

# Planning Commission Reporting Form for Municipal Bylaw Amendments

Prepared by staff in anticipation of  
Planning Commission discussion/action on August 8, 2013  
And Modified and Approved by Planning Commission at Meeting on August 8, 2013

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 and ....include 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 in several respects, summarized as follows:

- Allow additional temporary commercial signage in the Commerce and Industry South District and in a portion of the Residential District.
- Modify specific requirements for screening of outdoor seating at restaurants
- Provide additional flexibility to parties wishing to expand or modify preexisting structures in the Lakeshore Overlay District setback
- Allow new category of restaurant use in limited circumstances in Commerce and Industry South District, including as accessory activity

## **Purpose**

The Planning Commission developed the proposal after receiving requests from various parties, as noted below. The proposal addresses these requests in a manner the Commission believes is responsive while serving the needs of the community. The proposal also responds to Comprehensive Plan policies that promote economic development and housing.

- Request regarding Temporary commercial signage in the Commerce and Industry South District and in a portion of the Residential District made by owners of property / businesses in the affected districts.

- Request regarding requirements for screening of outdoor seating at restaurants made by resident.
- Request regarding provision of additional flexibility to parties wishing to expand or modify preexisting structures in the Lakeshore Overlay District setback made by Shelburne Selectboard.
- Request regarding restaurant use in Commerce and Industry South District made by owner of property / businesses in the affected district.

**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:

Regarding temporary commercial signage in the Commerce and Industry South District and in a portion of the Residential District...

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

- ... The Commercial/Industrial Areas: Immediately north of Shelburne Village, on the west side of Shelburne Road, is a small cluster of industrial establishments, and further west, vacant land designated for industrial use. A second cluster is located immediately south of Shelburne Village on the east side of Shelburne Road. A third area is located on the east side of Shelburne Road in the vicinity of Executive Drive.
  1. Encourage non-residential development that is not suitable for the Village Area (Growth Area 1) to locate in appropriate sections of Growth Area 2.
  2. In the Commercial/Industrial Area, ensure that commercial and industrial establishments are designed to not appear as strip development (e.g. require broad set backs, parking shielded from the roads, varied roof profiles, shared driveways, etc.).
  3. Clearly distinguish the points at which the Village Area begins. These Village entries are found on Shelburne Road north of the LaPlatte River bridge and south of Bostwick Road,

on Harbor Road near the Shelburne Community School, and on Irish Hill Road just east of the LaPlatte River bridge.

Regarding requirements for screening of outdoor seating at restaurants...

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.

1. Encourage forms of economic development that complement and are compatible with existing institutions and businesses.
2. Encourage appropriately scaled, value added agricultural and forest products enterprises, and the use of locally grown and produced products.

Regarding expansion or modification of preexisting structures in the Lakeshore Overlay District setback...

GOAL: TO IDENTIFY, MONITOR, MANAGE AND CONSERVE SHELBURNE'S NATURAL AND SCENIC RESOURCES SO THAT THEY MAY BE APPROPRIATELY USED AND ENJOYED NOW AND IN THE FUTURE.

Regarding restaurant use in Commerce and Industry South District...

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

- ... The Commercial/Industrial Areas: Immediately north of Shelburne Village, on the west side of Shelburne Road, is a small cluster of industrial establishments, and further west, vacant land designated for industrial use. A second cluster is located immediately south of Shelburne Village on the east side of Shelburne Road. A third area is located on the east side of Shelburne Road in the vicinity of Executive Drive.
4. Encourage non-residential development that is not suitable for the Village Area (Growth Area 1) to locate in appropriate sections of Growth Area 2.
  5. In the Commercial/Industrial Area, ensure that commercial and industrial establishments are designed to not appear as strip development (e.g. require broad set backs, parking shielded from the roads, varied roof profiles, shared driveways, etc.).
  6. Clearly distinguish the points at which the Village Area begins. These Village entries are found on Shelburne Road north of the LaPlatte River bridge and south of Bostwick Road,

on Harbor Road near the Shelburne Community School, and on Irish Hill Road just east of the LaPlatte River bridge.

Planning Commissioners believe that the elements of the proposal relating to signage, outdoor seating at restaurants, and restaurants in limited circumstances in the Commerce and Industry South district would help foster appropriate development that is while taking steps to preserve visual qualities that are important to the community. It would encourage forms of economic development that complement and are compatible with existing institutions and businesses. And it may also create opportunities for the use of local agricultural products.

Planning Commissioners believe that the element of the proposal relating to expansion of structures in the Lakeshore Setback would encourage housing and maintenance of investments in housing while protecting the quality of Lake Champlain as a water resource, a natural area, and a scenic resource.

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

The proposed amendments do not modify the allowable land development densities allowed under the existing zoning regulations.

Except in the case of the proposed addition of a restaurant use in the Commerce and Industry South district, the proposed amendments do not modify the land uses allowed under the existing zoning regulations. In the case of the proposed change to the Commerce and Industry South district, such use would be allowed in narrow circumstances only (existing structures only when those structures are located within 200 feet of the Route 7 Right of Way).

Thus, the Planning Commission finds that the zoning amendment proposal that is the subject of this report would be compatible with the Comprehensive Plan. The Planning Commission acknowledges that Planning Staff recommends that future versions of the Plan revisit the purpose and desired build out of the Rural and Commerce and Industry South Districts and language relating to “developable area” and density.

**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]

## MEMORANDUM

TO: FILE AND DISTRIBUTION LIST

FR: DEAN PIERCE

RE: ZONING CHANGES TO BE DISCUSSED AT PUBIC HEARING ON SEPTEMBER 12, 2013

DA: AUGUST 9, 2013

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On August 8, 2013, the Shelburne Planning Commissioners took preliminary action on a range of zoning changes. The Commission a) settled on text to present to the public, b) revised and endorsed a “zoning change report” (required by statute), and c) directed staff to warn a public hearing on the proposed changes. The hearing will take place on Thursday, September 12, 2013, at the Shelburne Town Offices, starting at 7PM.

The following pages of this memorandum contain the text of the zoning changes the Planning Commission has agreed to warn for public hearing. Newly inserted text is underlined and **in color**, while text proposed to be deleted is shown in ~~striketrough~~ and **in color**.

### Commercial signage along US 7 south of Bostwick Road intersection

The Planning Commission is proposing changes to Section 1970.12 of the Zoning bylaw.

1970.12 No Permit required.

...

In the Village Center, Shelburne Falls, ~~and~~ Institutional/Museum, Commerce and Industry South zoning districts, and in that portion of the Residential Zoning district south of the intersection of Marsett Road, Bostwick Road, and US 7 small portable signs, including sidewalk or “sandwich board” signs. To be exempt from permitting requirements, such signs must meet the following standards:

1. not to exceed one sign per business, except in the Commerce and Industry South and in that portion of the Residential Zoning district south of the intersection of Marsett Road, Bostwick Road, and US 7 where the standard shall be not to exceed one sign per parcel;
2. no wider than twenty-six (26) inches;
3. no taller than forty-eight (48) inches;
4. not located within a public right-of-way, except in the area between the outside edge of the right-of-way and any sidewalk; and where there is no sidewalk, such sign ~~must~~ may be located ~~within ten (10) feet of at~~ the outside edge of the right-of-way.
5. placed so that they do not block pedestrian and vehicular traffic or create a public hazard; and
6. to be maintained in good repair and taken in at night.

## Outdoor restaurant seating

The Planning Commission is proposing changes to Sections 810.8 and 1020.15 of the Zoning bylaw.

810.8 Restaurants, without drive through services, and where all designated outdoor eating areas are screened from ~~roads and any~~ adjacent residential properties.

1020.15 Restaurants, without drive through services, and where any designated outdoor dining areas are screened from ~~roads and any~~ adjacent residential properties.

## Preexisting structures in Lakeshore Overlay setback

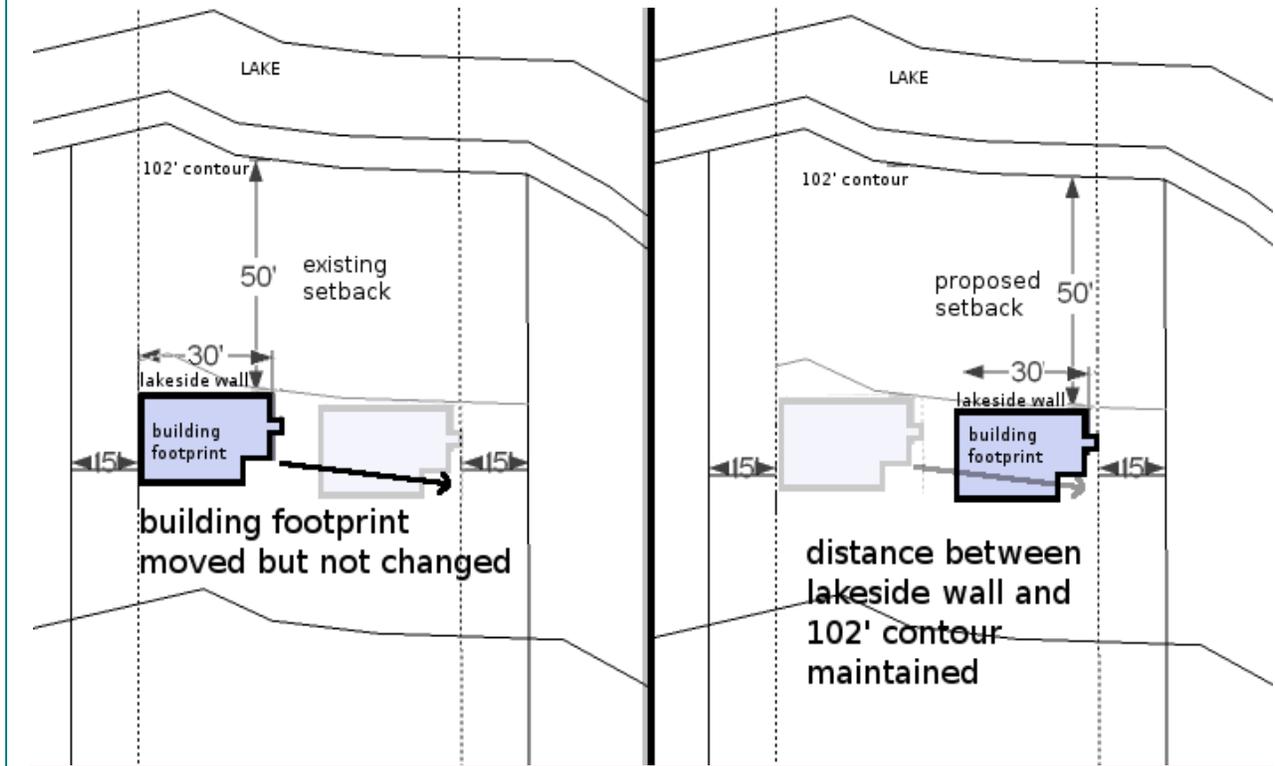
The Planning Commission is proposing changes to Sections 1750.1 and 2110 of the Zoning bylaw.

- 1750.2 **Expansion or reconstruction of existing structures:** Notwithstanding the provisions addressing nonconformities in Article XIX, nonconforming structures existing on [March 6, 2013], may be expanded or reconstructed upon Conditional Use Approval of the Development Review Board. In addition to the conditional use standards set forth in Article XIX, the following must be satisfied:
- A. The total area of the building footprint of that portion of an existing structure located within 100 feet of the 102 foot elevation contour does not increase as a result of the reconstruction, addition, or expansion.
  - B. The vertical addition or expansion or reconstruction does not extend any closer to the 102 foot elevation contour than does the existing structure. See Figure C.
  - C. The building footprint of that portion of an existing structure located within 100 feet of the 102 foot elevation contour may shift laterally on the lot, so long as:
    - 1. The resulting addition or expansion or reconstruction meets applicable side yard setback requirements; and
    - ~~2. the total length of the Lakeside Wall does not increase as a result of the addition, expansion, or reconstruction. does not extend any closer to either side lot line than does the existing structure. See Figure [X]~~
  - ~~C.D.~~ D. The height of the portion of the addition or expansion or reconstruction located within 100 feet of the 102 foot elevation contour shall comply with the following, as applicable.
    - 1. For additions or expansions or reconstructions where the roof pitch is less than or equal to 6 over 12: height shall not exceed 26 feet..
    - 2. For additions or expansions or reconstructions where the roof pitch is greater than 6 over 12: height shall not exceed 32 feet.
    - 3. For the purposes of this section, height shall be defined as the vertical distance of a structure as measured from the lowest finished grade elevation where it meets any Lakeside Wall to the elevation of the top of the ridge of the addition or expanded structure. See Figure D.

2110.1[x] Building Footprint – The precise shape and size of the ground-floor of a building, measured from the exterior surface of the exterior walls of all enclosed space, including attached garages, additions, porches, decks, and similar features.

[Continues]

Figure [X]. Allowable Lateral Movement of Building Footprint



## Restaurant use in Commerce and Industry South (CIS) District

The Planning Commission is proposing changes to Sections 1210.12, 1220.13, 1220.16, and 2110 of the Zoning bylaw.

1210.12 Accessory uses, including retail and other services (e.g., food services) accessory to a principal permitted use, where the service is clearly subsidiary to the principal permitted use or, in the case of PUDs, is clearly subsidiary to all other uses in the PUD.

1220.13 Accessory uses, including retail and other services accessory to a principal on-site manufacturing operation or other ~~permitted conditional~~ use, where the service is clearly subsidiary to the principal conditional use or, in the case of PUDs, is clearly subsidiary to all other uses in the PUD.

1220.16. Restaurant, -in structure the entirety of which is located within 200 feet of the edge of the US Route 7 Right of Way and where food and drink are prepared to order, made available for consumption upon short waiting time, and consumed primarily within a principal building existing as of [effective date of amendment] and having seating for no more than 60 patrons.

2110. [x] Incidental: Being of a nature that is both minor in relationship to and in consequence of some other object, action, or state; and where, in the absence of the other object, action, or state, that thing which is incidental would not occur independently.

2110. [x] Subordinate: Being of markedly less or of secondary importance relative to another object, action, or state.