

Notice of Public Hearing

The Fairlee Planning Commission will hold a public hearing at the Fairlee Town Hall and via Zoom March 1st, 2023 at 6:30 PM to take public comment on proposed amendments to the Fairlee Unified Development Bylaw. Proposed language changes are available on the Town Website at fairleevt.gov and involve changes to sections: 3.1.4 Lake Area proposed division into separate districts for Lake Morey and Lake Fairlee; 5.3(A) limitations on the expansion of non-conforming dwellings and performance standards for the conditional use permitting of short-term rentals; and Article VIII addition of a definition of short-term rental.

Link to join via Zoom:

<https://us02web.zoom.us/j/82054965881?pwd=SU1rY3REbkFMQVREM0hrckEwSDkzQT09>

Meeting ID: 820 5496 5881

Passcode: 405469

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Fairlee Planning Commission

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Report to the Fairlee Selectboard

Fairlee Planning Commission

Submitted and Recommended Amendments to the Unified Development Bylaw

The language approved by the Planning Commission is attached and there will need to be some minor adjustments before the final language is warned for the hearing by the Selectboard. By including those recommendations in this report, a subsequent rehearing by the Planning Commission will not be required and the PC can move on to the process for ultimate approval of the amended Unified Development Bylaw by Australian ballot. As long as changes are implemented before the hearing document is warned the Selectboard may make the recommended changes. Hearing by the Selectboard may be held no less than twenty days and no more than 120 days after the receipt of this report. Adopted language will be treated first and then recommendations for changes to the submitted draft will close the report.

Map Changes

The recommendation will require a specification for a Lake Fairlee Area and Lake Morey Area be made on the zoning map. Lakeside areas currently zoned Lake Area that are occupied by the Aloha Foundation Camps will be rezoned Lakeshore Resort Area to keep them consistent with the Lake Morey Resort uses on the other end of Lake Morey. We have the capacity to generate the mapping in house.

Bifurcation of the Lake Areas

The proposal to establish two separate lake area districts was based on the following:

- 1) First and foremost, we are on solid legal grounds doing this. In my conversation with Gwynn Zakov at VCLT she said the important thing is that we treat properties within a district the same way, and in fact as our regulations become more tailored to the specific circumstances and historic development patterns unique to each lake, we will actually be in a stronger position.
- 2) The PC wishes to regulate Lake Morey, with its existing small lots and high density as an urban lakefront, this will mean a heightened level of process and oversight on land uses and construction that isn't appropriate to Lake Fairlee. All requirements for state issued wastewater permits for any new, reconstructed, or replacement dwellings and the imposition of conditional use permitting on existing non-conformities that may exist in the Lake Fairlee Area will apply.

- 3) Lake Fairlee has a density and settlement pattern far more like the rural residential (two acre) district that surrounds it. It is far more subject to the Shoreline Protection provisions and permitting without waivers, exemptions, and legacies attached to existing conditions and non-conformities that afflict Lake Morey.
- 4) Lastly Lake Fairlee has a multi-jurisdictional complication, and a separate district will ease the implementation of any tri-Town consortium that may develop in the out years.

The Planning Commission takes the position that in the out years the Lake Morey Area will be subjected to increasing levels of regulation and infrastructure investment as the Town deals with the impacts of increased use intensities on properties that lack the capacity to absorb them. Lake Fairlee on the other hand is in an environment of preservation of a current rural residential density rather than remediation. There will be a minimum lot size increase recommendation in that section of the report. The term “seasonal dwelling” has been dropped from the use lists for both lake zones and existing examples are now compliant non-conformities. Activities such as replacement foundations or any other action that would open the ground are now subject to a permit process in both zones.

Conditional Use Reform

In regard to the replacement of non-conforming dwellings in the Lake Morey Area, much more stringent performance standards are implemented through the requirement of a state issued Wastewater and Potable Water Supply permit as a part of the application submission and follow up with the issuance of a Certificate of Compliance tied directly to the recording of an As-Built Certificate on any new system installation. Additions to environmental loads are restricted by limiting replacement dwellings to the square foot area or the building being replaced and limiting the bedroom count to the original dwelling. With the use list changes, seasonal dwellings are a compliant non-conformity and subject to Development Review Board conditional use process without regard to the conformity of the lot or the location of the dwelling in both lake zones.

Conditional Use Applied to Short Term Rentals

The Planning Commission is recommending a twostep approach to regulation of short term rentals. First zoning is limited to the approval of the actual use of the dwelling as a short term rental, the DRB may apply site plan standards and capacity limits and the PC has proposed performance standards, second the Selectboard will be charged with adoption of ordinance language that would apply an annual licensure on the actual operation of a short term rental along the line of the current regime of the Itinerate Vendor Permit that would allow the annual collection of data and allow the Selectboard to refuse renewal to a chronic bad actor.

Other Edit Items

- 1) Change the minimum lot size in the Lake Fairlee Area to two acres.
- 2) Short Term Rental added to drafted conditional use provision along with definition.
- 3) Change the preamble of the ADU section, current language implies that ADUs cannot be built on lots containing multi-family dwelling units. Change current in red, “**one- and two-family dwellings in the village use area**” to “residential lots in the village use area”.

§2.1 Establishment of Zoning Districts and Overlay Areas

For the purposes of these regulations the following **Zoning Districts** are hereby established within the Town of Fairlee:

- A. Village Area**
- B. Interchange Area**
- C. Lakeshore Resort Area**
- ~~**D. Lake Area**~~
- D. Lake Fairlee Area**
- E. Lake Morey Area**
- F. Mixed Use Area**
- G. Residential Area**
- H. Rural Resource Area**

For purposes of these regulations the following **Overlay Areas** are hereby established within the Town of Fairlee:

- A. Village Center**
- B. Source Protection Areas**
- C. Water Service Area**
- D. Lake Morey Watershed Overlay Area**
- E. Flood Hazard Areas**

§3.1.2 Interchange Area

A. Description –Per the zoning map, running the length of Lake Morey Road east of I-91 and then north on US Route 5 east of the railroad right of way to school street, south to Adams Road on the west side of US Route 5 and south to parcel 09-00-15.11 on the east side of US Route 5 to include all lots in the zone with frontage on either US Route 5 and Lake Morey Road east of I-91.

B. Permitted Uses

The following uses shall be permitted upon issuance of a Zoning Permit by the Zoning Administrator:

1. One- and two-family dwellings and additions
2. Home occupation
3. Residential accessory structures and uses

These uses shall be permitted upon site plan approval by the Development Review Board and issuance of a Zoning Permit by the Zoning Administrator:

1. Primary retail 6500 square feet or less
2. Professional offices and services
3. Personal services
4. Medical outpatient clinic
5. Restaurant 100 seat maximum
6. Apartment houses
7. Apartment buildings
8. Home based business or service

C. Conditional Uses

The following uses may be permitted upon issuance of a conditional use permit and site plan approval by the Development Review Board and issuance of a Zoning Permit by the Zoning Administrator:

1. Vehicle fuel sales
2. Primary retail 6501-10,000 square feet
3. Single family dwelling semi-detached

D. Land Area and Structural Requirements

Class A Lots:

1. Lot Area Minimum: 20,000 square feet per principal use
2. Lot Frontage Minimum: 100 feet
3. Building Setback Minimum: 50 feet from center of highway right-of-way.
4. Side and Rear Setback Minimum: 15 feet
5. Maximum height all structures 40 feet from street grade.

Class B Lots: ***None in this zone.***

§3.1.3 Lakeshore Resort Area

A. Description – Per the zoning map ~~and to include the following parcel numbers: 22-21-39, 24-20-44, 24-20-45 and 24-20-54;~~ broadly described as the Lake Morey Golf Resort and the Aloha Foundation Camps located on the Lake Morey shoreline.

B. Permitted Uses

The following uses shall be permitted upon issuance of a Zoning Permit by the Zoning Administrator:

1. Seasonal dwellings and additions
2. Residential accessory structures and uses
3. Ground disturbance

These uses shall be permitted upon site plan approval by the Development Review Board and issuance of a Zoning Permit by the Zoning Administrator:

1. Hotel/Motel
2. Resort Accommodations
3. Golf course
4. Outdoor recreation

C. Conditional Uses

The following uses may be permitted upon issuance of a conditional use permit and site plan approval by the Development Review Board and issuance of a Zoning Permit by the Zoning Administrator:

1. One family dwellings (year-round use)

D. Land Area and Structural Requirements

Class A Lots:

1. Lot Area Minimum: 20,000 square feet per principal use
2. Lot Frontage Minimum: 100 feet
3. Building Setback Minimum: 50 feet from center of highway right-of-way.
4. Side and Rear Setback Minimum: 15 feet
5. Maximum height all structures 40 feet from any walkout grade.
6. Minimum lakeshore setback: 100 feet (per Vermont Shoreland Regulations)

Class B Lots: *None in this zone.*

§3.1.4 Lake Area

A. Description

~~Lake Morey~~ Per the zoning map and defined as 500 feet from the mean high water mark of Lake Morey to the exclusion of that area zoned Lakeshore Resort Area.

~~Lake Fairlee~~ Per the zoning map and that area defined by the Lake Fairlee shoreline, 500' from the high water mark of Lake Fairlee on the Vermont Route 244 road frontage, Quinibeck Road to the mean high water mark of Lake Fairlee and the Thetford town line.

B. Permitted Uses

~~The following uses shall be permitted upon issuance of a Zoning Permit by the Zoning Administrator:~~

- | | |
|---|---|
| 1. One family seasonal dwellings and additions | 4. Ground disturbance & clearing |
| 2. Home occupation (year round dwellings only) | vegetation |
| 3. Residential accessory structures and uses | 5. Renovations that change number of |
| (Including accessory dwelling units) | bedrooms, replace foundations, |
| | change building envelope size |

~~These uses shall be permitted upon site plan approval by the Development Review Board and issuance of a Zoning Permit by the Zoning Administrator:~~

- ~~1. Summer camps~~

C. Conditional Uses

~~The following uses may be permitted upon issuance of a conditional use permit and site plan approval by the Development Review Board and issuance of a Zoning Permit by the Zoning Administrator:~~

- ~~1. One and Two Family Dwellings (conforming lots only)~~

D. Land Area and Structural Requirements

~~Class A Lots:~~

- ~~1. Lot Area Minimum: 20,000 square feet per principal use~~
- ~~2. Lot Frontage Minimum: 100 feet~~
- ~~3. Building Setback Minimum: 50 feet from center of highway right of way.~~
- ~~4. Side and Rear Setback Minimum: 15 feet~~
- ~~5. Minimum Lakeshore Setback 100 feet~~
- ~~6. Maximum height all structures 35 feet from any walkout grade.~~

~~Class B Lots:~~

- ~~1. Lot Area Minimum: 40,000 square feet per principal use~~
- ~~2. Lot Frontage Minimum: 150 feet~~
- ~~3. Building Setback Minimum: 50 feet from center of highway right of way~~
- ~~4. Side and Rear Setback Minimum: 15 feet~~
- ~~5. Lakeshore setback 50 feet~~
- ~~6. Maximum height all structures 35 feet from any walkout grade.~~

§3.1.4.1 Lake Fairlee Area

A. Description

Per the zoning map and that area defined by the Lake Fairlee shoreline, 500' from the high-water mark of Lake Fairlee on the Vermont Route 244 road frontage, Quinibeck Road to the mean high water mark of Lake Fairlee and the Thetford town line.

B. Permitted Uses

The following uses shall be permitted upon issuance of a Zoning Permit by the Zoning Administrator:

- | | |
|--|--|
| 1. One- and Two-Family Dwellings | 4. Ground disturbance & clearing vegetation |
| 2. Home occupation (year-round dwellings only) | |
| 3. Residential accessory structures and uses
(Including accessory dwelling units) | 5. Renovations that change number of bedrooms, replace foundations, change building envelope size |

C. Conditional Uses

The following uses may be permitted upon issuance of a conditional use permit and site plan approval by the Development Review Board and issuance of a Zoning Permit by the Zoning Administrator:

1. Renovations that increase number of bedrooms, replace foundation, change building envelope size
2. Short term rentals

D. Land Area and Structural Requirements

~~Class A Lots:~~

- ~~1. Lot Area Minimum: 20,000 square feet per principal use~~
- ~~2. Lot Frontage Minimum: 100 feet~~
- ~~3. Building Setback Minimum: 50 feet from center of highway right-of-way.~~
- ~~4. Side and Rear Setback Minimum: 15 feet~~
- ~~5. Minimum Lakeshore Setback 100 feet~~
- ~~6. Maximum height all structures 35 feet from any walkout grade.~~

Class B Lots: (all are class B lots)

1. Lot Area Minimum: two acres
2. Lot Frontage and Lake Frontage Minimum: 150 feet
3. Building Setback Minimum: 50 feet from center of highway right-of-way
4. Side and Rear Setback Minimum: 15 feet
5. Lakeshore setback 100 feet
6. Maximum height all structures 35 feet from any walkout grade.

§3.1.4.2 Lake Morey Area

A. Description

Lake Morey-Per the zoning map and defined as 500 feet from the mean high water mark of Lake Morey to the exclusion of that area zoned Lakeshore Resort Area.

B. Permitted Uses

The following uses shall be permitted upon issuance of a Zoning Permit by the Zoning Administrator:

- | | |
|--|--|
| 1. One family seasonal dwellings and additions | 4. Ground disturbance & clearing vegetation |
| 2. Home occupation (year-round dwellings only) | |
| 3. Residential accessory structures and uses
(Including accessory dwelling units) | 5. Renovations that change number of bedrooms, replace foundations, change building envelope size |

~~These uses shall be permitted upon site plan approval by the Development Review Board and issuance of a Zoning Permit by the Zoning Administrator:~~

- ~~1. Summer camps~~

C. Conditional Uses

The following uses may be permitted upon issuance of a conditional use permit and site plan approval by the Development Review Board and issuance of a Zoning Permit by the Zoning Administrator:

1. One- and Two-Family Dwellings (conforming lots only)
2. Renovations that increase number of bedrooms, replace foundation, change building envelope size, or replace the structure
3. Short term rentals

D. Land Area and Structural Requirements

Class A Lots:

1. Lot Area Minimum: 20,000 square feet per principal use
2. Lot Frontage Minimum: 100 feet
3. Building Setback Minimum: 50 feet from center of highway right-of-way.
4. Side and Rear Setback Minimum: 15 feet
5. **Minimum** Lakeshore Setback 100 feet
6. Maximum height all structures 35 feet from any walkout grade.

Class B Lots:

1. Lot Area Minimum: 40,000 square feet per principal use
2. Lot Frontage Minimum: 150 feet
3. Building Setback Minimum: 50 feet from center of highway right-of-way
4. Side and Rear Setback Minimum: 15 feet
5. Lakeshore setback 100 feet
6. Maximum height all structures 35 feet from any walkout grade.

§4.14 Accessory Dwellings

An accessory dwelling unit that is located on the same parcel as an owner-occupied single-family dwelling in any land use area or **on any residential parcel** in the village area shall be a permitted use so long as the unit is in compliance with the following:

- (a) the property has sufficient wastewater capacity;
- (b) the **accessory dwelling** unit does not exceed ~~30 percent of the total habitable floor area of the single family dwelling or~~ 900 square feet, ~~whichever is greater~~;
- (c) applicable setback, coverage and parking requirement as stipulated in the regulations are met.
- (d) Owner of the parcel shall occupy either the original dwelling or the accessory dwelling unit.

§5.3 Conditional Uses

- A. Any structure or use of a structure which requires a Conditional Use Approval shall not be granted a zoning permit by the Zoning Administrator unless the Development Review Board determines that the proposed use shall conform to the specific standards prescribed in these Regulations and shall not unduly adversely affect:

1. the capacity of existing or planned community facilities,
2. the character of the zoning district affected,
3. traffic on roads and highways in the vicinity,
4. bylaws then in effect,
5. utilization of renewable energy resources.

The DRB's review of a Conditional Use Approval for the conversion of seasonal dwellings to year-round dwellings shall apply the following performance standards:

1. Wastewater and potable water supply systems shall be permitted for year-round use by the Wastewater Division of the Agency of Natural Resources.
2. Emergency access shall be approved by the Fire Chief.
3. Off street parking for two vehicles shall be provided.
4. Conditional Use Approvals for year-round use shall be issued only to conforming lots.

The DRB's review of a Conditional Use Approval for the replacement of a compliant non-conforming dwelling in the Lake Morey Area §3.1.4.2 shall apply the following performance standards:

1. A new Agency of Natural Resources [ANR] Wastewater and Potable Water Supply permit shall be obtained by the applicant. An as-built certificate shall be recorded before the Zoning Administrator can issue a Certificate of Compliance allowing occupancy.
2. There shall be no increase in the square foot floor area of the replacement structure.
3. There shall be no increase in the footprint on the lot.
4. There shall be no increase in the number of bedrooms in the replacement structure.

The DRB's review of a Conditional Use Approval for the use of a dwelling for short term rentals shall apply the following performance standards:

1. Dwelling shall be inspected and approved by the Fire Safety Division of the Vermont Department of Labor and Industry.
 2. Capacity shall be limited to 2 persons per bedroom approved under the ANR issued Wastewater and Potable Water Supply Permit.
 3. Applicant shall not advertise capacities greater than permitted.
 4. Short term rental usage of seasonal dwellings shall not exceed 22 weeks a year.
 5. The conditional use permit only allows the use of the property for legally defined use. Short term rental operators shall be liable for permitting and payment of fees, and limitations per licensing and permitting that may be imposed by Town Ordinances.
- B. In granting or denying a Conditional Use Approval, the procedures followed by the Development Review Board shall be in accordance with §4414 (3) of the Act.
- C. Every application for a Conditional Use Approval for any use shall include the submission of the following plans and supporting information:
1. An application deemed complete by the Zoning Administrator;
 2. A scale map showing the location of the site, including existing roads and highways and adjacent land uses;
 3. A statement that includes the names and addresses of the owners of the land immediately adjacent to and across the road from the property at issue.
 4. Sign-off statements of all appropriate Town Departments that they have the capacity to service the proposed conditional use.
- D. The effective date of a zoning permit issued as a conditional use shall be thirty (30) days from the date of issuance, during which time appeals from the decision may be filed, in which case the result of the appeal shall determine outcome.

Added to Article VII Definitions

Short term rental -- a publicly promoted rental for stays of less than 32 days of any residential home unit or accessory building that is not regulated as a commercial use or residential business or service.