivider desires from the requirements of these regulations.
- (22) A vicinity map drawn at scale of not over four hundred (400) feet to the inch to show the relationship of the proposed subdivision to the adjacent properties and to the general surrounding area. The vicinity map shall show all the area within two thousand (2,000) feet of any property line of the proposed subdivision or any smaller area between the tract and all surrounding existing streets, provided any part of such a street used as part of the perimeter for the vicinity map is at least five hundred (500) feet from any boundary of the proposed subdivision. Within such area the vicinity map shall show:
 - (a) All existing subdivisions and approximate tract lines of parcels together with the names of the record owners of all adjacent parcels of land; namely, those directly abutting or directly across any street adjoining the subdivision.
 - (b) Locations, widths, and names of existing, filed, or proposed streets, easements, building lines and alleys pertaining to the proposed subdivision and to the adjacent properties as designed in Paragraph (a) above.
 - (c) An outline of the platted area together with its street system and an indication of the future probable street system of the remaining portion of the tract, if the preliminary plat submitted covers only part of the subdivider's entire holding.
- (23) A copy of any proposed covenants and/or deed restrictions which are intended to cover all or part of the subdivision.

- (24) A prospectus describing the management organization or homeowner's association if one is proposed. Included shall be a disclosure statement which will be given to all prospective purchasers detailing responsibility for services, such as maintenance and plowing of roadways within the development. **NOTE: WE DO NOT REGULATE PRIVATE RULES OR HOMEOWNERS' ASSOCIATIONS. WHY DO WE EVEN WANT TO KNOW THIS? IT IMPLIES THAT WE DO HAVE JURISDICTION.**
- (25) Construction drawings on paper and in digital PDF format of all proposed public improvements.
- (26) Lots within the subdivision numbered in numerical order within blocks, and blocks lettered in alphabetical order.
- (27) Proposals and/or offers concerning the manner in which open space, including park and recreational lands and school site areas, are to be dedicated, reserved, and/or maintained or payments proposed in lieu thereof.
- (28) Documentation from the following Town departments or agencies that the subdivider's plans have been reviewed and are deemed acceptable or would be deemed acceptable upon adherence to clearly identified proposed conditions of approval:
- (a) Police department;
 - (b) Fire department;
 - (c) Highway department;
 - (d) Wastewater department;
 - (e) Water department;
 - (f) Town Manager's office;
 - (g) Elementary and High School;
 - (h) Recreation department;
 - (i) Natural Resources and Conservation Committee.
- (29) Landscaping Plan prepared by a landscape architect, master gardener, nursery professional, arborist, professional landscape designer, or other qualified landscape professional.

THEN NEED TO BLEND THE FOLLOWING REQUIREMENTS INTO THE ABOVE

SOME ARE DUPLICATIVE; OTHERS DIFFER. INTENT IS TO BLEND TOGETHER SO THAT ALL REQUIREMENTS ARE INCLUDED.

JUST RAN OUT OF TIME TO GET THIS TO YOU FOR WEDNESDAY NIGHT. IF WE ARE OTHERWISE 'GOOD TO GO' TO WARN A PUBLIC HEARING, I SUGGEST THAT THE WARNING SIMPLY INCLUDE FOR THE RECORD THAT ALL OF THESE REQUIREMENTS FOR FINAL PLAT SUBMISSION WILL BE ORGANIZED AND COMBINED AS NEEDED INTO A COHERENT WHOLE.

~~The final plat for a major and minor subdivision shall conform in all respects to the preliminary plan and sketch plan respectively as approved by the Development Review Board. The subdivision plat shall show:~~

- (1) Proposed subdivision name or identifying title, the name of the Town, the name and address of the record owner and subdivider; the name, license number, and seal of the registered land surveyor, the boundaries of the subdivision and its general location in relation to existing streets or other landmarks and scale, both graphic and numerical and north arrow.
- (2) Street names and lines, pedestrian ways, lots, reservations, easements and area(s) to be dedicated to public use.
- (3) The length of all straight lines, the deflection angles, the radii, length of curves and central angles of all curves, tangent distances and tangent bearings for each street.
- (4) By proper designation on such Plat, all public open space for which offers of dedication are made by the subdivider and those spaces for which title is reserved by him/her.
- (5) Lots within the subdivision numbered in numerical order within blocks and blocks lettered in alphabetical order.
- (6) Permanent reference monuments shown thus " " and lot corner markers shown thus " O ".
- (7) Monuments which shall be set at all corners and angle points of the boundaries of the subdivision and monuments required by Town of Shelburne Public Works Specifications for new roads, at all street intersections, angle points in street lines, points of curve and such intermediate points as shall be required by the Town.
- (8) The location of all the improvements referred to in Section VIII and in addition thereto the location of all utility poles, sewage disposal system, water supply systems, and erosion prevention and sediment control plans, stormwater treatment plans, rough grading and other devices and methods of draining the area affecting the subdivision.
- (9) Construction drawings (paper copies and digital PDF) of all required improvements listed in Section VIII.
- (10) Before final approval of a subdivision plat, or with the consent of the Town Manager as evidenced by letter presented at the Final Plan public hearing, the subdivider shall furnish the Town with an appropriate performance bond to secure the completion of all public improvements and their maintenance for a period of two (2) years, with a certificate from the Board of Selectmen, or its designee, that it is satisfied either with the bonding or surety company, or with security furnished by the subdivider. A

certificate or letter from the Town attorney shall also be filed with the Development Review Board and Town Manager indicating that he or she is satisfied with the form and substance of the performance bond.

- (11) The final plan application for a minor or major subdivision shall be accompanied by a Certificate of Title showing the ownership of all property and easements to be dedicated or acquired by the Town, or reserved, and said Certificate of Title shall be approved by the
Town attorney. Copies of all proposed Offers of Dedication, deeds, easements to the Town shall also accompany the final application, and be approved by the Town attorney.
- (12) A final application for a ~~major or minor~~ subdivision shall include all legal documentation necessary, in a complete and final form.
- ~~(14) A final application for a minor subdivision for which no preliminary plan was submitted shall include the documentation required in section 600 (28).~~

610 FINAL PLAT - MAJOR AND MINOR SUBDIVISIONS

The Final Subdivision Plat shall consist of one or more sheets of drawings which conform to the following requirements: It shall be on mylar clearly and legibly drawn, and the sheets shall be a standard size of 18" by 24" suitable for recording under Vermont Statutes.

Such sheets shall have a margin of two (2) inches outside of the border lines on the left side for binding and a one (1) inch margin outside the border along the remaining sides. The subdivision plat shall carry the following endorsement on the copy to be filed with the Town Clerk:

Approved by Resolution of the Development Review Board of the Town of Shelburne, Vermont, on the _____ day of __, 20_____,
subject to the requirements and conditions of said resolution. Signed this
_____ day of _____, 20____, by, Chairperson.

‘SIDEWALK FUND’ - SUMMARY

1900.7 B may be the area of concern regarding the requirement for the proverbial “sidewalk to nowhere”. This section requires sidewalks in the Residential and Commerce and Industry South zoning districts. Although requiring sidewalks in residential areas may make sense on the surface, the residential district covers a wide-ranging geographic area where the issue has come up before. This was discussed before; a proposed amendment, limited to this subsection, is shown below in context with the existing bylaw.

1900.7 C applies to the Rural and Conservation Districts. While sidewalks are not required there, deeded easements for bike/ped access can be required upon a finding that site-generated demand will exist.

Note also that **1900.7 D** allows the DRB to require provisions for bike/ped connectivity, including deeded easements, in all zoning districts where site-generated demand may exist. Other than the one suggested amendment above, it seems that there are otherwise sufficient opportunities throughout to ensure that all-important opportunities exist for continued build out of bike/ped connectivity in some form.

1900.7 Pedestrian Circulation and Bicycle Accommodation Requirements.

- A. In the Village Center, Village Residential, Shelburne Falls Mixed Use, Museum, Mixed Use, and Commerce and Industry [north] Zoning Districts paved sidewalks shall be required along public and private streets and roads. The sidewalks shall be constructed to standards set forth in the Town’s Public Works Specifications.
- B. In the Residential and Commerce and Industry South Zoning Districts paved sidewalks shall be required along public and private streets and roads. The sidewalks shall be constructed to standards set forth in the Town’s Public Works Specifications. The DRB may in its sole discretion allow an alternative facility such as a path in lieu of paved sidewalk segments to achieve the purposes of this section. Furthermore: Where it can be demonstrated that sidewalks are unnecessary, or where it is unlikely that further sidewalk connectivity will occur via public or private investment, and where even an “alternative facility” is unlikely to ever be needed, then the DRB may instead require an equivalent cost to be contributed to a municipal sidewalk/path reserve fund. The amount of that contribution shall be determined by and equal to a cost estimate to construct an otherwise required sidewalk as submitted by the landowner and prepared by a qualified engineer or contractor.

- B. In other [Rural and Conservation] districts, the Development Review Board, upon finding there will exist site-generated demand, shall require deeded easements parallel with town roads to enable pedestrian and bicycle access to shopping, schools, and recreation areas.
- C. In all districts, the Development Review Board, upon finding there will exist site-generated demand, shall require provisions for future pedestrian trails and walkways and/or bicycle facilities, including deeded easements parallel with town roads. In such scenarios the DRB also may require future connections to adjacent properties in conformance with the Walking and Bicycling Facilities Implementation Table.
- D. The proposed site plan shall show how pedestrian walkways and bicycle paths will connect to similar facilities, existing or planned, on adjacent properties.
- E. Site plans shall clearly demonstrate accommodation of alternative transportation modes. Examples of such accommodation include providing adequate site access for alternative transportation modes providing connections between transportation modes, ensuring safety of users of alternative transportation modes, and providing for amenities such as bicycle racks, shelters, park and ride lots, and similar features.
- G. Pedestrian walkways and bicycle paths shall connect to transit stops and shelters, park and ride lots, and other alternative transportation facilities located on the same lot. Upon finding there will exist site-generated demand, and connections are feasible, the DRB may require pedestrian walkways and/or bicycle paths to connect to transit stops and shelters, park and ride lots, and other alternative transportation facilities located on adjoining properties and/or the public right of way.