

MORRISVILLE / MORRISTOWN **PLANNING COUNCIL AGENDA**

Tuesday 24 October 2023 at 5:00 P.M.

**Morristown Municipal Offices, 43 Portland Street
Community meeting room of the Old Tegu Theatre**

- p. 2-3 1. Vote: prior Council meeting minutes
- 2. Discuss: introduce Bonnie to zoom / record Council meetings
- p. 4-7 3. Discuss: new zoning change approved without parking ratios
- p. 8-19 4. Discuss: S.100 “homes for everyone” next zoning change
- p. 20-23 5. Discuss: Town Admin request for new Town Plan

Morristown/Morrisville Planning Council

PO Box 748 / Morrisville, VT 05661

Phone (802) 888-6373

Meeting Minutes of Tuesday 12 September 2023

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

Council Members absent:

Guests: Conservation Commission Chair Ron Stancliff, Ann Becht, Bob Bortree, Tom Cloutier, Alex Cyr, Peter & Linda Kramer, Gary & Sue Sinnot, Carl & Marcia Stewart, and various members of the public that watched the public hearing via Zoom

Staff: Planning Director Todd Thomas

Call to Order: Chair Hancock called the meeting to order in the Community Meeting Room of the Town Office at 43 Portland Street in Morrisville at approximately 5:00 P.M.

Public Hearing: Review of proposed 2023 zoning changes

The annual public hearing was held regarding the proposed zoning changes that were informally agreed upon by Planning Council throughout 2023. Chair Hancock opened the hearing by explaining that the aim was to push through these pending zoning changes now, and then tackle the additional zoning changes required by the Housing Opportunities Made for Everyone (HOME) Act over the winter. The warned zoning changes to the Morrisville/Morristown Zoning Bylaws were as follows (in italics):

§204.4 – add specific waiver calculation language & clarify parking waiver

§204.5a – allow 1 or 2 new housing units as adaptive reuse of accessory buildings in HDR Zone

§204.5b – correct front setback in CB Zone, reduce front setback in MDR Zone, & revise COM Zone mixed use ground floor requirement

§206 – new Design Criteria requirements for duplexes, new MDR Zone jurisdiction, and various subsection edits for architectural repetition, cladding, front porches, garages, public entrances, outside space, & parking.

§207 – clarify applicable streets that fall under Historic Preservation Criteria, and include Park St.

§320 – make floodzone bylaw edits, & us town listed values for substantial damage & improvement

§426.2 – edits will allow ponds to be shared across property lines

§450 – clarify parking rules pertain to private roads & reduce parking minimums to 1 per unit (S.100)

§485 – change Extraction of Earth Resources title via Special Industry Use to clarify rock extraction

§490 – exterior lighting changes for parking lot lighting, and allow string lights to be used year-round

§502 – prohibit the use of dumpsters in residential zones

§505b – add specific rules when landscaping is required for parking lots & to protect residential uses

§510 – allow townhouse style development for Class 1 Development in the village, new waiver category for Class 2 Development in the LDR Zone, revise maintenance agreement language for open space, allow tree blazing for open space identification, and require public access to trail systems in a private road situation.

§820.5 – Specify public or private street recommendation per Selectboard request

Article IX – Revise definitions for the following: Building, Business Services, Family, Final Subdivision Approval, Short-Term Housing, Setback, Special Industry, Structure, Substantial Damage, Substantial Improvement, Town Clerk.

Delete definitions for the following: Airport, Building Envelope, Commercial Communication Equipment, Municipal Clerk,

Add definition for Public Entrance

Article X – Revise the following Zone descriptions: Central Business, Commercial #1, Industrial (1,2,3,4&5), Hospital, High Density purpose & High Density #1, Medium Density Residential #1, High Density purpose & Low Density #1,2,3,4&5, & Rural Residential Agricultural

During the course of the hearing, the Council agreed to make minor edits to §206(f) clarifying maximum garage widths, §207.2 better defining the regulatory area for Historic preservation Criteria, and changing the definition of Short-Term Housing to Short-Term Rentals (the latter change per the suggestion of resident Linda Kramer). Resident Bob Bortree read from the Town Plan asked a question about the title changes proposed to §485 Extraction of Earth Resources. Zoning Administrator Thomas responded that the proposed language edits did not change how gravel extraction was regulated but did strengthen the existing incidental gravel extraction allowance language by switching the word “premises” with the word “parcel.” Chair Hancock added that the Council had already committed to evaluating the actual regulations for §485 Extraction of Earth Resources as soon as the needed HOME Act zoning changes were completed in early 2024. Mr. Thomas added that the Town Plan language that Mr. Bortree read had been significantly weakened by the Selectboard / Town Administration at the request of the Lamoille County Planning Commission, and the original Town Plan language that was originally approved by the Planning Council was very strict by not allowing new gravel extraction anywhere in town. At the conclusion of the zoning change discussion, the Council agreed by consensus to close the public hearing. Member Goldstein moved to approve the 2023 zoning changes as warned with the 3 aforementioned changes made during the public hearing. A vote of 4-0 affirmed the motion.

Meeting Minutes: Member Goldstein moved to approve the August 8th meeting minutes. A vote of 3-0-1 affirmed the motion, with Member Reeve abstaining.

The meeting adjourned at 6:00 PM, submitted by Todd Thomas, Planning Director

Proposed Parking

Section 450. Parking and Driveway Requirements.

451. **Parking Requirements.** Parking spaces shall be provided in accordance with the specifications in the below table whenever any new use is established or existing use enlarged. For any use, public off-street parking in lieu of on-site parking may be utilized to fulfill any or part of the parking requirements if the proposed use is located within 500 feet of a municipal parking lot. A straight-line measurement shall be made between the proposed use and a municipal parking lot to determine the applicability of this provision. However, the Zoning Administrator may require an applicant to seek \$500 Site Plan Approval from the DRB to use off-street parking to fulfill parking requirements for the proposed use if the accessibility or availability of parking in the municipal lot is in question.
452. **General Requirements.** For the purpose of this Bylaw, a Parking Space, Off-Street shall be 9 feet wide by 18 feet long and have access to a public street, private road, and maneuvering room. Required off-street parking areas for 3 or more automobiles shall have individual spaces marked and shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be on any public street, or sidewalk, and so that any automobile may be parked and un-parked without moving another. Required parking areas for 3 or more automobiles within the Village limits shall be paved. Parking areas for 3 or more automobiles outside the Village limits do not require pavement and said parking may take places on gravel, dirt or lawn areas.

453. Minimum Parking Ratio Requirements.

<u>Defined Uses</u>	<u>Parking Spaces Required</u>
Business Services, Health Care Facility, Professional Office, and Sales of Goods Produced On-Site	1.5 per employee per largest shift
Community Facility, Day Care Facility, and Family Child Care Facility	1.5 per employee per largest shift
Dwelling Unit	1 per unit
Group Home & Shelter	0.5 per bed
Home Business	4
Extraction of Earth Resources, Manufacturing, Wholesale Distribution, and Warehouse & Storage Facility	1 per employee per largest shift
Motor Vehicle Service Station, and Sales & Repair Facility	5 spots per each repair bay door
Recreation Facility Indoor or Outdoor	1 per 4 seats or 15 per playing field
Retail Sales of Goods and Services, Sexually Oriented Business, & Commercial Use	2.5 per 1,000 ft. ² of gross floor area
Restaurant, Bars, and Private Clubs	1 per 4 seats
There are no parking minimums for the following uses: Accessory Apartment, Accessory Retail & Food, Accessory Use or Structure, Bulk Storage of Fuels, Drive-Through, Fence, and Home Occupation.	---

454. The DRB may increase or decrease the number of parking spaces required if it is demonstrated that a different number of spaces is more appropriate for the particular use.
455. **Driveway Location.** All driveways are to be located at least 75 feet from the nearest corner of any street intersection. This shall apply to all uses except Dwelling Unit, Single-Family and Dwelling Unit and Two-Family. For any use and where feasible, the sharing of driveway accesses between adjoining lots is preferred and encouraged.

Existing Parking (1 of 2)

or the damaged structure shall be repaired or replaced. Upon approval of the DRB, and if good cause has been demonstrated which prevents compliance of this regulation, an extension of the above dates may be granted.

442. **Repair of Buildings.** Either through the cessation of construction or via a lack of maintenance, no building shall be directly open to the elements for longer than 90 days consecutively, except that open to the elements shall also include boarded-up or broken windows even when said windows do not provide a direct openness to the elements.

Section 450. Parking and Driveway Requirements.

451. **Parking Requirements.** Parking spaces shall be provided in accordance with the specifications in the below table whenever any new use is established or existing use enlarged. For any use, public off-street parking in lieu of on-site parking may be utilized to fulfill any or part of the parking requirements if the proposed use is located within 500 feet of a municipal parking lot. A straight line measurement shall be made between the proposed use and a municipal parking lot to determine the applicability of this provision. However, the Zoning Administrator may require an applicant to seek §500 Site Plan Approval from the DRB to use off-street parking to fulfill parking requirements for the proposed use if the accessibility or availability of parking in the municipal lot is in question.

452. **General Requirements.** For the purpose of this Bylaw, a Parking Space, Off-Street shall be 9 feet wide by 18 feet long and have access to a public street, private road, or alley and maneuvering room. Required off-street parking areas for 3 or more automobiles shall have individual spaces marked and shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be on any public street, or sidewalk, and so that any automobile may be parked and un-parked without moving another. Required parking areas for 3 or more automobiles within the Village limits shall be paved. Parking areas for 3 or more automobiles outside the Village limits do not require pavement and said parking may take places on gravel, dirt or lawn areas.

453. Parking Spaces Required for Various Uses.

Minimum Parking Ratio Requirements

Use	Parking Spaces Required
Business Services, Business/Professional Office, Sales of Goods Produced On-Site, and Health Care Facility	1.5 per employee per largest shift
Community Facility, Day Care Facility, and Family Child Care Facility	1.5 per employee per largest shift
Dwelling Unit, Single Family	2
Dwelling Unit, Two-Family	32
Dwelling Unit, Multi-Family	2 per unit
Dwelling Unit, Multi-Family in CB & HDR Zone, or for Senior Housing in any zone	1 per unit
Group Home & Shelter	0.5 per bed
Home Business	4
Extraction of Earth Resources, Manufacturing, Wholesale Distribution, and Warehouse & Storage Facility	1 per employee per largest shift
Motor Vehicle Service Station, and Sales & Repair Facility	5 spots per each repair bay door
Recreation Facility/Indoor	1 per 4 seats

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

Parking
§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

Rural duplexes
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.

0.2 acre lots in village
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.

fix
§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

S.100 Homes for Everyone Zoning To-Do list

1. ~~Change all residential parking ratios to 1 per unit.~~
2. Delete existing zoning language regulating homeless shelters and its corresponding definition.
3. Rural areas served by septic and well: Allow duplexes on all properties served by on-site septic and well while using the same dimensional standards for single-family homes as duplexes.
4. Village areas served by served by water & sewer: Evaluate the existing 4,000ft² minimum lot size in most of the MW&L's service area and create a MAX lot size of 0.2 acres to allow single-family homes only (or duplexes as well if the minimum lot size stays at 0.1 acre). Work towards enhancing §206 design reqs for anything more than a single-family home for both ZA & DRB permitting. Ensure by-right permitting for 4-units or less on all served lots.
5. Replace section 204.4(g) of the town's existing zoning to allow a 40% density increase for affordable housing projects, and an extra height allowance of 1-floor, including for mixed-use development.
6. Revise accessory apartment language back to the state standard size of up to 30% of total habitable floor area of the single-family home or 900 square feet, which is ever is greater.
7. Shrink Sewer Service Mgmt Area so it only includes lands that MW&L can service via gravity sewer. Please note that the Village Trustees are currently very unlikely to be amenable to extending sewer anywhere outside the village boundary lines, so there is a political conversation to be had before we can accomplish this work item responsibly. If the Trustees hold firm, the SSMA should be dramatically revised, so it shows no expansion outside village.
8. Revise zoning procedures for minor subdivisions to simplify the administrative approval process per S.100.
9. Add section to ZBL that states "Structures above 35 feet in height" are conditionally allowed only by the DRB after confirmation from the Fire Chief that adequate access exists to the living space above 35 feet in height via the Town's existing ladder truck.

State of Vermont
Agency of Commerce & Community
Development
Department of Housing & Community
Development
Provisional Frequently Asked Questions -
Act 47 (S.100) of 2023

Issued

August 14, 2023

Location

<https://accd.vermont.gov/community-development/resources-rules/planning/HOME>

Contacts

Jacob Hemmerick, Planning & Policy Manager, 802-828-5249, jacob.hemmerick@vermont.gov

About

This provisional resource is designed to answer frequently asked questions (FAQs) about Act 47, the HOME Act. The Department will continue to collect questions via the submission form and update the FAQ periodically. If you think the Department has erred, please reach out to the contact above. The Department aims to finalize the FAQs this fall.

Disclaimer

As a general caveat, the Department of Housing and Community Development (the Department) cannot provide individuals, businesses, or municipalities with legal advice. The Department is collecting [FAQ's via a submission form](#) and will publish the [Department's non-binding perspective on the answers here](#). Entities seeking to interpret the Act's impact on municipal bylaws must consult an attorney for a legal opinion.

Regarding changes to municipal bylaws and decisions derived from Title 24 Chapter 117, the Department recommends that until a municipality adopts interim or permanent bylaws concerning a specific provision which leaves the municipality with discretion, the municipality should apply the most

permissive reading of the provision(s) in its permitting decisions. Applying restrictive readings of statutory provisions may result in appeals and litigation from permit applicants.

Regarding temporary changes to Act 250, The [Natural Resources Board](#) will ultimately make determinations regarding new or changed provisions and will separately publish their determinations and guidance.

Please note that any entity seeking to utilize the exceptions to Act 250 in Act 47 must apply for a Jurisdictional Opinion from the appropriate [District Commission](#) before July 1, 2026 and must complete their project before July 1, 2029.

Frequently Asked Questions

Title 24 Questions:

1. Duplexes & Multi-Unit Dwellings

Act 47 Section 2 – amended §4412 (Required Provisions and Prohibited Effects) in part:

“(D). . . In any district that allows year-round residential development, duplexes shall be an allowed use with the same dimensional standards as a single-unit dwelling. In any district that is served by municipal sewer and water infrastructure that allows residential development, multiunit dwellings with four or fewer units shall be a permitted use, unless that district specifically requires multiunit structures to have more than four dwelling units.”

“(12) In any area served by municipal sewer and water infrastructure that allows residential development, bylaws shall establish lot and building dimensional standards that allow five or more dwelling units per acre for each allowed residential use, and density standards for multiunit dwellings shall not be more restrictive than those required for single-family dwellings.”

39) “Duplex” means a residential building that has two dwelling units in the same building and neither unit is an accessory dwelling unit.

(41) “Multiunit or multifamily dwelling” means a building that contains three or more dwelling units in the same building

1.1 Question: If a municipality already allows duplexes on the same size lots as single-family homes in certain areas, will [this change] effectively double the maximum residential density in those areas?

Answer: No. If a municipality already allows duplexes with the same dimensional standards as a single-unit dwelling in certain areas, those areas will not be affected.

The Act says in any district that allows year-round residential development, duplexes shall be an allowed use with the same dimensional standards as a single-unit dwelling. Because minimum lots sizes are dimensional standards, duplexes must be allowed on the same minimum lot size as

a single-unit dwelling under bylaws establishing minimum lot sizes. If the municipality presently allows duplex uses on the same sized lot as a single-unit dwelling use -- as in the questioner's scenario -- there is no change to the effective dwelling unit density.

In areas that are zoned for year-round single-unit dwelling uses that are also served by water and sewer, the bylaws must establish lot and building dimensional standards that allow 5 or more dwelling units per acre for each allowed residential use. Although a duplex must be allowed to be built on the same sized lot as a single unit dwelling statewide, in areas served by water and sewer, each allowed use must also be allowed at a dwelling unit density of **at least** a density of 5 dwelling units per acre. In municipalities that establish a dwelling unit density standard of 0.2 acres per unit (5 dwelling units per acre) in conformance with the Act's dwelling unit density standards, a duplex on the same sized lot as a single-family home may be disallowed – despite the statewide allowance based on the density standard.

Any areas that remain zoned exclusively for single-unit dwelling uses will be affected and the municipality must now allow duplexes on the same sized lot as a single-family dwelling if other applicable dimensional are met, like dwelling unit density.

1.2 Question: What does “allowed use” mean in the context of “In any district that allows year-round residential development, duplexes shall be an allowed use with the same dimensional standards as a single-unit dwelling.”

Answer: Allowed use means a municipality may consider duplex uses as “permitted” or “conditional” use. This provision gives municipalities discretion in how to permit duplexes. As noted above, the Department recommends applying the most permissible reading until the municipality passes bylaws that clarify any sections left to their discretion. In this case, the Department recommends municipalities consider duplexes a permitted use until it is clarified in the municipal bylaws – especially since the Act establishes that multiunit dwellings with four or fewer units must be a permitted use.

1.3 Question: Does the requirement to allow duplexes supersede maximum density limitations? For example, what happens if a homeowner with a single-family home on 1/5 of an acre in a district with a maximum density of 5 units/acre applies for a permit to convert their house into a duplex. It seems that we will simultaneously be required to permit that conversion (assuming it continues to meet the SFH dimensional standards) and required to deny it (since that proposal would exceed the maximum density for that district).

Answer: The Act does not establish maximum dwelling unit densities or density caps. It establishes that within year-round residential zoning districts served by water and sewer, the municipality must at least allow five dwelling units an acre for each allowed use. If a municipality has established a 5 unit per acre density cap, then the municipality may prohibit further development in that area if the density is met (i.e., the municipality could deny a conversion to a duplex for a single-family home on a 1/5th acre if the municipality has established a 5 unit per acre maximum density). If the municipality has not established a maximum density in its bylaws, then the duplex should be allowed.

The 5 unit per acre density is a minimum, not a maximum. A municipality may allow more density. The Department recommends removing density caps, or maximum unit density, from bylaws-- applying the most permissive reasonable interpretation of the statute in relation to a municipality's bylaws. The rationale behind Department's recommendation to eliminate density caps can be found the Department's [Enabling Better Places Guide](#), alongside other important topics of reform:

https://outside.vermont.gov/agency/ACCD/ACCD_Web_Docs/CD/CPR/Planning-Your-Towns-Future/CPR-Z4GN-Guide-Final-web.pdf.

1.4 Question: (A): Regarding §4412(12) how does this section treat single unit, duplex and multi-unit dwellings with regard to density standards?

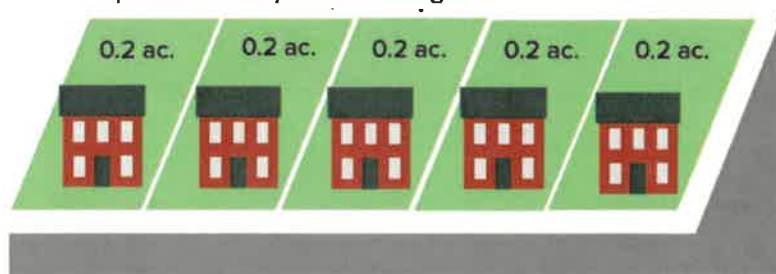
Answer: The Act establishes a minimum dwelling unit density of five dwelling units per acre for all allowed uses where applicable, whether single-unit, duplex, or multi-unit dwellings. The Act prohibits municipalities from applying more restrictive dwelling unit density standards to duplexes and multi-dwelling units than for single-family units. This means that a municipality cannot require more land area per unit (the density calculation) for a duplex or multiunit dwelling than would be required for a single-unit dwelling. For example, the municipality could not require a dwelling unit density of 0.2 acres for every single-unit dwelling and then require a dwelling unit density of 0.3 acres for each duplex unit (a two-unit dwelling) or each unit of a multi-family dwelling use.

1.5 Question: What are example development scenarios to achieve a dwelling unit density of 5 units an acre?

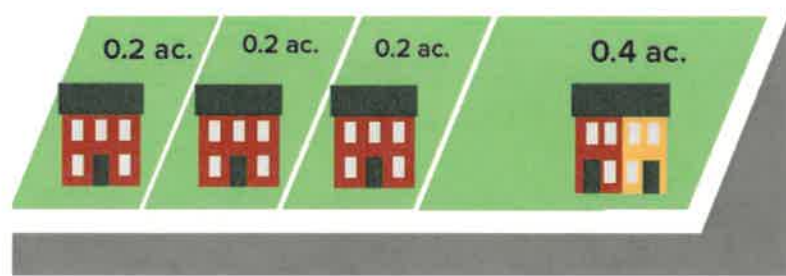
Answer: To illustrate how a density of 5 dwelling units per acre can be achieved through different combinations of uses and lot sizes, below are several examples of the conventional subdivision of a 1-acre 'parent' lot for a single principal use.

Bylaws allowing multiple principal uses on a lot may be able to achieve different configurations without the subdivision of land. The examples below are simplified to illustrate the conventional subdivision and buildout of a vacant 'parent' lot. Redevelopment scenarios could include existing buildings, adaptive re-use, changes in use, demolition and re-development, lot mergers for development, and/or mixed-use development.

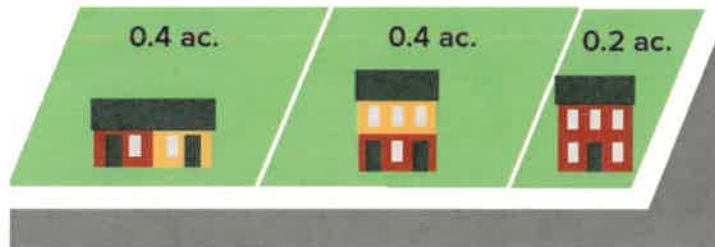
Example 1: The subdivision of a 1-acre parent lot for the construction of 5 single-unit dwellings on 0.2 (1/5th) acre lots equals a density of 5 dwelling units an acre.



Example 2: The subdivision of a 1-acre parent parcel for the construction of 3 single-unit dwellings on 0.2 ($1/5^{\text{th}}$) acre lots, and a duplex on a 0.4 ($2/5^{\text{th}}$) acre lot equals a density of 5 dwelling units an acre.



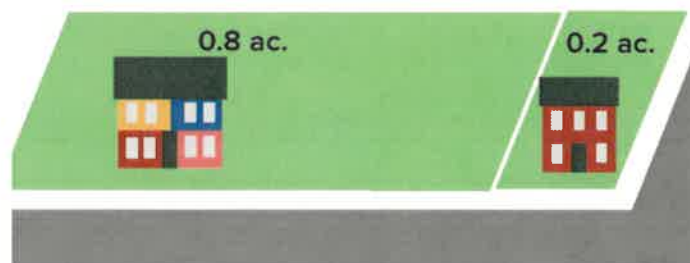
Example 3: The subdivision of a 1-acre parent lot for the construction of 2 duplexes on 2, 0.4 ($2/5^{\text{th}}$) acre lots, respectively, and 1 single unit dwelling on a 0.2 ($1/5^{\text{th}}$) acre lot equals a density of 5 dwelling units an acre.



Example 4: The subdivision of a 1-acre parent lot for the construction of 1 duplex on 1, 0.4 ($2/5^{\text{th}}$) acre lot and 1, 3-unit multi-unit/family dwelling on a 0.6 ($3/5^{\text{th}}$) acre lot equals a density of 5 dwelling units an acre.



Example 5: The subdivision of a 1-acre parent lot for the construction of 1 single unit dwelling on a 0.2 ($1/5^{\text{th}}$) acre lot and a 4-unit multi-unit/family dwelling on a 0.8 ($4/5^{\text{th}}$) acre lot equals a density of 5 dwelling units an acre.



Example 6: The construction of a 5-unit multi-unit/family dwelling on 1-acre lot equals a density of 5 dwelling units an acre.



1.6 Question: Does a 5-unit multi-unit dwelling on one acre fulfill the density minimum?

Answer: Yes, any combination of units that equals 5 units per acre on one acre meets the density standard.

1.7 Question: Does the minimum 5 unit per acre density standard establish a minimum lot size of 1/5 of an acre?

Answer: Although municipalities have the discretion to establish minimum lot sizes or not, minimum lot sizes must not disallow a density of at least 5 dwelling units an acre for each allowed residential use in areas zoned for year-round residential uses served by sewer and water infrastructure. If the bylaws establish a minimum lot size, or any other dimensional standard, that disallows a dwelling unit density of 5 or more dwelling units per acre for an allowed residential use, then the bylaws do not meet the Act's standard that bylaws must *establish lot and building dimensional standards that allow five or more dwelling units per acre for each allowed residential use*. For example, if the zoning district allows single-unit dwellings as one principal building on a lot, and the bylaws establish a minimum lot size greater than 0.2 (1/5th) acre, then the lot dimensional standards prohibit a dwelling unit density of five per acre for an allowed use and would not be in compliance with the Act. This section may impact bylaws differently based on the presence of and interactions between provisions on minimum lot sizes, dwelling unit density calculations, prohibitive setbacks or building coverage standards, residential use classifications, or allowances for multiple principle uses on a lot.

2. "Served by municipal sewer and water"

Act 47 Section 4, amended §4403 (Definitions) in part:

"(42)(A) An area "served by municipal sewer and water infrastructure" means:

(i) an area where residential connections and expansions are available to municipal water and direct and indirect discharge wastewater systems and not prohibited by:

(I) State regulations or permits;

*(II) identified capacity constraints; or
(III) municipally adopted service and capacity agreements; or*

(ii) an area established by the municipality by ordinance or bylaw where residential connections and expansions are available to municipal water and direct and indirect discharge wastewater systems and which may exclude: . . ."

(ii) an area established by the municipality by ordinance or bylaw where residential connections and expansions are available to municipal water and direct and indirect discharge wastewater systems and which may exclude: (III) areas served by sewer and water to address an identified community-scale public health hazard or environmental hazard;"

2.1 Question: Regarding the "served by municipal sewer and water" provisions: does the area mean any existing zoning district which allows residential uses?

Answer: Not all areas zoned for residential use have access to municipal sewer and water service. Municipalities will need to make new determinations regarding the areas served. Municipalities have discretion regarding how to amend municipal bylaws or municipal water/wastewater ordinances to define areas served by water and sewer. Until bylaws are amended, municipalities should consider whether the area for a permit application and site in question may be feasibly connected to municipal water and sewer service.

2.2 Question: How do these provisions apply to parcels of land served by municipal water, but with private septic systems, rather than municipal sewer? Or with access to municipal sewer, but not municipal water?

Answer: The "served by municipal sewer and water" provision creates allowances for only those areas feasibly served by both municipal water AND sewer service. If the proposed development only meets one of the requirements, it does not fall within the scope of the provision unless the municipality determines that the development falls within the "district" generally served by municipal sewer and water. Municipalities can exercise defined discretion in how to define these districts. The Department encourages districts to be extended to anywhere municipal sewer and water can be feasibly connected to developments.

2.3 Question: Are there projects that qualify for the allowances created in the section if no area has been "established by the municipality by ordinance or bylaw."

Answer: Yes. Provision (A)(i) is framed so any project may benefit from the allowances in areas where "residential connections and expansions are available to municipal water and direct and indirect discharge wastewater systems" and not otherwise prohibited by state permits, identified capacity constraints, or municipally adopted service or capacity agreements. A municipality does not need to establish a specific area for these allowances to be utilized by developers but may do so in accordance with the provisions of A(ii). The municipality may further define an area, which may contemplate future expansions of sewer and water service.

2.4 Question: What defines connections and expansions as "available" if no established area has been defined?

Answer: Until municipalities develop standards in their bylaws or ordinances, the Department recommends applying a permissive standard based upon whether a connection or expansion to municipal water or sewer service is feasible based upon proximity and system capacity.

2.5 Question: If an established area is considered to exist based on the provision of services to a certain area of the Village, can the area be re-defined?

Answer: Municipalities have discretion to define areas served using the criteria in A(ii), however municipalities likely cannot artificially limit development in areas served that currently exist unless there are legitimate and demonstrable environmental or capacity concerns. Policymakers should keep in mind that municipally adopted service areas that limit sewer and water connections and expansions must not result in the unequal treatment of housing by discriminating against a year-round residential use or housing type otherwise allowed in Chapter 117. An potential example of such discrimination would be a water/wastewater connection ordinance that allows single-unit dwelling connections but prohibits multi-unit dwelling connections.

2.6 Question: If an established area is considered to exist based on the provision of services to a certain area of the Village, does the Act intend for any area established exclusively "to address an identified community-scale public health hazard or environmental hazard" to be excluded from the otherwise established area or areas?

Answer: The Statute provides that areas established by the municipality may exclude "areas served by sewer and water to address an identified community-scale public health hazard or environmental hazard." The municipality will have discretion on how to define exclusion areas, but must establish such exclusions through the adoption of an ordinance or bylaw.

3. Housing Needs Assessment (Act 47 Section 11, §4348a Elements of a Regional Plan):

(9) A housing element that identifies the regional and community-level need for housing for all economic groups in the region and communities. In establishing the identified need, due consideration shall be given to that will result in an adequate supply of building code and energy code compliant homes where most households spend not more than 30 percent of their income on housing and not more than 15 percent on transportation. To establish housing needs, the Department of Housing and Community Development shall publish statewide and regional housing targets or ranges as part of the Statewide Housing Needs Assessment. The regional planning commission shall consult the Statewide Housing Needs Assessment; current and expected demographic data; the current location, quality, types, and cost of housing; other local studies related to housing needs; and data gathered pursuant to subsection 4382(c) of this title. If no such data has been gathered, the regional planning commission shall gather it.

3.1 Question: Will the regional housing targets or ranges be published when the next Statewide Housing Needs Assessment is published in 2025?

Answer: Regional housing targets will be published in the next Statewide Housing Needs Assessment. Individual municipalities and regional planning commissions (RPC) are encouraged to develop their own housing targets to contribute to the tally and provide a more detailed regional and municipal level view of the housing need.

3.2 Question: Will the Statewide Housing Needs Assessment also factor in transportation cost? Or does each RPC have to figure out a methodology for determining how "not more than 15% on transportation" is calculated?

Answer: Applying a consistent methodology statewide for use in the Statewide Housing Needs Assessment targets would support more consistency among the regional plans, if possible, and the Act tasks the Department with giving this due consideration to support the establishment of targets that meet the housing & transportation benchmarks. Prior to contracting for the next Housing Needs Assessment, the Department welcomes input from the Vermont Association of Planning & Development Agencies, the Agency of Transportation, the Vermont Energy Investment Corporation, and the Public Service Department on a methodology to establish targets that will result in an adequate supply of building code and energy compliant homes where most households spend not more than 30 percent of their income on housing and not more than 15 percent on transportation. The regional planning commission is tasked by the Act with gathering data if no such data has been gathered.

4. Historic Properties and Height: Amendments to Sec. 2. 24 V.S.A. § 4412 7 (A) iii.

4.1 Question: How does 24 V.S.A. § 4412 7 (A) iii. affect historic or potentially historic properties:

Answer: The Act does not amend the §4412 7 (A) iii provision on the treatment of nonconformities.

4.2 Question: Are structures listed on the state or National Register included in the issues viewed as acceptable modifiers to this provision such as wetlands, flood hazard regulations and river corridors?

Answer: Municipalities are limited to non-discretionary standards when modifying the applicable municipal standards established in the Act. 24 V.S.A. § 4464(b)(7)(B)(i) states the municipality must provide an explanation:

*"(i) why the modification is necessary to comply with a prerequisite State or federal permit, municipal permit, or a **nondiscretionary standard** in a bylaw or ordinance, including requirements related to wetlands, setbacks, and flood hazard areas and river corridors; . . ."*

Municipalities have discretion regarding development and application of historic resource ordinances and developing restrictions on modifications to historic properties. Having the

building listed on a Federal and State register does not necessarily prohibit the building owner from modifying the building (aside from the possibility of being removed from the list). Therefore, the exclusion of buildings listed on the National or State Historic Registers likely does not qualify as a non-discretionary standard.

5. Parking

Act 47 Section 1 – amended §4414 (Zoning; Permissible Types of Regulation) in part:

In any district that is served by municipal sewer and water infrastructure that allows residential uses, a municipality shall not require more than one parking space per dwelling unit. However, a municipality may require 1.5 parking spaces for duplexes and multiunit dwellings in areas not served by sewer and water and in areas that are located more than one-quarter mile away from public parking rounded up to the nearest whole number when calculating the total number of spaces.

5.1 Question: Can municipalities still restrict parking to 1.5 cars per “guest” room for all lodging use (motels, bed and breakfast, and other short term rentals such as airBNB)?

Answer: Yes, the statute only affects residential use. Municipalities may regulate parking for lodging in their discretion, subject to Vermont Law.

5.2 Question: Complicating this most of our short-term rentals are mixed-use meaning they are residential most of the summer and rented in the winter for short, 3-5 night stays for tourists. So these properties have residential use and lodging use permits. Related, would a bed and breakfast house (seen as one unit, but lodging use for 10 guest rooms, hosting ten families) have only one parking spot we could require? I am the Zoning Admin.

Answer: The Act establishes maximum parking spaces for a residential dwelling unit and does not consider units permitted for a dual residential and lodging purpose. The Department recommends that the Municipality should apply the most permissive reading of the provision(s) in its permitting decisions.

6. Minor Subdivisions

6.1 Question: Is there a definition for minor subdivisions

Answer: No. This may be defined by the municipal bylaws.

7. Deed Restrictions:

Act 47, §20, amended 27 V.S.A. § 545 in part:

“(a) Deed restrictions, covenants, or similar binding agreements added after March 1, 2021 that prohibit or have the effect of prohibiting land development allowed under 24 V.S.A. § 4412(1)(E) and (2)(A) shall not be valid.”

7.1 Question: Can Homeowner's Associations (HOAs) continue to exclude duplexes in their covenants given that the new law prohibits excluding duplexes from anywhere that single family homes are allowed?

Answer: Existing deed restrictions and covenants (such as covenants created by a Homeowners Association and encumbering the land and premises of an HOA) are not affected by the new Act 47 provisions. Any future HOA may not create restrictions on development that would otherwise be allowed in under 24 V.S.A. § 4412(1)(E) and (2)(A) and 27 V.S.A. § 545(b). Therefore, a future HOA may exclude the development of duplexes as they are covered under § 4412(1)(D), not 4412(1)(E) -- relating to ADUS and (2)(A) -- relating to existing small lots.

Act 250 Questions:

All questions related to Act 250 should be directed to the Natural Resources Board (NRB). The NRB can provide guidance regarding the provisions of Act 250 amended or affected by Act 47. Please consult the NRB's [website](https://nrb.vermont.gov/) for more information: <https://nrb.vermont.gov/>.

2.4 Question: What defines connections and expansions as "available" if no established area has been defined?

Answer: Until municipalities develop standards in their bylaws or ordinances, the Department recommends applying a permissive standard based upon whether a connection or expansion to municipal water or sewer service is feasible based upon proximity and system capacity.

2.5 Question: If an established area is considered to exist based on the provision of services to a certain area of the Village, can the area be re-defined?

Answer: Municipalities have discretion to define areas served using the criteria in A(ii), however municipalities likely cannot artificially limit development in areas served that currently exist unless there are legitimate and demonstrable environmental or capacity concerns. Policymakers should keep in mind that municipally adopted service areas that limit sewer and water connections and expansions must not result in the unequal treatment of housing by discriminating against a year-round residential use or housing type otherwise allowed in Chapter 117. An potential example of such discrimination would be a water/wastewater connection ordinance that allows single-unit dwelling connections but prohibits multi-unit dwelling connections.

2.6 Question: If an established area is considered to exist based on the provision of services to a certain area of the Village, does the Act intend for any area established exclusively "to address an identified community-scale public health hazard or environmental hazard" to be excluded from the otherwise established area or areas?

Answer: The Statute provides that areas established by the municipality may exclude "areas served by sewer and water to address an identified community-scale public health hazard or environmental hazard." The municipality will have discretion on how to define exclusion areas, but must establish such exclusions through the adoption of an ordinance or bylaw.

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3.1 Question: Will the regional housing targets or ranges be published when the next Statewide Housing Needs Assessment is published in 2025?

Todd Thomas

From: Laura Streets <laura.streets12@gmail.com>
Sent: Saturday, October 14, 2023 5:19 AM
To: Interim Town Administrator
Cc: Todd Thomas
Subject: Re: Town Plan update about possibly happening

Thank you Jason. This is good news. We absolutely should move forward on this.
Laura

On Sat, Oct 14, 2023, 2:27 AM Interim Town Administrator <interim@morristownvt.org> wrote:

Hi Todd,

I would like to see us move forward with getting the town plan approved by LCPC. The town is losing out on lots of money by not having the downtown designation. This includes funding for sidewalks, which we all know are in rough shape at various spots in town.

I've spent some time looking into this and have spoken to LCPC about it.

During the May 2nd, 2022, Morristown Selectboard meeting, Selectboard Member Judy Bickford proposed alternative language that LCPC said would address the local concerns regarding speed and mobility for commuters in a collaborative manner. This language would have also addressed concerns raised by members of LCPC's Board of Directors and enabled Regional Approval of the Plan.

The video of this meeting can be found at this link below. This discussion begins at minute marker 2:30.

https://www.youtube.com/watch?v=K6ggFdFWw7Y&list=PLmy2vU_pTLuWMYKBgPu6U_InYD4J3XO-K&index=11

After reviewing 23 VSA 4385 regarding amending the plan, I learned that we can do that. It specifically says, : *"Plans may be reviewed from time to time and may be amended in the light of new developments and changed conditions affecting the municipality. An amendment to a plan does not affect or extend the plan's expiration date."*

The full text can be found at the link below.

<https://legislature.vermont.gov/statutes/section/24/117/04385>

LCPC told me that in practice this means a municipality can amend individual sections or subsections of the plan without updating all others. The hearings would need to be noticed as an amendment rather than a readoption or adoption, and the plan's expiration date would not change.

I have also attached a memo from LCPC regarding the plan board review.

Again, I feel this is important to get done and will save the taxpayers money. What do you need from Town Administration to move forward with this?

FYI, I cc'ed Laura on this email. Laura and I spoke about this on the phone a couple of weeks ago so I wanted to keep her in the loop.

Thanks,

Jason

From: Todd Thomas <tthomas@morristownvt.org>

Sent: Wednesday, October 11, 2023 3:07 PM

To: Anna Green <agreen@morristownvt.org>

Cc: Laura Streets <laura.streets12@gmail.com>; Interim Town Administrator <interim@morristownvt.org>; Etienne Hancock <etiennehancock@gmail.com>

Subject: Town Plan update not happening

Hi Anna. Laura Streets came into my office today asking (among other things) how the work on updating the town plan was going. The current Town Plan was just approved last year, so a new Town Plan update is not required until 2030. I assume the work to revise the Town Plan will start in year 2028, or perhaps late 2027. Unfortunately, politics at the LC regional planning commission that are above our paygrade kept our current Town Plan from being approved (regional planning staff said our town plan met all statutory requirements and recommended that it be approved but the LCPC Board took the opposite action). Either Town Administration or the Selectboard (not sure which one) declined to act on my recommendation that the Town appeal regional planning's disapproval of the new Town Plan back in 2022. That lack of appeal closed the door on the 2022-2030 Town Plan ever being regionally approved. Since 2022, the Legislature has added more requirements to the town planning process so we cannot just resubmit the current Town Plan for regional approval again. Also, there is zero chance that the Town's Planning Council can spend any work-time or

resources updating a new Town Plan right now or in the foreseeable future. Unfortunately, that means you will have to chase grant money that does not require a regionally approved Town Plan or a Designated Downtown. I know that is limiting, but this reality is not going to change without Legislative action (which is actually a possibility in the next year or two thanks to the S.100 Homes for Everyone Act that required an audit and perhaps modernization of the State's designation program for downtowns and villages.

Please feel free to stop by my office if you have any questions about this. I am happy to chat. Thank you.

Kind regards,

Todd Thomas, AICP & CFM

Planning Director, Zoning Administrator, & Health Officer

802-888-6373

TThomas@MorristownVT.org