



MEMORANDUM

To: Planning Commission

From: Christopher Yuen, Community Development Director

Meeting Date: November 7th, 2024

Subject: Land Development Code (LDC) Amendments – Public Hearing and Additional Considerations

Issue: After the public hearing, the Planning Commission may make additional changes to the before submitting the proposed Land Development Code amendments to City Council.

Discussion:

Two land-use policy initiatives are currently underway- the Land Development Code amendments that the Planning Commission has been drafting since January 2024, and the larger “Connect the Junction” Transit-Oriented-Development (TOD) Master Plan project. The former consists of important technical fixes, as well as some minor zoning text amendments aimed at easing small scaling housing development. The latter consists of a substantial re-imagining of the built-environment surrounding the City’s main public transit corridors through a robust public engagement process.

As previously discussed by the Planning Commission, the scope current round of LDC amendments is limited to technical and minor fixes. Substantial policy issues should be considered as a part of the TOD project to take advantage of its larger public engagement process. This memo will discuss the former LDC amendment process.

Draft Summary of LDC amendments

Separately attached is a draft summary of the amendments to the Land Development proposed for the November 7 public hearing. The draft zoning text is available on www.essexjunction.org/boards/planning-commission

Additional Issues to Consider:

The following additional items modifications should be considered before the Planning Commission submits the Land Development Code amendments to the City Council.

1. Definition of Impervious Surfaces and Lot Coverage

Section 703 (Parking and Loading) assumes that “hard-surface” excludes gravel. This is evident in the following subsections:

1. *703.K.3 Surfacing. All parking areas shall be hard-surfaced. Residential driveways serving up to five (5) homes may be gravel*
2. *703.K.5 Accessible provisions. All parking lots shall provide hard-surfaced accessible spaces which are clearly designated, marked, and signed for accessible use only.*
3. *703.K.11 Striping. Hard surfaced parking spaces shall be clearly striped and maintained*

and shall meet standard parking dimensional requirements as specified in Section 703.

However, Section 201.C currently says:

- "Hard Surfaced" shall mean surfaced with asphalt, concrete, paving stones, gravel and similar material.

Staff recommends that "gravel" be removed from the definition of "Hard Surfaced" in 201.C for consistency.

2. Application requirements for development activities involving three or four housing units on a single lot

As previously discussed by the Planning Commission, the LDC amendments currently propose that developments involving three or four housing units on one lot forgo complex DRB Site Plan requirements, and instead be eligible for administrative approval similarly to single family homes and duplexes.

Several additional adjustments are recommended. The Tree Advisory Committee may present additional prior between the time of writing of this memorandum and at the Planning Commission meeting.

- **Requirement for street trees**

The LDC currently has no landscaping requirements for single family homes and duplexes but has robust landscaping requirements for development activities which undergo a full site plan review. A landscaping plan prepared by a licensed landscape architect, and a breakdown of landscaping costs as a portion of project construction costs is currently required for site plan applications. This requirement may be reasonable for large scale developers but is likely cost prohibitive for small-scale housing projects involving four or fewer housing units.

A reasonable compromise may be to apply shade tree requirements development activities involving three or four housing units on a single lot but to eschew other the other landscaping requirements that are asked of applicants for larger site plans.

To achieve this, staff recommends the following changes:

- *Section 719.D Shade Trees*

The developer or applicant for any development approval under this Code shall plant one (1) shade tree ~~of a species determined by the Development Review Board~~ for each forty (40) feet of frontage along a right-of-way bordering the property, unless modifications are needed due to existing utilities or other safety factors. The species shall be approved by the Development Review Board or Administrative Officer in coordination with the City Tree Advisory Committee.

1. Existing single family and two family lots are exempt from this provision.
2. Street trees shall be planted either within the right-of-way or along the frontage of the lot, as determined by the Development Review Board or Administrative Officer in coordination with the City Tree Advisory Committee.
3. The Development Review Board or Administrative Officer may waive this requirement if substantial efforts are proposed for preserving existing

mature trees along the right-of-way. In this circumstance, a tree protection plan for these mature trees must be submitted.

4. This provision shall not apply to applications for the expansion of existing commercial or industrial facilities if the expansion amounts to five hundred (500) square feet or less of enclosed floor space.

5. Any disturbance of existing landscape must be replaced.

o **Section 502.A Zoning Permit Requirement**

An application for a zoning permit shall include the following:

(a) A plan, drawn to scale, showing the dimensions of the lot and all structures, required setbacks, ~~and~~ parking spaces, and any required landscaping or screening elements not otherwise detailed on a landscaping plan.

• **Requirement for Professional Land Survey**

To ensure accurate understanding of existing property lines, easements and the location of structures, staff recommends adding a professional survey requirement for the construction of new buildings or certain additions. This can be achieved by adding the following text to Section 502.A.2

“If not otherwise required through a site plan application, the Administrative Officer may require a survey for new construction or additions of over five hundred (500) square feet if the addition is within ten (10) feet from any required setback line or for other projects, which staff determines a survey is necessary due to the size, scope and cost of the project. Such survey of the property shall be prepared by a Land Surveyor licensed to practice in the State of Vermont and shall show property boundaries, easements, as well as existing and proposed structures.”

3. Footprint lots

A product of the 2008 financial crisis, footprint lots have become an increasingly common tool to enable the financing of housing construction. These lots are effectively an ownership structure where a dwelling unit is on a shared (condominium) lot for management / maintenance / zoning purposes, but where for financing purposes, the land directly under the unit is assigned to the unit. This can take the form of townhomes, or of single/two family homes on lots that have either several townhomes or even several buildings.

These lots are not explicitly addressed in the Land Development Code but in practice, they have been approved in the past in Essex Junction and in neighboring jurisdictions. These lots cannot be treated as a conventional subdivision as they would not meet minimum lot size requirements and would not be compatible with building setback or lot coverage requirements.

To clarify that these lots can be created without undergoing the full subdivision review process, it is recommended that the Planning Commission consider the following additions to LDC amendments. The language is adapted from the Town of Williston’s Unified development bylaw.

• **Section 201.C General Definitions:**

“Footprint Lot” shall mean a lot created through the permit process that is generally designed to be contemporaneous with the footprint of a building or a portion of a building. A footprint lot is a form of ownership and conveyance but shall not be recognized for the purposes of zoning such as but not limited to lot coverage

maximums, setbacks, and frontage.

- *Section 503.B [Subdivision] Classification*
Staff shall review each subdivision application and classify it as a lot consolidation, minor subdivision or major subdivision. An applicant may request that the Development Review Board review the classification as determined by Staff. The classification criteria are as follows:
 1. *Lot Consolidation or Boundary Adjustment.* An application for a lot consolidation or boundary adjustment shall be reviewed and approved by staff.
 2. *Minor Subdivision.* A minor subdivision includes the platting of five (5) or fewer lots or minor adjustments to the lot lines of three (3) or more lots. A minor subdivision shall require Sketch Plan and Final Plat approval.
 3. *Major Subdivision.* A major subdivision is any proposal not classified as a Consolidation or Minor Subdivision. A major subdivision requires approval of a Sketch Plan, Preliminary Plat, and Final Plat.
 4. *Footprint Lot. A footprint lot created as a form of ownership and conveyance shall be reviewed and approved by staff. A footprint lot is not recognized for the purposes of zoning such as but not limited to lot coverage maximums, setbacks, and frontage.*

4. **Parking, Curb Cuts and Special Standards in R1 and R2**

As discussed by the Planning Commission during the October 10th meeting, the LDC amendments now include some increases to the maximum curb cut, driveway, and parking widths for sites with triplexes and fourplexes. This change was intended to represent a compromise between the desire to make it easier for small-scale housing development and the desire for maintaining a pedestrian-friendly and aesthetically pleasing environment. Some Planning Commissioners have expressed some concern with these changes after the October meeting and wish to revisit the issue after the public hearing.

In summary, the proposed changes detailed in the draft amendments warned for the November 7 public hearing continue to limit most residential curb cuts to 20 feet but allow for wider curb cuts in limited circumstances involving three or four residential units. These wider curb cuts would be limited to 30 percent of the lot frontage, and would only be permissible on a side of a street with no sidewalk.

Regardless of whether the provisions for additional curb cut width are changed further, it is recommended that the purpose statement at the start of Section 618.H, and 619.H be clarified, and the mention of “traditional frontage style house” be restored to alleviate any uncertainty about the intent.

Section 618.H/ 619.H Special Standards

To remain at similar existing densities in this district as the Comprehensive Plan calls for To encourage architectural styles compatible with the other buildings within the district and to encourage parking to be located at the side or rear of residential properties:

1. *The residential principal structure closest to the street must be built within the style of a traditional frontage style house.*
2. *For the principal building closest to the street, at least one dwelling unit must have a primary pedestrian entrance facing the street.*
3. *Parking and Driveways in this district are subject to the following standards...*

The issue of maximum curb cut widths for residential properties should be further discussed. Additional policy options which could be incorporated into Section 705.B are listed below and ordered from the most restrictive to the least restrictive:

1. Limit most residential curb cuts to 20 feet in all cases but allow the driveway to fan out 3 feet past the property up to the limits. Require landscaping treatments or a raised curb if necessary to prevent residents from driving over grass to reach the widened portion of the driveway.
2. Limit most residential curb cuts to 20 feet but allow for wider curb cuts for triplexes and fourplexes. These wider curb cuts would be limited to 30 percent of the lot frontage, **up to a maximum of 27 feet**, and would only be permissible on a side of a street with no sidewalk. Allow the driveway to fan out 3 feet past the property line. Require landscaping treatments or a raised curb if necessary to prevent residents from driving over grass to reach the widened portion of the driveway.
3. Limit most residential curb cuts to 20 feet but allow for wider curb cuts for triplexes and fourplexes. These wider curb cuts would be limited to 30 percent of the lot frontage, **up to a maximum of 27 feet for a triplex and 36 feet for a fourplex**. The wider curb cut would only be permissible on a side of a street with no sidewalk. (This option is written into the draft amendments presented on November 7, 2024)

5. Fire Access

As proposed, the LDC would potentially allow for up four residential units spread over two smaller buildings on a single lot instead of a single larger building. Typically, a second principal structure would still be directly accessible by motor vehicle through a driveway, but it is possible that some sites may have a single parking area and feature pedestrian-only access to a building. In consultation with the Fire Department, staff recommends the following additions:

SECTION 716: ~~RESERVED~~ FIRE ACCESS

1. Purpose

To mitigate risk to life and property by providing adequate access to for fire trucks or through the use of fire suppression systems.

2. General Standards

- A. For all development applications requiring site plan review under Section 502.F and for all development residential activities involving two or more principal buildings on a single lot, fire access shall be reviewed by the Essex Junction Fire Chief or their designee.
- B. For residential uses, each principal building must be accessible by fire apparatus through a road, driveway or other unobstructed gravel or hard surface. For lots with four or fewer residential units, this requirement may be waived by the Fire Chief or designee if
 - (i) an adequate fire sprinkler system is installed within each principal residential building not directly accessible by fire apparatus, or
 - (ii) the principal residential building not directly accessible by fire apparatus is determined by the fire chief not to present significant danger to its occupants or its surrounding structures due to its limited size, internal layout or location relative to nearby structures.
- C. The provisions of this section shall not in any way impair or remove the necessity of

compliance with the Vermont Fire and Building Safety Code; or any other applicable local, state, or federal laws or regulations.

Cost:

There are no costs associated with proposed zoning bylaw amendments.

Recommendation:

The Planning Commission should consider the changes outlined in this memo and consider any comments received during the public hearing. If the Commission is satisfied with the drafts [as amended], it is recommended that the Planning Commission:

- Submit the Land Development Code Amendments [as amended] to the City Council for consideration.

Recommended Motion:

- I move that the Planning Commission submit the Land Development Code Amendments as discussed to the City Council for consideration.

Attachments:

1. 2024 LDC Amendments 2024 LDC Amendments Draft PC Summary Report 20241107 for PC Hearing
2. Draft LDC Amendments redline (See online at <https://www.essexjunction.org/meeting/planning-commission-11-07-2024>)