



South Burlington Planning Commission

575 Dorset Street
South Burlington, VT 05403
(802) 846-4106
www.sburl.com

Meeting Tuesday, August 11, 2020

7:00 pm

IMPORTANT:

This will be a fully electronic meeting, consistent with recently-passed legislation. Presenters and members of the public are invited to participate either by interactive online meeting or by telephone. There will be no physical site at which to attend the meeting.

Participation Options:

Interactive Online Meeting (audio & video): <https://global.gotomeeting.com/join/928973173>

By Telephone (audio only): Phone # (408) 650-3123, Access Code: 928-973-173

AGENDA:

1. Agenda: Additions, deletions or changes in order of agenda items (7:00 pm)
2. Open to the public for items not related to the agenda (7:02 pm)
3. Announcements and staff report (7:10 pm)
4. Annual appointments and meeting times (7:15 pm)
 - a. Election of Chair, Vice Chair, Clerk
 - b. Set regular meeting dates/times
5. ***Review and discuss draft [Environmental Protection Standards](#) of Land Development Regulations (7:22 pm)
6. ***Review [proposed amendment to allow increased lot coverage](#) within the Urban Design Overlay District (8:25 pm)
7. Discuss meeting schedule and work plan for fall 2020 (8:40 pm)
8. ***Review and approve [minutes of March 10, 2020](#) (8:55 pm)
9. Other Business (8:57 pm)
10. Adjourn (9:00 pm)

Respectfully submitted,

Paul Conner, AICP,
Director of Planning & Zoning

*** attachments enclosed

South Burlington Planning Commission Meeting Participation Guidelines

1. The Planning Commission Chair presents these guidelines for the public attending Planning Commission meetings to ensure that everyone has a chance to speak and that meetings proceed smoothly.
2. Initial discussion on an agenda item will generally be conducted by the Commission. As this is our opportunity to engage with the subject, we would like to hear from all commissioners first. After the Commission has discussed an item, the Chair will ask for public comment. Please raise your hand to be recognized to speak and the Chair will try to call on each participant in sequence.
3. Once recognized by the Chair, please identify yourself to the Commission.
4. If the Commission suggests time limits, please respect them. Time limits will be used when they can aid in making sure everyone is heard and sufficient time is available for Commission to conduct business items.
5. Side conversations between audience members should be kept to an absolute minimum. The hallway outside the Community Room is available should people wish to chat more fully.
6. Please address the Chair. Please do not address other audience members or staff or presenters and please do not interrupt others when they are speaking.
7. Make every effort not to repeat the points made by others.
8. The Chair will make reasonable efforts to allow everyone who is interested in participating to speak once before speakers address the Commission for a second time.
9. The Planning Commission desires to be as open and informal as possible within the construct that the Planning Commission meeting is an opportunity for commissioners to discuss, debate and decide upon policy matters. Regular Planning Commission meetings are not "town meetings". A warned public hearing is a fuller opportunity to explore an issue, provide input and sway public opinion on the matter.
10. Comments may be submitted before, during or after the meeting to the Planning and Zoning Department. All written comments will be circulation to the Planning Commission and kept as part of the City Planner's official records of meetings. Comments must include your first and last name and a contact (e-mail, phone, address) to be included in the record.



TO: South Burlington Planning Commission
FROM: Paul Conner, Director of Planning & Zoning
SUBJECT: PC Staff Memo
DATE: August 11, 2020 Planning Commission meeting

Welcome everyone. It's been a long time since the Commission's last meeting, and while this world-changing pandemic is, of course, very much still with us, Commissioners and staff felt that the time was right for the Commission to begin meeting again, digitally. We recognize that the digital environment is quite different from the in-person one, but we have learned a lot about how to run meetings as smoothly as possible over the past few months. And, recognizing that altered the reality of Covid-19 is likely with us for the foreseeable future, there is important policy work to be done in the City.

We thank everyone in advance – Commissioners and members of the community alike – for your patience and understanding as the Commission hosts its first meeting. We will do our best to speak clearly, provide clear direction, listen to public feedback, and of course address technical problems if they arise.

As always, should anyone have questions, please feel free to reach out to staff.

- 1. Agenda: Additions, deletions or changes in order of agenda items (7:00 pm)**
- 2. Open to the public for items not related to the agenda (7:02 pm)**
- 3. Announcements and staff report (7:10 pm)**

Welcome Paul Engels, the newest member of the Commission!

- 4. Annual appointments and meeting times (7:15 pm)**

a. Election of Chair, Vice Chair, Clerk

As always, staff will host the initial part of this election. Any Commissioner is welcome to nominate a member to serve, starting with the chair. If that nomination is seconded, staff will confirm with the nominee that they would be willing to serve if elected. Once all nominees are made for a position (or a slate), then staff will call a vote. These positions are for as shortly as possible following the Council's 2021 annual appointments.

b. Set regular meeting dates/times

Understanding that "regular" is a relative term at the moment and individual meetings are subject to change, the Open Meeting Law requires that a board establish its "regular" (read: typical) meeting dates and times. Currently they are the 2nd and 4th Tuesdays of the month at 7:00 pm, with the exception of the 2nd meeting in December and conflicts with holidays.

5. ***Review and discuss draft [Environmental Protection Standards](#) of Land Development Regulations (7:22 pm)

See enclosed memo and draft

6. ***Review [proposed amendment to allow increased lot coverage](#) within the Urban Design Overlay District (8:25 pm)

See enclosed memo and draft

7. Discuss meeting schedule and work plan for fall 2020 (8:40 pm)

Staff invites the Commission to discuss how it would like to proceed with the completion of work in the coming months. Specifically, there are a number of both large and smaller amendments to the Land Development Regulations in various stages of development, from the very large subdivision, master plan, and PUD standards, to related work that the Commission has provided guidance on over the past year, to smaller amendments that have been identified by staff over the past few months.

Staff will share status of projects in each of the categories above and get feedback from Commissioners as to how you'd best like to navigate this work.

8. ***Review and approve [minutes of March 10, 2020](#) (8:55 pm)

See enclosed

9. Other Business (8:57 pm)

10. Adjourn (9:00 pm)

*** item has attachments



MEMORANDUM

TO: South Burlington Planning Commission
FROM: Paul Conner, Director of Planning & Zoning
SUBJECT: Article 12, Environmental Protection Standards initial review
DATE: August 11, 2020 Planning Commission meeting

Enclosed please find a first complete draft of the updated Article 12, Environmental Protection Standards, and accompanying staff memo. This draft and accompanying memo were distributed and posted to the Department's website at the end of May 2020, in order to give everyone an opportunity to review at their leisure.

Most notable among the possible changes to Article 12 are the additions of Habitat Blocks and Habitat Block Connectors, based on the Commission's guidance last fall and the results of the Arrowwood Habitat Block Assessment and Ranking.

Last month, staff, and the chairs and vice-chairs of the Commission and City Council met to discuss an overall approach for completing this work and related work under Interim Zoning. They agreed that the most efficient way to complete this work would be to do as follows:

Step 1: Commission reviews Article 12 at a high level and indicates its concurrence on the regulatory approach / environment at a broad-brush level when it is satisfied;

Step 2: Staff / Commission chair present the Commission's approved high-level determinations to the City Council at their next available meeting;

Step 3: After receipt of Council feedback, Commission holds work sessions, gathers public input, and makes applicable amendments to draft to prepare for public hearing in the early fall.

The leadership felt that this approach would recognize the work previously done and input previously provided, allow the Planning Commission to obtain feedback from the Council before diving into detail elements of the standards, and equally importantly, and allow the Council to begin to advance their related work resulting from the 2020 Open Space Interim Zoning Committee Report and 2020 Natural Capital Valuation of Interim Zoning Open Space Parcels completed by Earth Economics.

Staff Recommendations for Aug 11th Commission Meeting:

- Review / discuss included elements in draft Environmental Protection Standards, general approach to regulation, and generally, the level of requirements (for Habitat Blocks & Habitat Connectors in particular)
- If/when the Commissioners are comfortable, consider voting or taking a straw poll to "ok" the general approach and regulatory environment created by Article 12, with the understanding that specific

applicability, standards, or categorization may be modified resulting from detailed review and public input;

- Discuss possible related updates to Comprehensive Plan and other chapters of the Land Development Regulations
- Review schedule for public input, review, and completion

Update notes on the May 2020 Draft:

A few notes to share with Commissioners to update staff's May 2020 memo on Article 12:

1. As noted above, staff has met with Sharon Murray, consultant on the Commission's related work on subdivisions, planned unit development, and master plans, to discuss the interface between these draft Environmental Protection Standards. A few notable recommendations for discussion at a future Commission meeting:
 - Consider possible simplification of classification of the Hazards, Level 1, and Level 2 resources. The main purpose of the classification here is to designate how these resources will be treated in subdivisions (requiring a separate lot, or not) and in Planned Unit Developments (principally in density transfers). The classifications do not change the standards for protection / impact themselves.
 - Consider addressing "Substantially-Habitat Covered Lots" as a specific Conservation PUD type, and apply the standards within in that area.
2. At its last meeting (March 10th), the Commission began to consider circumstances where the Habitat Blocks would not apply. The Commission elected to remove areas within the City Center FBC District, existing small residential parcels with a home on them, and areas within 50' of an existing building. The Commission will have the opportunity to discuss any additional circumstances at an upcoming meeting.



MEMORANDUM

TO: South Burlington Planning Commission
FROM: Paul Conner, Director of Planning & Zoning
SUBJECT: Environmental Protection Standards – draft LDR Amendments
DATE: May 26, 2020

Enclosed please an updated draft of the Environmental Protection Standards of City's Land Development Regulations (LDRs) (dated May 26, 2020). The bulk of these standards are contained within Article 12, however as with all amendments, there are related elements proposed throughout the LDRs.

The Planning Commission has not met yet this spring as a result of the Covid-19 pandemic. As discussed with the [City Council in February](#), it is the Commission's intent to resume its work on the LDRs in the relatively near future. In the meantime, staff has been continuing to work and is preparing drafts of the various components and will be providing them to the public as they are ready, based on the direction provided. These draft Environmental Protection Standards are the first such section.

The Commission has emphasized that it remains committed to public input on all of its work and will welcome feedback on these draft sections when you resume meeting. And as such, and with the Commission and community receiving this draft simultaneous, staff emphasizes that this is a DRAFT ONLY.

Background on Draft

As noted above, the contents of this draft are based on Planning Commission guidance and direction provided leading up to this time. The Commission held several review meetings through 2019 and established a working group that presented its findings in the fall. Following the Commission's endorsement of the Scope of Work last fall, Arrowood Environmental presented in February to the community a South Burlington Habitat Block Assessment and Ranking. In March the Commission provided initial guidance on incorporating those findings into the draft LDRs.

These draft amendments are proposed to function as one of a collection of tools to support natural resource conservation and thoughtful development in the community. Additional tools and considerations are discussed below.

Overall Context of Resource Conservation and Neighborhoods

The City has long recognized that the conservation of natural resources requires a multi-pronged approach. Natural resources cross property lines, encompass different properties in different manners, and require different management (or non-management) approaches based on the nature of the resource. Over the past several decades, the City has taken steps to both regulate certain critical natural resources, to invest in conservation through acquisition, and most recently, to prepare and implement management plans for city-owned parcels encompassing resources. The current proposed amendments and accompanying strategies builds on this approach. The enclosed draft seeks to use and build upon the strengths and successes of prior work, to

further the City’s commitment to the conservation of wildlife habitat areas, and connections between them, in a manner that is ecologically responsible as well as fair and equitable to property owners. Where linkages between identified habitat blocks co-exist with existing regulatory measures for hazards, for example, the draft Environmental Protection standards recognize this and support their dual function as hazard prevention and habitat function. As discussed below, staff recommends the City also consider additional tools, such as working with property owners (including the City) to restore and strengthen the habitat function of identified connectors, and codifying this broad approach in an update to the Comprehensive Plan.

Finally, as alluded to above, these draft amendments are designed to complement an overhaul of the City’s Regulations for development, support both smart land conservation and the thoughtful design of pedestrian-oriented neighborhoods and nodes of activity through updated subdivision, Planned Unit Development, and Master Plan standards, and associated amendments to site plan, underlying zoning, and other standards. These are under development based on the Commission’s direction and will be available for review in the near future.

Regulatory Approach:

The enclosed draft Environmental Protection Standards are intended to be clear and user-friendly, while allowing for limited flexibility to account for special circumstances. Natural resources are either mapped or offer a specific methodology for delineation. For each resource, the types of incursions permitted and the standards for any such incursion are included. Mapping and standards are based on research and data on rivers & corridors, wetlands, and habitats and their connections.

Resources are grouped into three (3) categories: hazards, level 1 resources, and level 2 resources. This grouping recognizes the different regulatory environments and roles of these resources and are not intended to serve as a hierarchy. Each resource has its own standards for the limited incursions that are allowable.

Broadly, hazards allow for incursions only in very limited circumstances, are often regulated at a statewide or Federal level, and are proposed to be excluded from development parcels in subdivisions. Level 1 resources allow for only limited incursions and are excluded from development parcels in subdivisions, but may provide for modifications, adjustments in location, or offsets. Level 2 resources require specific review for incursion, but are not excluded from development parcels; the Commission has discussed how, in addition to restrictions, these Level 2 resources may be incentivized for conservation by allowing them to count as qualifying open space in a PUD.

Hazards	Level 1 Resources	Level 2 Resources
<i>Floodways</i>	<i>Habitat Blocks</i>	<i>Class III wetlands and buffers</i>
<i>100-year floodplains</i>	<i>Habitat Connectors</i>	<i>Very Steep Slopes</i>
<i>River Corridors</i>		<i>Steep Slopes</i>
<i>Surface Water Buffers</i>		<i>Mapped Rare, Threatened, and Endangered Species</i>
<i>Class I Wetlands & Buffers</i>		<i>0.2% floodplains</i>
<i>Class II Wetlands & Buffers</i>		<i>Intermittent streams & buffers</i>

Habitat Blocks and Habitat Connectors

This draft of the Environmental Protection Standards contains new sections: Habitat Blocks and Habitat Connectors. These were listed as “under development” in the November 2019 draft. The Commission, in May 2019, established a working group to review the resources listed as candidates for inclusion in the LDRs to and propose an approach to the Commission. In September 2019, the working group recommended that the Commission engage a firm to perform an assessment of habitat blocks in the community, using water-based and forested resources as the starting point. The Commission reviewed and approved a proposed scope of work

from Arrowwood Environmental, upon which standards for the conservation of Habitat Blocks would be developed.

Arrowwood's report was provided to the City in January 2020, and a presentation was made to the Commission and Council on February 25th. As part of the presentation, Arrowwood consultants discussed the roles of connections between habitat blocks, which had been mapped in a general form in order to assist in the ranking of the relative strength of connectivity between different blocks¹. Commissioners inquired at that meeting as to the overlap between these identified connecting habitat and natural resources that the LDRs are already, or are proposed to regulate, such as wetlands & buffers, floodplains, stream buffers, and river corridors. Staff was asked to review this question and evaluate the extent to which these potential connecting habitat areas are or will already be regulated as hazards.

At their March 10th, 2020 meeting, Commissioners discussed Habitat Blocks, possible exceptions (such as the City Center FBC area) and how to address circumstances where a Habitat Block encompasses a significant portion of a property. Feedback was provided to the Commission as well, related to overall objectives, predictability of standards, and ability to manage site-specific circumstances.

Staff has prepared the enclosed draft sections based on the direction and feedback provided. Key features:

- All mapped Habitat Blocks are included; the City Center FBC area, pre-existing residential lots <1 acre in size, and areas immediately adjacent to existing buildings are exempted;
- Habitat Blocks are generally to be left undisturbed, with specific standards for incursions included.
- An applicant may elect to apply the Habitat Blocks as mapped, or may elect to seek a modification to the mapped Habitat Block, by perform a Habitat and Disturbance Assessment and then selecting one of two options for mitigation of any areas proposed to be removed.
- Where a Habitat Block encompasses 80% or more of a property, the applicant may re-designate a portion of the property as developable, with area selection ranked based on the habitat value.
- Proposed Habitat Connectors are established and required to be conserved in mapped areas. As proposed, Habitat Connectors must be comprised of a 150' wide area of land to be left undisturbed, with specific standards for incursions included. The mapped Habitat Connectors were developed by staff following a review of Arrowwood's connecting habitat layer; identifying specific gaps where co-existing regulated hazards are not present, and reviewing the role of these connections with wildlife experts.

The enclosed Habitat Blocks and Connectors map shows the location of each. For context, this packet also includes two supplemental maps, one adding the (co)-location of hazards throughout the City, and a second adding the City's SEQ-Natural Resources Protection subdistrict. Anyone interested in reviewing all of the mapping data together is invited to make use of [the Interactive Map Viewer](#) developed for the City by the CCRPC containing all of these resources and related data.

Please note that these two sections, and the Habitat Connectors in particular, have not been reviewed beyond the conceptual level by the Planning Commission. This draft is subject to change.

¹ Arrowwood Environmental requested that this data be given the following note regarding its use: "These 2 layers (connecting and supporting habitat) were developed as components of a scoring and ranking method in support of the primary goal- identifying and ranking Forest Habitat Blocks. These are 2 of the 10 parameters contributing to the ranking. Identification of these features was NOT the primary goal of this project and therefore we did not spend considerable time reviewing and correcting the output. The connecting and supporting habitat were derived directly from landcover data provided by others, and were not field verified, or subjected to thorough QA review or manual correction. Investigation of potential wildlife corridors with boundaries sufficient to stand on their own in the regulatory arena would be a separate project." This note was provided to the Planning Commission as part of their March 10, 2020 packet.

Related Natural Resources Standards (existing and under development)

The Environmental Protection standards are proposed to function alongside several other related tools designed to support conservation the City's key natural resources. The Environmental Protection standards stand in their own chapter because they are proposed to apply (as they currently do) to all forms of development: subdivisions, site plans, PUDs, and individual lots.

Related existing and proposed standards:

- Amended Subdivision Standards. Current subdivision standards are limited in their consideration of natural resources, particularly outside the Southeast Quadrant. The draft subdivision standards would build upon the current requirements, supporting parcel arrangements that retain individual natural resources within singular management rather than being divided amongst multiple entities, and as noted above, limiting the application of density from hazards and level 1 resources except in a Planned Unit Development.
- Amended PUD standards. Future PUDs will need to include planning for the conservation of natural resources as part of the overall design and context.
- SEQ-only standards. With the planned enhancements to citywide subdivision and Environmental Protection regulations, standards presently applicable only in the southeast quadrant zoning district are proposed to be consolidated into the citywide standards.
- SEQ-Natural Resources Protection District. The SEQ-NRP district is proposed to remain in place. Staff will have some recommendations for the Commission's consideration to provide greater clarity and direction related to be very limited amount of development that is permitted in this district.

Coordination with Other Studies and Tools:

During its presentation to the City Council in February, the Planning Commission alluded to several related work, studies, and reports underway in the City. Specifically:

- The Commission recommended that the City examine those portions of properties identified by the [Interim Zoning Open Space Committee](#) as top priorities for conservation that fall outside of the scope of these Environmental Protection Standards for possible other options for conservation. This work can be coupled with the recently-completed evaluations of the natural capital valuation of these properties by [Earth Economics](#) and the recently completed report on the Economics of Development by [John Stewart](#).
- The Commission prepared a recommended action plan for review and implementation of the recommendations of the Interim Zoning Transfer of Development Rights Committee report.

Building on this, staff recommends the Commission and City Council consider a multi-pronged approach to promoting wildlife connectivity:

- Where habitat blocks encompass a large proportion of the land, and those properties were identified by the Open Space Interim Zoning Committee, consider placing these parcels on the Official Map as priorities for acquisition;
- Where land is already conserved, public, zoned SEQ-NRP, or association land, recommend the City's Natural Resources Committee work with property owners to develop habitat restoration and management plans.
- Consider updating the Comprehensive Plan to reflect the Habitat Blocks, Habitat Connectors, and priorities discussed above
- Following completion of the current PUD / Environmental Protection Standards, initiate identified review and implementation the Transfer of Development Rights Interim Zoning Committee Report per the Commission's January 2020 vote

12 SURFACE WATER PROTECTION STANDARDS

ENVIRONMENTAL PROTECTION STANDARDS

12.01 General ~~Stream and Surface Water Protection Standards~~ Protection Standards and Review Procedures

12.02 Stream and Surface Waters

12.03 ~~2~~ Wetland Protection Standards and Review Procedures

12.04 ~~3~~ Stormwater Management Standards

12.04 Stormwater Management Overlay District (SMO) [Reserved]

12.04 Rare, Threatened and Endangered Species

12.05 Habitat Blocks

12.07 Habitat Connectors

12.08 Habitat and Disturbance Assessment

12.09 Steep Slopes

12.10 Restricted Infrastructure Encroachment

12.01 General Protection Standards, Classifications and Review Procedures

A. Purpose. It is the purpose of this Article to implement, from a regulatory perspective, the Comprehensive Plan's goal of "emphasizing sustainability for long-term viability of a clean and green South Burlington" and objective to "promote conservation of identified important natural areas, open spaces, aquatic resources, air quality, arable land and other agricultural resources, historic sites and structures, and recreational assets" in balance with the overall state vision of the Plan.

This Article establishes application requirements and development standards designed to minimize and avoid adverse impacts to these resources. Specific standards related to subdivision or planned unit developments, or for which overlay standards apply, may be found in those relevant sections and, where indicated, may supersede provisions of this Article.

B. Classification. For the purposes of subdivision and Planned Unit Developments, resources are grouped into Hazards, Level 1 and Level 2 resource areas.

Table 12-01 – Regulatory Classification of Natural Resources

	<u>Specific Standards</u>	<u>Subject to building lot restrictions in subdivision</u>	<u>Counts towards density in Site Plan/Subdivision</u>	<u>Initial Measurement</u>	<u>Verification</u>
Hazards					
Floodways, 100-year floodplains	Per 10.01	Yes	No	FEMA Mapping	Option to seek FEMA Letter of Map Amendment
River Corridors	Per 10.07	Yes	No	ANR mapping; Applicant measurement of reaches >2 acres	Surveyor or ANR Determination
Stream, Surface Waters & Buffers	Per 12.02	Yes	No	Stream Geomorphology; applicant mapping	Required field assessment
Class I & II Wetlands and Buffer	Per 12.03	Yes	No	ANR Maps as Indicator	Required Field Assessment
Level 1 Resources					
Habitat Blocks	Per 12.05	Yes	No	Map in LDRs	N/A, option to modify
Habitat Connectors	Per 12.06	See 12.08*	Yes	Map in LDRs	N/A, option for minor relocation
Level 2 Resources					
Intermittent streams & buffers	Per 12.02	No	Yes	Stream Geomorphology; applicant mapping	Required Field Delineation
Class 3 wetlands and 50' buffer	Per 12.03	No	Yes	ANR Maps as Indicator	Required Field Delineation
Slopes 20% and greater	Per 12.09	No	Yes	ANR Maps as Indicator	LiDar mapping if impacted
Slopes 15 -20%	Per 12.09	No	Yes	ANR Maps as Indicator	LiDar mapping if impacted
0.2% Floodplains	Per 10.01	Yes	Yes	FEMA Mapping	Option to seek FEMA Letter of Map Amendment
Rare, Threatened and Endangered Species	Per 12.04	Species-specific	Yes	State ANR & Field delineation	Required Field Assessment per ANR

C. Applicability of Standards. All land uses and development must comply with the provisions of this Article, to minimize adverse impacts on ecological resources, water quality and working lands, unless explicitly waived or amended in this section. Exemptions include:

- (1) All activities to the extent that they are exempt from local regulation through Section 4413 of 24 VSA Chapter 117.
- (2) Construction of fences (i) that enclose cleared areas, such as lawn areas surrounding a residence, provided the clearing occurred prior to effective date of this provision or was approved by the DRB in accordance with this Article; or (ii) erected for standard agricultural purposes or, (iii) lower than 4 feet and that have at least 16 inches of clearance between the lowest horizontal part of the fence and the ground. In all cases, proposed fences must comply with section 13.17 (Fences) of these Regulations.
- ~~(4)~~(3) Other exemptions as specified elsewhere in these Regulations.

12.02 Stream and Surface Waters

A. Purpose. It is the purpose of this Section to provide for the protection and improvement of the surface waters and streams within the City of South Burlington, Lake Champlain and Shelburne Bay, and the watersheds contained wholly or partially within the City. These regulations and standards are intended to lead to the establishment and protection of natural areas along the City's surface waters and within the City's watersheds to provide improved protection for water quality and the provision of open space areas and

wildlife habitat. It is the further purpose of this Section to provide for the retention of preexisting residential neighborhoods located along Lake Champlain and Potash Brook in a manner consistent with the resource protection ~~goals-purposes~~ of this Section ~~and the comprehensive plan.~~

~~**B. Comprehensive Plan.** These regulations hereby implement the relevant provisions of the City of south Burlington adopted comprehensive plan and are in accord with the policies set forth therein.~~

~~**C. Surface Water Buffer Standards ("Stream Buffers")**~~

~~**(1) B. Applicability.** The requirements of this Section will apply to all lands described as follows:~~

~~(1a) All land within one hundred (100) feet horizontal distance of the centerline of Muddy Brook and the main stem of Potash Brook from the top of bank or top of slope of major streams, whichever is applicable given the stream's fluvial geomorphology. Major streams are defined as the Winooski River, Muddy Brook and the main stem of Potash Brook.~~

~~(b) All land within one hundred (100) feet horizontal distance of the edge of the channel of the Winooski River~~

~~(e 2) All land within fifty (50) feet horizontal distance of the centerline from the top of bank or top of slope of any minor stream, whichever is applicable given the stream's fluvial geomorphology.~~

~~(d) All land within ten (10) feet horizontal distance of the centerline of a drainage way~~

~~(3) All land within ten (10) feet horizontal distance from the top of the bank or top of slope of a natural intermittent stream, whichever is applicable given the stream's fluvial geomorphology.~~

~~(4d) Land within or abutting the high-water elevation of Lake Champlain, which for the purposes of these regulations shall be one hundred two (102) feet above mean seal level datum.~~

~~**C. Application Submittal Requirements.** Submittal of a preliminary and/or complete Site Conditions Map (as applicable to the stage of application) pursuant to Appendix F.~~

~~**D. Standards.** All applicable development must be designed to avoid adverse impacts to major and minor streams and associated buffers and to minimize adverse impacts to intermittent streams and associated buffers.~~

~~**(1-2) General standards.** It is the objective of these standards to avoid adverse impacts from development on these resources; and promote the establishment of heavily vegetated areas of native vegetation and trees promote the establishment of heavily vegetated areas of native vegetation and trees in order to reduce the impact of stormwater runoff, reduce sedimentation, promote carbon sequestration, and increase infiltration and base flows in the City's streams and Lake Champlain. Therefore, except as specifically permitted by the DRB pursuant to the standards in Section 12.01(C)(3), (C)(4), (D) and/or (E) Section 12.02(E)(2) or (E)(3) below, all lands within a required stream buffer defined above must be left in an undisturbed, naturally vegetated condition. Supplemental planting and landscaping with appropriate species of vegetation to achieve these objectives will be permitted. The specific standards for the vegetation and maintenance of stream buffers are as follows:~~

~~(a) The clearing of trees that are not dead, heavily damaged by ice storms or other natural events, or diseased, and the clearing of any other vegetation other than invasive species, is permitted only in conjunction with DRB approval pursuant to (2-3) or (3-4) below.~~

(b) Any areas within a required stream buffer that are not vegetated or that are disturbed during construction must be seeded with a naturalized mix of grasses rather than standard lawn grass, and must not be mowed.

(c) The creation of new lawn areas within stream buffers is not permitted ~~after the effective date of these regulations.~~

(d) Snow storage areas designated pursuant to site plan or PUD review must not be located within stream buffers unless the applicant can demonstrate that:

(i) There is no reasonable alternative location for snow storage on the same property.

(ii) Measures such as infiltration areas have been incorporated into the site plan and/or stormwater treatment system to reduce the potential for erosion and contaminated runoff entering the associated stream as a result of snow melt.

(e) The placing or storing of cut or cleared trees and other vegetation within the stream buffer is prohibited.

(f) Sufficient suitable landscaping and fencing shall be provided to protect stream buffers in a manner that is aesthetically compatible with the surrounding landscape. The use of split rail or other fencing made of natural materials is encouraged.

Commented [PC1]: Note to PC: Moved from Article 9 so as to apply city-wide

(2.3) Expansion of pre-existing structures within stream buffers. The expansion of pre-existing structures within stream buffers ~~, except as provided in Section D below,~~ will be permitted only in accordance with the standards for non-complying structures in Article 3, Section 3.11 of these Regulations.

(3.4) New uses and encroachments within stream buffers. The encroachment of new land development activities into the City's major and minor stream buffers ~~is discouraged is prohibited, except as provided for in this section.~~ The DRB may authorize the following as conditional uses within stream buffers, subject to the standards and conditions enumerated for each use. The DRB may grant approvals pursuant to this section as part of PUD review without a separate conditional use review.

(a) Agriculture, horticulture and forestry including the keeping of livestock, provided that any building or structure appurtenant to such uses is located outside the stream buffer.

(b) Clearing of vegetation and filling or excavating of earth materials, only to the extent directly necessitated for the construction or safe operation of a permitted or conditional use on the same property and where the DRB finds that:

(i) There is no practicable alternative to the clearing, filling or excavating within the stream buffer; and

(ii) The purposes of this Section will be protected through erosion controls, plantings, protection of existing vegetation, and/or other measures.

(c) Encroachments necessary to rectify a natural catastrophe for the protection of the public health, safety and welfare.

(d) Encroachments necessary for providing for or improving public facilities.

(e) Public recreation paths, located at least twenty-five (25) feet from the ~~edge of the channel of the surface water~~ top of the bank or top of slope of any stream, whichever is applicable given the stream's fluvial geomorphology.

(f) Stormwater treatment facilities, either:

(i) ~~meeting the Vermont Agency of Natural Resources stormwater treatment standards, and routine maintenance thereof, including necessary clearing of vegetation and dredging. Evidence of a complete application to the VANR for coverage under the applicable permitting requirements will be required to meet this criterion for encroachment into a stream buffer.~~ or

(ii) ~~treating an area of land that falls below the VANR review thresholds and which are demonstrated to only be affecting impacted buffer areas, such as approved and maintained lawn, parking, or paved surfaces.~~

(g) ~~Restricted Infrastructure Encroachment, upon demonstration of compliance with Section 12.10 of these Regulations and the following supplemental standards: Roadways or access drives for purposes of crossing a stream buffer area to gain access to land on the opposite side of the buffer, or for purposes of providing safe access to an approved use, in cases where there is no feasible alternative for providing safe access and the roadway or access drive;~~

(i) ~~The facility is located at least twenty five (25) feet from the edge of the channel of the surface water for all water bodies listed in section 12.01(B)(1) and (2) 10.01(C)(1)(a) and (b) and ten (10) feet from the edge of channel of the surface water of all other streams;~~

(ii) ~~Stream crossings shall provide sufficient space for the passage of wildlife typical to the environment in water and on land beneath the structure; and,~~

(iii) ~~Additional mitigation such as reduction or elimination of curbing to promote wildlife passage as applicable to the environment.~~

(h) ~~Utility lines, including power, telephone, cable, sewer and water, to the extent necessary to cross or encroach into the stream buffer where there is no feasible alternative for providing or extending utility services.~~

(hi) ~~Outdoor recreation, provided any building or structure (including parking and driveways) appurtenant to such use is located outside the stream buffer.~~

(ij) ~~Research and educational activities provided any building or structure (including parking and driveways) appurtenant to such use is located outside the stream buffer.~~

(jk) ~~Hydro-electric power generation~~ Pedestrian puncheons or bridges intended to connect properties and neighborhoods.

Commented [PC2]: FOR PC Recommended addition from stormwater department. Allows for treatment in previously-impacted areas when the it's below what VANR could issue a permit for. 3/2020

~~**E. Potash Brook Tributary 3 Requirements.** For lands located within one hundred fifty (150) feet horizontal distance of Tributary 3 of Potash Brook, as delineated in the Potash Brook Watershed Restoration Plan, the DRB shall have the authority to invoke technical review of proposed land development activities requiring DRB approval. Such technical review shall have the specific purpose of recommending site plan, stormwater and landscaping measures that will ensure that land development activities are consistent with the City's overall plan for ecosystem restoration in the Tributary 3 watershed.~~

Commented [PC3]: Note to PC: redundant to existing DRB authority

~~**F. Landscaping and Maintenance Standards within Stream Buffers [reserved]**~~

G.E. Watercourse Alteration and Relocation.

(1) The alteration or relocation of a watercourse is permitted subject to the approval of the Development Review Board provided the alteration or relocation:

(a) Is needed to accomplish a clear public purpose or objective;

- (b) Will not reduce the ability of the watercourse to carry or store flood waters adequately;
- (c) Will not have an adverse impact on downstream or upstream water quality;
- (d) Will not affect adversely the use and enjoyment of adjacent properties;
- (e) Will not affect adversely the habitat value of the watercourse or immediately adjacent areas or wetlands.

(2) In making findings relative to these criteria, the DRB ~~shall be authorized to will~~ invoke technical review by a professional in hydrology or geomorphology, ~~and/or~~ will rely on the issuance of a Stream Alteration Permit issued by the Vermont ~~Agency of Natural Resources Department of Environmental Conservation~~ as evidence that the above criteria have been met.

~~(3) The South Burlington Natural Resources Committee shall in a timely manner review and make advisory comments to the DRB on any application made pursuant to this section.~~

Commented [PC4]: NOTE TO PC Standard has been replaced with a broad authority in Article 17 and DRB guidance in their procedural docs

(3) Alteration of Intermittent Streams. Where a development will incorporate Tier 1 or Tier 2 stormwater treatment practices (as defined in the Vermont Stormwater Management Manual issued by VANR) to manage the stormwater that the intermittent stream is conveying in pre-development conditions, the intermittent stream may be altered or relocated as part of that infrastructure, provided the stormwater management system meets the requirements of Article 12.04. Alteration or relocation of an intermittent stream is exempt from the Vermont Stream Alteration Rule and is not subject to the provisions of Article 12.02(G).

F. Protected Shoreland Area. All development located within 250 feet of the mean water level of Lake Champlain is subject to the provisions of the Vermont Shoreland Protection Act. Applicants for development in this area shall demonstrate compliance with the State of Vermont prior to issuance of a zoning permit.

Commented [PC5]: Note to PC: proposed addition to assure that property owners have completed State requirements

G. Erosion Control Measures and Water-Oriented Development along Lake Champlain.

The installation of erosion control measures and water-oriented development within or abutting the high-water elevation of Lake Champlain may be approved by the DRB as a conditional use provided the following standards are met:

- (a) The improvement involves, to the greatest extent possible, the use of natural materials such as wood and stone.
- (b) The improvement will not increase the potential for erosion.
- (c) The improvement will not have an undue adverse impact on the aesthetic integrity of the lakeshore. In making a determination pursuant to this criterion, the DRB may request renderings or other additional information relevant and necessary to evaluating the visual impact of the proposed improvement.
- (d) A landscaping plan showing plans to preserve, maintain and supplement existing trees and ground cover vegetation is submitted and the DRB finds that the overall plan will provide a visual and vegetative buffer for the lake and/or stream.

12.02 3 Wetland Protection Standards and Review Procedures

A. Purpose. It is the purpose of this Section to protect the City's wetland resources in order to protect wetland functions and values related to surface and ground water protection, stormwater treatment, wildlife habitat, and flood control.

B. Comprehensive Plan. These regulations hereby implement the relevant provisions of the City of south Burlington adopted comprehensive plan and are in accord with the policies set forth therein.

C. Wetlands Map and Applicability of Standards.

(1) All wetland areas within the City of South Burlington, whether identified on the map entitled "Wetlands Map" as set forth in Section 3.02 of these regulations or as identified through field delineation, and a buffer area fifty (50) feet horizontal distance surrounding the boundary of any such wetland, shall be subject to the provisions of this section.

(2) In the absence of site specific delineations, the City's Wetlands Map shall control as to the location of wetlands and wetland buffer areas subject to the provisions of this section.

B. Applicability.

(1) All Class I and Class II wetland areas and related buffer areas measured in horizontal distance from the boundary of the wetland (one hundred (100) feet for Class I and fifty (50) feet for Class II wetland), are subject to the provisions of this section.

(2) Class III wetland areas exceeding 300 square feet in area, and related fifty (50) foot buffer areas measured in horizontal distance from the boundary of the wetland, are subject to the provisions of this section.

D C. Submittal and Review of Field Delineation and Wetlands Report Application Submittal Requirements. Submittal of a preliminary and/or complete Site Conditions Map (as applicable to the stage of application) pursuant to Appendix E.

(1) For all properties for which any application for development requiring DRB review is made, and on which any wetland areas are indicated on the Wetland Map, applicants are strongly encouraged to submit site specific field delineations indicating the location, classification, functions and values of all wetland areas (Class I, II and III) and an associated fifty (50) foot buffer area. In the absence of such site specific delineations and information, the City's Wetlands Map shall control.

(2) Applicants are encouraged to submit a field delineation and wetlands report as early in the development review process as possible.

(3) The DRB shall have has the authority to invoke technical review by a qualified wetlands consultant of any field delineation and wetlands report. The independent technical review City's wetlands consultant will submit an evaluation of the field delineation and wetlands report addressing the proposed development's consistency with the standards in (E) above/below, and outlining the following:

- (a) Measures that can be taken to improve the overall effect of the project on wetland resources without altering the layout of the proposed project.
- (b) Measures that can be taken to improve the overall effect of the project on wetland resources that involve altering the layout of the proposed project.

Commented [PC6]: Note to PC: reworded below

Commented [PC7]: Note to PC: submission requirements are for best available data

Commented [PC8]: For Planning Commission consideration; intended to assure that we don't have a situation where the buffer is larger than the wetland.

Commented [PC9]: NOTE TO PC Moved to App E

DE. Standards for Wetlands Protection

(1) Consistent with the purposes of this Section, ~~encroachment into wetlands and buffer areas is generally discouraged. development must avoid encroachment into Class I and Class II wetlands and their associated buffers and minimize encroachment into Class III wetlands and their associated buffers, as enumerated in this section.~~

(2) ~~Sufficient~~ suitable landscaping and fencing shall be provided to protect wetlands and buffers in a manner that is aesthetically compatible with the surrounding landscape. The use of split rail or other fencing made of natural materials is encouraged.

Commented [PC10]: Note to PC: Moved from Article 9 so as to apply city-wide

(3) ~~Encroachment into Class I and Class II wetlands is permitted by the City only in conjunction with issuance of a Conditional Use Permit by the Vermont Department of Environmental Conservation and positive findings by the DRB pursuant to the criteria in (3) below.~~

(4) ~~Encroachment into Class I and Class II wetland buffers, Class III wetlands and Class III wetland buffers, may be permitted by the DRB upon finding that the proposed project's overall development, erosion control, stormwater treatment system, provisions for stream buffering, and landscaping plan achieve the following standards for wetland protection:~~

- (a) The encroachment(s) will not adversely affect the ability of the property to carry or store flood waters adequately;
- (b) The encroachment(s) will not adversely affect the ability of the proposed stormwater treatment system to reduce sedimentation according to state standards;
- (c) The impact of the encroachment(s) on the specific wetland functions and values identified in the field delineation and wetland report is minimized and/or offset by appropriate landscaping, stormwater treatment, stream buffering, or other mitigation measures.

(5) ~~Where Restricted Infrastructure Encroachment is proposed, the applicant shall demonstrate compliance with Section 12.10 of these Regulations and the following supplemental standards:~~

- (a) ~~Road or recreation path infrastructure shall be no wider than 20 feet, or, if combined, no wider than 28 feet; and,~~
- (b) ~~Roads that bifurcate a wetland or wetland buffer shall propose appropriate mitigation such as reduction or elimination of curbing and installation of cross culverts to promote wildlife passage.~~

12.04 Stormwater Management Overlay District (SMO) [Reserved]**12.04 Rare, Threatened and Endangered Species**

Commented [PC11]: Note to PC: per PC review and discussion 4/ 2019

A. Purpose. It is the purpose of this Section to protect the City's rare, threatened or endangered plant or animal habitat, as identified by 10 VSA Chapter 123 and mapped and delineated for this purpose, in order to prevent further population loss of these species.

B. Applicability. All development subject to site plan or subdivision review is subject to the standards below where rare, threatened or endangered species habitat is present.

C. Application Submittal Requirements. Submittal of a preliminary and/or complete Site Conditions Map (as applicable for the stage of review) pursuant to Appendix E.

(1) For Preliminary Side Conditions Map, if the data layer showing “Rare, Threatened and Endangered Species” on the Vermont Natural Resources Atlas indicates the potential for such species in an affected area, a written opinion confirming the presence or absence of rare, threatened or endangered species will be required from the Vermont Fish and Wildlife Department or a qualified environmental professional. The applicant must provide the Vermont Fish and Wildlife Department with a map and site plan showing the mapped location of the rare, threatened and endangered species in relation to the proposed development.

(2) For Complete Site Conditions Map, if a rare, threatened or endangered species is present, the applicant must obtain a written opinion from the Vermont Fish and Wildlife Department indicating what measures must be taken to assure that the proposed development will not result in adverse impacts to the rare, threatened or endangered species.

D. Standards. Development must not cause adverse impacts to any rare, threatened or endangered plant or animal habitat identified by the Vermont Department of Fish and Wildlife or through site investigation.

(1) Building envelopes must be located to exclude identified areas supporting rare, threatened and endangered species.

(2) Specific measures identified by the Fish and Wildlife Department’s written opinion may be required.

(3) Any impact to an endangered or threatened species may require an Endangered and Threatened Species Permit from the State of Vermont.

12.05 Habitat Blocks

A. Purpose.

It is the purpose of these Habitat Block Standards to avoid adverse impacts from development on these resources, promote the natural succession of vegetated areas of native vegetation in order to support wildlife habitat and movement, promote carbon sequestration, filter air, and increase infiltration and base flows in the City’s streams and Lake Champlain.

B. Applicability. The requirements of this Section will apply to all areas indicated as “Habitat Blocks” on the Habitat Blocks and Connectors map, except as follows:

(1) Lots or parcels of less than one (1) acre existing as of the effective date of these Regulations; and,

(2) Land located within 50’ horizontal distance of a principal building existing as of the effective date of these regulations

C. Applicable Area options. An applicant with a parcel subject to this section may select among either of the following for determining applicability of standards:

(1) **Mapped Habitat Blocks.** The applicant may use the Habitat Blocks as mapped to establish development and non-development areas; or,

(2) **Mitigation via Habitat and Disturbance Assessment (HDA).** As part of a Planned Unit Development application, the Development Review Board may approve a portion of a habitat block to be re-designated as a development area. In order to be considered, the applicant shall prepare a Habitat and Disturbance Assessment (HDA) pursuant to this Article and provide appropriate mitigation for any areas removed, as enumerated in this section. The Board may only approve a re-designation if it finds each of the criteria below to be met:

(a) The HDA shall indicate all areas proposed to be re-designated as a development area;

Commented [PC12]: Note to PC: new section based on Commission direction, using 2020 Arrowwood Habitat Assessment and ranking

(b) The HDA shall demonstrate that the retained (or added to, as provided for in this section) habitat block will continue to serve its function as a habitat block for significant wildlife habitat as defined in these Regulations;

(c) No core forest area shall be re-designated as a development area, defined as areas greater than 100 meters inside the boundaries of a mapped Habitat Block;

(d) Wildlife movement connectivity is retained between Habitat Blocks;

(e) Any re-designation of a portion of a habitat block to a development area shall be mitigated by the applicant in accordance with subsection (d).

(d) Mitigation options. Mitigation for any Habitat Block proposed to be re-designated as a development area may include either, or a combination, of the following options:

(i) The permanent conservation of the following types of undeveloped land at a 1-1 ratio, not otherwise located in an NRP zoning district, listed as a Hazard or Level 1 resource, or otherwise set aside as open space in a prior development, containing a third-party conservation easement, or owned by a public entity:

I. Land contiguous to the habitat block and unseparated by roadways, railways, or other impeding infrastructure.

II. Land located expanding upon the width of a mapped habitat connector area.

Any land proposed to be added / conserved shall be accompanied by a restoration plan, prepared by a professional wildlife biologist (or equivalent), that will result in the land functioning as a significant wildlife habitat such that within a period of ten (10) years and being classified as transitional forest / forest by a land use / land cover assessment at that time.

(ii) Contribution to the City's Open Space Fund. Payment shall be made on a per-acre basis, with the fee set at three (3) times the per-acre grand list value for comparable undeveloped land. Value of comparable land shall be established by a licensed appraiser and shall be accompanied by an appraisal report to the Board.

D. Application Submittal Requirements. The applicant's Site Conditions Map must include all Habitat Blocks indicated on Habitat Blocks & Connectors Map on or within 200 feet of the project site. Where an applicant elects to perform a Habitat Disturbance Assessment, the requirements of Section 12.07 shall apply.

E. Standards. Habitat Blocks are Level 1 Resources.

(1) General standards. Except as specifically exempted, approved by the DRB pursuant subsections (2) or (3) below, or modified in accordance with Section (C)(1) above, all lands within a Habitat Block must be left in an undisturbed, naturally vegetated condition. Supplemental planting and landscaping with appropriate species of vegetation to achieve these objectives is permitted. The general standards for the vegetation and maintenance of Habitat Blocks are as follows:

(a) The clearing of trees that are not heavily damaged by ice storms or other natural events, or diseased, and the clearing of any other vegetation other than invasive species, is prohibited except as specified in this section.

(b) The creation of new lawn areas within Habitat Blocks is not permitted.

(d) Snow storage areas designated must not be located within Habitat Blocks

(e) Pursuant to section 15,** lot lines shall be configured to avoid Habitat Blocks

(f) Pursuant to Section 15.**, building envelopes shall not contain any land within a Habitat Block

(2) Exempted Uses and Activities. The following uses and activities are exempt from review under this section:

(a) Establishment and maintenance of unpaved, non-motorized trails not to exceed ten (10) feet in width;

(b) Removal of invasive species; and,

(c) Uses and activities not subject to local regulation pursuant to 24 VSA §4413.

(3) New uses and encroachments within Habitat Blocks. The encroachment of new land development activities, clearing of vegetation, establishment of lawn, or other similar activities into Habitat Blocks buffers is prohibited, except as provided for in this section. The DRB may authorize the uses and activities enumerated in this subsection within Habitat Blocks, subject to the standards and conditions enumerated for each use, and, where a Mitigation option has been selected pursuant to 12.05(C)(2), subject to any specific mitigation measures identified therein.

(a) Restricted Infrastructure Encroachment, pursuant to Section 12.10 and the following supplemental standards:

(i) The facility shall be strictly limited to be minimum width necessary to function for its intended purposes

(ii) The clearing of vegetation adjacent to the facility shall be strictly limited to the minimum necessary width to function for its intended purposes;

(iii) Street tree requirements shall not apply in these areas;

(iv) Street lighting shall be prohibited in these areas except as necessary to meet State or Federal law; and,

(iv) Appropriate measures shall be taken to promote safe wildlife passage, including the reduction or elimination of curbs, reduced speed limits, and/or signage altering users, and underpass or culverts.

(b) Forest-based outdoor recreation, provided any building or structure (including parking and driveways) appurtenant to such use is located outside the habitat block.

(c) Research and educational activities provided any building or structure (including parking and driveways) appurtenant to such use is located outside the Habitat Block.

(3) Substantially-habitat-covered lots. Where a lot or parcel existing as of the effective date [insert date here] of these regulations is more than eighty (80) percent covered by a Habitat Block or Habitat Connector, an applicant may re-designate a portion of the Habitat Block equaling twenty (20) percent of the lot or parcel as a development area. Any such re-designated area shall remain subject to all other standards of these Regulations. Such re-designated land shall be determined in the following order for re-designation:

First (1): Any land within a habitat block not listed as 2-5

Second (2): Land identified as forest in land use / land cover data

Third (3): Land connecting portions of a habitat block, or between habitat blocks, that are less than 200' in width

Fourth (4): Land more than 300 feet from the edge of a Forest Block ("Core Forest Block" areas)

Fifth (5): Hazards as defined in these Regulations

Calculation: Land shall first be selected from Priority 1 areas. If all applicable land on the lot or parcel from Priority 1 is re-designated, and the twenty (20) percent allotment has not been reached, then land from Priority 2 land shall be selected next, followed by Priorities 3, 4, and 5.

Example: if a 10-acre parcel includes 9 acres of Habitat Block and Connectors, 1 acre of the Habitat Block may be re-designated as a development area). If one or more acres of land exists within Priority 1 land, then that area shall be re-designated. If not, then the balance of the re-designation shall be selected from Priority 2, following by Priorities 3, 4, and 5.

Special Circumstances: Where the DRB finds that the re-designation of land pursuant to the priority order above is in conflict with the purposes of this section (for example, requiring a restricted infrastructure encroachment to access the re-designated land), or where it finds that strict adherence to the priority order does not allow for a unified PUD consistent with the purposes of intent of these regulations, it may approve modifications to the land selected. Any such modifications shall be minimized in terms of land area and modification to the priority order.

(4) Expansion of pre-existing structures within Habitat Blocks. The expansion of pre-existing structures, parking areas, lawn areas, or impervious surfaces within Habitat Blocks will be permitted only in accordance with the standards for non-complying structures in Article 3, Section 3.11 of these Regulations and only where such expansion cannot reasonably take place outside of a Habitat Block.

12.06 Habitat Connectors

Commented [PC13]: Note to PC: new section based on Commission direction, using 2020 Arrowwood Habitat Assessment and ranking as basis and map analysis

A. Purpose. It is the purpose of this Section to maintain the functionality of identified Habitat Connectors, allowing species to travel between identified Habitat Blocks, wetland areas, water bodies, and other natural resources within and adjacent to the City.

B. Applicability. The requirements of this Section will apply to all areas indicated as "Habitat Connectors" on the Habitat Blocks and Connectors map, except as follows:

- (1) Lots or parcels of less than one (1) acre existing as of the effective date of these Regulations
- (2) Land located within 50' horizontal distance of a principal building existing as of the effective date of these regulations

(C) Standards. The applicant shall retain a 150' wide Habitat Connector where indicated on the Habitat Blocks and Connection Map.

- (1) The Habitat Connector may be located partially or entirely within the mapped connector, but must retain its width where it meets Habitat Connectors or Habitat Blocks on adjacent parcels.
- (2) Hazards or other protected environmental areas may be used to count towards the connector width.
- (3) Where pre-existing development precludes a width of 150', the corridor shall be the widest possible and restoration of the corridor shall be provided.
- (4) New uses and encroachments within the Habitat Connector shall be subject to the standards of 12.05 (Habitat Blocks).

12.07 Habitat and Disturbance Assessment (HDA)

Commented [PC14]: Note to PC: based on draft from 4/2019, updated to apply for usage in this chapter

A. Purpose. The Habitat and Disturbance Assessment is intended to serve as tool to inventory and quantify significant wildlife habitat within and adjacent to properties being evaluated, to supplement or replace mapped Habitat Blocks as applicable in these Regulations.

B. Submittal Requirements. Where an HDA is permitted by these Regulations, the applicant shall contract with a qualified wildlife biologist or ecologist to prepare the Assessment. The HDA prepared for the DRB shall include:

(1) Site Conditions Map including all Habitat Blocks Habitat Connectors as indicated on the Habitat Block and Connectors map on or within 200 feet of the project site.

(2) An inventory of existing (pre-development) wildlife habitat found on the site, including the presence of significant wildlife habitat, the specific types of habitat found on the parcel and their relative importance to the various wildlife species that rely on that habitat for one or more life-cycle function;

(3) An assessment of the relationship of the habitat found on the site relative to other significant wildlife habitat present in the City (e.g., does habitat found on the parcel provide for connectivity between mapped habitat blocks; is the parcel located contiguous to other significant wildlife habitat, or part of a habitat block);

(4) Identification of the distance of all proposed development activities (as permitted), including clearing, driveways and infrastructure, and areas of disturbance, from the significant habitat and, if significant habitat is proposed to be disturbed, the total area of disturbance and the total area of the remaining (undisturbed) habitat;

(5) An assessment of the likely impact of the proposed development, including associated activities (e.g., introduction of domestic pets, operation of vehicles and equipment, exterior lighting, introduction of non-native species for landscaping) on the ecological function of the significant wildlife habitat found on the site. This shall include an assessment of whether travel between areas of core habitat will be disrupted;

(6) As assessment of the anticipated functionality of the Habitat Block with proposed mitigation measures and a statement identifying specific mitigation measures taken to avoid or minimize the proposed development's impact on the habitat, including buffers of habitat for specific identified species, possible replacement or provisions for substitute habitats that serves a comparable ecological function to the impacted habitat, and/or physical design elements to incorporate into the project.

12.084 Stormwater Management

Commented [PC15]: Note to PC: Updated with support from Stormwater division. Complete April 3, 2020

A. Purpose. The purpose of this section is:

(1) To promote stormwater management practices that maintain pre-development hydrology through site design, site development, building design and landscape design techniques that infiltrate, filter, store, evaporate and detain stormwater close to its source;

(2) To protect water resources, particularly streams, lakes, wetlands, floodplains and other natural aquatic systems on the development site and elsewhere from degradation that could be caused by construction activities and post-construction conditions;

- (3) To protect other properties from damage that could be caused by stormwater and sediment from improperly managed construction activities and post-construction conditions on the development site;
- (4) To reduce the impacts on surface waters from impervious surfaces such as streets, parking lots, rooftops and other paved surfaces; and
- (5) To promote public safety from flooding and streambank erosion, reduce public expenditures in removing sediment from stormwater drainage systems and natural resource areas, and to prevent damage to municipal infrastructure from inadequate stormwater controls.

B. ~~Scope and Applicability~~

- (1) These regulations will apply to all land development within the City of South Burlington where one-half acre or more of impervious surface area exists or is proposed to exist on an applicant's lot or parcel.
- (2) If the combination of new impervious surface area created and the redevelopment or substantial reconstruction of existing impervious surfaces is less than 5,000 s.f. then the application is exempt from requirements in this Section 12.0843.
- (3) Applications meeting the criteria set forth in section 12.0843(B)(1) and not exempt under section 12.043(B)(2) shall meet the requirements in section 12.0843(C) as follows:
 - (a) If the area of the lot or parcel being redeveloped or substantially reconstructed is less than 50% of the lot's existing impervious surface area, then only those portions of the lot or parcel that are being redeveloped or substantially reconstructed must comply with all parts of Section 12.0844(C). All new impervious surface area must meet the requirements of section 12.0843(C).
 - (b) If the area of the lot or parcel that is being redeveloped or substantially reconstructed exceeds 50% of the lot or parcel's existing impervious surface area then all of the lot or parcel's impervious surfaces must comply with all parts of Section 12.0843(C). All new impervious surface area must meet the requirements of Section 12.0843(C).

C. ~~Site Design Requirements for New Development~~

- (1) The Water Quality Volume (WQv) as defined in the Vermont Stormwater Management Manual (VSMM) for the lot or parcel's impervious surfaces shall not leave the lot via overland runoff, and shall be ~~infiltrated~~ treated using ~~Low Impact Development (LID) practices including, but not limited to Tier 1,~~ practices ~~as detailed in the "South Burlington Low Impact Development Guidance Manual"~~ the VSMM.
 - (a) If it is not possible to ~~treat~~ infiltrate the volume of stormwater runoff ~~using a Tier 1 practice~~ as specified in Section 12.0843(C)(1) due to one or more of the following constraints:
 - (i) Seasonally high or shallow groundwater ~~as defined in Appendix D1 of the Vermont Stormwater Management Manual,~~
 - (ii) Shallow bedrock ~~as defined in Appendix D1 of the Vermont Stormwater Management Manual,~~
 - (iii) Soil infiltration rates of less than 0.2 inches per hour,
 - (iv) Soils contaminated with hazardous materials, as that phrase is defined by 10 V.S.A. §6602(16), as amended,
 - (v) The presence of a "stormwater hotspot" as defined in ~~Section 2.6 of the Vermont Stormwater Management Manual~~ VSMM, or

(vi) Other site conditions prohibitive of on-site infiltration runoff subject to the review and approval of the Development Review Board,

then the WQv shall be retained-treated on the lot using other LID strategies and practices such as those detailed in the "South Burlington Low Impact Development Guidance Manual" Tier 2 practices, or treated by stormwater treatment practices meeting the Water Quality Treatment Standard as described in the most recently adopted version of the Vermont Stormwater Management Manual VSMM. A site with an existing Tier 3 practice is allowed to evaluate retrofitting/expanding this practice to meet the requirements of section 12.084(C)(2). But existing Tier 3 practices shall only not be used to satisfy the requirements of section 12.084(C)(1) in accordance with the Water Quality Practice Selection Flowchart in the VSMM.:

(2) The post-construction peak runoff rate for the one-year, twenty-four hour (rainfall amounts to be determined using NOAA, Atlas 14 data and a type II rainfall distribution) (2.1 inch) rain event shall not exceed the existing peak runoff rate for the same storm event from the site under conditions existing prior to submittal of an application. LID practices shall be incorporated into the design as necessary to achieve the maximum allowed runoff rate. If constraints prevent the use of LID practices (see Section 12.03(C)(1)(a)), stormwater treatment practices detailed in the Vermont Stormwater Management Manual may be used to achieve the required post construction runoff rate.

(3) Applicants who demonstrate that the required control and/or treatment of stormwater runoff per section 12.084(C)(1) and 12.084(C)(2) cannot be achieved for areas subject to these regulations per section 12.03(B) may utilize "site balancing".

D. Additional Site Plan Requirements

(1) Applicants required to comply with Section 12.084(C) must include the following information in their site plan submission:

(a) Sub-watershed boundaries and drainage area delineations for all stormwater treatment practices.

(b) Location, type, material, size, elevation data, and specifications for all existing and proposed stormwater collection systems, culverts, detention basins, LID installations, and other stormwater treatment practices.

(c) Soil types and/or hydrologic soil group, including the location and results of any soil borings, infiltration testing, or soil compaction testing. Infiltration testing shall be completed using methods identified in the VSMM (see section 4.3.3.2 in the 2017 VSMM, or as updated).

(d) A brief written description of the proposed stormwater treatment and management techniques. Where LID-Tier 1 design approaches-practices are not proposed (see Section 12.043(C)(1)(a)), the applicant shall provide a full justification and demonstrate why the use of LID approaches-of these practices is not possible before proposing to use conventional-structural stormwater management measures Tier 2 or Tier 3 practices.

(e) A detailed maintenance plan for all proposed stormwater treatment practices.

(f) Modeling results that show the existing and post-development hydrographs for the WQv (0.9-inch) and the one-year, twenty-four hour (2.1-inch) rain event (rainfall amounts to be determined using NOAA, Atlas 14 data and a type II rainfall distribution). Any TR-55 based model shall be suitable for this purpose.

E. Drainage Structures

(1) Removal of Runoff – The applicant shall remove any impervious surface runoff that exists as a result of the proposed land development. -Drainage facilities shall be located in the street right-of-way where feasible. All drainage facilities in the street right-of-way must comply with the following standards:

(a) All drainage structures must be designed to safely pass the twenty-five year, twenty-four hour (4.0 inch) rain event (rainfall amounts to be determined using NOAA, Atlas 14 data and a type II rainfall distribution);

(b) All drainage structures must conform to the provisions of Section 12.01 General Stream and Surface Water Standards.

(c) Drainage pipes in the street right-of-way must have a minimum diameter of 15” and be connected to drainage structures using boot connections.

(d) Concrete risers, not brick and mortar, must be used to achieve the necessary drainage structure elevation.

(e) House footing drains shall only be connected to drainage facilities located in the street right-of-way only when a suitable location to daylight the footing drain cannot be found.

(f) Footing drains must not be connected to road underdrain.

(g) Any footing drains connected to drainage facilities in the street right-of-way should be provided with a backflow preventer.

(h) Driveway culverts must have a minimum diameter of 18” and 12” of cover above them.

(i) The applicant’s engineer must provide such information as the stormwater superintendent or designee deems necessary to determine the adequacy of all drainage infrastructure.

(2) Drainage Structures To Accommodate Upstream Development – Culverts, pipes, or other drainage facilities shall be of sufficient size to accommodate potential runoff from the entire upstream drainage area, whether or not all or part of the upstream area is on the applicant’s lot or the parcel subject to the application. In determining the anticipated amount of upstream runoff for which drainage facilities must be sized, the applicant shall design the stormwater drainage system assuming the total potential development of upstream drainage areas. All drainage structures shall be designed to, at a minimum, safely pass the twenty-five year, twenty-four hour (4.0 inch) rain event (rainfall data to be determined using NOAA, Atlas 14 and a type II rainfall distribution). The applicant’s engineer shall provide such information as the Stormwater Superintendent or their designee deems necessary to determine the adequacy of all drainage structures.

(3) Responsibility for Downstream Drainage Structures – The applicant shall provide ~~the Stormwater Superintendent or their designee with~~ such information as the Stormwater Superintendent deems necessary to determine the effects of the application on drainage structures located downstream of the applicant’s lot or the parcel subject to the application, notwithstanding whether these structures are located on land owned or controlled by the applicant. -This analysis shall be conducted using the twenty-five year, twenty-four hour (4.0 inch) storm event (rainfall data to be determined using NOAA, Atlas 14 data and a type II rainfall distribution). In instances where the Superintendent anticipates that additional runoff incident to the application may overload an existing downstream drainage structure(s) and result in damage to private or public infrastructure or property, the DRB shall impose conditions requiring the

applicant to incorporate measures to prevent these conditions, notwithstanding whether such improvements are located on or off the applicant's property.

12.09 Steep Slopes

A. Purpose. It is the purpose of this Section to protect the City's areas of steep and very steep slopes, as mapped and delineated for this purpose, in order to prevent erosion that may cause adverse impacts to water quality or hazards to life and property.

- (1) Prevent hazards to life and property resulting from slope instability or failure, including rock falls, slides, slumps and other downslope movements of materials or structures.
- (2) Avoid stream sedimentation and adverse impacts to surface and ground water quality.
- (3) Minimize stormwater runoff, channeling, flooding and soil erosion, on steep slopes.
- (4) Maintain and re-establish vegetation on steep slopes to stabilize soils.
- (5) Ensure that development on steep slopes is constructed and maintained in conformance with best management practices for construction, stormwater management and erosion control.

B. Applicability. All development is subject to the standards below where steep slopes or very steep slopes are present. Both are Level 2 Resources under these Regulations.

C. Application Submittal Requirements. Submittal of a preliminary and/or complete Site Conditions Map pursuant to Appendix F.

D. Development Standards.

(1) Very Steep Slopes Standards. Development other than *Restricted Infrastructure Encroachment* is prohibited on slopes greater than 20%.

(2) Steep Slope Standards. All applicable development must be designed to avoid adverse impacts to slopes between 15% and 20%.

(3) General Standards. In the event that development will impact areas of these identified slopes in accordance with (1) and (2) above, the DRB may require the applicant to provide or meet any of the following:

- (a) A stormwater management, erosion prevention and sediment control plan with long term maintenance plan included, prepared by a qualified professional;
- (b) An analysis of slope stability prepared by a licensed engineer to ensure that no erosion hazards are created that would have an adverse impact on surface waters, wetlands, areas of special flood hazards, or downstream facilities, and any recommended mitigation measures;
- (c) Limit clearing, excavation and filling on such lands to the greatest extent practical, and/or;
- (d) Prepare and implement an erosion control plan for the property, in accordance with Article 16, as a condition of approval.

Commented [PC16]: Staff recommends the Planning Commission consider moving this to 25%.

12.10 Restricted Infrastructure Encroachment.

Commented [PC17]: Note to PC: based on 11.2019 review by the Commission to group these kinds of encroachments. Specific standards also apply by resource

A. Included uses and activities: Restricted Infrastructure Encroachments are limited to the uses and activities listed in this subsection. Where a specific Resource using this standard contains additional restrictions on permissible activities, the more restrictive standards shall apply.

- (1) Underground utilities
- (2) Sidewalks and recreation paths
- (3) Public and private Streets
- (4) Stormwater facilities

B. Encroachments. Encroachment into the resource may only be permitted by the Development Review Board if there is a finding that the Restricted Infrastructure Encroachment:

- (1) Is specifically regulated or exempted from these standards elsewhere in these Regulations, or is exempt from local review;
- (2) Is necessary to rectify a natural catastrophe for the protection of the public health, safety and welfare;
- (3) Is for a functionally dependent purpose such as operation of critical facilities;
- (4) Is for purposes of crossing a resource area to gain access to land on the opposite side of the area, or for purposes of providing safe access in accordance with City roadway and connectivity standards to an approved use. In such instances, the encroachment may be permitted only upon determination by the Development Review Board that both the following overall standards, and any resource-specific standards, have been met:
 - (a) There is no feasible alternative for providing safe access within the property;
 - (b) Alternative accesses through adjacent properties have been considered and, where fewer or no constraints exist, property owners have been contacted;
 - (c) The requirements of the applicable restriction will cause unnecessary or extraordinary economic hardship;
 - (d) The area served by the encroachment represents more than thirty (30) percent of the total developable land on the parcel; and,
 - (e) The encroachment represents the least impact feasible to the specific resource.

Commented [PC18]: Note to PC: new section based on Commission and Working Group discussion, to provide DRB with greater structure as to when to allow encroachments to gain access to developable land across a resource

2 DEFINITIONS

2.02 Definitions:

Habitat Block. Predominately forested area large enough to provide habitat, either permanently, or seasonally for wider ranging species of wildlife such as bobcat, red and grey fox, river otter, beaver, and fisher. These species of wildlife require larger areas (than squirrels or rabbits for example), and a variety of appropriate habitat to fulfill their daily, seasonal, and yearly habitat needs. These needs include security for breeding activities, a variety of food resources, secure cover for raising young, and the presence of water—either for drinking or in the case of aquatic species, as a general habitat. Habitat Blocks fall within a matrix of land-uses that include urban, residential, agricultural, transportation, and rural uses.

Habitat Connector. Area in city the providing wildlife served by Habitat Blocks the ability to functionally move through the landscape in stepping-stone fashion between Habitat Blocks. For species such as bobcat, red and

Commented [PC19]: Note to PC: below are proposed definitions for use when a Habitat and Disturbance Assessment is done

Commented [PC20]: Note to PC: definition based on 2020 Arrowwood Habitat Block Assessment and Ranking

Commented [PC21]: Note to PC: definition based on 2020 Arrowwood Habitat Block Assessment and Ranking

grey fox, river otter, beaver, and fisher, accessing multiple Habitat Blocks make up for the smaller, more fragmented nature of the Habitat Blocks in the community.

Significant Wildlife Habitat. Those natural features that contribute to the survival and/ or reproduction of the native wildlife of South Burlington. Target species include bobcat, red and grey fox, river otter, beaver, and fisher. Areas within significant wildlife habitat include: (1) habitat for rare, threatened and endangered species (state or federally listed); (3) stream and stream buffer areas as defined in these regulations; (4) wetlands and wetland buffers as defined in these Regulations; (5) vernal pools; (6) ledge, talus and cliff habitat; (7) Habitat Blocks, and (8) Habitat Connectors.

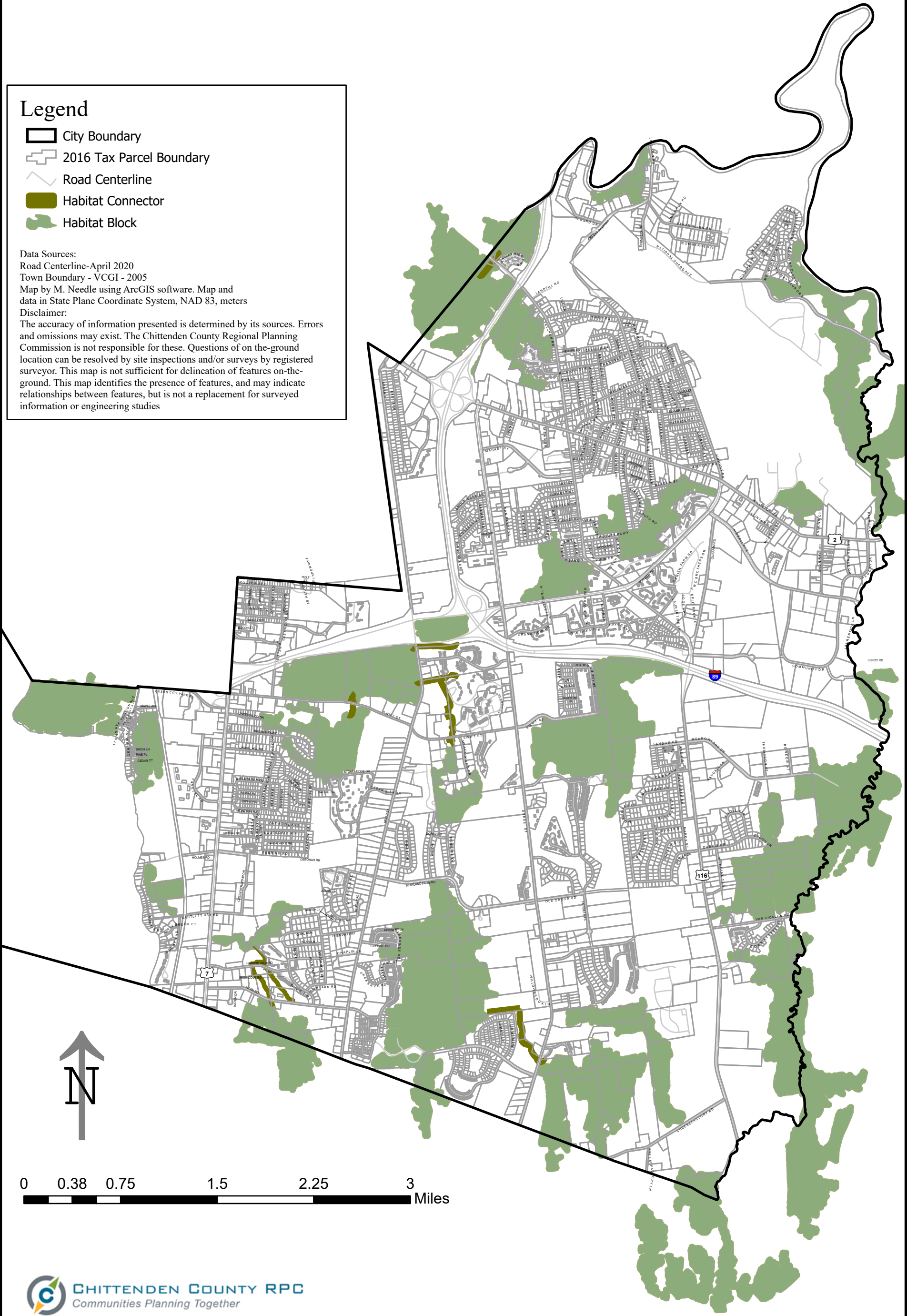
Map 1: Habitat Blocks and Connectors

South Burlington, Vermont

Legend

- City Boundary
- 2016 Tax Parcel Boundary
- Road Centerline
- Habitat Connector
- Habitat Block

Data Sources:
Road Centerline-April 2020
Town Boundary - VCGI - 2005
Map by M. Needle using ArcGIS software. Map and data in State Plane Coordinate System, NAD 83, meters
Disclaimer:
The accuracy of information presented is determined by its sources. Errors and omissions may exist. The Chittenden County Regional Planning Commission is not responsible for these. Questions of on-the-ground location can be resolved by site inspections and/or surveys by registered surveyor. This map is not sufficient for delineation of features on-the-ground. This map identifies the presence of features, and may indicate relationships between features, but is not a replacement for surveyed information or engineering studies



Map 2: Habitat Blocks and Connectors with Hazards

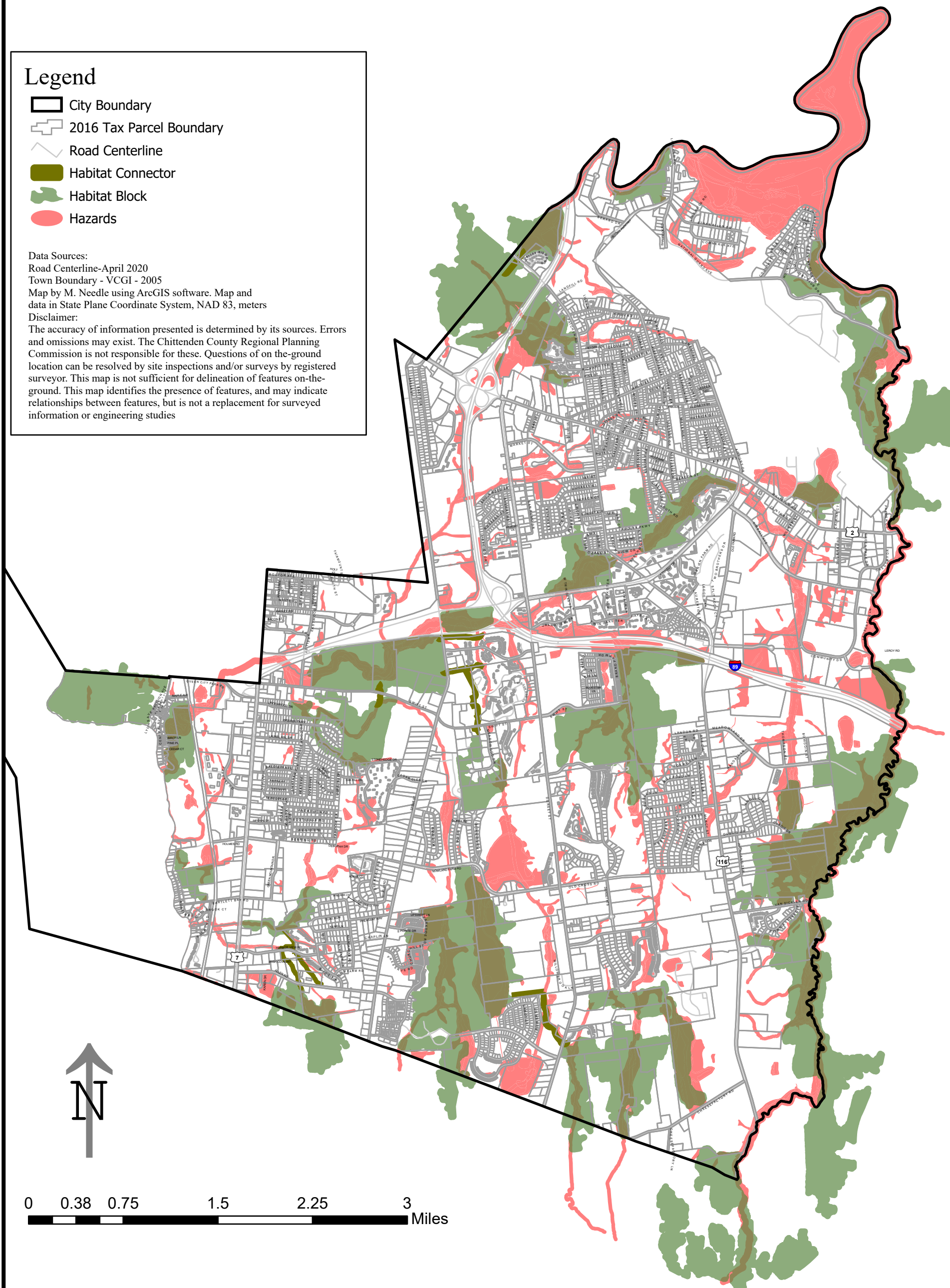
South Burlington, Vermont

Legend

- City Boundary
- 2016 Tax Parcel Boundary
- Road Centerline
- Habitat Connector
- Habitat Block
- Hazards

Data Sources:
Road Centerline-April 2020
Town Boundary - VCGI - 2005
Map by M. Needle using ArcGIS software. Map and data in State Plane Coordinate System, NAD 83, meters








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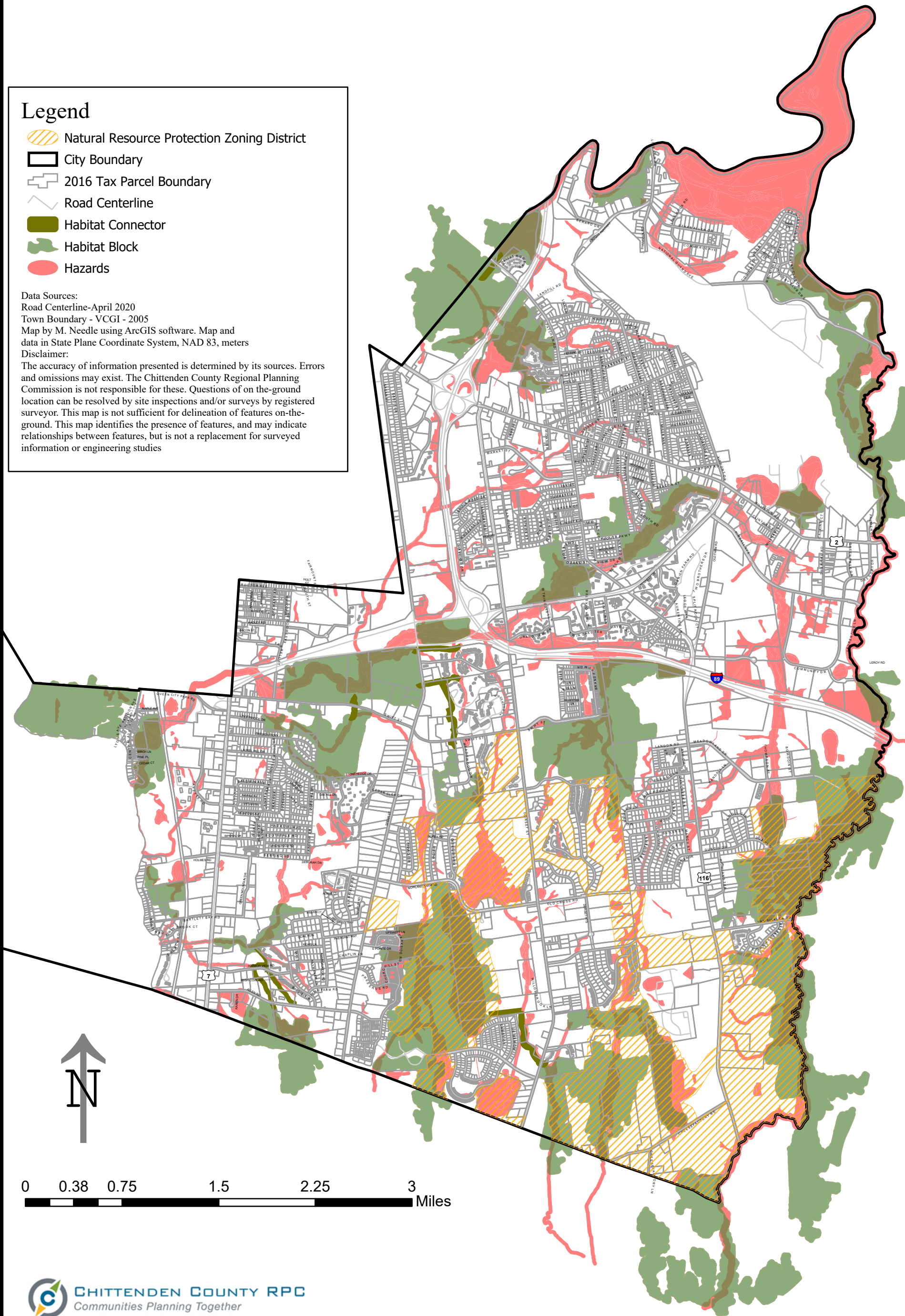
Map 3: Habitat Blocks/Connectors, Hazards, & Natural Resource Protection Zoning District

South Burlington, Vermont

Legend

-  Natural Resource Protection Zoning District
-  City Boundary
-  2016 Tax Parcel Boundary
-  Road Centerline
-  Habitat Connector
-  Habitat Block
-  Hazards

Data Sources:
Road Centerline-April 2020
Town Boundary - VCGI - 2005
Map by M. Needle using ArcGIS software. Map and data in State Plane Coordinate System, NAD 83, meters
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MEMORANDUM

TO: South Burlington Planning Commission
FROM: Paul Conner, Director of Planning & Zoning
SUBJECT: LDR Amendment: Increased Coverage in Urban Design Overlay District
DATE: August 11, 2020 Planning Commission meeting

Below please find a draft amendment to the Land Development Regulations that would allow for increased lot & building coverage for properties within the Urban Design Overlay District. The amendment would allow maximum lot coverage to increase by up to 10 percentage points, and building coverage to increase by 5 percentage points, if an applicant proposes and installs a Qualifying Open Space on the parcel.

Project History

The request was originated by Bill Shearer. He first approached the Planning Commission in 2013 and most recently met with the Commission in November 2019. At the most recent meeting, Commissioners asked that staff prepare a draft amendment that would allow increased coverage alongside extending the applicability of the site-level open spaces that exist within the City Center Form Based Code. The Commission discussed extending the site-level open space provisions to the Shelburne Road corridor, but also noted that completion of the Interim Zoning projects was paramount.

In March 2020, Mr. Shearer submitted a letter to the City Council requesting that they ask the Commission to consider the request alongside its Interim Zoning work. This letter was accompanied by a proposal that would raise maximum lot coverage from 70% to 80% in very narrow circumstances. The Council discussed the request in May and requested that the Commission take the subject up at its earliest convenience.

Staff subsequently reached out to Commissioners and sought three volunteers to meet and consider options to present to the Commission. Staff met with Ted Riehle, Michael Mittag, and Bernie Gagnon in June to consider options. This working group considered alternatives and ultimately recommended the amendment below.

Proposed Amendment

The proposed amendment would, as noted above, allow for lot and building coverage to increase. The working group selected a geography of all parcels that include land within the Urban Design Overlay District, as this is an area targeted for infill development. This includes all parcels with frontage on Shelburne Road, as well as the section of Williston Road from just east of Victoria Drive (Ethan Allen Motel) to Kennedy Drive.

The amendment would allow an increase in lot coverage of 10 percentage points (e.g. from 70% to 80%) and an increase in building coverage of 5 percentage points (e.g. from 40% to 45%). While the request from Mr.

Shearer only related to lot coverage, the working group felt it would be in the City’s interest to promote and encourage more building coverage, not just more paved surfaces.

In order to unlock this increased coverage, an applicant would need to submit a site plan that includes the design and installation of a Qualifying Open Space. The working group selected two options from the existing / draft City Center FBC options list. [note that one of these types, snippet, is proposed and was reviewed by the Commission last summer as a new option in City Center to address small lots, but has not yet been adopted]. The new Open Space would need to be equal to at least 20% [or 30%] of the amount of the increased lot coverage. As an example, an increased lot coverage of 10,000 s.f. would require designation and installation of a Qualifying Open Space of at least 2,000 s.f. [or 3,000 s.f.].

Note: following the Working Group’s meeting, staff noted that the requirements associated with the increased building coverage were not included in the draft. Staff has included a placeholder in this section for the increase building coverage to have the same requirements as increased lot coverage. Staff will communicate with the Working Group members on this prior to the Commission’s meeting.

Recommendation & Possible Action:

Staff recommends that the Commission review the draft amendments below and determine:

1. Whether to advance the proposed amendment; and,
2. What final amounts of required open space must be included

If the Commission finds that the proposed amendment should be advanced but finds further discussion of either the amounts or other specifics should be discussed, staff recommends that the Working Group be asked to review and return with an updated draft

10.06 Urban Design Overlay District (UDO)

A. Purpose. It is the purpose of the Urban Design Overlay District to recognize the impact of simple design principles and to reflect a design aesthetic that fosters accessibility and creates civic pride in the City’s most traveled areas and gateways, while furthering the stated goals of the City’s Comprehensive Plan. The Urban Design Overlay District aids in fulfilling the City’s vision for the Southwest quadrant, which is to enable infill and conversion development, encourage pedestrian movement, serve local and regional shopping and employment needs, and make use of existing public transportation. The City intends for the applicable areas to provide safe and inviting access to adjacent neighborhoods.

B. Comprehensive Plan. This section implements the community desires established in the City’s Comprehensive Plan. Specifically, the Plan desires that new development will occur in subject corridors. The corridors subject to the Urban Design Overlay District are encouraged within the Plan to use public transportation services, inspire pedestrian movement, and foster effective transitions to adjacent residential areas. More specifically yet, the Plan advocates for the creation of one or more nodes of concentrated development and public activity in these areas.

C. Boundaries & Applicability. This section shall be implemented in accordance with the geography(ies) shown on the Overlay Districts Map contained in these Regulations.

...

D. Standards. Except where noted herein, the dimensional standards, use, and other standards of the underlying Zoning District shall still apply.

(6) Increased lot coverage and building coverage. For parcels with land lying within the Urban Design Overlay District, the Development Review Board as part of a Site Plan or Planned Unit Development review may permit an increase in the maximum lot coverage of ten (10) percentage points and an increase in the maximum building coverage of five (5) percentage points *[example: a district with maximums of 70% and 40% may be increased to 80% and 45%]*, subject to the following standards:

- (a) For each additional increment of lot coverage and of building coverage, an area on the site equal to twenty percent (20%) of said increment must be designated on the plan as Qualifying Open Space;
- (b) Eligible Qualifying Open Space types are Snippet/Parklet and Pocket /Mini Park, as enumerated in Appendix E, Open Space Typologies;
- (c) The selected Open Space type(s) must meet the minimum / maximum size standards for the applicable Open Space type as indicated in Appendix E;
- (d) All elements of the applicable open space type shall be constructed prior to the issuance of a certificate of occupancy;
- (e) Where elements of such open space type are pre-existing, they may be used to qualify under this section; and
- (f) All such areas within the approved open space type, whether pervious or impervious, are not considered lot coverage for the purposes of these Regulations.

	Pocket/Mini Park	Snippet/ Parklet
Description & Service Intent	Small open area. <u>May be tucked adjacent to or between buildings, or adjacent to roadway, on a separate lot or portion of a lot. Intended to primarily serve public or residents within ¼ mile radius.</u>	<u>Sitting area clearly intended to provide welcoming respite between or adjacent to buildings. May serve general public, employees, residents, or customers.</u>
Size	2,000- 10 <u>25,000</u> sq. ft.	<u>600-5,000 sq. ft</u>
Location & Access	Fronts on and is accessed from a street right-of-way. Pedestrian accessible.	<u>Must be directly adjacent to public right of way and sidewalk or operable building entry. If serving as a space for employees or customers, must be visually and physically accessible during business hours.</u>
Seating*, Tables, Etc.	One seat for each 750 sq.ft. of park size. Must include amenities which differentiate the space from basic lawn area. Examples include benches, bike racks, trash receptacles, gazebos, playgrounds <u>fixed play equipment</u> , or public picnic tables.	<u>Seating shall be the main focus of the space and is required. Seating should be proportionate to the size of the space, shall be present year-round and must be composed of high quality, durable materials. Fixed seating is required unless the applicant demonstrates that moveable seating will meet the stated goals of the type and meet standards of high quality (examples could include high quality adirondack style furniture made of natural or strong and highly durable materials). Seating is encouraged to offer some tablespace for lunch/work space.</u>

Landscaping, Design	Turf and landscape plantings. to <u>Should</u> promote shade over <u>at least 25% a portion</u> of <u>the</u> area.	<u>Landscaping shall also be a primary component of the space. Because the space is inherently small, it shall be carefully landscaped in a higher proportion than larger spaces. Landscaping should not interfere with seating, but instead complement it. Spaces shall appear warm and inviting and permanent rather than temporary.</u>
Commercial Services, Food	Not permitted	<u>Permitted as per applicable LDRs</u>
Sunlight and Wind	No requirements	<u>No requirements. Access to open air with mix of sun and shade encouraged.</u>
Other		<u>Bicycle parking may be permitted within these areas; however, the space dedicated to bicycle parking shall not count towards meeting the open space requirements.</u>

**SOUTH BURLINGTON PLANNING COMMISSION
MEETING MINUTES
10 MARCH 2020**

The South Burlington Planning Commission held a regular meeting on Tuesday, 10 March 2020, at 7:00 p.m., in the Conference Room, City Hall, 575 Dorset Street.

MEMBERS PRESENT: J. Louisos, Chair; B. Gagnon, T. Riehle, M. Ostby, M. Mittag, D. Macdonald

ALSO PRESENT: C. LaRose, City Planner; P. Kahn; A. Gill; C. Jensen; F. Von Turkovich; R. Greco

1. Directions on emergency evacuation procedures from conference room:

Ms. Louisos provided directions on emergency evacuation procedures.

2. Agenda: Additions, deletions or changes in order of agenda items:

No changes were made to the agenda.

3. Open to the public for items not related to the Agenda:

No issues were raised.

4. Planning Commissioner announcements and staff report:

Mr. Conner's staff report was submitted in written form.

5. Review and Discuss Possible Regulatory Direction of Findings of 2020 South Burlington Habitat Block Assessment and Ranking:

Ms. Louisos said there are still a lot of questions and a lot of interest in the Commission working through this and coming up with a balanced solution.

Ms. Ostby said she was disappointed because she thought the City Council would discuss what they might do. They spent the time talking about what the Commission is working on. Ms. Louisos said she thought they had more questions and listened to the public. She agreed there was no specific direction given at this particular meeting. Mr. Mittag said his sense is that the Council wants an overview of all of it together. Ms. Louisos noted the Council will be looking at the economic report next Monday.

Mr. Mittag questioned the use of Level 1/Level 2 language instead of "primary" and "secondary" resources. Ms. Louisos said this is regulatory language, and they had wanted to be sure it wasn't mixed up with the general language of the Comprehensive Plan. "Primary" and

“secondary” have a very specific meaning at the State level. Mr. Gagnon added that people might also think “secondary” was less important.

Ms. Ostby said she noted that the hazards that the Commission had marked overlap with what Arrowwood found. She also noted that the Commission had earlier put forest blocks into both Level 1 and Level 2. She said what stood out to her was that Arrowwood talked about the “core forest” with a minimum 10-acre center as being very valuable. She wondered if they should consider that a Level 1 and the surrounding area of the core as Level 2 so the core forest is protected.

Mr. Gagnon agreed that a lot of hazard areas cover a lot of the corridor and are good to be no-build areas. But he was concerned that these areas are assets for people. If 10% of forest block is on a property, you can allow that percentage of development elsewhere on the property. But if a property is mainly forest core, it should go on the official city map, and the City Council should decide whether to buy it. If they don’t, it should be able to be developed. Mr. Gagnon also noted that there has been talk of using TDRs and having these forest block areas be sending areas. The problem with that is the need for receiving areas that the public will accept. There have been times where the public didn’t want the increased density. He said they have to remember that these properties have economic value, and it shouldn’t be diminished for the owners. He also did not want to see 500 single family units going into a 50-family building.

Ms. Ostby noted that some of the forest blocks are in an NRP area or on the Wheeler property where they are already protected.

Mr. Macdonald noted that it looks like there are some parcels surrounded by a lot of development. He questioned whether they should prioritize the forest block properties and said it seems staff has started them down that road. Mr. Gagnon cited the need for field identification. Ms. Ostby said even Arrowwood agreed on that.

Members then addressed the list of meeting objective provided by staff as follows:

- a. Habitat Blocks within the City Center Form Based Code district:

Ms. Louisos noted the city has been planning for many years for dense development in this area.

Ms. LaRose showed a map and identified the Form Based Code (FBC) area. She noted that the hazards here are mostly steep slopes and some areas with streams. Ms. Ostby noted that the part closer to Williston Rd. opens up when you eliminate the Class 2 wetland and steep slopes. Ms. LaRose said there are some places where this is listed as a hazard and others where it is not.

Mr. Gagnon said he would eliminate this area from the habitat discussion and respect the wetland and buffer when it is field delineated. It is where density is wanted, near the Interstate. Ms. Louisos noted the City may choose to expand the City Center FBC area at some point. Mr. Macdonald pointed out that there is developed area around the FBC area.

In a straw poll, members agreed to exempt the City Center FBC area from habitat block regulations, except where other hazards exist, per the staff recommendation.

- b. Habitat Blocks on existing parcels of less than 1 acre in size with one or more developed units:

Ms. LaRose noted that some of these parcels are already covered by wetland buffer regulations, but there are some with a corner of a property. Staff found no parcel like this within a core portion of a forest block.

Mr. Gagnon said he would say yes to exempting such parcels. Mr. Riehle asked what would happen if the owner wanted to add another home. Ms. LaRose said most existing homes are placed so this couldn't happen. Ms. LaRose said they could indicate that there could be no additional primary residence. Ms. Ostby said some people would not understand the value of a forest property. Mr. Gagnon said he took exception to the word "forest." It is "habitat," and it could be a wetland or wetland buffer which is already regulated. A true forest would be different.

In a straw poll, members agreed to exempt one-acre parcel with existing housing, per the staff recommendation.

- c. Habitat blocks located within 30 feet (50 feet?) of an existing principal building on the same parcel:

Ms. LaRose said the recommendation is for a 30 or 50-foot usable buffer. Ms. Louisos said the issue is whether a building owner can maintain 30 or 50 feet around a building. She also noted the property would still be subject to stream and river standards. She also felt that a tree that might fall on a house should be able to be removed.

Members were OK with 50 feet. In a straw poll, members agreed to a 50 foot buffer, excepting Mr. Mittag, who said he wanted a 30 feet buffer.

- d. Individual habitat blocks, either in lower ranked ones or isolated ones:

Ms. Ostby said if there is a forest core, it should be protected.

Mr. Gagnon said he would keep them all the same and move the density to the rest of the parcel. If it is a “big blob,” put it on the official city map.

Mr. Riehle asked how many parcels this involves. Ms. LaRose showed a map of parcels of 50% or more in habitat blocks and also a map with hazards included. She identified properties with 90% or more. Mr. Gagnon felt if there is more than 50%, and the property is not already controlled, it should go on the official city map or use TDRs if they can be made to work. In any case, hazards would still be regulated. Ms. Louisos said there could be some encroachment into the outer part and still maintain the core. She also suggested seeing how these lands would play into Conservation PUDs.

Ms. LaRose noted that a Conservation PUD would have 70% resources, but nothing yet specifies whether these would be hazards, etc. The other thing the map doesn’t show is whether a habitat block is on top of a wetland, in which case there wouldn’t be a big change from today’s regulations.

Mr. Gagnon encouraged the public to come to a listening session and provide any new thoughts to the Commission.

Mr. Gonda said the maps miss a lot of what is on the ground. He said he would be willing to guide members in the Windjammer area property.

Ms. Greco said the Commission should look into a regulation that doesn’t allow cutting down a healthy tree unless it is apt to fall on a house.

Ms. Jensen said she was glad to hear concern for property owners. She noted a property not identified as a habitat block but as a supporting property. It was also identified by the Open Space Committee. She asked if there is an option as to how that property is dealt with. Ms. Louisos said the Commission is not regulating individual parcels. They have asked the Council to weigh in on those properties. Ms. Jensen said not all of the 25 properties coincide with Arrowwood. Ms. Louisos said they are not looking to regulate the supporting or connecting lands.

Ms. Ostby said she would be interested in having the Natural Resources Committee look at the supporting areas if they have the time.

Mr. von Turkovich said it is important for the whole Planning Commission to hear from property owners, not only those who come to the listening sessions. He said there could be neighbors with different regulations. He said members should read Act 171. Most of it is about trees. It is not all about habitat blocks. He cited concerns with the Arrowwood study and said it is a “policy paper,” and it is not scientific. He said Arrowwood’s studies are not used to create

zoning in other communities. He noted that Arrowwood said 20 acres would be a habitat block, but that lets the 19-acre guy off the hook. He felt the Commission was asking for problems if it used the Arrowwood report as a regulating document. He also said that Act 171 is not a tool to tell people what they can or can't build on their property.

Ms. Louisos said Arrowwood did what it was specifically asked to do. The Commission will have the City Attorney look at it.

Mr. Kahn asked about the 2004 Arrowwood study and what they were looking for. Ms. LaRose said most of what they did was wetland and other resources, some of which included community discussion and priority. It is on the city's website. Mr. Kahn noted Map 8 in the Comprehensive Plan is "secondary conservation" which allows limited encroachment. He said if you go with the "tier 2" concept, you won't need all the exemptions.

Mr. Gill said habitat blocks have no discernable criteria. Arrowwood said "the forest is the thing." He felt the city should say to the developer, "show us how you will not impair connectivity." He added that they could provide a consultant who will look at Arrowwood and help develop some of that.

6. Establish calendar for public outreach for PUD/Natural Resources amendments to the LDRs:

Mr. Mittag suggested an audio recording of listening sessions. Ms. LaRose said that can be done. She recommended sessions be very topic-specific and relate to recent Commission discussions.

Ms. LaRose noted that the next meeting will feature a discussion about Master Plans. She said the Commission could discuss it, then have a listening session.

Mr. Macdonald suggested that the next meeting also include discussion of how to rank the habitat blocks.

Mr. Gagnon and Mr. Macdonald agreed to be present at the next listening session on March 18th, 5:30 p.m., which will focus on typologies (building, street, open space).

7. Meeting Minutes of 19 February 2019, 28 January 2020, and 25 February 2020:

Mr. Gagnon moved to approve the Minutes of 19 February 2019, and 28 January and 25 February 2020 as written. Ms. Ostby seconded. Motion passed 6-0.

8. Other Business:

No other business was presented.

As there was no further business to come before the Commission, the meeting was adjourned by common consent at 9:35 p.m.

Clerk

DRAFT