

Proposed Amendments to the Moretown Zoning and Subdivision Regulations

Planning Commission Report

September 12, 2022

Appendix C added October 5, 2022

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

“When considering an amendment to a bylaw, the planning commission shall prepare and approve a written report on the proposal. A single report may be prepared so as to satisfy the requirements of this subsection concerning bylaw amendments and subsection 4384(c) of this title concerning plan amendments..... The report shall provide:(.) (A) brief explanation of the proposed bylaw, amendment, or repeal andinclude a statement of purpose as required for notice under §4444 of this title,(A)nd shall include findings regarding how the proposal:

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

The Moretown Planning Commission (PC) started the development of the proposed amendments to the town’s Zoning and Subdivision Regulation in January 2021, with support from a \$11,200 Regional Planning Grant awarded to the town in December 2020. The PC’s goals are to:

- Streamline Permit Process: Reduce unnecessary or duplicative burdens within the permit application process.
- Encourage Housing: Utilize recommendations from the “Enabling Better Places: A Zoning Guide for Vermont Neighborhoods” guidebook in an effort to allow more affordable housing types and renovation opportunities.
- Realize Energy and Broadband Goals: Implement compact settlement land use patterns that complement policies identified in Moretown’s draft enhanced energy plan and support increased broadband deployment town wide.
- Preserve Natural Resources: Incorporate conservation strategies to preserve Moretown’s forest resources, primarily in the Preserve District.

Clare Rock, a Senior Planner at the Central Vermont Regional Planning Commission, provided advice and technical support throughout the process. After making considerable progress during our bi-weekly meetings, in December 2021 we fielded a short survey of town residents to determine whether the nature of the changes we were considering would be welcome by most voters. The survey questions and answers received from 116 respondents appear in Appendix B. We completed revisions to the proposed amendments at our regularly scheduled public meeting on September 12, 2022. Appendix C describes minor changes made after the Planning Commission received comments from the public on the September 12 draft..

The remainder of this report explains how we addressed the PC’s four goals, listed above. Throughout we were guided by the Moretown Town Plan, as approved by the Selectboard in January 2016.

Streamline Permit Process:

Our first goal was to reduce the burden of the permit application process. The proposed amendments address that goal by:

1. Proposing a land use type that is intermediate to “permitted(P)” and “conditional (C)”, called “site plan (SP) review”:
 - a. As in the current regulations, the Zoning Administrator can issue permits for P uses without Development Review Board (DRB) review or a public hearing, and only the DRB can approve permits for C following a public hearing.

- b. "SP uses" would also require the DRB approval following a public hearing, but SP review is less detailed or stringent than the C review and should provide for a shorter decision timeline. See FAQ for more detail.
 - c. The proposed ordinances would allow the Zoning Administrator to issue a permit for duplex (two-unit dwellings) on any property, whereas the current ordinances required conditional use review, and do not allow duplexes in the Preserve district.
 - d. See Sections 5.2 and 5.3 of the proposed ordinances and the side-by-side comparison of current and proposed ordinances in Appendix A of this report for types of uses for which less complex review would be required under the new regulations.
2. Incorporating Moretown's on-line AxisGIS map. A printout of the AxisGIS map as of April 2022 appears in Appendix A of the ordinance document. It shows all current Moretown parcel boundaries overlaid over the district boundaries and the FEMA flood plain boundaries (three levels). The on-line map will be updated as boundaries changes.
3. Restructuring the tables that list the P, SP, and C uses and the dimensional standards for each zone. The new tables allow the reader to quickly see how uses and standards vary across the town's four zoning districts. See Section 2.5, Tables 2.1 and 2.2 of the proposed amendments and Appendix A of this Report.
4. Moving the Subdivision regulations to a new section, re-organizing them for ease of administration, and improving the table that outlines application requirements (Table 5.1). No substantive changes are proposed to the Subdivision regulations.
5. Consolidating most of the information about development in the Flood Hazard Overlay District into one section (Section 5.4)
6. Adding flow charts to help guide the reader through the permit approval process (Table 1.1) and the subdivision review process (Table 5.2)
7. Replacing 5 pages of regulations about provisions for Minor Quarrying (Section 3.6.5) with a reference to the identical provisions as they appear under Major Earth Extraction (Section 3.6.5).
8. Removing former Section 4.5(C), which allowed the DRB to make setback reductions under certain circumstances. The proposed setbacks (Section 2.5, Table 2.2) eliminate the need for the DRB to consider such reductions.

We reluctantly made one change in the opposite direction. The town's attorney advised us that the current regulations, which allow the Zoning Administrator to review applications for Minor Subdivisions, are out of compliance with state law. Specifically, 24 V.S.A. § 4463 requires the DRB to review all subdivisions unless it agrees to waive its right to review. So the change requires DRB review for Minor Subdivisions unless the DRB agrees to waive its right to review, in which the Zoning Administrator will review. Should the DRB deny a request for a waiver, the draft regulations emphasize that the DRB would only consider the standards that apply to a Minor Subdivision, and that the DRB hearing process would be simpler than the process for a Major Subdivision.

Encourage Housing

Our second goal was to create more housing construction and renovation opportunities within Moretown, keeping it an affordable and attractive place to live, raise a family, and conduct business. As pointed out in *Enabling Better Places: A Zoning Guide for Vermont Neighborhoods*, town ordinances that restrict the density of housing are a major impediment to increasing the residential housing throughout Vermont, particularly housing that is affordable for working Vermonters.

Following the guidance of *Enabling Better Places*, we initially focused on amendments that would allow for greater density within the Village (VLG) district. We also recognized that substantial development within the VLG is likely limited without a village wastewater solution. We are currently exploring whether any wastewater solution(s), including decentralized system(s), are feasible for the VLG district. Prospects for obtaining a grant to support implementation of a feasible solution are currently high. The amended ordinances for the VLG district will allow substantial development in the VLG district. Such development is only likely to occur, however, if a feasible wastewater solution is found and implemented—a process that will require several years.

The most practical way to increase opportunities for development of residential housing in the near term is by allowing denser residential development in the other three districts: Commercial/residential (COM), Agriculture/residential (AG-RES) and Preserve (PRES). The proposed changes are most easily identified by comparing the proposed versus existing use and dimensional standards tables that appear in Appendix A of this report. Among other things, the proposal:

- Reduces the lot area minimum from 0.5 acres to 0.25 acres in the VLG district and from 1.0 acres to 0.4 acres in the COM district. The minimum lot area for the AG-RES and PRES districts would remain at 1.0 acre and 5.0 acres, respectively.
- Specifies that a 2-unit dwelling (i.e., duplex) is a permitted (P) use in all four districts, whereas previously it was a conditional use in the VLG, COM, and AG-RES district and not allowed in the PRES district.
- Relaxes standards for dwellings with 2 or more units.
 - Allows for more dwelling units per acre (higher density) provided that all dwellings on a lot are contained within a single principal structure.
 - The larger the lot, the more units allowed. For instance, the AG-RES district allows 2 units per acre, so the maximum number of dwelling units in a principal structure on a 1-acre lot is 2 and on a 5-acre lot is 10. Similarly, the PRES district allows 2 units per 5 acres, so the maximum units in a principal structure on a 5-acre lot is 2 and on a 10-acre lot is 4.
 - The intent is to allow the building of more dwelling units on large lots in a manner that is consistent with the district. Under the current regulations, development of more than one dwelling on a large lot requires subdivision of the lot and placement of each new dwelling a lot of at least the minimum size for the district unless the owner obtains a permit for a Planned Unit Subdivision (PUD).
- Reduces required setbacks in all districts (see comparison in the dimensional table in Appendix A and Table 2.2 in proposed regulations).
- Reduces the front yard setback in the AG-RES and PRES districts and the side yard setback in the PRES district.
- Modifies Accessory Dwelling Unit (ADU) provisions to allow one ADU per principal residential structure, regardless of how many dwelling units are withing the principal structure, and increases the maximum ADU size to 2,000 square feet. Under the current regulations, ADUs are allowed on lots with single-unit dwellings only, and the maximum square footage is 1,050 square feet.
- Removes off-street parking requirements for residential uses.

Realize Energy and Broadband Goals:

The proposed increases in maximum density could potentially lead to increases in the number of dwelling units along existing roadways. Such increases will make deployment of broadband in these areas more practical economically. In addition, the proposed amendments:

- Introduce electric vehicle (EV) charging stations as a specific use and exempt stations with five or fewer charging units/spaces from any review.
- Explicitly incorporate state exemptions on town regulation of the generation and transmission of electricity, including solar arrays—a clarification, not a substantive change.

Preserve Natural Resources:

The following revisions are intended to promote preservation of Moretown’s forest resources, primarily in the Preserve District:

- Natural and Scenic Protections originally identified in the Moretown Town Plan were added (Section 5.5.2 (B)). The goals are to: minimize the fragmentation, degradation or destruction of working land, important wildlife habitat, wetlands, floodplains, and significant natural communities; and minimize and mitigate visual and ecological impacts resulting from development in high elevation areas, on ridgelines and on steep slopes.
- Proposed changes to the density maximum in the PRES district provide an option for developing multi-family dwellings while preserving large tracts of uninterrupted forest.

*Prepared by the Moretown Planning Commission
September 12, 2022*

APPENDICES FOLLOW

Appendix A: Use and Dimensional Tables

Appendix B: Tabulated Results of Planning Commission Survey on Zoning Ordinances

Appendix C: Revisions made on October 5, 2022, in response to public comments

Appendix A: Use and Dimensional Tables

Table 5.1 USES

	Existing				Proposed			
	P=Permitted, C=Conditional, blank=use not listed in District				P = Permitted Use, SP= Permitted with Site Plan Review, C= Conditional Use Review, X = Prohibited			
	(VLG)	(COM)	(AG-RES)	(PRES)	(VLG)	(COM)	(AG-RES)	(PRES)
Dwelling, Accessory Unit	P	P	P	P	P	P	P	P
Accessory Use / Structure (to a conditional use)	C	C	C	C	SP	SP	SP	SP
Accessory Use / Structure (to a permitted use)	P	P	P	P	P	P	P	P
Adaptive Re-Use of Historic Barns			C		C	C	C	X
Agriculture	P	P	P	P	exempted per Section 6.3			
Automobile Sales & Service		C			X	C	X	X
Bank	C	C			SP	SP	X	X
Bed & Breakfast	C	C	C		SP	SP	SP	SP
Camp	P	P	P	P	P	P	P	P
Cemetery	P		P	C	C	C	C	C
Child Care Facility (6 Children or fewer)	P	P	P	P	P	P	P	P
Child Care Facility (7 + children)	C	C	C	C	SP	SP	SP	X
Community Center	C	C			SP	SP	C	X
Cottage Industry	C	C	C	C	SP	SP	SP	SP
Dwelling, Multi-Unit (3 - 4 units)	C	C	C		SP	SP	SP	C
Dwelling, Multi-Unit (5 + units)	C	C	C		C	C	C	C
Dwelling, Single-Unit	P	P	P	P	P	P	P	P
Dwelling, Two-Unit	C	C	C		P	P	P	P
Electric Vehicle Charging Station (more than 5 stations/spaces)	Use not listed in existing regs				SP	SP	SP	SP
Extraction of Earth Resources		C	C	C	X	C	C	C
Forestry		P	P	P	exempted per Section 6.3			
Gasoline Station	C	C			C	C	X	X
Group Home	Use not listed in existing regs				P	P	P	P
Helipads, Personal Landing Area	Use not listed in existing regs				X	SP	SP	SP
Health Clinic	C				C	C	X	X
Home Occupation	P	P	P		P	P	P	P
Hotel / Motel		C			C	C	X	X
Light Industry	C	C	C		C	C	C	X
Mixed Use Building	C	C			C	C	C	X
Mobile Home Park		C	C		X	SP	SP	X
Nursing Home	C	C			C	C	C	X
Place of Worship	P	P	C		exempted per Section 6.3			
Private Club		P	P		SP	SP	SP	X
Professional / Business Office	C	C			SP	SP	X	X
Public Assembly Facility	C	C			C	C	X	X
Public Facilities / Services	C	C	C		exempted per Section 6.3			
Recreation Facility (Indoor)	C	C			SP	SP	SP	X
Recreation Facility (Outdoor)	C	C	C	C	SP	SP	SP	SP
Restaurant	C	C			SP	SP	X	X
Retail Store	C	C			SP	SP	X	X
Sanitary Landfill		C			exempted per Section 6.3			
Sawmill			C	C	C	C	C	C
School	P	P	C		exempted per Section 6.3			
Senior Citizen Housing	Use not listed in existing regs				SP	SP	SP	X
Telecommunication Facility (enclosed, and existing structure)	P	P	P	P	SP	SP	SP	SP
Telecommunication Facility (new structure)	C	C		C	X	C	C	C
Wildlife Refuge			P	P	X	X	P	P

Table 5.2 DIMENSIONAL STANDARDS

	a. Existing				b. Proposed			
	(VLG)	(COM)	(AG-RES)	(PRES)	(VLG)	(COM)	(AG-RES)	(PRES)
Lot Area Minimum	0.5 acres	1 acre	1 acre	5 acres	0.25 acres	0.5 acres	1 acre	5 acres
Dwelling Unit per Acre	1 du/0.5a	1 du/a	1 du/a	1 du/5a	No max	4 du/a	2 du/a	1 du/5a*
Minimum Front Yard Setback	20 ft	45 ft	65 ft	65 ft	20 ft	30 ft	40 ft	60 ft
Minimum Rear Yard Setback	20 ft	25 ft	25 ft	25 ft	5 ft	10 ft	10 ft	25 ft
Minimum Side yard Setback	20 ft	25 ft	25 ft	100 ft	5 ft	10 ft	10 ft	25 ft
Maximum Building Height	45 ft	35 ft	35 ft	35 ft	45 ft	45 ft	45 ft	45 ft
Minimum Lot Frontage	80 ft	80 ft	80 ft	80 ft	80 ft	80 ft	80 ft	80 ft
Minimum Lot Depth	80 ft				80 ft	80 ft	100 ft	100 ft
Maximum Building Coverage	25%	25%	25%	3%	Not specified			
Maximum Lot Coverage	50%	50%	50%	6%	50%	50%	50%	6%
Minimum Setback from Streams and Rivers								
Minimum Setback from Wetlands (Class I/Class II)								
Lot Dimension		circle diameter of 150 ft	circle diameter of 150 ft		Not specified			

*The density requirement for the PRES district means that only a 1- or 2-unit dwelling is permitted on a 5-acre lot (the minimum lot size in the PRES district). Additional dwelling units in the principal structure require conditional use review. Further, each additional dwelling unit requires the lot to be larger than 5 acres, at a rate of 2.5 acres per dwelling unit. To determine the number of dwelling units allowed for a lot of given size, divide the size by 2.5 and round the result down to the next integer. Thus, the maximum number of dwelling units allowed in the principal structure is 3 for a 7.5-acre lot, 4 for a 10-acre lot, etc.

Appendix B. Tabulated Results of Planning Commission Survey on Zoning Ordinances

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Appendix C. Revisions made on October 5, 2022 in response to public comments

1. Table 1.1. Moved “ZA has 30 days to act on completed applications” from immediately following first black box into left-hand black box, below the existing text “1. ZA reviews application in accordance with applications standards.” Reason: ZA reviews but does not determine completeness of applications submitted to DRB.
2. Section 2.4.D: replaced “poor” with “limited” because of subjective nature of “poor”
3. Table 2.1: Replaced “exempted per Section 6.3” in lines for Agriculture, Forestry, Place of Worship, Public Facilities/Services, Sanitary Landfill and School with “See state limitations in Section 6.3” to accurately reflect that the town does have some regulatory authority over these uses, although limited. These changes are not reflected in the version of Table 2.1 presented in Appendix A.
4. Table 2.2. Added second footnote (**) with reference to how setbacks are measured, with specific mention that front yard setback is measured from the nearest edge of the right-of-way. These changes are not reflected in the version of Table 2.2 presented in Appendix A.
5. Section 4.5(C). We reinstated this subsection which we had previously proposed to eliminate, then edited it to reflect other proposed revisions. This section describes the DRB’s authority to reduce setbacks below the minimums specified in Table 2.2, if justified by two specified conditions [4.5(C)(1)] and goes on to point to other relevant setback provisions [4.5(C)(2) and 4.5(C)(1)]. In 4.5(C)(1) we deleted references to all setbacks other than the rear setback in the Preserve District. The deleted references are no longer needed because the minimum setback in Table 2.2 is no larger than the minimum that the DRB can apply under this provision. Further, we replaced “centerline of road” in the first line with “near edge of the right-of-way” to be consistent with the definition of the front-yard setback defined in Article VII. Additionally, we added “site plan or” before “conditional use review” because 4.5(C) now applies to site plan review uses as well as conditional uses. Finally, we included references to the standards for both types of DRB reviews, Article 5.2 and 5.3.
6. Section 5.2(C)(3) Corrected an obvious error in the last sentence. Proposed sentence “Conditions may be imposed with regard to siting, landscaping, screening, paving, curbing and/or sharing of parking and service areas with adjoining parcels.” Current sentence (replaced): “Conditions may be imposed with regard to the extent, siting, landscaping, screening, paving, curbing and/or sharing of parking and service areas with adjoining parcels.”
7. Section 5.4(C)(3). For clarity, changed “all other allowable uses and structures” to “All uses and structures allowed within the underlying zoning district as”. Also added “Site Plan or” before Conditional Use review.
8. Section 5.4(D)(13). Corrected a formatting error in the bullet levels that had changed the interpretation of the original language. This revised version is identical to the corresponding provision in the current regulations.
9. Section 5.5(C). We deleted the entire section because it is both difficult to decipher and unnecessary (redundant with other provisions).
10. Section 5.6.3. Deleted “unless the DRB waives review, in which case the Zoning Administrator will review.” In 5.6.3(A) we also deleted “and may at the same time request that the DRB waive its right to review further.” This does not change the ability of the DRB to waive review; there is no reason to point to the potential use of a waiver in this section.

11. Table 5.1. Added check mark under Major in the row for “Land designated for conservation or protection” to correct previous oversight. Inserted “Survey” before “monument location” to clarify the meaning of monument.