

MEMORANDUM

TO: SHELBURNE SELECTBOARD
VIA: JOE COLANGELO
RE: BYLAW AMENDMENTS
FR: DEAN PIERCE
DA: JUNE 1, 2016

On June 14 the Selectboard is scheduled to discuss the Planning Commission's latest proposal to change the Town's zoning bylaws. As noted in a previous memorandum, the proposal would modify the zoning regulations by adding "Pet Care Facilities" to the list of Conditional Uses authorized in the Commerce and Industry District. The size of any such facility would be capped at 100 animals. In addition, as a Conditional Use, any such facility could not operate without demonstrating conformance with a series of criteria specific to Pet Care Facilities.

The Planning Commission developed the proposal in response to a request from a local commercial realtor and business owner. These individuals presented the Commission with evidence and testimony suggesting that current allowances for the use in the Mixed Use district are too limiting to be economically viable. The Planning Commission's proposed amendment addresses these concerns in a manner the Commission believes is effective and efficient and serves the needs of the community.

The Selectboard is now being asked to consider taking action on the proposal. Should the Selectboard support the proposal as written, it may adopt it, and the changes would take effect in 21 days. The Selectboard may also decide to make changes to the proposal. However, state law would require the Board to warn an additional hearing on the revised proposal.

Finally, by way of background material relating to Pet Care Facility use, I am attaching material shared with Planning Commissioners prior to the Planning Commission hearing on the proposal. I thought it might provide additional context for Selectboard discussion.

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Dog Daycare

More than fun and games

By

[Julie Hecht](#) ^[3]



You have an all-day work event, your dog walker comes down with something and your back-up help is out of town. Then you see the ad for a local dog-daycare facility: "We can help! We offer 12 hours of fun and socialization for your dog." The message is accompanied by cute photos of pooches at play. Should you be sold?

Across the U.S., dog-daycare businesses — franchises and single-owner operations alike — are flourishing. They offer your dog what you sometimes cannot: playmates, companionship and supervision when other commitments take you away from home. Most keep hours similar to those of daycare centers for children: drop your dog off before work, pick her up afterward.

Do dog daycares provide a necessary service for both dogs and owners? Are all daycares created equal? Is dog daycare an option you should consider? The answer is a resounding "It depends."

Marc Bekoff, PhD, a University of Colorado ethologist who has studied dogs and their wild relatives for more than four decades, gives the concept of dog daycare a thumbs-up: "I love the idea. I think they provide a great function. At the same time, daycare should not replace people spending a good deal of time with their dogs." E'Lise Christensen, DVM, and board-certified veterinary behaviorist in New York City, agrees "For healthy, active, social dogs, daycare can be a great outlet for getting exercise and social enrichment."

In fact, this belief is exactly what originally spurred the development of the dog daycare industry. "In the early 1990s, training professionals found there was a need for dogs to get out of the house, socialize and engage in mental stimulation and physical exercise," explains Melinda Miller, hospital director at Smith Ridge Veterinary Center in South Salem, N.Y.

Social play and mental stimulation are the main reasons many people choose to enroll their dogs in daycare. Mat Zucker of New York City has been taking his co-pilot Ezra to Paws in Chelsea three times a week for the last nine years. "When Ezra was a puppy, it was a great place for him to burn off energy, be social and run around. We were worried he would be bored home alone."

Zucker makes a good point. The complex process of domestication did not shape dogs for solitary living (raise your hand if one is napping at your feet as you read this). On the other hand, dogs did not evolve to engage in all-day play sessions either.

The Social Scene

Dog daycare websites feature buzz words like "play," "fun" and "canine friends," words that, for owners, readily elicit images of their dog exuberantly sparring with a new best friend. But what do social experiences at dog daycares look like?

In the daycare setting, dyadic play (play between two dogs) is probably the most prevalent type. A recent study* investigating social play in adult, group-housed dogs at a boarding kennel found that of 343 social-play bouts, all but one were dyadic in nature. "This is not surprising," notes Alexandra Horowitz, PhD, and term assistant professor of psychology at Barnard College, who has studied dog play behavior extensively.** "Dyadic play is an easier dynamic for most dogs than triadic or larger-group play. In a bigger group of players, it would be hard to have play signals in all those different directions, and a dog could certainly miss something. Because of the complexity of play, this high-paced, rambunctious activity needs a lot of coordination."

The idea of giving dogs space to play might seem straightforward enough, but there's more to it than simply providing square feet. Numerous factors can influence the presence, or absence, of happy frolicking. While a dog's physical size warrants consideration when forming daycare playgroups, play style is paramount. Becky Trisko, PhD, behaviorist and owner of Unleashed in Evanston, Ill., knows this well. "A good daycare surveys play styles and groups dogs accordingly. At the same time, [it] also allows flexibility between groups throughout the day to manage personalities and excitement levels."

When it comes to play, turning up the dial is not always better. As Miller explains, "Hyper dogs allowed to get into a frenzy and maintain that level of excitement all day can be worse in the home than they were before they went to daycare. Staff members who help dogs learn about relaxed play and recognize when dogs need time out or a change of pace and rest are helping both dog and owner." Trisko agrees. "Owners often assume that an exhausted dog is a happy dog. But an exhausted dog could also be an irritated dog."

In a well-run daycare, these issues are addressed by handlers who ensure that dogs engage in the congenial play their owners envision. While no formal research has been done to validate these numbers, the consensus is that an ideal handler-to-dog ratio is 1:10, or 1:15 at the outside (Christensen recommends a ratio of 1:5). If groups grow in size, so too should the level of human attention. But even with multiple human hands on deck, large

dog groups can be challenging to manage. Kate Senisi, a former daycare employee, knows this firsthand. "Daycares that create multiple, smaller groups within a space, as opposed to one large group, allow for more direct supervision of the dogs. But that also means that the daycare has to provide additional staff to cover the new groups," she says.

Done right, supervision gives dogs the variety they need within a complex environment. Though many daycares tend to highlight "all-day play," a quick review of online daycare videos reveals dogs engaged in any number of activities. Some dogs play, some watch; others investigate something on the floor, jump on a handler, sit in a handler's lap or lie on the floor. In other words, individual dogs have a range of interests that shift moment by moment, and good supervision can facilitate this variety.

According to Horowitz, it's important that dogs have options and control. "Not to say that the dog is dictating the day, but that the dog has options to be social, to be with a person or by themselves. That would be the highest-quality day: a lot of things to do and being able to make choices about when and with whom to do it."

Handlers perform a critical role in promoting fun and safety. Much like playground monitors, they pick up on individual behavioral cues — for example, noticing when a dog becomes anxious or has simply been playing for three hours straight and could use a change of pace. Fun can quickly disappear when a dog finds himself in an environment that conflicts with his own emotional state.

The often-overlooked aspect of dog daycare is, of course, learning. "An important factor to consider," says Laura Monaco Torelli, director of training at Animal Behavior Training Concepts in Chicago, "is that dogs are always learning, even in the daycare environment." Since most daycares do not explicitly advertise training, owners might not readily notice this aspect. But watch any dog, and you'll find that various behaviors and emotional states are being reinforced, or not reinforced, over the course of the day by humans, other dogs or even the environment. Just as a toddler might return from preschool with his first painting of a flower and a bit of an attitude, so too might a dog return from daycare played out, but a bit jumpier and mouthier than when he went in.

Practical Considerations

At the end of the day, dog daycares are businesses; moreover, they are unregulated businesses. While daycare owners, managers and employees probably become involved in this particular enterprise because they love dogs and are interested in promoting canine welfare, it is an industry with no agreed-upon set of "best practices." Some might have learned the business from authorities such as Robin Bennett or Gail Fisher; for others, a random instructional DVD might suffice.

Some daycares highlight their facilities' bells and whistles: climate control, dog cams, unique flooring or even a particular type of background music. Unfortunately, many daycare websites are silent on the less flashy ethological and organizational considerations that are most relevant to those concerned about their dogs' welfare. For example, daycares rarely describe daily play and rest schedules, handling techniques, procedures for introducing new dogs to the group, criteria that determine how dogs are grouped, handler-to-dog ratios, access to outdoor space and staff first-aid training.

There are many ways to handle the daily influx of bouncing dogs, and at their best, daycares do this by viewing every dog as an individual. Some daycares rely on message

boards to keep track of the different canine personalities gracing their establishments. Descriptors might read: "Don't let anyone jump on Tiger's back. Keep Sam from being overstimulated. Keep Janet from eating rocks or poop." But how do daycares uncover these nuances?

A behavior assessment is the first step toward getting to know each dog's unique ethological needs. Even if a dog has been comfortable in comparable settings, there's no foolproof way to predict how he or she will feel in a novel environment. Each daycare provides a unique stew of sights, smells, sounds, movements and management styles, and any dog could be less than thrilled with the surroundings. Even dogs described by their owners as "social butterflies" or "happy players" do not necessarily thrive in every setting. (I am reminded of a therapy-dog certification class I once observed. The behavior of two of the dogs screamed out, "Umm, may I please be excused from this experience?" Their owners were surprised by their reactions.)

Assessments can also identify dogs who are not likely to be thrilled about daycare from the get-go. For some, discomfort with other dogs could spark aggression; others might be unable to de-stress in a group setting. With this information, daycares can evaluate whether they have the staff knowhow and facility design to admit such dogs. Dog owners not only expect their dogs to be having positive experiences at daycare, they also expect them to be exposed to suitable playmates. "I like that Huey had a behavior test, because that means the other dogs also had a test," says Beth Windler, a Minnesota dog owner and once-a-week daycare patron. For Windler, this was particularly relevant after Huey, a happy-go-lucky Basset Hound, was injured at a dog park.

The behavior assessment is just the beginning of the story. John Squires, owner and manager of Wag Club in Brooklyn, N.Y., stresses that the daycare facility has an ongoing role in habituating each dog to its setting and rewarding good behavior. He has found that, unfortunately, not all daycares prioritize such methods. Some accept dogs who are completely unsuited for a daycare environment without taking steps to help them acclimate, which could lead to a dog spending most of his time in a kennel rather than interacting with others.

It's easy to get caught up in procedures and forget about the people. Just as a love of children does not necessarily make someone a competent firstgrade teacher, a love of dogs doesn't automatically equip a person to manage the behaviors and personalities of a group of them. "Is a daycare just looking for warm bodies who like dogs and can stay there for eight hours a day?" asks Miller. Christensen adds, "Is the staff trained [in] the basics of dog behavior as based on science, not popular wisdom?" Staffers' ability to recognize stress and discomfort is just as important as their understanding of the complex set of movements that make up play. Play and aggressive displays share many elements, and even to a watchful, astute eye, meanings can change quickly. According to Monaco Torelli, "Observation of canine communication is a critical variable of proactive management in daycares."

So, is doggie daycare a necessary part of life for every dog? The answer lies largely with the individual dog. Some daycares are better than others at maximizing fun and safety and decreasing fear and stress. At the same time, dog daycare is not the only game in town. Your dog might prefer a long walk, a training class, a trip to the dog park, an open window where he can take in the passing sights and sounds, or a small playgroup. Consider what's important to and appropriate for your dog. Also consider how you might be able to build

time for these extras into your schedule.

When thinking about our dogs' quality of life, most of us inevitably ask the question, "What should my dog be doing all day while I'm gone?" If you think the answer for your dog involves daycare, then the next question is, "Which one?" A little due diligence on your part will result in a solution that's right for your pup.

References

* Adler, Carina, et al. 2011. Social play behavior of group-housed domestic dogs (*Canis familiaris*). *Journal of Veterinary Behavior* 6 (2): 98.

** Horowitz, Alexandra. 2009. Attention to attention in domestic dog (*Canis familiaris*) dyadic play. *Animal Cognition* 12 (1): 107–118.

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Tip Sheet

If you think your dog is being "interviewed" for daycare, think again. While his behavior is assessed and his vaccination record is examined, your job is to be the real interviewer. When checking out daycare operations, get answers to the following questions.

How is the facility set up? Take a tour. Is it clean? Does it have multiple spaces for groups of dogs with different play styles? Do dogs have access to an outside area for bathroom breaks? Does the facility have a designated area for rest? If the daycare uses kennels, check them out and ask if and how stress is minimized during kenneling.

What kind of schedule does it provide? All-day play is not a selling point. Dog daycares that incorporate bathroom breaks (ideally, outdoors), play time and quiet time into their schedules are what you're looking for. Rest is important, and it is handled differently by each daycare. Find out how a daycare provides a restful space for its canine visitors.

How big are the playgroups? The handler-to-dog ratio should be 1:10 (preferable), 1:15 tops. After all, 1:10 equals two human eyes and legs monitoring 10 noses, 20 eyes and 40 legs. On top of that, handlers often need to deal with other things in the environment — refereeing a play session that's gotten a little over the top or cleaning up an accidental "deposit" — so having more than one person on duty is a plus.

What kind of training do the handlers have? Daycare owners or managers might have CPDT credentials or be animal-behavior-conference junkies, but top-level staff are not customarily involved in daily dog supervision. Make sure the hands-on staff members are trained in canine communication and dog handling. Ask handlers about their training experience (or lack thereof). Additionally, you want your dog to have positive experiences at daycare, so avoid places that routinely use physical punishment or manipulation.

How are new dogs introduced? Gradual introductions set dogs up for success. Avoid a daycare that proclaims, "We throw them all in together for fun playtime!"

Do they take all comers? Accepting all dogs is not necessarily a good thing; not all are cut out for daycare.

What about toys? Does the daycare provide toys? If so, which ones, and how does it prevent or monitor resource-guarding? While your dog might not exhibit this particular behavior, daycares should have procedures to address this potential issue and avoid needless confrontations between dogs.

Is medical help available? Ideally, the daycare has a relationship with a veterinarian and staff members who are trained in CPR and first aid. In even the best-monitored situations, accidents can happen, and quick response can be a literal life-saver.

Julie Hecht, MSc, is a canine behavioral researcher and science writer in New York City. She writes a behavior column for The Bark. She would really like to meet your dog. Follow on Dog Spies at [Facebook](#) [4] and Twitter [@DogSpies](#) [5] | [DogSpies.com](#) [6]

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ARTICLE XI: COMMERCE AND INDUSTRY DISTRICT

1100 Purpose. The purpose of the Commerce and Industry District is to implement the goals and objectives of the Economic Development section of the Town Plan and to help meet the Town's and region's economic needs.

1110 Permitted Uses.

- 1110.1 Business or Professional Offices.
- 1110.2 Research and Testing Laboratories.
- 1110.3 Upholstery/Fabric Working.
- 1110.4 Enclosed light manufacturing.
- 1110.5 Public and private schools certified by the Vermont Department of Education and other educational institutions certified by the Vermont Department of Education.
- 1110.6 Outdoor Recreation facilities with no structures.
- 1110.7 Indoor recreation facilities including but not limited to bowling alleys, gymnasium, dance studios, indoor racquet sport facilities, etc.
- 1110.8 Accessory uses, including retail and other services accessory to a principal on-site manufacturing operation or other permitted use, where the service is clearly subsidiary to the principal permitted use.
- 1110.9 Multiple uses where all proposed uses are permitted uses.

1120 Conditional Uses.

- 1120.1 Artist's studios.
- 1120.2 Wholesale Sales (enclosed).
- 1120.3 Vehicle Sales and Repair facilities.
- 1120.4 Building Materials Sales with all indoor storage.
- 1120.5 Lumber yards.
- 1120.6 Construction Services facilities.

1120.7 Dry cleaning establishments where the actual cleaning is done on site.

1120.8 Auto/machinery repair facilities.

1120.9 Warehouses where all storage is enclosed.

1120.10 Churches and other places of worship.

1120.11 Day care centers with a maximum of 75 children.

~~1120.11~~ 1120.12 Pet Care Facilities with space for not more than 100 animals.

~~1120.12~~ 1120.13 Outdoor recreation facilities with minor structures.

~~1120.13~~ 1120.14 Multiple uses when one or more of the uses are a conditional use.

~~1120.14~~ 1120.15 Accessory uses, including retail and other services accessory to the principal on-site conditional use, where the service is clearly subsidiary to the principal conditional use.

~~1120.15~~ 1120.16 Any use substantially, materially, and outwardly similar to those set forth above in Sections 1110 and 1120, provided that the Development Review Board finds that, in addition to other specific and general standards set forth in these regulations, the proposed use meets the following specific standards.

A. Such use is of the same functional and physical character as those permitted or allowed as conditional uses in the district. To establish whether such use has the "same functional and physical character" as a permitted or conditional use in the district, an applicant must demonstrate to the DRB that the contemplated use shares the following features with a use specified in Section 1110.1-1110.8 or 1120.1-1120.12 above:

1. Inherent character of primary activity or activities,
2. Typical predominant sound levels and qualities,
3. Typical exterior activity levels,
4. Typical exterior lighting requirements,
5. Typical predominant odor, if any,
6. Typical vehicular traffic,
7. Seasonal and diurnal patterns of sound, lighting, smells, and exterior activity levels.

B. Such use will not be detrimental to adjoining land uses as measured by compliance with the performance standards contained in Article XIX.

1130 Dimensional Requirements.

1130.1 Minimum Lot size.

- A. Lot area minimum - 2 acres.
- B. Lot frontage minimum - 150 feet.

1130.2 Setback requirements.

- A. Minimum Front yard setback - 60 feet.
- B. Minimum Side and rear yard setback - 50 feet, or, when a parcel is adjacent to property or properties designated as residential under zoning bylaws in effect prior to August 12, 2008, applicable yard requirement shall be 150 feet.

1130.3 Coverage requirements.

- A. Building coverage maximum - 25 percent.
- B. Lot coverage maximum - 50 percent.

1130.4 Height restrictions.

35 feet for all structures except churches.

1140 Special Requirements.

1140.1 All uses in the Commerce and Industry District must be serviced by municipal water and sewer.

1150 Planned Unit Development - Commercial. Planned Unit Developments—Commercial may be permitted in the Commerce and Industry District upon approval of the Development Review Board, in accordance with Section 1930.5 of these Regulations.

1160 Site plan approval. Site plan approval by the Development Review Board is required for all uses, including any multiple use of a property in accordance with applicable portions of Section 1900 of these Regulations.

**Planning Commission Reporting Form
for Municipal Bylaw Amendments
(adding Pet Care Facility use to Commerce and Industry district)**

Approved by Planning Commission March 10, 2016 (for Public Hearing)
Revised and Approved by Planning Commission April 14, 2016 (for Selectboard Distribution)

This report is in accordance with 24 V.S.A. §4441(c) which states:

“When considering an amendment to a bylaw, the planning commission shall prepare and approve a written report on the proposal. A single report may be prepared so as to satisfy the requirements of this subsection concerning bylaw amendments and subsection 4384(c) of this title concerning plan amendments..... The report shall provide (:)

(A) brief explanation of the proposed bylaw, amendment, or repeal andinclude a statement of purpose as required for notice under §4444 of this title,

(A)nd shall include findings regarding how the proposal:

- 1. Conforms with or furthers the goals and policies contained in the municipal plan, including the effect of the proposal on the availability of safe and affordable housing:*
- 2. Is compatible with the proposed future land uses and densities of the municipal plan:*
- 3. Carries out, as applicable, any specific proposals for any planned community facilities.”*

Brief explanation of the proposed bylaw amendment.

The Planning Commission proposal would modify the regulations by adding “Pet Care Facilities” use and maximum size to the list of Conditional uses in the Commerce and Industry District.

Purpose

The Planning Commission has developed the proposal in response to request from a local commercial realtor and business owner. These individuals presented the Commission with evidence and testimony suggesting that current allowances for the use (in the Mixed Use district) are too limiting to be economically viable. The proposal addresses these concerns in a manner the Commission believes is effective and efficient and serves the needs of the community. The proposal also responds to Comprehensive Plan policies that promote economic development and business.

Findings regarding how the proposal conforms with or furthers the goals and policies contained in the municipal plan

Under state law, the Zoning Regulations must be “in conformance with” the Plan. To be “in conformance with” the Plan, the bylaw must: make progress toward attaining, or at least not interfere with, the goals and policies contained in the Plan; provide for proposed future land uses, densities, and intensities of development contained in the Plan; and carry out any specific proposals for community facilities, or other proposed actions contained in the Plan.

The Planning Commission finds that the proposal conforms with or furthers the goals and policies contained in the municipal plan. Such policies include but are not necessarily limited to the following:

GOAL: TO ENCOURAGE THE CONTINUED GROWTH AND DIVERSIFICATION OF SHELBURNE’S ECONOMY IN A MANNER THAT ENHANCES THE GENERAL WELL-BEING OF THE COMMUNITY, AND WHICH DOES NOT DETRACT FROM THE OVERALL CHARACTER OF THE COMMUNITY.

OBJECTIVES:

2. Actively encourage development of a variety of small scale commercial uses in the Village to reinforce this area as a mixed use center of the Town, as described in the Land Use Section of this Plan.
4. Actively encourage forms of economic development that complement and are compatible with existing institutions and businesses.

GOAL: TO CREATE AN AREA SURROUNDING THE VILLAGE THAT CONTAINS PLEASANT, MODEST DENSITY NEIGHBORHOODS, AND THAT WILL ACCOMMODATE APPROPRIATE LEVELS OF SUB-REGIONAL COMMERCIAL AND INDUSTRIAL ACTIVITIES.

OBJECTIVES:

5. Direct most of the Town’s anticipated residential growth to Growth Area 2. Ensure that zoning regulations for this area are consistent with accommodating that growth.

RECOMMENDED ACTIONS:

Zoning: Revise the Zoning to periodically re-examine uses, dimensional requirements, and access requirements for the Residential, Commercial/Industrial and Mixed Use areas.

Planning Commissioners believe that the proposal would:

- By proposing new allowable use in the Commerce and Industry district, reflect the Plan's charge that the Commission "periodically re-examine uses, dimensional requirements, and access requirements for the Residential, Commercial/Industrial and Mixed Use areas";
- By increasing the list of allowable commercial uses in the selected areas, advance the Plan's objective to "Actively encourage forms of economic development that complement and are compatible with existing institutions and businesses"; and
- Respond to Plan Goals encouraging diversification of the Town's economy and appropriate levels of sub-regional commercial activity by expanding opportunities for a commercial use that to date has had limited viability under the Shelburne's land use regulations.

Commissioners also recognize the potential for the proposal to promote other Comprehensive Plan goals and objectives. For example, by applying Conditional Use review to applications for the use, the Planning Commission believes that the proposal supports Plan Policies relating to protecting neighborhoods, supporting housing, and reinforcing desirable land use patterns.

Findings regarding how the proposal is compatible with the proposed future land uses and densities of the municipal plan

The development densities authorized by the Zoning bylaws are not affected by the proposal. In the view of the Planning Commission, the overall pattern of development would not change as a result of the proposal and would in fact be reinforced. The districting scheme embodied in the Zoning bylaw map would continue to reflect the boundaries of the Composite Future Land Map contained in the Comprehensive Plan (Map 5) as it does currently. Thus, the Planning Commission finds that the zoning amendment proposal that is the subject of this report would be compatible with the Comprehensive Plan.

Findings regarding how the proposal carries out, as applicable, any specific proposals for any planned community facilities.

The proposed amendment does not directly carry out specific proposals for any planned community facilities. In addition, the proposed amendment does not conflict with any specific proposals for planned community facilities.

[end]