

MORRISVILLE / MORRISTOWN

PLANNING COUNCIL AGENDA

Tuesday 11 July 2023 at 5:00 P.M.

@ Copley Country Club, 441 Copley Country Club Rd.

Seating underneath the large white tent

- p. 2 1. Vote: Prior Council meeting minutes
- p. 3-15 2. Discuss: Commercial vitality Q&A with Tricia Follert
- p. 16 3. Discuss: String light zoning change
- p. 17-21 4. Discuss: Make another meals & rooms tax pitch to SB?
- p. 22-23 5. Discuss: Planning Council membership
- p. 24-36 6. Discuss: S.100 housing changes & village-wide rezoning

Morristown/Morrisville Planning Council
PO Box 748 / Morrisville, VT 05661
Phone (802) 888-6373

Meeting Minutes of Tuesday 13 June 2023

Council Members present: Joshua Goldstein, Etienne Hancock (Chair), John Meyer, & Wally Reeve

Council Members absent: Tim Magee

Guests: Ron Stancliff (Conservation Commission), Kristin Fogdall, Thea Alvin, Tom & Nancy Donavan, David Ring, Ed Loewenton, Tom Cloutier, Laura & Martin Green

Staff: Planning Director Todd Thomas

Call to Order: Chair Hancock called the meeting to order in the Community Meeting Room of the Old Tegu Theatre at 43 Portland Street at approximately 5:02 P.M.

Meeting Minutes: Member Reeve moved to approve the May 23rd meeting minutes. A vote of 3-0-1 affirmed the motion with Member Goldstein abstaining.

Discussion: Zoning Administrator zoning change suggestions for 2023

Zoning Administrator Todd Thomas led the Planning Council through his list of recommended zoning changes for 2023. Said changes included the following proposals:

1. Revise §320 Special Flood Hazard Area per suggestions at Mr. Thomas' recent FEMA training class in Waterbury.
2. Make a §485 Extraction of Earth Resources clarification per the recent DRB hearing for gravel extraction at the proposed Route 100 airport industrial park.
3. Revise §426 Pond property line setback changes so ponds could be shared across property lines.
4. Revise §502 Dumpster location and restriction change to ban dumpsters in residential portions of the village.
5. Add to the §820.5 Street classification process so the Selectboard would have the requested recommendation from the Zoning Administrator if a proposed street should be designed to public or private road standards.

From the aforementioned items, the §485 Extraction of Earth Resources and the §502 Dumpster location & restriction changes received the most discussion. Member Goldstein wondered if dumpsters should continue to be allowed in the High Density Residential Zone only. Kristin Fogdall asked the Planning Council to provide more teeth to the §485 Extraction of Earth Resources zoning controls. The Council decided that it may take up this extraction issue after the coming State mandated S.100 zoning changes were dealt with. The Council, by consensus decided to adopt Mr. Thomas' zoning change suggestion for 2023 as part of the planned fall zoning change proposal.

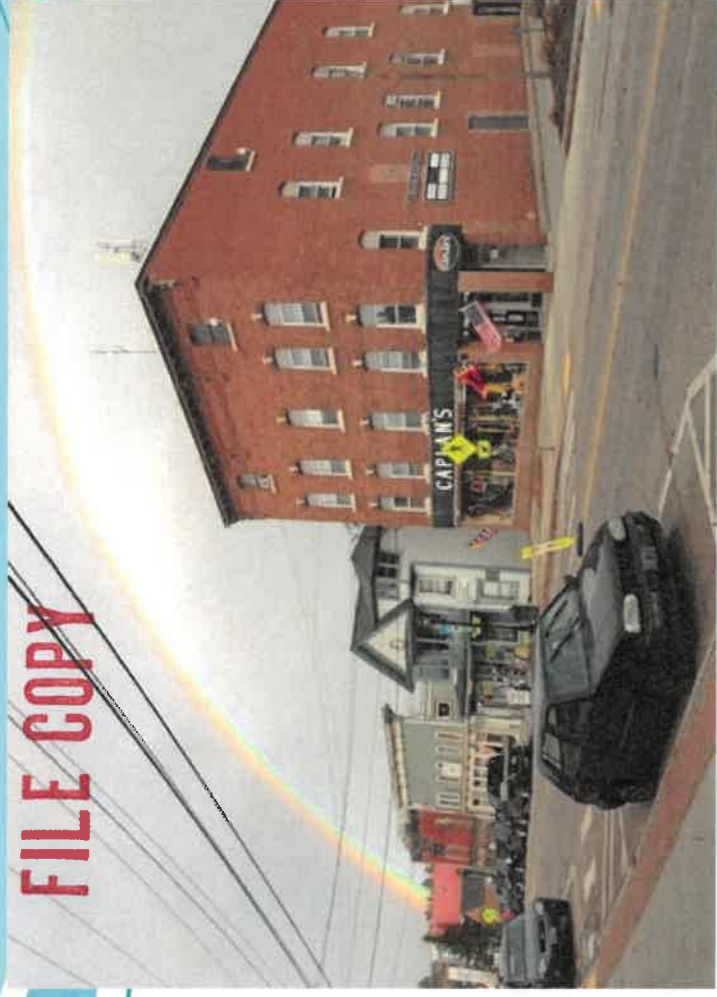
Discuss: Upcoming Planning Council meeting schedule

The Council set its schedule for the remainder of 2023 and decided, by consensus, to bring its meetings back to under the tent at Copley C.C. during the summer months.

The meeting adjourned at 7:15 PM, submitted by Todd Thomas, Planning Director

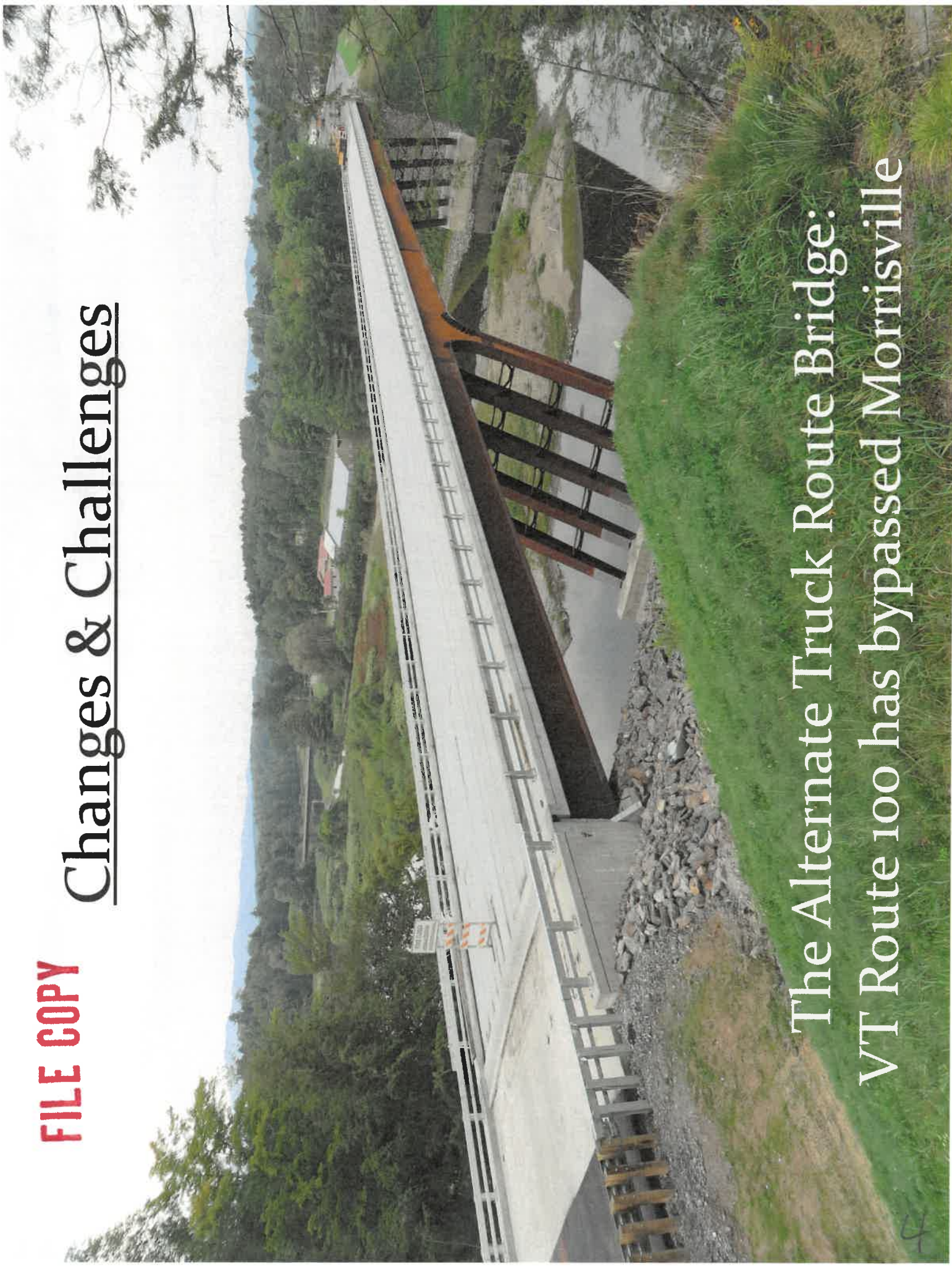
How zoning reform for housing & parking creates a vibrant downtown

FILE COPY



FILE COPY

Changes & Challenges



The Alternate Truck Route Bridge:
VT Route 100 has bypassed Morrisville

How do you respond to losing 50% of the traffic in your downtown?

Utilize existing assets & pass zoning changes that:

1. Better utilize existing buildings and parking
2. Allow more density to encourage new housing starts in existing downtown buildings
3. Eliminate downtown minimum parking requirements & utilize existing municipal parking (create overnight parking area)

Downtown zoning & parking reform

- Old requirements
- 2 new parking spots per dwelling unit
- 10,000 ft.² of land per dwelling unit for minimum residential density (4 units per acre)
- New requirements
- Parking minimums eliminated for uses within 500 linear feet of muni parking
- Residential density of 870 ft.² per unit (50 units per acre)



FILE COPY

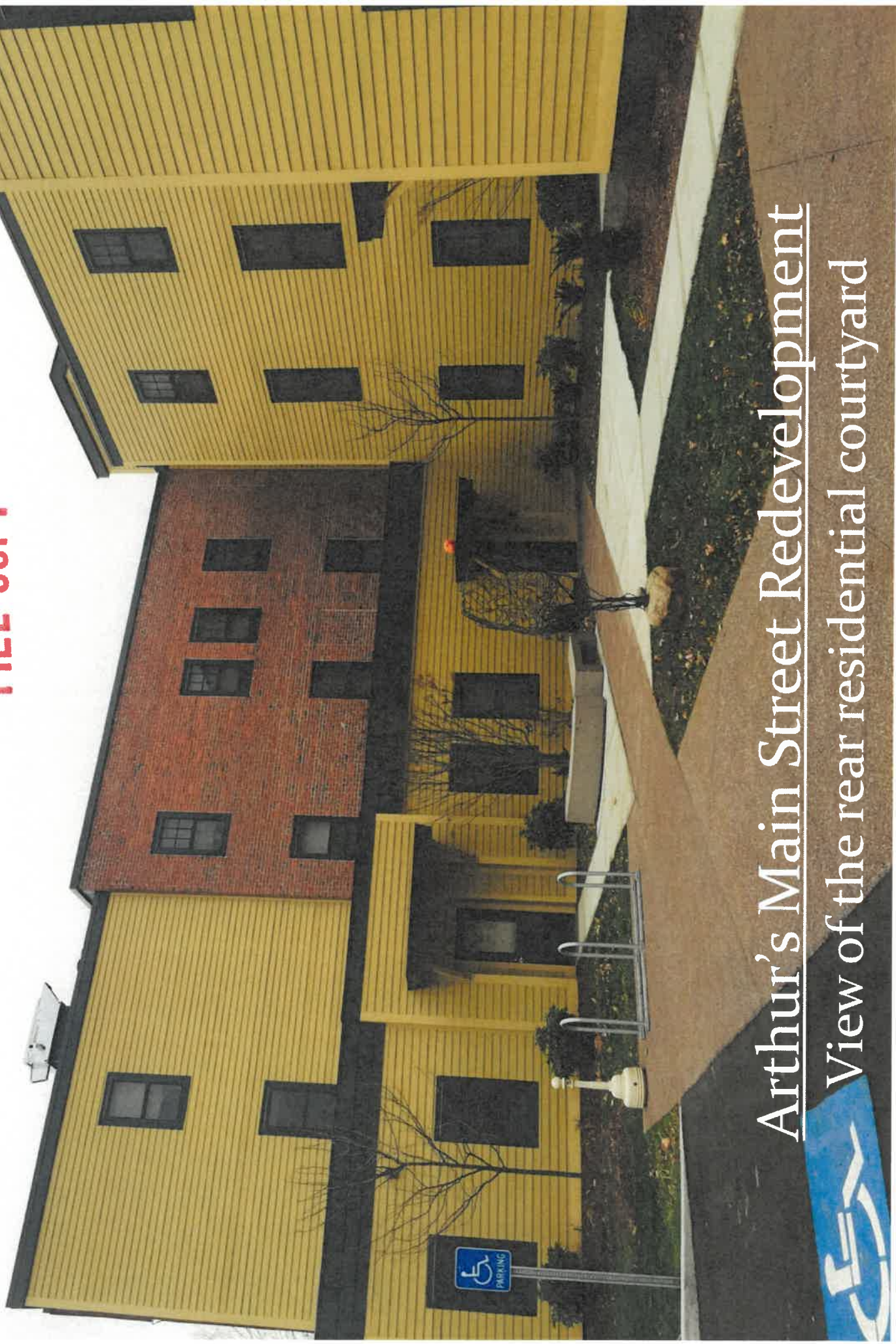


FILE COPY



Arthur's Main Street Redevelopment
From vacant building on brownfield site to:
Ground floor retail
(organic pizzeria & furniture shop)
& 18 new apartments

FILE COPY



Arthur's Main Street Redevelopment
View of the rear residential courtyard

FILE COPY



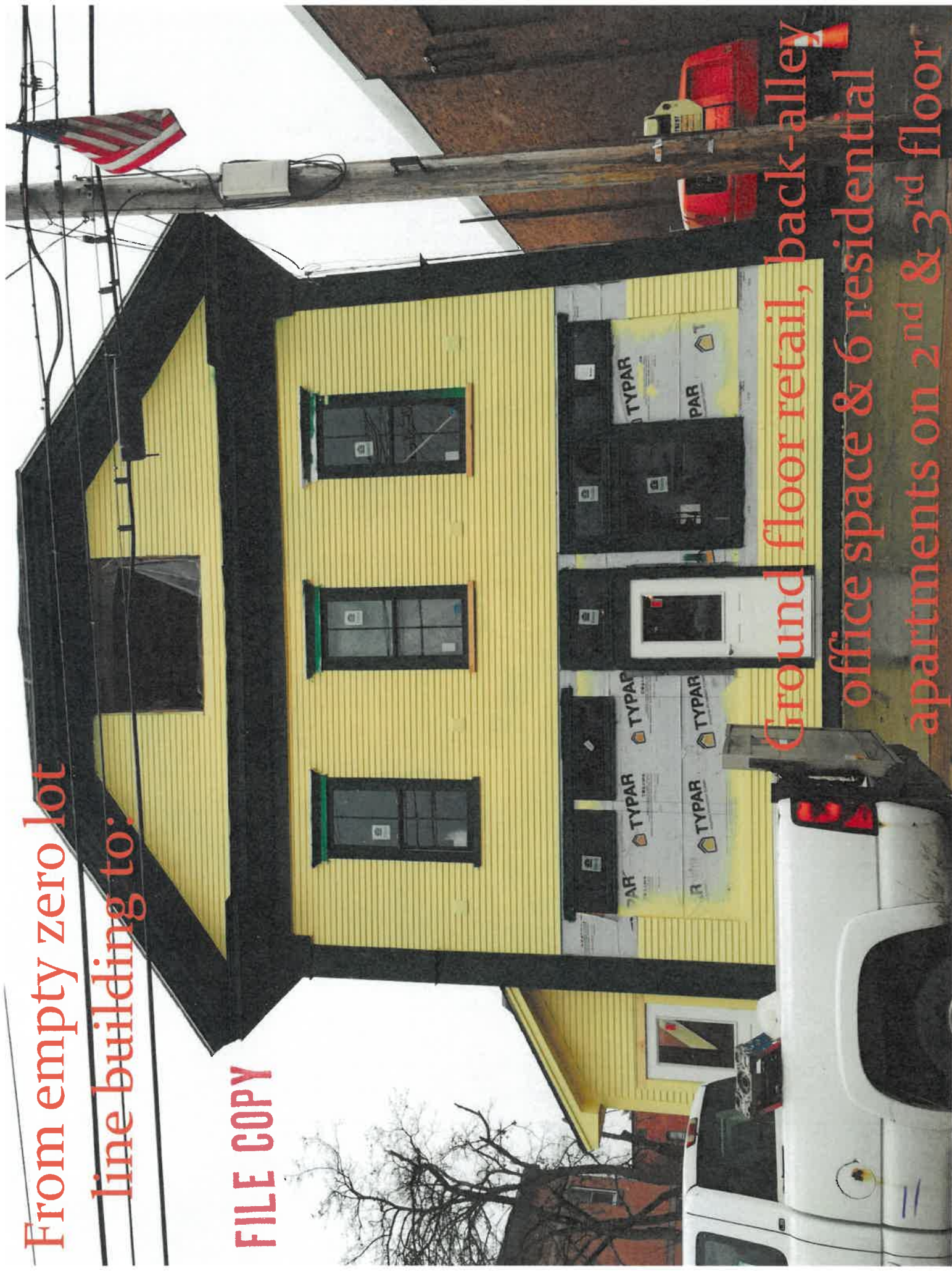
Arthur's Pre-Development 8/26/2013

10

From empty zero lot
line building to:

FILE COPY

Ground floor retail, back-alley
office space & 6 residential
apartments on 2nd & 3rd floor



FILE COPY



New Resource retail space & 3 new apartments

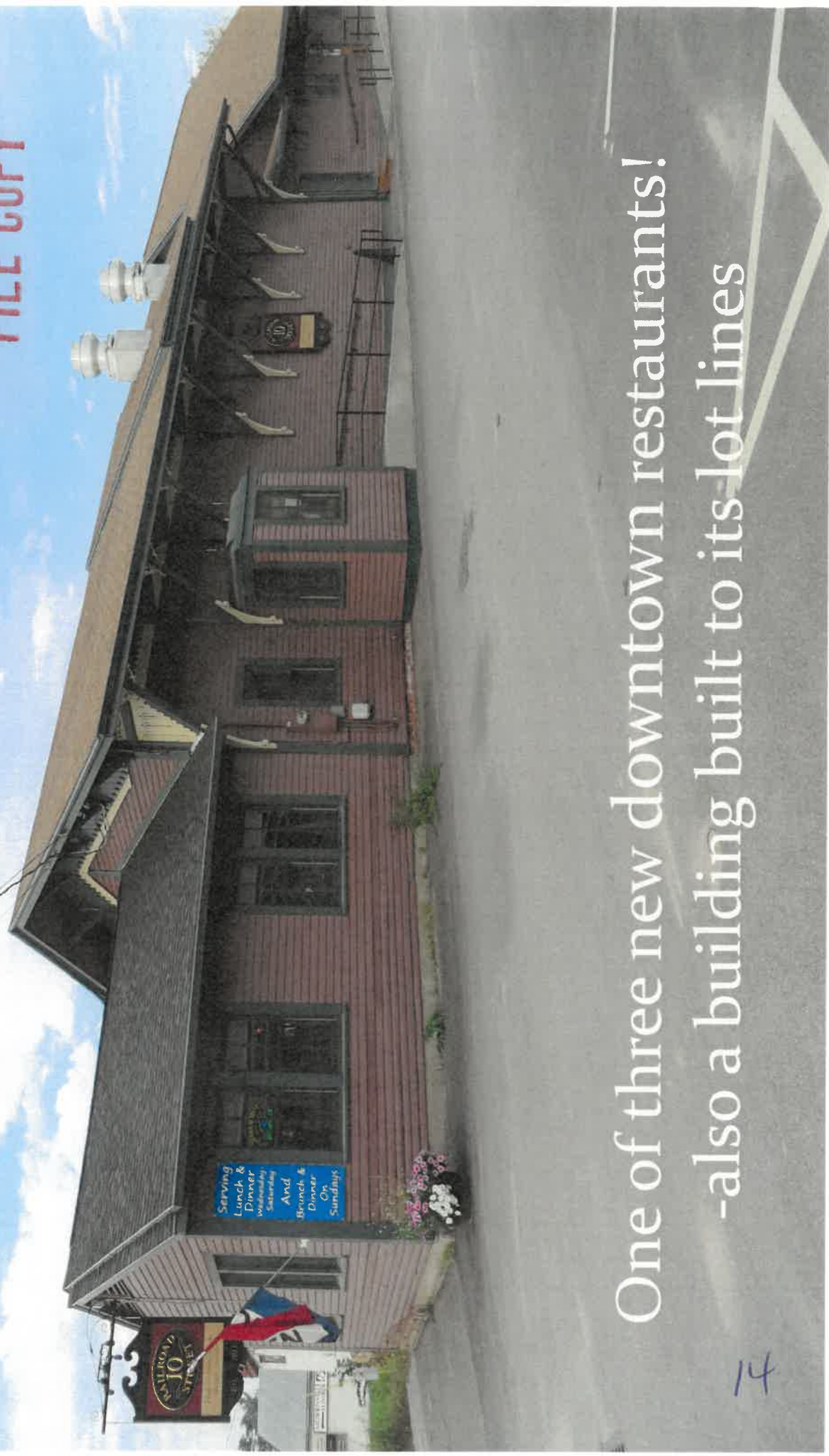
FILE COPY



A new pub / restaurant downstairs
& new apartment upstairs

10 Railroad Street Restaurant: A restored and repurposed train station

FILE COPY



One of three new downtown restaurants!
-also a building built to its lot lines

FILE COPY

2D BURLINGTONFREEPRESS.COM



HOW WE'RE DOING

Population shrinking in many Vermont cities



ART WOOLF

Vermont has only a few more residents today than it had in 2010, according to the U.S. Census Bureau. And, according to numbers just published by the U.S. Census Bureau, the vast majority of Vermont towns have fewer residents today than they did in 2010.

Let's look at the good news first: Some Vermont towns grew relatively fast, if we define relatively fast as above the national average. But only 16 out of Vermont's 251 towns and cities can make that claim. And most of those towns were in the greater Burlington metro area.

More than 180 towns have lost population in Vermont, an experience that harkens back to the mid-19th century when many Vermont towns lost a significant share of their population. Indeed, many Vermont towns lost so many people that they did not regain their peak 19th century populations until the 1960s, over a century later.

Declining populations are not just a feature of small, rural Vermont towns. Most cities in Vermont have fewer residents today than they did at the 2010 Census count. That includes Burlington, Wi-

Population of Select Cities and Towns in 2013 and Change since 2010

Burlington	42,284	-0.3%	Rutland City	16,126	-2.0%
South Burlington	18,419	3.6%	Bennington	15,519	-1.4%
Essex Town	10,566	4.6%	Brattleboro	11,798	-2.1%
Milton	10,507	2.0%	Springfield	9,257	-1.0%
Essex Junction	9,513	4.4%	Barre City	8,927	-1.3%
Middlebury	8,501	0.1%	Morrisville	2,030	2.9%
Montpelier	7,755	-1.2%	Randolph	4,756	-0.4%
Shelburne	7,508	5.0%	Newport City	4,520	-1.3%
Winooski	7,239	-0.4%	Rutland Town	4,052	-0.3%
St. Albans City	6,876	-0.7%	Brandon	3,899	-1.7%
St. Albans town	6,131	3.6%	Bristol	3,868	-0.6%
Georgia	4,607	2.5%	Windsor	3,485	-1.7%
Hinesburg	4,445	1.9%	Bellows Falls	3,074	-2.1%
Fairfax	4,404	3.2%	St. Johnsbury	3,074	-2.1%
Charlotte	3,828	1.8%	Rutland Town	3,074	-2.1%

nooski, Montpelier, Barre City, St. Albans City, Bennington, Brattleboro, Windsor, White River Junction and St. Johnsbury.

The table shows the total population of a few towns and cities and their growth (or decline) since 2010. The left side shows some Chittenden County towns and

a few outside of the county but still within commuting distance of Chittenden County's employment centers.

Burlington and Winooski, which most people consider to be true cities (at least in a Vermont context) were the only Chittenden County jurisdictions that lost pop-

ulation. Every other town in the county, plus nearby Fairfax and Georgia in southern Franklin County, and St. Albans town, have grown. That's not true of St. Albans City or Montpelier or Middlebury, despite their being within commuting distance of Burlington.

The right side columns show that throughout the state, historic cities and downtowns have all, except for Morrisville, experienced declining populations this decade.

The state has several programs to help revitalize downtowns. These include different varieties of tax credits, downtown designations, grants, and more. But almost every one of the historic cities that have received state revitalization funds are still losing population.

It's difficult to have a healthy and thriving downtown when the population of the city supporting that downtown is declining. It's not easy for the state or for localities to turn this around.

As to solutions, a first step would be to acknowledge that a declining population is a problem.

Art Woolf is associate professor of economics at UVM and editor of The Vermont Economy Newsletter.

CREATIVE COLLISIONS

Try fail, and try again to succeed in business

From zero new housing starts since 1995 to 33 new downtown housing starts since 2012!

THURSDAY, JUNE 19, 2014

McMeel

functioning water, sewer or septic facilities while being used as a temporary construction housing and shall comply with §323c if parked in a §320 Flood Hazard Area

Section 490. Exterior Lighting.

- 490.1 Exterior Lighting. All exterior lighting for residential or business uses shall be accomplished by using cut-off, down-shielded light fixtures. Light emanating from said fixtures shall not spill onto neighboring properties, Streets or, in the opinion of the Zoning Administrator, produce a hindrance to traffic movement. All exterior lighting, other than security lighting (which shall be set on a 5-minute or less motion sensor), ~~including parking lot lighting, and exempted lighting per §490.5,~~ shall remain off between the hours of 10:00PM and 6:00AM
- 490.2 Parking Lot Lighting. Parking lot light structures shall be limited to 20 feet in height and the light emanating therefrom shall be accomplished by using cut-off, down-shielded light fixture and shall not spill onto neighboring property lines or Streets.
- 490.3 Building facades. Building facades may be illuminated provided that the lighting shall be accomplished by using cut-off, down-shielded light fixtures and light shall not spill onto neighboring property lines or Streets.
- 490.4 Externally Illumination for Signs. Sign lighting shall be regulated per §477 of the Bylaw.
- 490.5 Exemptions. Exemptions ~~for~~ to §490 shall include lighting for streetlights, lighting installations on municipally owned property, and holiday lights during the months of October through January. Holiday or string lights may remain in place year-round, provided they are turned off nightly at 10:00 PM, and attached to a structure located outside of required setbacks.
- 490.6 Unusual Situations. Proposed lighting installations that do not comply with §490 Exterior Lighting maybe approved by the DRB only when that Board finds that the proposed lighting utilizes LED bulbs, is designed to minimize glare and does not direct light onto adjacent properties or Streets.
- 490.7 Prohibited. Mercury vapor and florescent lighting is prohibited.

Local Option Tax

Local option tax (LOT) is a way for municipalities in Vermont to raise additional revenue. A municipality may vote to levy the following 1% local option taxes in addition to state business taxes. **Please note:** Local option tax does not apply to the sale or rental of motor vehicles which are subject to the motor vehicle purchase and use tax.

Local Option Sales Tax: 6% sales tax + 1% = 7% total tax

Local Option Meals Tax: 9% meals tax + 1% = 10% total tax

Local Option Alcoholic Beverage Tax: 10% alcohol tax + 1% = 11% total tax

Local Option Rooms Tax: 9% rooms tax + 1% = 10% total tax

Requesting a Refund for Local Option Tax Charged in Error

What should I do if I was charged Local Option Tax but shouldn't have been?

Sometimes businesses mistakenly charge customers local option tax. If this happens, the easiest way to get your money back is to contact the business where you made the purchase to request a refund for the tax paid in error.

If the business is unable to provide a refund, you can request a refund directly from the Vermont Department of Taxes by completing and [submitting form REF-620, Application for Refund of Vermont Sales and Use Tax, Meals and Rooms Tax, or Local Option Tax](#). Please enclose a copy of your receipt(s) or invoice with the form.

Local Option Tax Finder

Search for a specific address or town to determine if a Local Option Tax is levied. [Open the local option tax finder in new window.](#)

Municipalities that have a 1% Local Option Sales Tax

Municipality	Effective Date
Barre City	October 2022
Brandon	October 2016
Brattleboro	July 2019
Burlington	July 2006
City of Essex Junction	October 2022
City of Rutland	July 2023 (Effective beginning 7/01/2023)
Colchester	October 2015
Dover	July 2007

Municipality	Effective Date
Killington	October 2008 (Rescinded as of 7/1/2018)
Manchester	April 1999
Middlebury	October 2008
Montgomery	October 2022
Rutland Town	April 2009
Shelburne	July 2023 (Effective beginning 7/01/2023)
St. Albans City	October 2020
St. Albans Town	July 2014
South Burlington	October 2007
Stowe	July 2023 (Effective beginning 7/01/2023)
Stratton	July 2004
Williston	July 2003
Wilmington	July 2012
Winhall	July 2010
Winooski	July 2019

Municipalities that have a 1% Local Option Meals and Rooms Tax and Alcoholic Beverage Tax

Municipality	Effective Date
Brandon	October 2016
Brattleboro	April 2007
Barre City	October 2018

Municipality	Effective Date
City of Essex Junction	October 2022
Colchester	October 2015
Dover	July 2007
Hartford ¹	October 2017
Jamaica	July 2023 (Effective beginning 7/1/2023)
Killington	October 2008
Manchester	April 2008
Middlebury	October 2008
Montgomery	October 2022
Montpelier	October 2016
Rutland Town	April 2009
Shelburne	July 2023 (Effective beginning 7/01/2023)
St. Albans City	October 2020
St. Albans Town	July 2014
South Burlington	October 2007
Stowe	July 2006
Stratton	July 2004
Williston	July 2003
Wilmington	July 2012
Winhall	July 2010
Winooski	July 2019

Municipality	Effective Date
Woodstock	July 2015

¹The Town of Hartford includes Quechee, White River Junction, West Hartford, and Wilder

Municipalities that have a 1% Local Option Rooms Tax

Municipality	Effective Date
Elmore	July 2021
Londonderry	July 2023 (Effective beginning 7/1/2023)

Please note: The City of Burlington and the City of Rutland administer and collect their own local meals, entertainment, lodging, or alcoholic beverage taxes. If you have a business in Burlington or Rutland City, please contact the appropriate city for information on how to pay and remit the tax.

Contact the City of Burlington: (802) 865-7000

Contact the City of Rutland: (802) 773-1800

How to Calculate and Remit Local Option Tax

As of November 2022, the Vermont Department of Taxes will only accept returns from businesses who collect and report Local Option Tax if they are filed electronically.

Local option tax is calculated as 1% of the taxable (net) sales for each town. A transaction is subject to local option tax if it is subject to the Vermont sales, meals, rooms, or alcoholic beverage tax. Local option tax is “destination-based.” In other words, the tax is collected based on the location where the buyer takes possession of the item or where it is delivered.

All vendors, including out of state vendors, authorized to collect taxes in Vermont are required to collect and remit to the Vermont Department of Taxes all applicable local option taxes for sales that occur in participating municipalities. No additional registration with the Department is necessary.

Although local option tax is levied by the municipality, the Department collects and administers the tax. Vendors who collect this tax file and remit it to the Department along with their electronically filed state taxes.

Rules of Procedure for Jointly Appointed Subordinate Boards

1. Source of Authority

All jointly appointed subordinate boards of the Morristown Selectboard and the Morrisville Village Trustees shall be governed by the provisions of all applicable Vermont State Statutes (specifically including the Vermont Open Meeting Law – 1 VSA §310-314), Municipal Bylaws, and these Rules of Procedure.

2. Purpose

All jointly appointed subordinate boards shall be subject to these “Rules of Procedure” to ensure that all meetings are timely, efficient and transparent to and for the public, and to ensure consistency of procedures for all joint boards.

3. Application

This policy setting forth these Rules of Procedure for all meetings of all jointly appointed subordinate boards shall apply to all regular, special and emergency meetings of these boards. These Rules of Procedure for jointly appointed subordinate boards shall be made available by the Town & Village Clerk upon request. These Rules of Procedure may only be amended by a successful majority vote of each Legislative Body.

4. Appointment

All jointly appointed subordinate boards shall be appointed by a majority vote of each Legislative Body. Upon receiving notice of a board vacancy per #9 of these rules, the Legislative Bodies, to ensure the continuity of the subordinate board or committee, shall first look to fill any vacancy with an existing board alternate that desires to become a full-time member of their respective board. If no such alternate exists, the Town’s Administrative Assistant shall notice the vacancy on jointly appointed boards on the Town’s website, and post a link regarding this vacancy on Front Porch Forum. Only Village or Town residents who appear on the current voter checklist shall be eligible to serve on jointly appointed boards¹. However, if no Village or Town residents on the voter checklist step forward to serve within a month of a vacancy being posted, the Legislative Bodies may appoint a non-Town or non-Village resident to fill the vacancy. Village and Town residents interested in serving on a jointly appointed subordinate board shall email the Town’s Administrative Assistant (Admin@MorristownVT.org) regarding interest in filling said vacancy. The Town’s Administrative Assistant shall keep an ongoing list of all emails received from eligible residents wishing to serve on a jointly appointed board during the current calendar year. The Administrative Assistant shall provide all emails received (from candidates that responded to the vacancy posting, and from candidates that previously applied within the calendar year), to each Legislative Body. Candidates for any vacancy on a jointly appointed board shall interview with the board that they are interested in, and said board shall furnish an appointment recommendation to each Legislative Body at the conclusion of the interview process.

5. Election of Officers

All jointly appointed subordinate boards shall elect annually a Chair & Vice Chair. Said election shall take place at the board’s first meeting after appointments are made by the respective Legislative Bodies.

¹ All existing members of jointly appointed subordinate boards as of 4 May 2022 are grandfathered from this new residency requirement. Said members, regardless of existing or future residency, may continue to serve on said boards, and shall remain eligible to be reappointed thereto upon the expiration of their current term.

6. Chair

The Chair shall set the agenda, preside over the meeting, call it to order, maintain order, decide all questions of order and procedure, and shall appoint any sub-committees found necessary to carry out the business of the respective board or commission.

7. Vice Chair

The Vice Chair shall assume all duties and authorities in the absence of the Chair.

8. Meeting Minutes

Meeting minutes shall include all meeting actions and proceedings, showing the vote of each board member upon every question, or if absent, disqualified, or failing to vote, shall so indicate. Meeting minutes shall include the names of all board members in attendance, a summary of the facts on which the decisions are based and the decisions rendered. All meeting minutes must be kept in accordance with 1 VSA §312(b)(2).

9. Vacancies

The Chair of all jointly appointed subordinate boards shall notify the Morristown Selectboard and the Morrisville Village Trustees of any vacancy on their board within one week from said vacancy taking place. Said vacant seat shall be filled via the #4-appointment process for the remainder of the term.

10. Quorum

A quorum must be present for any meeting, vote or official action of all jointly appointed subordinate boards. A quorum shall consist of a majority of the jointly appointed respective board, regardless of any vacancies or disqualification, in order for the respective board to act. If a quorum of the members of the respective board or commission is not present, no action shall be taken and/or conducted.

11. Recess of Meeting or Hearing

All jointly appointed subordinate boards may recess a meeting or hearing if all business cannot be disposed of on the day set. No further public notice shall be necessary provided that the date, time and place of the recessed meeting shall be announced before adjournment.

12. Majority Vote Required

Determinations on any matter before all jointly appointed subordinate boards shall require the concurrence of a majority of the respective board or commission regardless of any vacancies or disqualifications.

13. Attendance

Members of all jointly appointed subordinate boards are strongly encouraged to resign if total absences exceed fifty percent of the total meetings in a calendar year. Attendance of all jointly appointed subordinate boards can be reviewed by the Morristown Selectboard and the Morrisville Village Trustees annually and shall be a consideration during the reappointment decision-making process.

T.M. at 40% attendance this year

14. Conflict of Interest

All jointly appointed subordinate boards are strongly encouraged to adopt their own conflict of interest policy until such time that a blanket policy is adopted by the Morristown Selectboard and/or the Morrisville Village Trustees.

For the Village of Morrisville:

For the Town of Morristown:


Village Trustees Chair & Date


Selectboard Chair & Date



State of Vermont

Agency of Commerce and Community Development

Department of Housing and Community Development

National Life Building – North

One National Life Drive

Montpelier, VT 05620-0501

[phone] 802-828-3211

MEMORANDUM

TO: Municipal Planning and Development Review Officials

FROM: Vermont Department of Housing and Community Development
Jacob Hemmerick, Community Planning & Policy Manager
Maxwell Krieger, General Counsel

DATE: June 28, 2023

RE: Act 47 (S.100) Summary
Version 2

Vermont's General Assembly enacted several laws and amendments affecting state, municipal, and regional planning during the 2023 session, including the Housing Opportunities Made for Everyone (HOME) Act, Act 47 (S.100). The HOME Act amends several laws affecting state, municipal, and regional planning. As in past years, we are issuing this preliminary memo to inform local and regional officials of changes in statute and funding opportunities. The Department will develop and maintain a separate resource webpage to collect questions about the bill, post frequently asked questions, and issue guidance: <https://accd.vermont.gov/community-development/resources-rules/planning/HOME>.

The Vermont Statutes Online website is typically updated in October and does not include the prior session's changes until then.

The Department will issue an additional memorandum summarizing the other bills affecting municipal planning once the state budget is finalized. In compiling these updates, we owe thanks to the Vermont Planners Association's (VPA) legislative team and to the Vermont League of Cities and Towns' advocacy team (VLCT) for their companion legislative updates throughout the session, as well as the Vermont Association of Planning and Development Agencies (VAPDA).

PRELIMINARY SUMMARY

Act 47 (S.100) - Housing Opportunities Made for Everyone (HOME Act)

The Act amends the Planning and Development statute, Act 250, and other laws to enable new opportunities for housing development within state, regional, and local planning and development regulations.

The Act aims to address decades of state and local policies that have contributed to segregation and exclusion in Vermont. This legislation is an important part of a multi-pronged approach to mitigating the housing crisis, and every Vermont city and town can play a role in bringing about housing solutions, including ending unduly restrictive zoning. While some may find new ways to limit access and opportunities for more affordable homes and new neighbors, we hope cities and towns embrace the opportunity the new legislation offers to become more just and welcoming.

Currently, fifty-six municipalities in Vermont have received Bylaw Modernization Grants from the Department to expand housing opportunities. We expect the Budget Act will provide additional funding for new and revised bylaws through the Municipal Planning Grant and Bylaw Modernization Grant programs. We aim to announce these funding programs later this summer.

Effective Dates of the Act:

Effective upon passage: Section 46 on lead inspections

Effective July 1, 2023:

- Section 2, 1(D) on required provisions and prohibited effects for duplexes and small multiunit dwelling uses
- All other sections not otherwise listed below

Effective September 1, 2023: Section 3 on limited regulation of emergency shelters

Effective December 1, 2024:

- Section 1 on parking requirements
- Section 2, except 1(D), on other required provisions and prohibited effects
(H.171 of the 2023 Veto session would advance the effective date of this section to July 1, 2023)

Sections 1-10 Municipal Zoning Reform

§1 – Minimum Parking Requirements: Amends 24 V.S.A. § 4414 (permissible types of regulation) In residential districts served by municipal sewer and water, municipalities cannot require more than 1 parking space per dwelling unit. But municipalities may

require 1.5 spaces for duplexes and multi-family dwellings in areas without sewer and water for multiunit dwellings if existing public parking is not sufficient, rounded to the nearest whole number when calculating the total number of required spaces for multi-unit dwellings.

§2 – Required Provisions and Prohibited Effects

Duplexes and small multiunit uses: Amends 24 V.S.A. § 4412 (required provisions and prohibited effects) Municipalities must allow anywhere single unit homes (also known as single-family or single-household dwellings) are allowed for year-round use. Municipalities must apply the same or less prohibitive dimensional standards to duplexes as would apply to a single unit dwelling. In areas served by municipal sewer and water, municipalities must allow multiunit dwellings with three or four units to be a permitted (not conditional) use.

Accessory Dwelling Units (ADUs) allowances: ADU review, dimensional, or other regulations must not be more restrictive than those for single-unit dwellings. For instance, if a single-unit dwelling is not subject to a special design review, the ADU may not be subject to design review. Also, the criteria to convert an existing detached nonresidential building (such as a carriage barn) to habitable space for an ADU must not be more restrictive than a single-unit dwelling without an ADU.

Hotels & Housing Assistance: Bylaws must not prevent or penalize hotels used to rent rooms with public funds for the purpose of providing Vermont General [housing] Assistance.

Dwelling unit density standards for allowed residential uses: In areas served by municipal sewer and water that allow residential development, bylaws shall establish lot and building dimensional standards that allow 5 or more dwelling units per acre for each allowed residential use and density requirements for multi-family cannot be more restrictive than those required for single-family dwellings.

Affordable housing and mixed used development density bonus: In municipal water sewer service areas that allow residential development bylaws must permit a dwelling unit density bonus of 40% and a bonus of one habitable floor above the height maximum.

§3 – Limited Regulation of Emergency Shelters: Amends 24 V.S.A. §4413 (limitations on municipal bylaws) Shelters must be regulated similarly to state or community-owned and operated institutions. Bylaws may not interfere with daily or seasonal hours of operation or otherwise interfere with the functional use of a shelter.

§4 – Definitions: Amends 24 V.S.A. § 4303 (definitions) to move the existing ADU definition from the ADU section to this section, establish a definition for a duplex, (to mean a two-unit dwelling with a shared wall or floor/ceiling), define emergency shelter (to

mean temporary shelter for homeless) and define multi-unit dwelling (to mean three or more dwelling units in same building).

Served by Water & Sewer Definition: amends definition to define "served by municipal water and sewer infrastructure" to mean an area where a connection is "available" to municipal water and direct or indirect wastewater system(s).

"Available" is not defined but could be interpreted as "possible" or "feasible" and not prohibited by State regulations and permits, known capacity constraints, or adopted service and capacity agreements. Municipalities can also establish specific service areas by ordinance or bylaw, provided they do not discriminate against year-round residential housing otherwise allowed. Such an ordinance may consider areas where year-round housing development conflicts with natural resource regulations, known service area prohibitions or limitations, areas served only to address public health hazards, mobile home parks outside areas planned for growth, and where year-round housing development is prohibited.

§5 – Preparation of Bylaws: Amends 24 V.S.A. §4441 (preparation of bylaws and regulatory tools) to enhance fair housing filing requirements for the State Plan & Bylaws Database and atlas to allow developers/researchers to go to one place for all adopted bylaws and access all zoning districts through the Vermont Open Geodata Portal. The Department is now in the process of updating procedures, forms and upload capabilities.

§6 – Limits on Local Appeals: Amends 24 V.S.A. §4465 (appeals of decisions of the administrative officer) adds "residents" to the list of potential individuals that may, in combination, appeal an appropriate municipal panel (AMP) decision with a 10-person petition. Depending on local governance, the AMP could be a planning commission, zoning board of adjustment, development review board, or legislative body (under interim zoning). The amendment also prohibits 10-person appeals for "character of the area" if the project has an affordable housing component.

§§6-7 – Subdivision Review: Amends 24 V.S.A. §4463 (subdivision review) to differentiate between major and minor subdivisions in bylaws to allow administrative officers to approve minor subdivisions. Municipalities may define "minor subdivision."

§9 – Character of the Area Appeals: Amends 24 V.S.A. §4471 (appeal to environmental division) to prohibit conditional use appeals when the AMP has determined the "character of the area" is met for residential development in some State designated areas (Downtowns, Growth Centers, and Neighborhood Development Areas). Other elements may be still appealed.

§10 – By Right Development Review: Amends 24 V.S.A. §4464(b) (appropriate municipal panel decisions) to require local boards to permit housing development as enabled in the bylaws with no restrictive modifications to projects. Developments that meet the requirements of bylaws and municipal standards, (along with any other permitting requirements) must be allowed. AMPs will no longer be able to require larger

lot sizes, require more parking spaces, limit the building size or height, or limit the density otherwise allowed by the bylaws except to meet a prerequisite permit. The section provides a mechanism for the AMP to deviate from the allowed standards with written findings that justify the adjustment.

§11 – Regional Plan: Amends 24 V.S.A. §4348a (elements of a regional plan) to direct DHCD to publish statewide and regional housing targets or ranges as part of the Statewide Housing Needs Assessment (conducted every 5 years) for use by the eleven regional planning commissions in the regional plan's housing element. Regional plans' housing elements must now estimate specific housing needs by municipality and recommend actions that meet needs as part of the 8-year planning cycle.

§12 – Municipal Plan: Amends 24 V.S.A. §4382 (the plan for a municipality) municipal plan requirements to strengthen the local housing element. As part of the 8-year planning cycle, the plan must look at data on year-round housing to recommend a program for public and private actions that meets the housing needs of low- and moderate-income households, as well as the required provisions and prohibited effects section of the Planning Act.

§13 – Adoption of Bylaws: Amends 24 V.S.A. §4442 (adoption of bylaws) to remove the 'rural town' provision. Rural towns may now adopt bylaws in the same manner as an urban municipality: by a majority of the members of the legislative body following hearing. The legislative body retains the option to vote to put the bylaws to a popular vote and the voters retain the ability to petition for a popular vote on the bylaws following legislative body action.

§14 – Municipal and Regional Planning Fund: Amends 24 V.S.A. §4306 to allow DHCD to utilize 20% of the appropriated property-transfer tax funding for a new technical assistance and navigation program to help municipalities determine readiness and apply for neighborhood development area designation. DHCD intends to hire consultants on retainer for this purpose and will develop procedures for interested municipalities. DHCD may, in its discretion, allocate the remaining 80% of the funds between the bylaw modernization grants (BMG) and municipal planning grants (MPG). DHCD intends to run the BMG and MPG programs on a tandem timeline with an announcement this summer.

§§15-15a. – Regional Planning Report: the Vermont Association of Planning and Development Agencies (VAPDA), representing Vermont's regional planning commissions, is directed to produce a report by December 15, 2023 on statutory recommendations to better integrate municipal, regional and state plans, and policies. VAPDA must also hire housing resource navigators to work with municipalities and regional organizations to find funding and identify housing opportunities (pending funding availability).

§§16-16a – Act 250 Definitions: Amends 10 V.S.A. §6001 to temporarily raise the Act 250 jurisdictional threshold for housing units from 10 to 25 in Designated Downtowns,

Neighborhood Development Areas, Growth Centers, and Villages with permanent zoning and subdivision regulations and allow any size Priority Housing Project (PHPs) within Designated Downtowns, Neighborhood Development Areas, and Growth Centers. Projects not completed before July 1, 2026 deadline can preserve the exemption by seeking a jurisdictional opinion before June 30, 2026 (the project must be substantially complete before June 30, 2029 to remain exempt). The amendment also treats the construction of four or fewer units in an existing structure as only one unit for the purposes of calculating the total number of units.

§17 – Master Plan Permits: Amends 10 V.S.A. §6086b (downtown development; findings; master plan permits) so municipalities can apply for master plan permit(s) for all of, or an area within, a Designated Downtown or Neighborhood Development Area. Subsequent development of lots within the area will only require permit amendments once a master plan permit is in place. Permit amendments in Neighborhood Development Areas will only be issued for housing development.

§18 – Act 250 Fees: Amends 10 VSA §6083a (Act 250 fees) to cap permit fees for individual permit or permit amendments, including portions of projects involving master plans, at \$165,000.

§18a – Act 250 Permit Delegation Report: Directs VAPDA, in consultation with the Natural Resources Board (which administers Act 250), to develop a proposed framework to delegate Act 250 administration to municipalities. The report is due by December 31, 2023.

§19 – Act 250 Changes Report: Amends the existing report established in Act 182 §41 (due on December 31, 2023) to additionally review the effects that changing the jurisdictional threshold 10 to 25 housing units statewide might have on housing affordability, home ownership, and natural resources.

§19a – Designated Area Report: Extends the report deadline to study the State's designation programs to December 31, 2023. DHCD is currently working with a consultant on evaluation, outreach, and recommendations to modernize the designation programs.

§19b-d – Act 250 Exemption for Electric Distribution Work: Exempts work and upgrades to existing utility lines and corridors from Act 250. Other permit processes (including §248 still apply). This exemption sunsets January 1, 2026. Any utility that uses this exemption between January 15, 2024, and 2026 must report to the House Committee on Environment and Energy and the Senate Committees on Finance and Natural Resources.

§20 – Covenants & Deed Restrictions: Amends 27 V.S.A. § 545 (covenants, conditions and restrictions of substantial public interest) to invalidate any deed restrictions or covenants established after July 1, 2023 if they establish minimum dwelling unit size or require more than one parking space per unit (if in an area served

by water and sewer), or more than 1.5 parking spaces for duplexes and multiunit dwellings in areas not served by water and sewer.

§21 – Class 4 Road Disclosure: Amends 27 V.S.A § 617 to require property owners to disclose to potential buyers if the property is on a class 4 highway or legal trail that is not required to be maintained by the municipality.

§§22-23 – Building Energy Code Study Committee: Creates a 15-member committee to study and recommend strategies to increase awareness of and compliance with State residential and commercial building energy standards with assistance from the Department of Public Service. The work will begin before July 15, 2023, and the report is due December 1, 2023.

§24 – Rural Recovery Coordination Council: Creates a 14+ member council to study ways to strengthen capacity and coordination between agencies and stakeholders involved in rural community development. Administrative support will be provided by the Vermont Council on Rural Development (pending budget approval), and the report is due December 15, 2023.

§25 – Agency of Natural Resources (ANR) Review of Water & Wastewater Connection Permits: Directs ANR to study the statutory and regulatory requirements and administrative processes governing issuance of potable water and wastewater connection permits to identify ways to streamline the process and reduce any duplicated effort on the municipal or state level. ANR will consult with DHCD, municipalities, engineers, licensed designers, and environmental organizations on alternative approaches. Report due January 31, 2025.

§25a – Utility Disconnection & Landlord Notification Rulemaking: Directs the Public Utilities Commission (PUC) to revise rules regarding utility service disconnections to require utilities to notify property owners if utility service to the property has been disconnected, even if the tenant is the ratepayer. This would include water and sewer services provided by municipality, fire district, or private company. Also allows remote disconnect by utility. Draft legislation that incorporates the rules is due January 1, 2024.

§26 – Accessory Dwelling Unit (ADU) Jurisdiction: Amends 20 V.S.A. § 2730 to clarify that ADUs that are not rented are not 'public buildings' and not subject to State Fire Safety Code Compliance and inspection.

§27 – Deleted

§28 – Criminal Penalty for Fair Housing/Human Rights Violation: Amends 9 V.S.A. 4507 to increase potential penalty from \$1,000 to \$10,000.

§29 – Fire & Building Safety Report: Requires the division to prepare a report identifying potential revisions to the Vermont Fire and Building Safety Code to increase construction of new and converted residential units. Report due January 15, 2024.

§30 – Deleted

§§31-45 – Programs

§31 – Homesharing Program: Directs DHCD to develop a home-sharing program, pending funding.

§32 – Mobile Home Park Task Force: Creates a multi-agency and stakeholder task force to be led by an appointed member of the House of Representatives to evaluate Vermont's mobile home park statute and the status of mobile home parks and mobile homes in the state. Funding is pending.

§§33-34 – First Generation Homebuyer Program: Amends existing program administered by the Vermont Housing Finance Agency to expand potential usership. Future funding is to be determined (TBD).

§§35-37 – Missing Middle Homeownership Program: Revises the existing missing middle program administered by the Vermont Housing Finance Agency (VHFA). Future funding TBD.

§§38-39 – Rental Housing Revolving Loan: Directs VHFA to create a revolving loan program to develop rental housing stock. Funding TBD.

§§40-41 – Vermont Rental Housing Improvement Program (VHIP): Revises existing VHIP program, administered by the Department of Housing and Community Development (DHCD) in partnership with the homeownership centers (HOCs), to allow for both grants and loans. Future funding TBD.

§42 – VHCB Appropriation: Appropriation to the Vermont Housing Conservation Board (VHCB) for mixed-income and affordable housing development. Funding TBD.

§43 – Rental Housing Stabilization Services: Directs Champlain Valley Office of Economic Opportunity to create and implement a rental housing stabilization program to provide technical assistance for tenants and landlords to access other funding opportunities. Funding TBD.

§44 – Tenant Representation Pilot Program: Directs Vermont Legal Aid to create and implement a two (2) year pilot program for tenant representation in eviction cases. Funding TBD.

§45 – Rent Arrears Assistance Fund: Directs the Vermont State Housing Authority (VSHA) to create and implement a rent arrears program to assist eviction prevention for cases of non-payment of rent. Funding TBD.

§46 – Lead Inspection: Owners of rental target housing who perform work under 18 V.S.A. § 1764 are exempt from needed a license and liability insurance. Effective on passage.

§47 – Effective Dates (see above)

Prior DHCD memos summarizing the statutory changes starting in 2007 can be found at <http://accd.vermont.gov/community-development/resources-rules/planning>.



**State of Vermont
Department of Housing and Community Development***Agency of Commerce and
Community Development*

Deane C. Davis Building – 6th Floor [phone] 802-828-3211
One National Life Drive
Montpelier, VT 05620-0501

MEMORANDUM**H.171, 2023 – EFFECTIVE DATE AMENDMENTS TO ACT 47 (S.100, 2023)**

The effective dates in [Act 47 \(S.100, 2023\)](#) are amended by H.171, 2023 during the Vermont Legislature's 2023 Veto Session on June 20, 2022.

The language of the amendment, combined with the original bill is as follows:

“2023 Acts and Resolves No. 47, Sec. 47 is amended to read:

Sec. 47. EFFECTIVE DATES

This act shall take effect on July 1, 2023, except that:

(1) ~~Sees. Sec. 1 (24 V.S.A. § 4414) and 2 (24 V.S.A. § 4412)~~ shall take effect on December 1, 2024, ~~except for subdivision (1)(D) of Sec. 2, which shall take effect on July 1, 2023.~~

(2) Sec. 3 (24 V.S.A. § 4413) shall take effect on September 1, 2023.

(3) Sec. 46 (lead inspectors) shall take effect on passage.

Pending the Governor's signature of H.171, the following effective dates will now apply:

Upon passage:	Sec. 46 on lead inspections;
July 1, 2023:	Sec. 2 on required provisions and prohibited effects & all other sections not otherwise listed below;
September 1, 2023:	Sec. 3 on limited regulation of emergency shelters;
December 1, 2024:	Sec. 1 on parking requirements.

Municipalities should carefully examine the entirety of Act 47 to understand the effects on municipal permit approvals and processes. The Department of Housing and Community Development has developed a preliminary summary of the Act, which can be found on the Department's website under [Vermont HOME Act of 2023, Act 47 \(S.100\)](#).

Maxwell I. Krieger, Esq., General Counsel
Department of Housing and Community Development



Municipal Zoning Preemption/Housing Opportunities Made for Everyone S.100

Amends 9 V.S.A. § 4507; 20 V.S.A. § 2730; 24 V.S.A. §§ 4303, 4306, 4348a, 4382, 4412, 4413, 4414, 4418, 4441, 4442, 4463, 4464, 4465, 4471; 10 V.S.A. §§ 6001, 6083a, 5086b; 27 V.S.A. §§ 545, 617. Writes session law.

Housing Opportunities Made for Everyone

S.100, officially titled Housing Opportunities Made for Everyone, passed on the last day of the session. Governor Scott signed the bill on June 5. Once the bill left the Senate Economic Development, Housing and General Affairs Committee way back in February, it was controversial throughout the rest of the session, and the bill never garnered the support of the Vermont League of Cities and Towns because it for the most part mandated permanent zoning changes without commensurate changes to Act 250 or other state permitting processes that significantly affect the cost and time required to build housing. The 80-page bill ended up being a Christmas tree for a wide range of issues.

The Secretary of the Agency of Human Services, Commissioner of the Department of Children and Families, and staff visited with members of the VLCT Board of Directors at their May board meeting on May 18th and reiterated several times “fundamentally we need to build more housing”. S.100 removes some impediments to housing construction and renovation. The funding dedicated to housing construction, renovation, and assistance – some \$200 million in the coming fiscal year – is in H.494, the budget.

Below are the many provisions that affect municipalities.

Zoning Provisions

The first 25 pages of the bill are dedicated to municipal zoning and planning changes. Please note that these changes are prospective, and they take effect July 1, 2024, unless specifically noted below.

In residential districts served by municipal sewer and water infrastructure, a municipality may not require more than one parking space per dwelling unit. A municipality may require 1.5 parking spaces in areas without sewer and water and in areas more than one-quarter mile from public parking for duplexes and multi-unit dwellings if existing parking isn’t sufficient.

Duplexes are allowed uses in any district that allows year-round residential development. They are to be allowed with the same dimensional standards as single-unit dwellings. Multi-unit dwellings of at least four units must be allowed in areas of town served by sewer and water. If the bylaw regulating such a district requires multi-unit structures to have more than four dwelling units, that requirement will remain in place. This section takes effect on July 1, 2023.

Conversion of non-residential detached buildings to accessory dwelling units are to be subject to the same standards of review as single family homes.

34

In residential districts served by sewer and water, bylaws must establish building and lot standards that allow five or more units per acre, and “affordable housing” developments (defined in the statute) may add additional units that increase density by 40 percent and may include an additional floor above height limitations in the bylaws as long as the structure complies with fire and building safety codes.

The legislation defines “area served by municipal sewer and water infrastructure” to mean:

- where residential connections and expansions are available to municipal water and direct and indirect discharge wastewater systems and not prohibited by state regulations or permits, identified capacity constraints, or municipally adopted service and capacity agreements;
- areas established by local ordinance or bylaw where residential connections and expansions are available to municipal water and direct and indirect discharge wastewater systems and may exclude flood hazard or inundation areas, river corridors or fluvial erosion areas as established by statute, shorelands, natural resource protection areas within zoning districts or overlay districts, and wherever year-round residential development is not allowed;
- areas with identified service limits established by state regulations or permits, identified capacity constraints, or municipally adopted service and capacity agreements;
- areas served by sewer and water to address an identified community-scale public health hazard or environmental hazard;
- areas serving mobile home parks not within an area planned for year-round residential growth;
- areas serving industrial sites or parks;
- areas where service lines are located to serve places that present community scale public health or environmental hazards, mobile home parks, industrial parks (noted in the three bullets directly above) but no connections or expansions are permitted; or
- areas that, through an approved Planned Unit Development under 24 V.S.A. section 4417 or Transfer of Development Rights under 24 V.S.A. section 4423, prohibit year-round residential development.

No zoning bylaw may prohibit a hotel from renting rooms through Vermont’s General Assistance Program or to a person using public funds. The bill adds emergency shelters to the list of land uses that may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density, off-street parking (although not so much – see above), loading facilities, traffic noise, lighting, landscaping, and screening and only to the extent that regulations do not interfere with the intended functional use, including hours of operation. This section on emergency shelters took effect on passage, May 12, 2023.

An “interested person” may appeal the decision of a zoning administrator to the development review board. An interested person includes

- a person owning title to property;
- a municipality or solid waste district empowered to condemn the property or interests in it;
- the host municipality or any adjoining municipality;

35

- a person owning or occupying property in the immediate neighborhood who can demonstrate a physical or environmental impact on their interest; and
- any 10 persons who may be voters, residents, or real property owners within the municipality who by signed petition allege that the decision violates the policies, purposes, or terms of the plan or bylaw. S. 100 expanded those qualified to appeal under this section to include residents.

An appeal may not include character of the area affected if the project has a residential component that includes affordable housing. Likewise, an appropriate municipal panel's decision that a residential development project will not result in an adverse effect on the character of the area may not be appealed if the project is in a designated downtown development district, growth center, or neighborhood development area.

A town may grant their zoning administrator authority to approve minor subdivisions and to decide if a hearing is required for minor subdivisions. The town may determine what is a minor subdivision.

The law regarding the required housing element of a regional plan is augmented to require regional and community need for housing that will result in an adequate supply of homes which comply with building and energy codes and for which households will spend not more than 30 percent of income on housing and not more than 15 percent on transportation. The requirement will be based upon statewide and regional housing targets to be published by the Department of Housing and Community Development. The regional planning commission assessment is to include price, quality, unit size or type, zoning district by municipality, and recommended actions to meet the estimated need.

Municipal plans shall be consistent with the planning goals of Title 24 Chapter 117, the municipal and regional planning statute. In addition to reflecting the regional plan housing elements, municipal plans should use data on year-round and seasonal dwellings and include actions to address the housing needs of low- and moderate-income persons.

The legislation deletes the authority of a rural town's voters to decide to adopt or amend a bylaw or repeal one by Australian ballot. The selectboard will make those decisions. The voters may still petition to overturn the selectboard decision.

The Department of Housing and Community Affairs is granted permission to use up to 20 percent of municipal planning funds to assist towns in meeting requirements of the neighborhood development area designation. The Vermont Association of Planning and Development Agencies (VAPDA)

- is required to study improving and coordinating effectiveness between municipal, regional, and state planning and
- is authorized to hire housing resource navigators, with a contingent appropriation of \$300,000 (if there are sufficient funds in the state budget).

36