

Shelburne has recognized a need to undertake a comprehensive revision of the adopted zoning and subdivision bylaws. The two-part audit of Shelburne's adopted zoning and subdivision bylaws that follows is the first step in that process. The audit reviews the adopted bylaws, identifies changes that are mandated by state or federal law, and recommends alternative approaches to more effectively implement Shelburne's policy objectives as expressed in the Town Plan.

The audit is extremely detailed. It identifies relatively minor technical issues and raises broader questions about regulatory approaches. It is not expected that the Planning Commission would decide to immediately pursue all the potential reforms recommended in the audit. The audit will function as a resource to guide the Planning Commission's decision-making as Shelburne considers revised regulations.

Housing Barriers

Vermont is experiencing a housing crisis. As one response, the state has asked municipalities to remove regulatory barriers that may be unnecessarily slowing or limiting housing creation and/or adding to development costs. Shelburne received a Bylaw Modernization Grant from the Vermont Department of Housing and Community Development (DHCD) to support regulatory reforms with the goal of increasing housing choice, affordability and opportunity.

The first part of the regulatory audit examines the extent to which Shelburne's zoning and subdivision bylaws support or pose barriers to housing creation. Key findings in the Housing Barriers portion of the audit include:

- 1** The density of residential development allowed in many of the areas of town serviced by town water and sewer is below the recommendations/requirements being put forward by the state. There is a Housing Bill currently under consideration in the Vermont Legislature that would mandate that municipalities allow at least 5 dwelling units per acre on serviced land - generally a higher density than Shelburne is currently allowing.
- 2** The current regulations restrict housing choice in many areas of town by not allowing for multi-unit housing or by making the process for obtaining a permit for multi-unit housing far more difficult than for single-unit housing. The current Housing Bill would mandate that municipalities allow a duplex on any lot where a single-unit home is allowed. It will also require municipalities to permit three- and four-unit homes in districts served by water and sewer where other types of housing is allowed.
- 3** The base zoning and subdivision requirements have generally not produced walkable neighborhoods with interconnected street networks extending out from Shelburne Village and Shelburne Falls as envisioned in the Town Plan. The reliance on a planned unit development (PUD) approach has largely resulted in each development being a distinct 'pod' separated from adjoining neighborhoods by open space buffers.
- 4** The current regulations are cumbersome and complex to administer due to the accumulation of special provisions such as overlay districts and planned unit development types each crafted in response to a specific development concern or identified shortcoming of the underlying regulations. Multiple amendments over many years have created unintended internal inconsistencies. Older sections have fallen out of conformance with state statute or contemporary best practices.

The Housing Barriers part of the audit is presented in the form of a matrix that reviews Shelburne's adopted bylaws against:

VSA	Vermont statute and other state or federal regulations
LEG	Potential changes in Vermont statute currently under consideration by the Legislature
NDA	Eligibility criteria for participating in the Vermont Neighborhood Development Area program
BPG	Enabling Better Places Guide published by DHCD that sets forth housing-friendly zoning standards
TP	2019 Shelburne Town Plan, which sets the policies to be implemented through the regulations

The Housing Barriers portion of the audit summarizes relevant regulatory provisions by section and guidance from the resources identified above in the left column. The right column offers recommendations for the Planning Commission to consider. Red flags indicate that the section is not fully aligned with the guidance from one or more of the resources. The Planning Commission should in particular note:

- 🚩 Where there is a flag in the VSA (first) column, that generally indicates there is a change that must be made to Shelburne's regulations to conform to statute.
- 🚩 Where there is a flag in the LEG (second) column, that generally indicates there is a change that will be required if the Housing Bill as currently drafted is enacted into law. We should know whether the bill passes and its final form within the next few weeks.
- 🚩 Where there is a flag in the NDA (third) column, that generally indicates there is a change that will need to be made for an area to become eligible for designation under the NDA program. The NDA program seeks to promote the creation of housing, particularly affordable and workforce housing, within or near designated downtowns and village centers. It offers developers a number of incentives, most critically, an exemption from Act 250 for 'priority housing' as defined in statute.

Town Plan

Vermont statute requires municipal regulations to be in conformance with the town plan and the state planning goals established in 24 V.S.A. § 4302. A municipality must have a current town plan to adopt, amend and enforce land use regulations.

The second part of the audit evaluates Shelburne's adopted zoning and subdivision bylaws against the policies of the 2019 Town Plan. The Town Plan portion of the audit summarizes the goals, objectives and actions found in the 2019 plan by chapter or subchapter in the left column. The right column summarizes related provisions in the adopted zoning and subdivision bylaws. Recommendations for changes and discussion of alternative approaches to improve the alignment between the plan and the regulations are offered in the gray box below the two columns.

Key findings in the Town Plan portion of the audit include:

- 5** The plan continues to emphasize resource protection. It is evident that many elements of the adopted regulations were crafted in response to perceived threats to the town's natural, agricultural, scenic and historic resources – primarily from residential subdivisions in the rural areas of town. That type of subdivision activity was occurring throughout the 1980s and 1990s in Shelburne, but there has been relatively little new development in the rural areas of town for more than 20 years. Several decades of land conservation efforts have ensured the preservation of Shelburne's rural character for future generations. It will be important to maintain regulatory approaches that protect the town's resources. It will also be important to craft an approach that is based in planning for the future rather than one that is a reaction to past development pressures.

- 6** The plan highlights a need for improved stormwater management practices to protect water quality and attenuate flooding. The adopted regulations do not reflect contemporary best practices for stormwater management and do not apply universally to all development with impervious surface. Enhanced site plan review with stormwater management requirements that align with state permitting standards is recommended.
- 7** The plan calls for fully integrating the Shelburne Road form-based code (FBC) into the zoning regulations as the primary zoning for that area of town rather than an optional overlay. It also suggests extending a FBC to other areas of town. Since the adoption of the plan in 2019, community support for the FBC has weakened and the FBC option has been removed from some areas it originally covered. Shelburne invested heavily in the creation of the FBC. It will be important to retain the core planning concepts that underpinned that work - walkability and public realm improvements, compact mixed-use development that expands housing choice and affordability, and high quality site design, amenities and buildings that reflect local character. It will also be important to find a regulatory approach that can be easily administered and meets community expectations.
- 8** Many of the town plan policies relate to basic site plan and subdivision elements. Those basic standards in the adopted zoning and subdivision bylaws are generally weak. The relevant sections are many decades old and are not responsive to current planning objectives. Street connectivity, parking, open space, recreation land, etc. can all be addressed through conventional but robust site plan review and subdivision standards. Strengthening those sections will reduce the need to rely on more complex regulatory processes like conditional use and planned unit development. Having regulations with clear and detailed site design and engineering standards would allow for administrative review of more applications, streamlining the development review process for applicants and reducing the workload for town staff and the Development Review Board generated by hearings on minor projects.
- 9** Vermont is a Dillon's Rule state. This means that Shelburne's authority to regulate land use is limited to those powers specifically granted to municipalities by state statute. Some of the policies of the town plan cannot be implemented through the zoning and subdivision authority available to Vermont municipalities. It will be important to have a clear understanding of what Shelburne can regulate and what public interests the community is seeking to further through its development review and permitting process.

ZONING BYLAW SECTION	VSA	LEG	NDA	BPG	TP
<p>ARTICLE I. PURPOSE</p> <p>The purpose statement reflects outdated model zoning language. It does not fully align with statutory authorization for municipal zoning or the policies of the town plan.</p> <p>The purpose statement has a very narrow function. If a provision of the regulations is challenged, the courts will look to the purpose statement to determine whether that provision furthers a stated purpose of the regulations.</p>	🚩				🚩
<p>220 ALLOWABLE USES</p> <p>Describes Table 1 (table of permitted and conditional uses) as a generalized list of uses allowed in each zoning district. States that Table 1 may conflict with the detailed lists provided in the articles for each zoning district and that the zoning district language will control.</p> <p>The Enabling Better Places Guide recommends eliminating complexity and inconsistency within the regulations wherever possible.</p>				🚩	
<p>221 DIMENSIONAL STANDARDS</p> <p>Section relates to Table 2 (table of dimensional standards). Same structure and concerns as found in Section 220.</p> <p>Table 2 establishes dimensional standards based on use. This approach favors single-unit housing, which is problematic under equal treatment and fair housing law.</p>	🚩			🚩	
<p>310 PERMITTED USES IN RURAL DISTRICT</p> <p>Permitted residential uses: single- and two-family dwellings, agricultural worker housing, accessory apartments (2 bedrooms, 50% floor area of original dwelling), and residential care homes (8 residents, 1,000 ft separation) are permitted.</p> <p>The ADU and residential care home provisions are out of conformance with statute. The Enabling Better Places Guide recommends allowing 3 and 4 unit dwellings in districts where 1 and 2 unit dwellings are allowed.</p> <p>Regulations use the word family as part of the description of housing types (single family dwelling), which is legally problematic because many homes are not inhabited by a group of people that meet the definition of family. The best practice is to use terms that describe the structure or use not the residents (single unit dwelling). This change should be made throughout the regulations.</p>	🚩	🚩		🚩	🚩

Consider adding a more specific purpose statement that expresses support for the creation of a full range of housing options to meet the needs of a diverse population as called for in the town plan.

Also consider referencing equal treatment of housing and fair housing laws.

Eliminate individual use tables from within the zoning districts. Retain a single use table, which minimizes opportunity for internal inconsistency.

Eliminate individual dimensional tables from within the zoning districts in favor of a single dimensional table.

Establish a single set of dimensional standards within each district that apply equally to all residential lots irrespective of housing type.

Update standards for ADUs and residential care homes to conform with statute (all districts where allowed).

Update terminology to eliminate reference to 'family' when describing housing types throughout the regulations (single unit dwelling rather than single family dwelling).

Consider allowing 1-4 unit dwellings and attached housing as a permitted use in all zoning districts where housing is allowed (expand housing choice).

ZONING BYLAW SECTION	VSA	LEG	NDA	BPG	TP
320 CONDITIONAL USES IN RURAL DISTRICT					
<p>Conditional residential uses: conversion of a single-family to two-family (if built prior to 1981), second dwelling for agricultural employees, staff quarters or private guest houses, mobile home parks (10 acre min), continuing care retirement communities.</p> <p>Given the scope of conditional use review, it should rarely be used for residential uses because the criteria simply do not apply. Particularly, there are concerns about applying 'character of the area' criteria to residential development applications related to equal treatment and fair housing law. Consideration of 'character of the area' for three- and four-unit dwellings is prohibited by statute.</p> <p>It is very challenging for the town to police occupancy of worker or guest houses once permitted, raising the question of whether there should be special allowances for them not available to other housing types.</p> <p>The Housing Bill currently in the legislature will require municipalities to allow any single-unit dwelling to be converted to a two-unit dwelling by right (no conditional use review).</p>	<p><i>Eliminate conditional use review for conversion of single-unit to two-unit dwelling.</i></p> <p><i>Consider allowing any single-unit dwelling to be converted to two (or up to four) units townwide by right.</i></p> <p><i>Consider a simplified mechanism to allow for multiple detached dwellings on a parcel as an alternative to special provisions for worker or guest housing.</i></p>				
340 PUD - RESIDENTIAL IN RURAL DISTRICT					
<p>All residential subdivision in the district requires approval as a PUD. The Enabling Better Places Guide warns against over-reliance on complex approval processes and it suggests they are an indicator of underlying problems with the bylaws</p>	<p><i>Consider raising the threshold for mandatory PUDs. Triggers to consider in addition to the number of lots include whether a new road is required to serve the proposed lots and the total acreage involved.</i></p>				
410 PERMITTED USES IN RESIDENTIAL DISTRICT					
<p>Permitted residential uses: single- and two-family dwellings, accessory apartments (2 bedrooms, 50% floor area of original dwelling), and residential care homes (8 residents, 1,000 ft separation) are permitted.</p> <p>Notes under Section 310 apply here as well.</p> <p>The Housing Bill currently in the legislature will require that municipalities allow up to four-unit dwellings in any zoning district where single-unit dwellings are allowed on land serviced by municipal sewer.</p>	<p><i>Consider allowing 1-4 unit dwellings and attached housing as a permitted use in all zoning districts where housing is allowed (expand housing choice).</i></p>				

VSA: Vermont Statute

LEG: Current Legislation

NDA: Neighborhood Development Area

BPG: Enabling Better Places Guide

TP: 2021 Town Plan

ZONING BYLAW SECTION	VSA	LEG	NDA	BPG	TP
420 CONDITIONAL USES IN RESIDENTIAL DISTRICT	🚩	🚩		🚩	🚩

Conditional residential uses: multi-family dwellings, mobile home parks (existing 1986), elder housing (25-unit max, PUD required), elder care (60-bed max, PUD required), mobile home parks (10 acres), nursing homes (50 -bed max), rooming house (3 rental room max).

There are multiple terms and thresholds across the districts for senior housing and care facilities. Notes regarding conditional use review for residential uses under Section 310 apply here as well.

Statute controls the extent to which municipalities can regulate existing mobile home parks and individual homes within parks. A minimum lot size is applied to MHPs but not to other housing types (elderly housing) raising equal treatment concerns. The state is advocating for additional affordable and senior housing in the form of MHPs. The Housing Bill currently under consideration in the Legislature includes a study of opportunities and barriers to creating new MHPs and maximizing the efficient use of existing MHPs - expect to see further regulatory changes in support of state policy on MHPs in future years.

Update all regulatory provisions related to mobile home parks to conform to statute.

Consider raising the limit on number of rental rooms in a rooming house (expand housing choice).

Consider simplified and consistent terms and approaches to senior housing and care facilities ensuring that the full continuum of housing and services is allowed, preferably as a permitted use where serviced by water and sewer.

430 DIMENSIONAL REQUIREMENTS RESIDENTIAL DISTRICT	VSA	LEG	NDA	BPG	TP
430 DIMENSIONAL REQUIREMENTS RESIDENTIAL DISTRICT	🚩	🚩	🚩	🚩	🚩

Sliding scale lot size based on number of units (20,000 sf for single-family, 15,000 per unit for two or more) with a reduced lot size requirement for elderly housing. Lot frontage is 100 ft for single-family and 150 ft for all other uses. Building coverage is 20% max and building height is 35 ft max.

The district is served by municipal water and sewer. This district is within the Growth Area 2 planning area established in the 2019 Town Plan. The plan states that this area is intended to absorb most of the town's future residential growth. The plan also speaks to protecting neighborhood quality and ensuring new development fits into its surroundings. Portions of this district could be eligible for a Neighborhood Development Area (NDA) designation given their proximity to the designated village center.

A minimum base density of four units per acre is required for participation in the NDA program. The Enabling Better Places Guide recommends eliminating density caps altogether on serviced land and points to how they limit opportunity for smaller (and likely more affordable) homes. The Housing Bill sets a minimum required density of 5 du/ac for serviced land.

Increase the allowed density to 5 or more units per acre and reduce the minimum required lot size to 8,700 sq ft or less.

Consider replacing the maximum building coverage with a maximum lot coverage standard (buildings + driveway and parking) and using a maximum building footprint to ensure new construction is compatible in scale.

Lot frontage and setbacks should be modified as needed to remain in proportion with lot size.

ZONING BYLAW SECTION	VSA	LEG	NDA	BPG	TP
<p>610 PERMITTED USES IN VILLAGE RESIDENTIAL DISTRICT</p> <p>Permitted residential uses: single- and two-family dwellings, accessory apartments (2 bedrooms, 50% floor area of original dwelling), and residential care homes (8 residents, 1,000 ft separation) are permitted.</p> <p>This district is served by municipal water and sewer. Portions of this district could be eligible for a Neighborhood Development Area (NDA) designation given their proximity to the designated village center.</p> <p>Allowance for conversion of single unit dwellings to multi unit dwellings and a diversity of housing types would be needed to meet NDA program criteria. Additionally, the Enabling Better Places Guide recommends multi-unit housing be allowed in neighborhood districts such as this.</p> <p>Notes under Section 310 and 410 apply here as well.</p>	🚩	🚩		🚩	🚩
<p><i>Consider allowing 1-4 unit dwellings and attached housing as a permitted use in all zoning districts where housing is allowed (expand housing choice).</i></p> <p><i>Consider allowing larger multi-unit housing as a permitted use (with site plan review) in all districts that are serviced.</i></p>					
<p>620 CONDITIONAL USES IN VILLAGE RESIDENTIAL DISTRICT</p> <p>Conditional residential uses: conversion of single-family to two-family (existing 1981), rooming house (3 rental room max).</p> <p>Notes under 320 apply here as well. Further, there is no provision for multi-unit housing in this district, which is served by water and sewer. This district limits housing choice to a greater degree than the Residential district.</p>	🚩	🚩	🚩	🚩	🚩
<p><i>Eliminate conditional use review for conversion of single-unit to two-unit dwelling.</i></p>					
<p>630 DIMENSIONAL REQUIREMENTS IN VILLAGE RESIDENTIAL</p> <p>Sliding scale lot size and frontage based on number of units (12,500 sf/75 ft for single-family, 20,000/150 ft for duplex) with reduced lot size for elderly housing. Front setback is 30 ft min. Building coverage is 20% max and building height is 35 ft max.</p> <p>The district is served by municipal water and sewer. This district is within the Growth Area 1 planning area established in the 2019 Town Plan. The plan states that residential densities in Area 1 should be higher than in other parts of town. The plan also speaks to protecting neighborhood quality and ensuring new development fits into its surroundings. Portions of this district could be eligible for a Neighborhood Development Area (NDA) designation given their proximity to the designated village center.</p> <p>Notes under Section 430 apply here as well.</p>	🚩	🚩	🚩	🚩	🚩
<p><i>Consider increasing the allowed density to 5 or more units per acre and reducing the minimum required lot size to 8,700 sq ft or less.</i></p> <p><i>Consider replacing the maximum building coverage with a maximum lot coverage standard (buildings + driveway and parking) and using a maximum building footprint to ensure new construction is compatible in scale.</i></p> <p><i>Lot frontage and setbacks should be modified as needed to remain in proportion with lot size and meet NDA requirements.</i></p>					
<p>810 PERMITTED USES IN VILLAGE CENTER DISTRICT</p> <p>Permitted residential uses: single-, two- and multi-family dwellings, accessory apartments (2 bedrooms, 50% floor area of original dwelling), and residential care homes (8 residents, 1,000 ft separation) are permitted.</p> <p>This district is served by municipal water and sewer. This district could be eligible for a Neighborhood Development Area (NDA) designation.</p>	🚩	🚩		🚩	
<p><i>Update standards for ADUs and residential care homes to conform with statute.</i></p> <p><i>Consider allowing other housing types including attached housing, rooming houses and residential care or other congregative living.</i></p>					

ZONING BYLAW SECTION	VSA	LEG	NDA	BPG	TP
<p>820 CONDITIONAL USES IN VILLAGE CENTER DISTRICT</p> <p>Conditional residential uses: conversion of single-family to two-family (existing 2009), mobile home parks (existing 1986), elder housing (40 units max, PUD required), elder care (100-bed, PUD required), elder supportive service housing (80 units max, PUD required), new mobile home parks (10 acre min).</p> <p>Notes under Section 420 apply here as well.</p>	🚩	🚩		🚩	
				<p><i>Eliminate conditional use approval for conversion from single to two unit.</i></p> <p><i>Update all regulatory provisions related to mobile home parks to conform to statute.</i></p> <p><i>Consider simplified and consistent terms and approaches to senior housing and care facilities ensuring that the full continuum of housing and services is allowed, preferably as a permitted use where serviced by water and sewer.</i></p>	
<p>830 DIMENSIONAL REQUIREMENTS IN VILLAGE CENTER</p> <p>Sliding scale lot size based on number of units (10,000 sf for single-family, 7,500 per unit for two or more) with a reduced lot size requirement for elderly housing. Lot frontage is 60 ft for single-family, 75 ft for two-family and 100 ft for all other uses. Building coverage is 20% max. Building height is 35 ft max except that buildings further back from Shelburne Rd may be 40-45 ft.</p> <p>This district is within the Growth Area 1 planning area established in the 2019 Town Plan. The plan states that residential densities in Area 1 should be higher than in other parts of town. The residential densities are marginally higher than other districts and just within NDA requirements. The Enabling Better Places Guide recommends eliminating density caps in centers.</p>		🚩	🚩	🚩	🚩
				<p><i>Consider eliminating the density cap in the village center and rely on other dimensional and design standards to regulate the intensity of development (lot coverage, building footprint, parking).</i></p>	
<p>841 PUD MIXED USE DENSITY BONUS</p> <p>Offers up to a 25% residential density bonus at the discretion of the DRB for mixed use projects that meet targets for affordable housing and open space conservation. A minimum of 2/3 of the bonus units must be perpetually affordable and at least 35% of the project site must be set aside as open space to qualify for the bonus.</p> <p>The 2019 Town Plan calls for the regulations to offer incentives for affordable housing. A 25% bonus is not an adequate incentive to generate affordable housing units, particularly when combined with the additional open space conservation requirement. Utilizing the bonus is unlikely to be feasible for a developer.</p> <p>The Housing Bill includes a mandated density and height bonus for affordable housing projects (one additional story and the units on that floor may exceed density allowances by up to 40%).</p>		🚩			🚩
				<p><i>Consider replacing incentives (density bonus) with requirements for affordable units (inclusionary zoning).</i></p> <p><i>Alternatively consider much more significant density bonuses in combination with other incentives (reduced fees, preferential wastewater allocations) to stimulate affordable housing development.</i></p>	
<p>910 PERMITTED USES IN SHELBURNE FALLS MIXED USE</p> <p>Permitted residential uses: single- and two-family dwellings, accessory apartments (2 bedrooms, 50% floor area of original dwelling), and residential care homes (8 residents, 1,000 ft separation) are permitted.</p> <p>Notes under Section 310 apply here as well.</p>	🚩	🚩		🚩	
				<p><i>Consider allowing 1-4 unit dwellings and attached housing as a permitted use in all zoning districts where housing is allowed (expand housing choice).</i></p> <p><i>Consider allowing larger multi-unit housing as a permitted use (with site plan review) in all districts that are serviced.</i></p>	

ZONING BYLAW SECTION	VSA	LEG	NDA	BPG	TP
<p>920 CONDITIONAL USES IN SHELBURNE FALLS MIXED USE</p> <p>Conditional residential uses: conversion of single-family to two-family (existing 2009), multi-family dwellings, elder housing (10 units max, PUD required), elder care (12-bed, PUD required). Notes under Section 420 apply here as well.</p>	🚩	🚩		🚩	
	<p><i>Eliminate conditional use approval for conversion from single to two unit.</i></p> <p><i>Consider simplified and consistent terms and approaches to senior housing and care facilities ensuring that the full continuum of housing and services is allowed, preferably as a permitted use where serviced by water and sewer.</i></p>				
<p>930 DIMENSIONAL REQUIREMENTS IN SHELBURNE FALLS MU</p> <p>Sliding scale lot size based on number of units (12,500 sf for single-family, 10,000 sf per unit for 2 or more) with a reduced lot size for elderly housing. Frontage is 75 ft for single-family, 100 ft for two-family and 150 ft for multi-family. Building coverage is 20% max and building height is 35 ft max. The district is served by municipal water and sewer. This district is within the Growth Area 1 planning area established in the 2019 Town Plan. This district could be eligible for a Neighborhood Development Area (NDA) designation. The plan states that residential densities in Area 1 should be high. Notes under Section 430 apply here as well.</p>		🚩	🚩	🚩	🚩
	<p><i>Consider allowing any single-unit dwelling to be converted to at least two (or preferably up to four) units without additional lot area requirements.</i></p> <p><i>Consider increasing the allowed density to 5 or more units per acre and reducing the minimum required lot size to 8,700 sq ft or less.</i></p>				
<p>1010 PERMITTED USES IN MIXED USE DISTRICT</p> <p>Permitted residential uses: single-, two- and multi-family dwellings, accessory apartments (2 bedrooms, 50% floor area of original dwelling), and residential care homes (8 residents, 1,000 ft separation) are permitted. This district is served by municipal water and sewer. This district could be eligible for a Neighborhood Development Area (NDA) designation.</p>	🚩	🚩		🚩	
	<p><i>Update standards for ADUs and residential care homes to conform with statute.</i></p> <p><i>Consider allowing other housing types including attached housing, rooming houses and residential care or other congregate living.</i></p>				
<p>1020 CONDITIONAL USES IN MIXED USE DISTRICT</p> <p>Conditional residential uses: conversion of single-family to two-family (existing 2009), mobile home parks (existing 1986), new mobile home parks (10 acre min), elder housing (40 units max, PUD required), elder care (100-bed, PUD required), continuing care retirement facilities, nursing homes. Notes under Section 420 apply here as well.</p>	🚩	🚩		🚩	
	<p><i>Eliminate conditional use approval for conversion from single to two unit.</i></p> <p><i>Update all regulatory provisions related to mobile home parks to conform to statute.</i></p> <p><i>Consider simplified and consistent terms and approaches to senior housing and care facilities ensuring that the full continuum of housing and services is allowed, preferably as a permitted use where serviced by water and sewer.</i></p>				

ZONING BYLAW SECTION	VSA	LEG	NDA	BPG	TP
<p>1030 DIMENSIONAL REQUIREMENTS IN MIXED USE DISTRICT</p> <p>Sliding scale lot size and frontage based on number of units (15,000 sf/100 ft for single-family, 10,000 sf per unit/150 ft for two or more) with a reduced lot size requirement for elderly housing. Setbacks vary based on use with special provisions for setbacks from Shelburne Road. Building coverage of 30% max and lot coverage of 50% max. Maximum building footprint of 30,000 sf except there are provisions for redevelopment sites with existing building footprints that exceed a total of 30,000 sf. Max building height of 35 ft.</p> <p>This district is overlaid by the Shelburne Road Form Based Code.</p>		🚩	🚩	🚩	🚩
<p>1040 PUD - RESIDENTIAL IN MIXED USE DISTRICT</p> <p>Residential development on sites in excess of 5 acres other than a single-family dwelling or mobile home park requires approval as a PUD.</p> <p>The Enabling Better Places Guide warns against over-reliance on complex approval processes and it suggests they are an indicator of underlying problems with the bylaws.</p>				🚩	
<p>ARTICLE XIII. CONSERVATION DISTRICT</p> <p>This district encompasses lands that are in some form of public or conservation organization ownership, are protected through a conservation easement or held as common open space as part of a development. There are some existing homes within the district and some easements may allow further housing construction, but opportunity for development is extremely limited. The district does require a 10 acre minimum lot size.</p>					🚩
<p>ARTICLE XIV. NEIGHBORHOOD OVERLAY DISTRICT</p> <p>This district overlays the Rural district and encompasses the Harborwood Shores neighborhood (off Harbor Rd). It establishes alternative setbacks and building coverages because the neighborhood is nonconforming.</p>				🚩	

Consider eliminating the density cap in the mixed use district and rely on other dimensional and design standards to regulate the intensity of development (lot coverage, building footprint, building height, parking).

Consider integrating the form-based code dimensional standards into the underlying district.

Consider amendment of conventional district and subdivision standards to achieve desired development outcome without requiring PUD approval.

Consider reducing the minimum lot size to avoid fragmentation of agricultural or other resource land given that development potential on these lands is controlled by mechanisms outside the land use regulations.

Consider a new base zoning district for those areas of the shoreline that have previously been developed with small residential lots, with dimensional requirements calibrated to fit the existing built form.

ZONING BYLAW SECTION	VSA	LEG	NDA	BPG	TP
ARTICLE XV. VILLAGE DESIGN REVIEW OVERLAY DISTRICT				🚩	
<p>This district encompasses portions of the Village Center, Village Residential and Shelburne Falls Mixed Use districts. Design review is required for all development subject to a zoning permit, which requires advisory review from the Shelburne Historic Preservation and Design Review Commission (SHPDRC) and a conditional use approval from the DRB (with limited allowance for administrative review of minor projects).</p> <p>Statute now specifically authorizes design review commissions to advise the administrative officer. A DRB hearing and approval is no longer required for all applications within design review districts. The design review process adds more rigorous standards and review process, which could pose a barrier to housing creation within the overlay district, particularly for small projects.</p>				<p><i>Consider refining the scope of design review to apply solely to applications that propose exterior building or site modifications.</i></p> <p><i>Consider eliminating any requirement for DRB approval of applications where such approval is not already required by the underlying zoning (expand use of the administrative approval process provided for in Section 1535).</i></p>	
1900.3 SITE PLAN REVIEW STANDARDS	🚩			🚩	
<p>Site plan review is required for multi-unit residential projects and PUDs. The site plan review standards include consideration of traffic generation and the adequacy of surrounding roads, sidewalks and paths to accommodate anticipated traffic from the development.</p> <p>This review standards exceeds statutory authority for site plan review. Traffic impact is a criteria for conditional use review. Consideration of traffic generation could pose a barrier to multi-unit residential development.</p>				<p><i>Consider eliminating the evaluation of traffic generation as part of site plan review.</i></p> <p><i>If needed, consider defining a threshold for conditional use approval based on traffic generation.</i></p>	
1900.5 LANDSCAPING AND SCREENING REQUIREMENTS				🚩	
<p>Site plan applications must include a professionally prepared landscaping plan and the DRB may require applicants to install landscaping (up to a specified percentage of development costs).</p> <p>The landscaping plan requirement could pose a barrier to small multi-unit development.</p>				<p><i>Consider setting a threshold for requiring a professional landscaping plan that would exempt small-scale multi-unit housing, particularly conversions of existing buildings, from the requirement.</i></p>	
1900.8 ACCESS REQUIREMENTS				🚩	🚩
<p>Site plan applications must meet access requirements, which reference the town’s public works standards.</p> <p>It is unclear whether infill housing could be served via shared driveways or would trigger the full access requirements for private roads. Having to upgrade or construct a road could pose a barrier to small projects proposing only a few additional units. The town plan calls for limiting the width and extent of new roads to the minimum needed to provide adequate access.</p>				<p><i>Clearly establish the number of lots, buildings or units that can be accessed from a shared driveway.</i></p> <p><i>Consider allowing shared driveways to serve more than two homes.</i></p>	

ZONING BYLAW SECTION	VSA	LEG	NDA	BPG	TP
<p>1900.11 AMENDMENTS TO APPROVED PLANS</p> <p>Grants the administrative officer authority to approve minor modifications to approved site plans.</p> <p>Except as specially authorized in this section, all other site plan applications (which includes all multi-unit housing) require DRB hearing and approval. The Enabling Better Places Guide recommends a streamlined permitting process for small-scale multi-unit housing.</p>					
<p><i>Consider distinguishing between major and minor site plan applications and allowing administrative approval of minor projects, including three- and four-unit dwellings or adding units within existing buildings with no substantive exterior modifications.</i></p>					
<p>1900.13 CONDITIONS</p> <p>Authorizes the DRB to place conditions on site plan approval.</p> <p>The Housing Bill currently being considered in the legislature narrows the authority for conditions of approval. It prohibits DRBs from placing conditions that would prevent a property owner from developing their property to the maximum potential allowed within the applicable zoning district in terms of lot size, building size and height, and density unless those conditions are related to specific natural constraints (wetlands, floodplains, river corridors).</p>					
<p><i>Consider distinguishing between major and minor site plan applications and allowing administrative approval of minor projects, including three- and four-unit dwellings or adding units within existing buildings with no substantive exterior modifications.</i></p> <p><i>Consider integrating any statutory provisions related to conditions of approval into the administrative procedures so limits of authority are clearly understood by all those involved.</i></p>					
<p>1910.4 CONDITIONAL USE REVIEW</p> <p>The conditional use review criteria include the five elements set by statute plus additional elements including effect on historic buildings and sites.</p> <p>The regulations have not been updated to reflect that the 'character of the area' criterion can no longer be applied to 3- or 4-unit dwellings under statute.</p>					
<p><i>Make 3- and 4-unit dwellings a permitted use where currently conditional (preferably) or specifically exempt them from the character of the area criterion.</i></p>					
<p>1910.9 CONDITIONS</p> <p>Authorizes the DRB to place conditions on conditional use approval.</p> <p>Notes from 1900.13 apply.</p>					
<p><i>Recommendations from 1900.13 apply.</i></p>					
<p>1920.2 NONCONFORMING STRUCTURES</p> <p>States that a nonconforming structure that is unoccupied for 2 years cannot be re-occupied.</p> <p>This provision does not align with common land use practice and may exceed statutory authority to regulation nonconformities. It could prevent a dwelling unit in a nonconforming structure from being re-occupied if the building sat vacant (not for sale) and disconnected from utilities for 2 years or longer.</p>					
<p><i>Consider either eliminating this provision or applying it solely to non-residential structures.</i></p>					

ZONING BYLAW SECTION	VSA	LEG	NDA	BPG	TP
<p>1920.4 NONCONFORMING MOBILE HOME PARKS</p> <p>Establishes minimum separation distances and related standards for regulating the alteration, expansion or replacement of mobile homes within a nonconforming mobile home park.</p> <p>This provision does not fully conform with statute, which allows the municipality to apply these type of standards only if they do not have the effect of preventing the mobile home replacement. Additionally, the term 'mobile home' has been replaced by 'manufactured home'.</p>	🚩				
<p>1925 EXISTING MOBILE HOME PARKS</p> <p>This section regulates modification of existing MHPs. It does not allow for installing additional homes within an existing park.</p> <p>There are three existing MHPs in Shelburne: Lakeview (64 lots, co-operative), Livingston's (17 lots, private owner), and Shelburnewood (28 lots, co-operative). Shelburnewood is the only MHP with remaining undeveloped land (expansion opportunity). The state is promoting the full utilization and expansion of existing MHPs, particularly sites like Shelburnewood that are serviced by water and sewer. The provisions of this section are at risk of challenge under equal treatment and fair housing laws.</p>	🚩				🚩
<p>1926 NEW MOBILE HOME PARKS</p> <p>This section establishes density and design standards for new MHPs. The density of homes possible within a new MHP is somewhat higher than what would be possible for single-unit dwellings on their own lots but is lower than what is allowed for multi-unit housing in several districts. It requires home sites that are at least 50' wide and 5,000 sf in area. It sets 15-foot setbacks for homes from the boundaries of the site.</p> <p>The density and dimensional standards pose a significant barrier to development of a new MHP. Where a MHP can be served by municipal water and sewer, a density of 10 homes per acre can be achieved with quality site design. The provisions of this section are at risk of challenge under equal treatment and fair housing laws as MHPs are not being treated equivalently to other forms of housing.</p>	🚩				

Allow for replacement with a home that meets current HUD standards (code minimum is 8' x 40' but a contemporary single-wide home is more commonly 14' x 66') while seeking to avoid any further reduction in the separation distances between buildings.

Replace the term 'mobile home' with 'manufactured home' throughout the regulations.

Replace this section with regulatory language that fully conforms to state and federal law and allows for reasonable infill within existing MHPs at densities that are no less than what is available to other housing types and dimensional standards that fit the built form.

Consider replacing this section with a form of residential PUD for small footprint homes (manufactured homes, cottages, tiny homes, etc.) that would allow for a density of housing at least equivalent to what is allowed for multi-unit housing. Other standards such as recreation space and road specifications should be equivalent to what is required for other housing types.

ZONING BYLAW SECTION	VSA	LEG	NDA	BPG	TP
1930.3 PLANNED UNIT DEVELOPMENT - RESIDENTIAL					
<p>PUDs require site plan, conditional use and major subdivision approval. PUDs are mandatory in some districts and for certain uses. Nearly all major residential development in Shelburne has been approved under the PUD provisions rather than as conventional subdivisions for many years.</p> <p>While PUDs ostensibly are intended to offer flexibility from zoning district dimensional requirements, residential PUDs set alternative yard requirements (30' front and 15' side or rear) that offer little to no relief from underlying district standards. There is an open space requirement of 60% in the Rural district and 33% in all other districts.</p> <p>The Enabling Better Places Guide warns against over-reliance on complex approval processes and it suggests they are an indicator of underlying problems with the bylaws. The effect of Shelburne's use of PUDs in the serviced area of town is striking - each residential development is a separate 'pod' so neighborhoods are disconnected and separated from each other by open space that is not configured and is often not suitable as a recreation area. In other instances, land that was physically suitable for housing is now 'common open space' and it is highly unlikely that its potential will be realized.</p>				<p><i>Consider using PUD approval only for specific, multi-use and/or multi-building development types and not as a de facto replacement for conventional residential subdivision in the serviced areas of town.</i></p> <p><i>Consider meaningful requirements for connected streets and recreation land within future residential subdivisions in the serviced areas of town.</i></p> <p><i>Consider continuing to require 'conservation subdivision' through PUDs in the rural areas of town with more specific standards to ensure that the required open space within the PUD meaningfully contributes to the town's stated resource protection goals.</i></p>	
1950 PERFORMANCE STANDARDS					
<p>The performance standards apply to all new and existing land use and development in Shelburne. It includes specified noise levels.</p> <p>Noise standards within zoning regulations to be enforced by the administrative officer are far less effective than a noise ordinance enforced through the police department, and they can have the unintended consequence of becoming weaponized in a neighbor dispute. As housing density increases, the appropriateness and practicality of applying a noise performance standard to residential land uses declines.</p>					<p><i>Consider applying the performance standards solely to non-residential development going forward and eliminating their application to existing land uses.</i></p>
1960 PARKING REQUIREMENTS					
<p>Requires two parking spaces per dwelling unit (1 for elderly housing). The DRB has authority to reduce the required number of spaces by up to 30%. Shared parking is allowed only on adjacent property. Bicycle parking is required at 10% of the number of vehicular parking spaces. There are no specific provisions for shared parking, or public or on-street parking.</p> <p>The Enabling Better Places Guide recommends no more than 1 parking space per dwelling unit. Reducing the standard to not more than 1 space/unit would be required for NDA eligibility. The Housing Bill would require municipalities to only require 1 space/unit where there is access to public parking, on-street parking or shared parking, and 1.5 spaces/unit everywhere else.</p>					<p><i>Reduce minimum parking requirement to 1 space/unit.</i></p> <p><i>Consider adding more allowance and guidance for shared parking within mixed-use developments.</i></p> <p><i>Consider allowing the AO or DRB to waive or modify parking requirements when specific conditions are met.</i></p>

ZONING BYLAW SECTION	VSA	LEG	NDA	BPG	TP
<p>1980.2 EXISTING SMALL LOTS</p> <p>This section reflects older statutory language that has been amended. There is no longer any minimum size requirement that can be applied to a lot if that lot is served by municipal water and sewer.</p> <p>This section continues to require merger of nonconforming lots if they come into common ownership with an adjoining lot.</p>	🚩				
<p><i>Revise to conform to statute.</i></p> <p><i>Consider eliminating the requirement to merge nonconforming lots, particularly in serviced areas of town. It may be desirable to continue the practice along the lakeshore.</i></p>				🚩	
<p>1980.3 PRINCIPAL STRUCTURE</p> <p>Specifies that there may be only one principal structure on lot unless approved as a PUD.</p> <p>This contributes to the number of applications subject to PUD approval. This provision could pose a barrier to small-scale infill housing in particular.</p>				🚩	
<p><i>Consider allowing multiple principal buildings on a lot by right without specialized approval process.</i></p>		🚩			
<p>2010.4 COMMUNITY FACILITIES</p> <p>Includes the statutory language that limits the town’s authority to regulate a specified list of community facilities.</p> <p>The Housing Bill currently under consideration in the legislature adds ‘emergency shelter’ to that list and specifies that municipalities cannot restrict the hours of operation of a shelter. Emergency shelters are not currently an allowed use in Shelburne.</p>		🚩			
<p><i>Consider establishing emergency shelter as a defined use to be allowed in the serviced areas of town and in accordance with any statutory requirements for that use.</i></p>	🚩				
<p>2040 EXPIRATION OF PERMITS AND APPROVALS</p> <p>A zoning permit is valid for 2 years with a 1 year extension possible with work being completed during the lifespan of the permit. DRB approvals are valid for 2 years from their date of issuance with a 1 year extension possible.</p> <p>Statute has been amended to require a minimum 2-year lifespan for permits. This section meets that minimum but could be clarified to ensure that the time clock does not start until projects have all required approvals (such as state or federal permits).</p>	🚩				
<p><i>Consider providing ‘delay in effect’ language that allows applicants to hold off requesting permits until they have all necessary approvals in place to begin construction.</i></p>		🚩			
<p>2060 APPEALS</p> <p>Includes the statutory language establishing appeal rights and processes.</p> <p>The Housing Bill currently under consideration in the legislature revises the definition of ‘interested person’ to raise the bar on who is eligible to appeal a development decision. The bill also narrows the scope for appeal by excluding character of the area criteria as a qualifying basis for an appeal.</p>		🚩			
<p><i>Consider incorporating any statutory definitions and processes that relate to appeals so they can be clearly understood by all involved.</i></p>					

ZONING BYLAW SECTION	VSA	LEG	NDA	BPG	TP
2110.1 ACCESSORY APARTMENT					
<p>The definition of accessory apartment is out of conformance with statute. Statute now requires municipalities to allow an apartment that is the greater of 900 sf or 30% of the primary unit in size with no limitation on the number of bedrooms.</p> <p>The Housing Bill further mandates that municipalities cannot apply more restrictive standards or a higher level of review for single-unit dwellings with an ADU than is required for a home without an ADU.</p>	<p><i>Revise the accessory apartment provisions to conform to statute.</i></p>				
2110.9 AFFORDABLE HOUSING					
<p>The statutory definition of affordable housing has been expanded to include ownership housing affordable to households earning up to 120% of median income.</p>	<p><i>Revise the affordable housing definition to conform to statute.</i></p>				
2110.52 FAMILY					
<p>The residential use definitions are tied to this definition of family, which includes related people and a group of up to 5 unrelated people. Case law has effectively prohibited zoning regulations from addressing the relationship between the occupants of a housing unit.</p>	<p><i>Replace references to 'family' with 'household' and replace housing type terms with language that does not reference the occupants (i.e., single-unit dwelling rather than single-family dwelling).</i></p>				
2110.64 GROUP/RESIDENTIAL CARE HOME					
<p>This definition does not fully align with statute. There has been expansion in the types of residences within this category to include facilities like sober houses and community therapeutic residences.</p>	<p><i>Revise the residential care home language to fully conform with statute and state regulation of these facilities.</i></p>				
2110.100 MOBILE HOME & 2110.101 MOBILE HOME PARK					
<p>Vermont statute continues to use the term 'mobile home' but federal law and regulations now use the term 'manufactured home'.</p>	<p><i>Replace use of term 'mobile home' with 'manufactured home'.</i></p>				
2110.140 ROOMING HOUSE					
<p>Defines a rooming house as an owner-occupied structure. Contemporary rooming houses are commonly investor owned and operated by a manager who is not the owner.</p>	<p><i>Consider eliminating the requirement for rooming houses to be owner-occupied.</i></p>				






VSA: Vermont Statute

LEG: Current Legislation

NDA: Neighborhood Development Area

BPG: Enabling Better Places Guide

TP: 2021 Town Plan

SUBDIVISION REGULATIONS SECTION	VSA	LEG	NDA	BPG	TP
<p>ARTICLE I. PURPOSE</p> <p>The purpose statement does not speak to creation of quality housing and neighborhoods that meet the needs of current and future residents.</p> <p>The purpose statement has a very narrow function. If a provision of the regulations is challenged, the courts will look to the purpose statement to determine whether that provision furthers a stated purpose of the regulations.</p>					
<p>ARTICLE II. DEFINITION OF MAJOR SUBDIVISION</p> <p>The threshold for a major subdivision is 4 lots (10 lots if approved under the Shelburne Road FBC), any subdivision proposing a new public street or extension of public infrastructure not subject to FBC, and any shopping complex, multi-family housing, elderly housing or PUDs not subject to FBC. These definitions remain in the regulations but all subdivisions are now reviewed under the same process.</p> <p>The use of subdivision approval for development that does not divide land into lots or create other divisions of land for development exceeds statutory authority. It is unclear from this definition whether a proposal to develop one multi-unit residential building on an existing lot could be required to obtain major subdivision approval. The complexity of the review process could pose a barrier to multi-unit housing development.</p>					
<p>800 (10) FISCAL IMPACT</p> <p>Requires a fiscal impact analysis for any project proposing more than 50 dwelling units. This provision is most likely to apply to multi-unit housing development and raises concerns about equal treatment.</p>					
<p>800 (11) WATER SUPPLY</p> <p>The state has assumed authority for regulating potable water and wastewater. The town can condition approval of development on the applicants obtaining necessary state permits and municipal allocations, where development will be connected to the public system, but there cannot be consideration of any details of the water supply (or wastewater systems) during the subdivision review process.</p>					

Consider adding a more specific purpose statement that expresses support for the creation of a full range of housing options to meet the needs of a diverse population as called for in the town plan.

Also consider referencing equal treatment of housing and fair housing laws.

Redefine major and minor subdivision in coordination with recommended changes to the PUD process so that subdivision approval is only applicable to the creation to additional lots.

Consider defining the threshold between major and minor subdivision based on the need for new streets (public or private), extension of public infrastructure, or creation of common infrastructure to serve the proposed lots.













Re-institute a simplified approval process for minor subdivisions that remain below those thresholds.

Consider an administrative process for approving two-lot subdivisions at least within the serviced area of town to facilitate small-scale infill housing. Given the mandated changes to density and lot size many more of the developed lots will be further subdividable.

Consider allowing for creation of a second house lot without road frontage if accessed from a shared driveway.

Eliminate the requirement for a fiscal impact analysis for residential projects.

Revise the regulations to eliminate any consideration of the adequacy of water and wastewater systems and replace with requirement that the applicant obtain all necessary state permits, and municipal allocation when applicable, prior to the start of construction.

SUBDIVISION REGULATIONS SECTION	VSA	LEG	NDA	BPG	TP
<p>800 (12) TRAFFIC IMPACT</p> <p>Requires a traffic impact study for projects that will add 75 or more peak hour trips. A single-unit residence is considered to generate 1 peak hour trip, while a multi-unit will generate 0.6 peak hour trips per unit. 75 peak hour trips is the minimum number of trips that a viable traffic study can be done for.</p> <p>This requirement could pose a barrier to larger residential projects.</p>					
<p>810 SITE PRESERVATION</p> <p>Requires preservation of natural resources within subdivisions. The 2019 Shelburne Town Plan emphasizes resource protection, but also calls for growth and development primarily within the serviced areas of town.</p>					
<p>900 (1) STREET ARRANGEMENT</p> <p>Requires rights-of-way for the continuation and extension of streets between subdivisions. Encourages creation of a gridded street system in the serviced area of town. DRB can modify this requirement.</p> <p>Looking at the pattern of subdivisions approved in recent decades, there are almost no examples of interconnected streets between developments. A disconnected road network reduces walkability and contributes to traffic congestion on arterial streets. It negatively impacts transit, public safety and emergency response, road maintenance and provision of services.</p>					
<p>900 (7) CUL-DE-SAC</p> <p>Allows for streets within a subdivision to be designed as cul-de-sacs and serve at least 20 lots (but not more than 30 dwelling units). Subdivisions laid out for more than 30 dwelling units must have two points of access, but the DRB can approve an emergency-only access.</p>					
<p>930 PEDESTRIAN ACCESS</p> <p>Allows the DRB to require pedestrian easements through larger blocks or to adjoining neighborhoods or destinations.</p>					
<p>940 WATER & 950 SEWAGE DISPOSAL</p> <p>See notes under 800(11) regarding consideration of on-site or community systems.</p>					

Consider refining the threshold for a traffic impact study to include the level of service of the affected public road and deferring to the state to address impacts on state highways.

Consider setting different standards of review for subdivisions in a rural context and subdivisions within the service area. Resource protection should be prioritized in the rural areas of town. Housing creation should be prioritized in the serviced areas of town. This is a way to balance the competing town plan goals.

Consider strengthening the requirement for interconnected streets in the serviced area of town by providing clear criteria linked to physical natural or built features for the DRB to use when determining whether to waive the requirement. Where vehicular connection is not provided, a shared use path connection should be created in its place. This revision should be in conjunction with changes to the PUD requirements for perimeter buffering and open space.

Consider further restricting the use of cul-de-sac streets. They should only be permitted where necessary due to physical site reasons that make through streets impractical or undesirable. When allowed, they should be shorter than currently provided for.

Consider strengthening the provisions for pedestrian easements so they are required by default and can only be waived by the DRB under specific conditions.

Revise language to reflect level of statutory authority.

SUBDIVISION REGULATIONS SECTION	VSA	LEG	NDA	BPG	TP
970 STORMWATER MANAGEMENT					🚩
<p>The state has lowered its threshold for requiring a stormwater permit to 1/2 acre so more projects will need to get a state permit.</p>	<p><i>Consider aligning the stormwater regulations between state requirements, the zoning bylaw and the subdivision regulations (would be facilitated by unifying the regulations).</i></p> <p><i>Where a state permit is required, consider accepting that as evidence that stormwater management standards are being met.</i></p>				
1060 SUBDIVISION WAIVERS	🚩				🚩
<p>Allows the DRB to waive or modify subdivision standards. This broad waiver provisions exceeds the statutory authority.</p>	<p><i>Eliminate this provision and replace with language that gives the DRB authority to modify specific requirements within clearly defined bounds for clearly described reasons.</i></p>				

VSA: Vermont Statute LEG: Current Legislation NDA: Neighborhood Development Area BPG: Enabling Better Places Guide TP: 2021 Town Plan

CHAPTER 1. FUTURE LAND USE - GENERAL

TOWN PLAN

The goal speaks to creating quality places with appropriate physical form, a mix of uses and a mix of social opportunity. The objectives call for maintaining a compact and prominent village center and a contrast between the more densely settled and rural areas of town. They speak to enhancing scenic characteristics, safeguarding natural resources and protecting neighborhood values. The plan recommends expanding design review to more areas of town, and updating and expanding use of the Significant Views map in the regulatory process.

Recommendations

If scenic resources are to be protected through the regulatory process, they need to be mapped and documented to provide a foundation for any regulatory standards or conditions of approvals. Regulations must include clear criteria for decision-making. Consider a 'no undue adverse impact' standard and application of that standard consistent with the Quechee test. Consider referencing the Scenic Views map included in the 2019 Town Plan as a basis for review.

Design review should not be combined with form-based code - they are not compatible regulatory approaches. Additionally, there are design guidelines that apply to the current design review overlay district. Similar guidelines should be established for any other areas of town before design review is expanded.

CHAPTER 1. FUTURE LAND USE - GROWTH AREA 1

TOWN PLAN

The goal speaks to Shelburne village continuing to function as a vital center. The objectives call for a walkable, mixed use center that retains its historic integrity. Shelburne Falls is referenced as a distinct historic area and mixed use neighborhood. Protection of water quality through stormwater management is emphasized.

Actions include zoning revisions to address historic preservation, mix of uses, building and site design, public realm amenities and walkability. The highest density area should be the village center, followed by Shelburne Falls and then by the residential neighborhoods.

Recommendations

Maintaining the historic built form of Shelburne village will effectively limit its density. The inconsistency between the policies for Growth Area 1 and Growth Area 2 were raised previously to the Planning Commission by the Planning Coordinator. The goal as stated in the Town Plan is for Shelburne village center to continue to function as "a center" which does not preclude other centers of development in the community. Consider simply not setting a maximum density in the village center and instead use built form and design standards to prevent out of scale or character development. Allow most civic functions and small businesses as permitted uses (with site plan review).

To meet the new minimum required density of 5 du/ac on serviced land and allowance for multi-unit housing, the current distinction between Shelburne Falls and the residential neighborhoods will no longer be relevant. Consider consolidating the districts and making provisions for small, neighborhood serving businesses (market, deli, coffee shop) in the serviced residential areas by specifying which streets such businesses are allowed on.

Establish a consistent set of stormwater standards that align with state regulations (avoid duplication) and apply to all development creating additional impervious surface irrespective of district or watershed (see Chpt. 2 below).

ZONING & SUBDIVISION

The current districts and densities establish a contrast between the serviced and unserved areas of town.

While the regulations frequently reference 'significant views' and 'significant landscapes' those terms are not defined and there is no reference to the Significant Views map.

Design review is required within an overlay district that generally encompasses the historic Shelburne village center and Shelburne Falls areas.

ZONING & SUBDIVISION

Village Center district: Single-, two- and multi-family housing permitted. For single-family, density of 1 du per 10,000 sf lot area. For two- and multi-family, 1 du per 7,500 sf of lot area. A range of commercial and civic uses are allowed as either permitted or conditional uses.

Shelburne Falls district: Single- and two-family housing is permitted, multi-family housing is conditional. A limited set of businesses are allowed as conditional uses. For single-family, density of 1 du per 12,500 sf lot area. For two- and multi-family, 1 du per 10,000 sf of lot area.

Village Residential district: Multi-family housing is not allowed. Densities are the same as Shelburne Falls district. The non-residential uses are very limited.

CHAPTER 1. FUTURE LAND USE - GROWTH AREA 2

TOWN PLAN

The goal speaks to the serviced land outside the village center absorbing most of Shelburne's future growth. The plan calls for compact, walkable and connected development.

The objectives call for adopting the form base code as the base zoning for the Shelburne Road north corridor. The objectives suggest expanding use of form-based code throughout Growth Area 2.

The plan also speaks to resource protection - open space, farmland, scenic views, water quality, habitat, etc. It addresses functional and visual improvements and impacts along the Route 7 corridor.

ZONING & SUBDIVISION

Residential district: Single- and two-family housing is permitted, multi-family housing is conditional. A limited set of businesses are allowed as conditional uses. For single-family, density of 1 du per 20,000 sf lot area. For two- and multi-family, 1 du per 15,000 sf of lot area.

Mixed Use district: Single-, two- and multi-family housing permitted. For single-family, density of 1 du per 15,000 sf lot area. For two- and multi-family, 1 du per 10,000 sf of lot area. A wide range of commercial and civic uses are allowed as either permitted or conditional uses.

Shelburne Road FBC: Overlays primarily the Mixed Use district. Allows 1-2 family dwellings on a 5,000 sf lot, townhouses with 1,400 sf of lot area/du, cottages with 1,200 sf of lot area/du, multi-unit buildings with 7,500 sf of lot area for 3 units plus 2,000 sf for each additional unit. Also allows for a range of mixed-use and non-residential building types.

Recommendations

Simplify and integrate the FBC overlay into a hybrid base zoning district for the Shelburne Road corridor north of Route 7. Guided by the residential types and densities allowed under the FBC, re-calibrate the use and dimensional standards for the residential neighborhoods throughout Growth Area 2.

Recognize that beyond the redevelopment opportunities within the Shelburne Road corridor, there are relatively few large tracts of serviced land remaining for greenfield development. Future development will primarily be infill and redevelopment of previously developed sites. The adopted regulations are drafted in response to the residential subdivision activity of the 1980s and 1990s. Revised regulations will need to look ahead to future forms of development. This is anticipated to include conversion of single-unit dwellings and outbuildings to create additional units, further subdivision of house lots in existing neighborhoods for residential infill, and pocket neighborhoods of small footprint homes on underutilized land.

Street connectivity and walkability should be prioritized for new development and redevelopment projects. Consider eliminating most of the PUD types in the adopted regulations. In the serviced area of town, replace PUDs with updated conventional subdivision standards to create compact, walkable and diverse neighborhoods with access to recreation land. Primarily rely on the FBC elements to regulate complex multi-use or multi-building development proposals without a need for PUD approval.

An appropriate balance between growth and resource protection will need to be found within the serviced area of town. Factors for consideration not directly encountered in the Town Plan include the limited supply of buildable land within the service area available for development, the need to generate revenue from water/sewer customers to maintain those systems into the future, the broad regional need for housing and the local need for more affordable and diverse housing choices in particular, and the water/sewer capacity available to support future growth. Prioritize 'functional' resource protection such as riparian buffers that provide multiple ecosystem services or farmland that remains undeveloped but is put to use as recreation land or community gardens over an approach that simply focuses on setting aside a specified percentage of land as open space that is not programmed or actively managed/maintained. Open space in the serviced area of town should not be idle land that only serves to provide visual buffer.

CHAPTER 1. FUTURE LAND USE - RURAL AREA

TOWN PLAN

The goal is to preserve and maintain the resource values of rural land – agricultural, environmental, recreational and scenic. The plan calls for using conservation subdivision techniques and for guiding development away from land characterized by natural hazards or high value resources. It recommends compact or clustered development with a reduced footprint.

The actions include regulatory amendments to prioritize protection of scenic roadscapes and conserving the scenic working landscape. The plan suggests adopting a Wildlife Habitat Overlay District.

The plan also emphasizes supporting the continued economic viability of agriculture and the cultural land uses in the rural areas of town.

ZONING & SUBDIVISION

The Rural district has a development density of 1 dwelling unit per 5 acres of buildable land with a limited provision to allow a two-lot subdivision of pre-existing lots under 15 acres in size irrespective of the amount of buildable land. It allows for single- and two-family homes, agricultural worker housing and a number of business uses. Subdivision has to be approved as a PUD.

Residential PUDs in the Rural district require a pre-application conference with the DRB. The conservation subdivision approach is required (1. identify resource lands to be protected, 2. site building locations, 3. layout roads and lots). 60% of the project site must be set aside as permanently protected open space.

There is also a Rural Mixed Use PUD option available to sites with 400 or more contiguous acres. The DRB must approve a master plan for the PUD. The DRB may permit uses not otherwise allowed in the district within the PUD.

Integrated agriculture is a conditional use in the Rural district. This allows for additional commercial activities that are related to agriculture but that do not meet the state definition of farming.

Recommendations

Retain and strengthen the conservation subdivision provisions in the unserved areas of town. Consider a formalized process for site evaluation and resource area selection with SNRCC functioning in an advisory committee role as a pre-application step. The DRB should not be engaging with applicants prior to the public hearing on a complete application. Integrate resource mapping from the town plan (significant views, archaeologically sensitive areas, historic resources, agricultural soils, flood hazards, slopes, wetlands, notable wildlife habitats, etc.), the Natural Resource Inventory currently being completed, and/or other formally recognized plans or studies to identify resource areas.

Consider an approach to rural density that is not driven by number of dwelling units but by development footprint. Compact development could be incentivized through allowing higher densities for smaller units than for larger units. Retain a substantial open space requirement and strengthen that through design standards that require the development to be truly clustered.

There is now a statewide right-to-farm law and the state has expanded the requirement for municipalities to allow on-farm accessory businesses. Shelburne's integrated agriculture and rural mixed use provisions will need to be aligned with statute. Farming and on-farm accessory businesses as defined by the state must be allowed everywhere in town. Consider whether an 'integrated agriculture' use is still needed – some communities still want allow for more expansive value-added agricultural businesses than is possible under the state rules.

CHAPTER 2. NATURAL AND SCENIC RESOURCES

TOWN PLAN

The goal focuses on conservation and management of natural and scenic resources. The plan calls for all development to be in the form of a PUD. The need for low-impact development and stormwater management is emphasized, as is the importance of riparian buffers. The plan recommends the town apply more stringent stormwater design standards that required under state rules.

One action recommended is to create a scenic protection zoning overlay district that would prohibit development in the areas identified as 'foreground area of primary view'. There is a recommendation related to applying design review in rural areas and to using development envelopes to site new buildings where impacts on scenic resources are minimized.

ZONING & SUBDIVISION

Subdivision has to be approved as a PUD in the Rural district and some uses also require approval as a PUD.

While the regulations frequently reference 'significant views' and 'significant landscapes' those terms are not defined and there is no reference to the Significant Views map.

Stormwater overlay district applies to most of the serviced area of town and some of the rural areas. It requires evidence of compliance with state stormwater permitting. Stormwater management is reviewed as part of site plan approval but specific standards apply only to large projects (1 acre of impervious). Stormwater management is also reviewed as part of subdivision approval. The subdivision regulations reference the stormwater provisions of the site plan review section of the zoning bylaw.

Recommendations

Stormwater management provisions need to be strengthened and aligned with current state rules. State stormwater permitting is more stringent than it was when the town first implemented the stormwater overlay district in response to the identification of stormwater impaired watersheds in Shelburne. State permitting threshold has been lowered to 1/2 acre. State stormwater rules now emphasize green stormwater infrastructure (GSI) practices and low impact development (LID) approaches. All development creating additional impervious surface should be subject to stormwater management specifications, whether in the impaired watersheds or not. The town should not develop alternative or more stringent stormwater requirements than required by state regulation without reference to accepted technical engineering standards.

The 2019 Town Plan and the adopted regulations reflect the community's response to rural subdivision activity now many decades in the past. Over the past 30 years, there has been more rural land conservation than rural land development in Shelburne. The market value of large rural estate properties in Shelburne has continued to rise and market forces have likely been more influential in discouraging development activity than town or state regulations. Recent subdivision activity in the rural areas of Shelburne has primarily been very small, incremental subdivision (mostly two-lot subdivisions).

Emphasize natural and scenic resource protection in the unserved areas of town. Resource protection measures in the rural areas of town should be accompanied by regulatory approaches that facilitate growth and development in the serviced areas of town. Think of this as two sides of the same coin.

Consider requiring development envelopes for all new or undeveloped rural lots with siting criteria to guide development away from priority resources - this can be done through conventional zoning and subdivision without the need for PUD approval or design review. Current subdivision/PUD standards result in open space set asides but the emphasis is more on buffering new development from surrounding properties and view from the road than configuring the set aside to maximize functional value (farming, recreation, habitat, etc.).

Consider retaining a 'conservation subdivision' approach for residential developments, but also address the more common incremental creation of rural lots one or two at a time which is not suited to the conservation subdivision approach. A conventional subdivision option should be provided for those projects, which could include a restriction on re-subdivision of the resulting lots for a number of years to avoid creating a loophole around the conservation subdivisions requirements.

CHAPTER 3. HISTORIC AND CULTURAL RESOURCES

TOWN PLAN

The goal speaks to protecting historic structures and areas, significant views, areas of archaeological significance, and other elements of architectural or cultural significance. The objectives reference the resources and areas shown on the Historic Resources Map and the Archaeologically Sensitive Areas Map in the Town Plan.

The plan recommends zoning revisions in Shelburne's village center to protect historic resources and ensure new development is compatible with the traditional settlement pattern. It also references the Village Plan. While infill is supported, the plan calls for such development to be subordinate to nearby historic structures.

The plan also calls for major projects affecting areas of mapped archaeological sensitivity to prepare an archaeological survey. It recommends revising the regulations to establish guidelines for avoiding or minimizing impacts on sensitive areas.

ZONING & SUBDIVISION

The Village Design Review Overlay district provides additional protection for historic buildings and character within the National Register Historic District and surrounding traditional neighborhoods, including Shelburne Falls. Design review by SHPDRC is required for nearly all zoning applications within the district in accordance with an adopted set of design guidelines that emphasize historic preservation and compatibility with historic character of the area.

The purpose statements of the zoning bylaw and subdivision regulations reference protection of historic resources broadly, but outside the design review overlay district there are not specific requirements or criteria to implement the policy goals.

Recommendations

Retain the design review overlay district and review process with refinements to the scope of design review to apply solely to applications that propose exterior building or site modifications. Consider eliminating any requirement for DRB approval of applications where such approval is not already required by the underlying zoning. Ensure conformance with the statutory authorization for design review.

Consider adding more dimensional controls to the underlying zoning to regulate the scale of new construction and additions allowed in the village center in a manner compatible with the traditional built form.

Development subject to Act 250 will need to respond to historic and archaeological protection criteria, as will most publicly funded projects. Vermont municipalities typically do not address archaeological resource protection in local regulations due to limited information about the areas of concern and the cost of preparing an archaeological survey. The Town Plan does reference a need to update the Archaeologically Sensitive Areas map leaving the question of whether the current map should be used in a regulatory context. Many of the identified areas are in proximity to surface waters, so consider the protective benefits already provided by riparian buffer standards.

CHAPTER 4. GROWTH AND DEVELOPMENT – GROWTH

TOWN PLAN

The goal speaks to providing municipal infrastructure and services necessary to support the planned rate of growth, which is specified to be 25-50 households per year. The objectives include creating affordable housing, having a diverse population, and protecting quality of life in existing neighborhoods. Stormwater management and connectivity are called out as priority concerns.

Actions include using phasing to ensure that rate of residential development does not exceed the town's ability to provide services. The plan recommends amending the zoning to encourage a diversity of housing including affordable and workforce housing.

Recommendations

Shelburne has ancillary ordinances that are linked to the land use regulations and the capital improvement program – a sewer allocation ordinance and an impact fee ordinance (for recreation and education facilities). Together these regulatory tools function as a growth management program. The phasing provisions in the land use regulations need to be revised to conform to statute and link properly with the other related tools. The town is currently engaged in planning for its wastewater treatment infrastructure and sewer capacity. This will shape future development in Shelburne as much, if not more, than the zoning regulations. Sewer allocation could be used in conjunction with the regulations to further housing diversity goals. Inclusionary zoning provisions could be combined with preferential sewer allocation policies and/or impact fees that would be applied to high value construction to be used to support affordable housing development.

ZONING & SUBDIVISION

A density bonus of up to 25% is available through a Mixed Use PUD for projects that achieve both affordable housing and open space conservation.

The PUD provisions and subdivision regulations authorize the DRB to phase development projects.

CHAPTER 4. GROWTH AND DEVELOPMENT – ECONOMIC DEVELOPMENT

TOWN PLAN

The goal speaks to continued growth and diversification of the economy while protecting community character and promoting smart growth. The objectives call for maintaining a variety of small-scale businesses in the village, continuing to have dedicated areas for industry, and allowing for value-added businesses reliant on local farm and forest products.

The plan also calls for streamlining the development review and permitting process for commercial and industrial uses in those areas of town intended for such activity.

Recommendations

Consider allowing more small business activity in the village and mixed-use areas as a permitted use. A scale or intensity threshold can be used to make a distinction between permitted and conditional uses (floor area, traffic, etc.).

With clear site plan standards, administrative site plan review for minor projects should be considered. Minor projects could include opening a new business in an existing building, expanding a business to utilize more space in an existing building, constructing a small accessory building for a non-residential use, new or modified signs, modifying the parking or circulation pattern within the same footprint on the site.

Consider consolidating the 'commerce and industry' districts and review the extents of those districts with respect to the location of industrial or larger-scale business uses in town including resource extraction. Consider retaining some areas for more intensive or larger-scale business where residential development will not be permitted.

ZONING & SUBDIVISION

Commercial and industrial uses are subject to site plan review. Site plan review applications require a public hearing and approval from the DRB.

Many commercial and industrial uses are conditional rather than permitted even in districts intended for non-residential or mixed-use development. Conversely, there are many commercial and industrial uses allowed throughout the Rural district.

CHAPTER 4. GROWTH AND DEVELOPMENT – UTILITIES, FACILITIES, SERVICES

TOWN PLAN

The goal is similar to the growth goal at the beginning of the chapter – control the rate of development to ensure the town can continue to maintain current levels of service without unreasonably burdening current tax or rate payers. It calls for the cost of extending or expanding public utilities, facilities and services to serve new development to be paid for by the developer. It suggests using impact fees and phasing to achieve the goal. Stormwater management is highlighted again as a priority concern.

Recommendations

Recommendations under the Growth portion of the chapter above apply here as well.

With state assumption of water and wastewater permitting, statute only allows a municipality to condition approval of proposed development on the project obtaining needed state permits. The remaining provisions related to reviewing proposed water and wastewater systems in the zoning and subdivision have been superseded by statute and should be removed.

Consider clarifying that street standards apply to both public and private streets, and adding provisions for shared driveways particularly in the rural areas of town. Road and driveway standards need to be coordinated with public works specifications. Shelburne's public works specifications are currently in the process of being updated and effort should be made to coordinate that work with the revised land use regulations. Consider what to address in the land use regulations and what should be left to public works.

ZONING & SUBDIVISION

The subdivision regulations include standards for potable water and sewage disposal within proposed developments.

The regulations do not fully address driveways and private roads.

See summary of stormwater provisions in Chapter 2 (above).

CHAPTER 5. PARKS AND RECREATION

TOWN PLAN

The goal speaks to providing high quality and accessible recreation lands and programs, and to retaining public recreational access where currently allowed by private landowners. The plan calls for a network of paths and trails linking neighborhoods to recreational amenities and other destinations within and beyond Shelburne, as well as connecting neighborhoods to one another. It recommends offering incentives for proposed development to provide additional recreational opportunities.

Recommendations

Consider strengthening the conventional subdivision standards to require recreation lands and amenities within development, particularly in the serviced area of town. Such a provision could be linked to the recreation impact fee (fees reduced for projects that provide public recreation amenities) and could have an in-lieu fee option when the developer prefers not to allocate land within the development to recreation use.

Refine the 'open space' concept within developments to result in 'functional open space'. In some contexts that may be land suitable for active recreation, in others it may be undeveloped land with only lightly improved trails, and elsewhere it may be productive farmland or a site for renewable energy generation. There should be a distinction between 'open space' and 'recreation land' and both may be required within a development depending on its size and location.

Strengthen regulatory requirements for interconnected streets and sidewalks/paths in the serviced area of town to provide for recreational use and alternative modes of transportation.

ZONING & SUBDIVISION

The subdivision regulations authorize the DRB to require easements within subdivisions.

The regulations speak generally of parks, recreational lands and open space within subdivisions but do not include specific requirements for such amenities.

The zoning bylaw has requirements for open space and recreation amenities within mobile home parks.

The zoning bylaw generally requires open space within PUDs (amount varies by district and PUD type). There is no requirement that the open space meet standards for recreational use.

CHAPTER 6. HOUSING

TOWN PLAN

The plan speaks to having a full range of housing options that will allow a diversity of residents to live in town while ensuring that residential development does not impact scenic and natural resources.

It references the planned rate of growth established in Chapter 4 and further sets a target of 10% of new housing being affordable and another 10% being workforce housing (as defined by the state). It also calls for the preservation of existing affordable and workforce housing. The plan clearly indicates that the rate of residential development must be managed to not exceed the ability to provide municipal infrastructure and services.

The plan is supportive of housing choice for residents of all ages and household compositions. It recommends zoning changes to allow a broader range of housing and a re-examination of dimensional standards in the serviced areas of town. It also emphasizes development approaches that fit new buildings into the surrounding context.

The plan recommends use of density bonuses, inclusionary zoning and expanded accessory apartment provisions to achieve affordable and workforce housing targets.

Recommendations

There is a significant gap between the housing policies espoused in the town plan and current conditions. The first portion of this review provides a detailed assessment of regulatory barriers to housing in the adopted zoning bylaw and subdivision regulations, and includes recommendations for housing-friendly amendments. Also see discussion above under Chapter 4 - Growth.

CHAPTER 7. CHILDCARE

TOWN PLAN

The plan speaks to there being adequate, safe and affordable childcare available to families in Shelburne. It calls for minimizing regulatory obstacles to provision of childcare services and suggests incentives be offered to encourage more childcare opportunities.

Recommendations

The terminology and definitions related to childcare facilities in the adopted regulations should be updated to match current state statute and rules. Consider allowing childcare businesses more broadly as a permitted use, and allow childcare as an accessory use for larger employers or institutions.

ZONING & SUBDIVISION

See the Housing Barriers portion of this review.

ZONING & SUBDIVISION

The zoning bylaws allow for family childcare homes as required by statute.

Larger daycare facilities are a conditional use in many districts.

CHAPTER 8. TRANSPORTATION

TOWN PLAN

The transportation chapter contains multiple goals. It calls for compact, walkable and interconnected development. It recommends that streets be designed with dimensions and other attributes appropriate to the setting. There is an emphasis on safe and pleasant routes for pedestrians and cyclists. The plan speaks to development patterns and street networks that facilitate provision of public transit.

The plan recommends applying a system of street types within the serviced area of town that include sidewalks, street trees, streetscaping and on-street parking. It suggests requiring paths/trails within developments that would connect to the public path/trail system. The plan calls for efficient street layout that minimizes creation of impervious surface.

The plan cautions against creation of excess parking, but calls for adequate parking to be provided to serve new development. It recommends use of shared parking and other strategies to reduce the number of spaces needed. It recommends using parking maximums and removing minimum requirements in some areas of town.

Recommendations

The core elements of the zoning and subdivision bylaw like street and parking standards are very weak and outdated – many sections have likely have been retained almost unchanged since the town first adopted the regulations 50 years ago. Recognizing there was a need for better site planning and design standards, the approach was to create multiple PUD provisions to fill in the gaps. Consider modernizing and strengthening the core elements of the underlying regulations like the street and parking standards thus eliminating the need to rely on PUD provisions for basic site design requirements.

Consider expanding use of the street typology approach found in the FBC in combination with dimensional and design standards for blocks throughout the serviced area of town to ensure that new development is served by an interconnected network of walkable neighborhood streets.

The town will need to set a policy for on-street parking. The town plan calls for on-street parking in the serviced area, but currently Shelburne does not allow overnight parking on public streets during the winter season. On-street parking should not be created on residential streets unless overnight parking will be allowed year-round. To do otherwise is simply adding width and impervious surface to the street without reducing the need for on-site parking.

Consider allowance for shared parking and clarifying the provisions related to off-site parking in combination with re-aligning the parking ratios with contemporary standards. This will likely need to include reducing residential parking ratios to 1 space per dwelling unit in the serviced areas of town to meet statutory and NDA program requirements.

ZONING & SUBDIVISION

Street standards are generally not established in the underlying zoning bylaw or subdivision regulations – both reference the town's public works standards.

The Shelburne Road FBC includes street typologies.

The minimum parking table in the zoning regulations is based on outdated engineering standards that require creation of more parking spaces for many uses than would be recommended by current standards. Most customer serving businesses are required to provide 1 off-street parking space for every 200-300 sf of floor area. There are no specific provisions for shared parking.

The parking section of the zoning bylaw does not address parking lot design (location on the lot, landscaping, etc.). The various PUD provisions generally include parking standards that address those site design issues.

CHAPTER 9. ENERGY

TOWN PLAN

The goal speaks to encouraging energy conservation and efficiency. It supports renewable energy generation that minimize adverse impacts on surrounding development. Alternative modes of transportation are highlighted.

The actions call for zoning revisions that result in compact mixed-use development, low impact development and green infrastructure practices. The plan references statutory requirements related to state energy code.

The plan includes specific recommendations to require new construction to meet high energy efficiency standards, specifically the RBES stretch code. It also calls for zoning to require integration of renewable energy, net zero energy building design and passive solar siting.

ZONING & SUBDIVISION

The Mixed Use PUD offers a density bonus for development that meets specified goals that include 'exceptional design' one component of which is being 'energy certification eligible' (that term is not defined). There are also some waivers offered in the regulations for projects that meet the 'exceptional design' criteria.

The site plan standards require applicants to describe energy conservation practices and any use of renewable energy. However, there are no standards or requirements that relate to either energy conservation or use of renewable energy.

Recommendations

Vermont is an outlier nationally in that most municipalities do not enforce a local building code. A fire and safety code is applied to 'public buildings' at the state level, which includes civic, commercial, industrial buildings and rental housing. Given that the majority of buildings in Shelburne are owner-occupied homes, most are not subject to building code. The state has enacted energy codes that apply to residential construction and renovation, but without the support structure of a broader building code their administration and enforcement has been challenging. Given that there is typically not code inspection during residential construction, there is little the municipality can do beyond the statutory requirement to inform applicants of the energy code and collect the required energy certificates when projects are complete. Zoning authority does not extend to regulating building construction specifications like insulation levels or window performance, the efficiency of building heating, cooling and lighting systems, or the type of energy used. The actions recommended in the town plan would require building code or other regulatory tools (not zoning) to implement. The Housing Bill currently under consideration in the legislature will narrow municipal authority to implement building energy standards that are more stringent than the state's stretch energy code, further limiting the utility of adopting a local energy code.

There is opportunity to further town energy goals through the land use regulations. Compact development patterns with smaller footprint homes in walkable neighborhoods served by transit and in proximity to basic services all contribute to reduced household and municipal energy consumption.

CHAPTER 10. TOWERS AND TELECOMMUNICATION FACILITIES

TOWN PLAN

The town plan seeks to prevent construction of telecommunication facilities and towers in the rural areas of town primarily to avoid any adverse impact to scenic or natural resources. It specifies that telecommunication facilities and towers are only to be allowed in the two Commerce and Industry zoning districts, and preferably on existing structures.

ZONING & SUBDIVISION

Shelburne has a separate Telecommunication Ordinance, originally adopted in 2014. There are no provisions for telecommunication facilities in the zoning bylaw.

Recommendations

For more than a decade, Vermont has been offering telecommunication applicants an option to either seek a municipal zoning permit and Act 250 permit if needed for their project or to be exempted from those two regulatory processes and instead obtain a certificate of public good from the state Public Utilities Commission. At this time, most telecommunication applicants choose to obtain a CPG and are therefore exempt from local regulation. Consider whether to integrate the standalone ordinance into Shelburne's land use regulations with recognition that those provisions would likely not be called upon unless the state returns the full authority to regulate telecommunications facilities and towers to municipalities.