



# *Town of Shelburne, Vermont*

PLANNING COMMISSION AGENDA

THURSDAY, April 14, 2022

7:00 P.M.

MEETING WILL BE HYBRID: IN PERSON AND VIA ZOOM

Join Shelburne Planning Commission

<https://us02web.zoom.us/j/88116839405?pwd=SVRGdlVEN2U5ZkxxVzdsTE1WODRhZ09>

Meeting ID: 881 1683 9405

Passcode: rWB9yp

Dial by your location

+1 312 626 6799 US (Chicago)

+1 929 205 6099 US (New York)

+1 301 715 8592 US (Washington DC)

Meeting ID: 881 1683 9405

Passcode: 874042

- |   |                  |
|---|------------------|
| <b>1. Call to order/roll call</b>                               | <b>7:00 P.M.</b> |
| <b>2. Approve agenda</b>  | <b>7:00 P.M.</b> |
| <b>3. Approve meeting minutes of March 10, 2022</b>             | <b>7:05 P.M.</b> |
| <b>4. Disclosure related to potential conflicts of interest</b> | <b>7:07 P.M.</b> |
| <b>5. Public comments on matters not on the agenda</b>          | <b>7:10 P.M.</b> |
| <b>6. Updates: Follow-up items</b>                              | <b>7:15 P.M.</b> |
| <b>7. Hearing: Conduct of Outdoor Business Activity</b>         | <b>7:25 P.M.</b> |
| <b>8. Qualifications for PC new members</b>                     | <b>8:00 P.M.</b> |
| <b>9. SB Memo and DRB/PC Conversation</b>                       | <b>8:30 P.M.</b> |
| <b>10. Adjourn</b>  | <b>9:00 P.M.</b> |



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| <b>5. Public comments on matters not on the agenda</b>          | <b>7:10 P.M.</b> |
| <b>6. Updates: Follow-up items DRB Conversation for 4/28</b>    | <b>7:15 P.M.</b> |
| <b>7. Hearing: Conduct of Outdoor Business Activity</b>         | <b>7:25 P.M.</b> |

\*Public Hearing, 7:25 P.M.

Background:

As you recall, Lee sent a memo to the SB , here is an excerpt :

*As we all know, when COVID first came to light, grave concerns arose about how businesses would survive as various mandates, closures, and other restrictions came into existence. As a Town response, we quickly adopted*

*an interim zoning bylaw allowing greater flexibility for outdoor business activities than otherwise permissible. As the first year of COVID flowed into a second year, we readopted that interim bylaw for a second year.*

*This bylaw is reaching its legal end of life, and will expire on June 30, 2022. As there was no clear or unique statutory path to adopting an interim bylaw permanently, it went through the 'normal' process starting with the Planning Commission.*

The Planning Commission finalized the drafted version of the new bylaw on 3/10/22 and staff warned the public hearing for tonight April 14, 2022. After the Planning Commission votes to adopt the new bylaw this evening, it will be sent to the SelectBoard.

The proposal new bylaw relates to implementing the goals as expressed in the Shelburne Comprehensive Plan (2019) to support Land Use in Shelburne and Economic Development through placemaking: activation of the Town's outdoor spaces. As stated on page 8, "Pursue future land use based on the principles of "placemaking." Placemaking is the process of creating quality places where people want to live, work, play and learn."

Recommendation #1 in the Town of Shelburne Economic Development Report (2021), "Make the current Interim Bylaws for Outdoor Business permanent. Residents highly value local businesses, and they would like to see more small businesses, especially restaurants. Help your local businesses thrive by allowing them to advertise with flexible signage, hold outdoor sales events, lower restaurant parking /table ratios, and allow open dining areas. In essence, don't require your local businesses to "hide" their businesses; let people see what they have to offer."

This proposal makes permanent an interim bylaw that was supported and enjoyed by the town for the last two years.

**MOTION:** I move to open the Planning Commission public hearing on the proposed: Conduct of Outdoor Business Activity: "Outdoor public/private space activation"

Second

Discussion The Board can then discuss the matter among the members, and take public comment as may be offered.

**MOTION:** I move to close the Planning Commission hearing on the proposed new bylaw Conduct of Outdoor Dining

Second

Vote

**Motion** I move to adopt the proposed new bylaw : Conduct of Outdoor Business Activity: "Outdoor public/private space activation."

Second

Vote

**Suggested qualifications to serve on the Town of Shelburne, Vermont Planning Commission**

An openness to discussion and the consideration of the view point of others along with a willingness to compromise. The knowledge of what it means to work on a project in a group setting and to be able to listen, speak and get along. The ability to work effectively with other city boards and commissions, Department staff, and the public in a professional, patient and courteous manner.

A knowledge of the history of the town along with an understanding of all of our citizens and a vision for progressing as a community. Interest in the fields of historic preservation, architectural history, architecture, landscape architecture, planning, natural resources, civil engineering, real estate, construction, or land use law is encouraged.

The willingness to work hard. This is a vital attribute. Great ideas and a desire to be involved are great but there must be a willingness to do the work.

Ability to read and interpret maps, site plans, aerial photographs, building elevations and other related plans and drawings.

Attention to detail, and ability to think in abstract terms.

Ability to make decisions based on the best interests of the community as a whole, rather than those of an applicant or special-interest group

**9. SB Memo and DRB/PC Conversation**

**8:30 P.M.**

The DRB was invited to attend the PC meeting on 4/28  
Memo from the Selectboard (in your packet)

**Adjourn**

**9:00 P.M.**

A VIDEO RECORDING OF THE MEETING IN ITS ENTIRETY IS AVAILABLE THROUGH VERMONTCAM.ORG. THE WRITTEN MINUTES ARE A SYNOPSIS OF DISCUSSION AT THE MEETING. MOTIONS ARE AS STATED BY THE MOTION MAKER. MINUTES SUBJECT TO CORRECTION BY THE SHELBURNE PLANNING COMMISSION. CHANGES, IF ANY, WILL BE RECORDED IN THE MINUTES OF THE NEXT MEETING OF THE COMMISSION.

## TOWN OF SHELBURNE

### PLANNING COMMISSION MINUTES OF MEETING March 10, 2022

#### \*Virtual meeting.

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

**STAFF PRESENT:** Adele Gravitz, Planning Director.

**OTHERS PRESENT:** Members of the public participating in the meeting included Gail Albert, Joyce George, Pete Serensky, Robilee Smith, Lee Suskin, Ann Hogan, Rowland Davis, Media Factory.

Members of the public in attendance included Chris Latta, Monica Lalime, Allyson Myers, Tracey Beaudin, Don Rendall, Diane Davis, Mark Bonifil

#### AGENDA:

1. Call to Order
2. Approval of Agenda
3. Approval of Minutes (2/24/22)
4. Disclosures/Potential Conflicts of Interest
5. Open to the Public
6. Updates/Follow Up Items
7. Finalize Outdoor Dining Bylaw
8. Review Shelburne Road Form Based Mixed Residential Character District
9. Other Business/Correspondence
10. Adjournment

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#### 1. CALL TO ORDER

Chair, Steve Kendall, called the virtual meeting to order at 7 PM. Introductions were done.

#### 2. APPROVAL OF AGENDA

**MOTION** by Neil Curtis, **SECOND** by Jason Grignon, to approve the agenda as presented. **VOTING:** unanimous (5-0); motion carried.

#### 3. APPROVAL OF MINUTES

February 24, 2022

**MOTION** by Jason Grignon, **SECOND** by Deb Estabrook, to approve the 2/24/22 minutes with the following correction(s)/clarification(s):

- **Item #7, COVID related bylaw work, 1<sup>st</sup> paragraph, 1<sup>st</sup> sentence – insert “in some districts” before “are a conditional use,” and rewrite the 3<sup>rd</sup> paragraph to read: “Following further discussion the**

consensus of the Planning Commission is to expeditiously draft a standalone bylaw making the temporary COVID rules permanent.”

- **Item #8, Shelburne Road Form Based Overlay District, 1<sup>st</sup> paragraph, 1<sup>st</sup> sentence – clarify the Selectboard scheduled a public hearing on the matter of multi-family buildings in the Form Based Mixed Residential Character District, and in the 2<sup>nd</sup> sentence – insert “limiting” before “multi-family dwellings” remove “ be eliminated” before from--insert after “ from the Mixed Residential Character District”. In same sentence, remove ‘negative” before impact so sentence reads.. because of the impact on workforce housing that is linked to limiting multi-family dwellings. In the third sentence, add after “at the” insert, “ Shelburne Road Form- Based Overlay District, Mixed Residential Character District”.**

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

#### **4. DISCLOSURES/POTENTIAL CONFLICTS OF INTEREST**

None.

#### **5. OPEN TO THE PUBLIC**

None.

#### **6. UPDATES/FOLLOW UP ITEMS**

The following was noted:

- Marla Keene reported on the first meeting of the Bike/Walk Connectivity Study Group. A white paper on what studies have been done in Shelburne outlining what exists presently and what is recommended was reviewed. Next steps include Advisory Committee Meeting in April, holding second community forum in May, and presenting results to the Selectboard in July.
- Steve Kendall reported the new DRB Coordinator is Aaron DeNamur.
- Adele Gravitz recommended staff, the DRB Chair, and Planning Commission Chair meet to discuss constraints regarding publishing DRB hearing information in the *Shelburne News* given the current timeline requirements by the newspaper.
- Commission suggested Shelburne News needs to be codified as the local paper on record.

#### **7. FINALIZE OUTDOOR DINING BYLAW**

Following discussion, the following edits were made to the bylaw:

- Add “subject to a zoning permit” at the start of the sentence under “Applicability” and delete “and all other businesses” in the sentence.
- Add “Tents shall not be located closer than 5’ to the side and/or rear property lines.” in subsection (E) under “Specific Provisions”.

There was discussion of the definition of “temporary” and having safeguards in place to ensure the status stays as temporary.

**MOTION by Marla Keene, SECOND by Jason Grignon, to warn the Conduct of Outdoor Business Activity bylaw as drafted for public hearing on April 14, 2022. VOTING: unanimous (5-0); motion carried.**

#### **8. REVIEW SHELburne ROAD FORM-BASED MIXED RESIDENTIAL CHARACTER DISTRICT**

There was discussion of points to keep in mind when reviewing the Form-Based Mixed Residential Character District including:

- Guidance on how to address parcels that fall into two districts

- Public comment to focus on density in the residential character district
- Keeping the discussion on the zoning district(s) and not spot zoning
- Thinking about intra-connectivity and the definition of ‘multi-family’
- How density and form-based code is connected
- Other considerations with projects, such as municipal services being adversely impacted, so approval of a project is not automatic under form based code if all items on the checklist are met
- Inconsistencies in language in form-based code relative to building height and roof pitch
- Questions asked and information requested on the application form [The Planning Commission will review the application form at the next meeting.]

## **9. OTHER BUSINESS**

### *In-Person and Zoom Meetings*

In-person meetings can resume in April. Zoom will still be available to the public.

### *Thanks and Appreciation to Neil Curtis and Jason Grignon*

Neil Curtis and Jason Grignon announced they are not seeking reappointment to the Planning Commission.

## **10. ADJOURNMENT**

**MOTION by Deb Estabrook, SECOND by Neil Curtis, to adjourn the meeting. VOTING: unanimous (5-0); motion carried.**

The meeting was adjourned at 9:26 PM.

*RScty: MERiordan*

## **Suggested qualifications to serve on the Town of Shelburne, Vermont Planning Commission**

An openness to discussion and the consideration of the view point of others along with a willingness to compromise. The knowledge of what it means to work on a project in a group setting and to be able to listen, speak and get along. The ability to work effectively with other city boards and commissions, Department staff, and the public in a professional, patient and courteous manner.

A knowledge of the history of the town along with an understanding of all of our citizens and a vision for progressing as a community. Interest in the fields of historic preservation, architectural history, architecture, landscape architecture, planning, natural resources, civil engineering, real estate, construction, or land use law is encouraged.

The willingness to work hard. This is a vital attribute. Great ideas and a desire to be involved are great but there must be a willingness to do the work.

Ability to read and interpret maps, site plans, aerial photographs, building elevations and other related plans and drawings.

Attention to detail, and ability to think in abstract terms.

Ability to make decisions based on the best interests of the community as a whole, rather than those of an applicant or special-interest group



**Article 1980.11**  
**Conduct of Outdoor Business Activity**  
**“Outdoor public/private space activation”**

1. Purpose

The purpose of this bylaw is to protect the general public health and welfare, enhance community vitality, and provide for orderly physical and economic growth of the Town of Shelburne, by allowing commercial establishments to conduct business outdoors, and in more flexible manner.

2. Applicability

Subject to zoning permit, this bylaw applies to all restaurants, retail, and service establishments throughout the Town of Shelburne.

3. Specific Provisions

A. Restaurants may create areas for outdoor dining in front, side, or rear yard areas that do not conflict with adjoining land uses, public sidewalks, or other required parking spaces or traveled ways. Reasonable provision shall be made for separation between dining areas and areas reserved for motor vehicle travel. Dining areas shall not interfere with pedestrian travel or emergency vehicle access. No additional parking shall be required for outdoor seating beyond what is or has been required for regular, year-round indoor dining.

B. Outdoor seating is exempt from the setback requirements of the underlying zoning districts and may use the public sidewalks, but shall not interfere with pedestrian travel by maintaining a 5-foot wide continuous pathway; and shall not reduce the number of on-site required parking spaces for the restaurant by more than 50%. At no time shall outdoor seating or food trucks interfere with pedestrian or emergency access.

C. Outdoor Provision of Services:

Any service establishment may provide their service outdoors. Outdoor provision of services shall be permitted to use the public sidewalks but shall not interfere with pedestrian travel by maintaining a 5-foot wide continuous pathway and shall adhere to the setback requirements of the underlying zoning district; and shall not reduce the number of on-site parking spaces for the specific business by more than 50%. At no time shall the provision of services interfere with emergency access.

D. Outdoor Displays of Merchandise:

Any business holding a valid permit to operate a retail store or restaurant may erect a display of goods offered for sale, or a display which is designed to promote the sale of goods, including produce, products, goods, equipment, prepared food or commodities, outside a building without meeting the area restrictions provided in the Shelburne Zoning Regulations. Outdoor displays of merchandise shall not interfere with pedestrian travel by maintaining a 5-foot wide continuous pathway and shall not reduce the number of on-site parking spaces by more than 50%. At no time shall outdoor displays interfere with emergency access.

E. Temporary Tents for Outdoor Seating, Displays of Merchandise or Provision of Services: Temporary tents may be erected on site, as long as it does not interfere with required parking or pedestrian or emergency access. Tents shall not be located closer than five feet to the side and/or rear property lines.

In no case shall any combination of these provisions interfere with emergency services or reduce the number of parking spaces currently in existence by more than 50%.

All other provisions of the Shelburne Zoning Regulations shall remain in effect.

4. Enforcement of these Bylaws shall be as provided for in Title 24 of State Statute and the Shelburne Zoning Regulations.

5. In accordance with 24 V.S.A., Section 4464(c), administrative review of applications is hereby required. Department of Planning and Zoning staff may review and approve such permit applications.

# memo

## Shelburne Selectboard

To: Stephen Kendall and the Shelburne Planning Commission, Adele Gravitz, Lee Krohn

From: Lee Krohn

CC: Shelburne Selectboard

Date: 4/7/22

Re: Review of Shelburne Zoning Regulations with emphasis on the Shelburne Road Form-Based Overlay District (SR- FBOD) and Mixed Residential Character Overlay District (MRCOD)

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Stephen Kendall, Planning Commission members, et. al.

This is a follow-up memo to our discussion at the most recent Selectboard meeting of March 22<sup>nd</sup> and the hearing held on that date to consider temporary zoning regarding the MRCOD. As you know, a group of residents who live within and adjacent to this district are concerned that the zoning regulations allow for greater “density” in the district that is inconsistent with surrounding neighborhoods, the Town Plan, and the original intent of SR-FBOD. The Selectboard, concerned that this may be an unintended consequence of the MRCOD, proposed an amendment to the regulations that would reduce the height allowance from 3.5 to 2 stories. However, subsequent discussions revealed that this would not necessarily reduce the “density” and so the proposed amendment was defeated, and interim zoning was not implemented.

However, the subsequent conversation also revealed both a consensus that the issues raised regarding the MRCOD need further study and analysis and that we are not quite sure how best to characterize or understand what these issues are. This memo is therefore a request that the Planning Commission examine the issues raised by these discussions and present recommendations to address them to the Selectboard. Briefly then, we are asking you to address the following:

- 1) The main concern regarding the MRCOD is that it permits “too much density” in these parts of Shelburne. Our discussions revealed that “density” is just one way to characterize that concern. This might be better expressed in terms of a lack of conformity with surrounding neighborhoods or dwelling types, height allowances or setbacks, or some combination of these features or other features contemplated by the MRCOD. I believe there was a consensus among the Selectboard that the MRCOD allows for development that may not integrate well with the surrounding neighborhoods. We are asking you to clarify the problem, if there is one, and make recommendations to address them.
- 2) There were general and specific concerns expressed about the SR-FBOD. These included that the process does not allow sufficient community input, that having 2 zoning codes apply in this district complicates and/or obfuscates the process, that the regulations are opaque, unpredictable, inconsistent, etc. The Selectboard would like you to review the SR-FBOD for any issues or problems that you determine to be salient and make recommendations to the board to address them.

Thank you for your willingness to address these topics. We recognize that there are a lot of them. For that reason, it might be best to distinguish between short-term recommendations and longer-term ones. You might also find it useful to address the specific issues of the MRCD and the SR-FBOD versus the more general and global issues of regulatory reform. Please let us know if you would like to schedule a further discussion of these topics as we hope to discuss

regulatory reform for our Spring Selectboard Retreat scheduled for April 30<sup>th</sup> and have made this a priority topic for the coming year.

Please let me know how we can assist you in any way. Thank you for your service to our Town.

