

**SOUTH BURLINGTON PLANNING COMMISSION  
MEETING MINUTES  
22 SEPTEMBER 2020**

The South Burlington Planning Commission held a regular meeting on Tuesday, 22 September 2020, at 7:00 p.m., via Go to Meeting remote technology.

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

**ALSO PRESENT:** P. Conner, Director of Planning and Zoning; C. & A. Long, D. Long, C. Trombley, V. Bolduc, M. Abrams, S. Dooley, J. Weith

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

No changes were made to the agenda.

**2. Open to the public for items not related to the Agenda:**

Mr. Abrams expressed concern with development projects in his neighborhood and asked that they be stopped until there is a change in the regulations that would grandfather long-standing neighborhoods. Mr. Conner explained that once a Preliminary Plat has been submitted, that project can proceed under the rules then in effect. There is no action that Planning Commission can take to go backwards. The Planning Commission can consider potential future projects. Mr. Abrams requested that his proposal be considered as soon as possible so that people are not being blind-sided.

**3. Planning Commissioner announcements and staff report:**

Mr. Conner advised that the City Council received an update on the I-89 Corridor Study. There was also a presentation from the South Burlington Land Trust regarding using sewer capacity to control development as well as a presentation from the Energy Committee.

**4. Work Session on Land Development Regulation Amendments:**

- a. Environmental Protection Standards in PUDs**
- b. Continued review of Forested habitat Block applicability**

Mr. Conner reviewed the history and noted the Commission is bringing together conservation and development standards (i.e., how standards would apply in a subdivision). Tonight's focus is on Conservation PUDs and possible decisions the Commission is ready to make.

Mr. Conner noted that in considering site plans and zoning permits, the standards in Articles 10 and 12 would apply. The regulations try to give more guidance as to what a developer needs to present up front.

Mr. Mittag questioned the merging of Level 1 and Level 2 resources. Mr. Conner said the feedback from the Commission was that all resources should be regulated. There are still distinctions between Level 1 and Level 2 for density calculations.

Mr. Mittag noted that the FEMA map has indicated a 500 year flood plain from the Golf Course to Shelburne Bay, and he felt this should be a Level 1. Mr. Conner noted that the only limitation in the current regulations for a 500 year flood plain is that critical facilities (e.g., jails, hospitals, day cares) cannot be put there. Mr. Riehle asked how often that particular land has flooded. Mr. Conner said 500 year flood plains did flood elsewhere in the State but not in South Burlington. Mr. Gagnon said that with greater frequency of rain events, it may be more proactive to add more restrictions to the 500 year flood plain. He felt it would be interesting to see what is left to develop there. Mr. Conner said he can come back with information on that.

After a brief discussion members agreed to separate levels 1 and 2.

With regard to Subdivision and TND/NCD PUDs, the standards for Articles 10 and 12 would apply. Newly created lot would need to be arranged to exclude hazards, etc. In a standards subdivision, the buildable area would house the minimum civic space and would be the area of land from which the parcel based density is calculated.

Mr. Gagnon said he thought they were going to differentiate how habitat block core areas and edges were dealt with. Mr. Conner said he didn't want to do that until there is further discussion. Mr. Mittag suggested using the term "habitat block buffer." Mr. Conner said noted that in the Arrowwood map "edge" represents 300 feet from the Interstate, etc. He felt they need a better word. Ms. Ostby said there may be some edges that are important, others that might be questioned. She felt they would need to go into great detail.

Mr. Gagnon said there are some invasive species that should be taken out. He didn't want to regulate 300 feet of invasives. Mr. Conner said the challenge is that this is a policy based tool, and there is an opportunity for 2 experts to disagree. Ms. Ostby said that if a landowner can demonstrate that what the map says is inaccurate, the landowner should have the right to go through a verification process. If the landowner turns out to be right, there shouldn't have to be an alternate plan made. Mr. Conner said that where there is a lack of clarity, the applicant has the right to proceed. It would have to be very clear where the lines are. Ms. Ostby suggested offering landowners some time to challenge where lines are drawn. Mr. Gagnon said as an alternative they could do that during a development plan. He suggested the possibility of a "guidance manual" with input from stakeholders.

Mr. Gagnon noted that Arrowwood admitted that a lot of their lines were drawn from a vehicle, not from work on the ground. He felt there needs to be as solid justification as possible with the lines the Commission draws. Mr. MacDonald agreed.

Mr. Bolduc noted that he agreed with the direction of this conversation. He said that in the Open Space Committee, they were reminded how quickly lines can change, partly because of invasive species. The Audubon Society wants to get rid of the invasives. Mr. Bolduc stressed that if the Commission is

planning for 10 years, the lines could look much different 10 years down the road. He said there has to be a process to recognize that some of the lines are “very soft.”

Mr. Mittag said they have to work with what is there now. Mr. Gagnon said they need verification as well so an owner can challenge a line that is drawn. He then added that they need to see what they can do to improve on Arrowwood when there is no scientific verification.

Members then considered Conservation PUDs. Mr. Conner presented 2 options to consider:

Option 1: A minimum percentage (e.g. 70%) of the total area of property must be set aside as conserved space. Conserved land would include hazards and Level 1 and Level 2 resources that are needed to reach the minimum percentage. If hazards are less than 70% of the property, the applicant must assign at least the minimum percentage of land from Level1/Level2 resources as conservation land. The applicant and DRB are guided based on a priority order. Regulations could include incentives to conserve additional land as well in exchange for additional density on the non-conserved land. If hazards are more than 70% of the property, then all hazard areas must be conserved. Standards would allow for the balance of land to be treated as “buildable land” with guidance to the applicant and DRB as to how to manage development.

Option 2: Instead of requiring the conservation of 70% of the total area of the parcel, hazards could be separated from Level1/Level 2 resources. All hazards must be set aside and conserved. A minimum percentage of the identified Level1/Level2 resources would also be required to be set aside.

Mr. Gagnon liked the Option 1 approach. Ms. Ostby agreed but felt that as the acreage increased, the percentage should be 80% instead of 70%. Mr. Conner said that for a very large property, it would be beneficial to the applicant to do a TND for the developable area instead of a conservation PUD. In some communities, there is a requirement to be a Conservation PUD. Staff is recommending an option as there is not much downside to that.

Ms. Ostby asked for some consideration to have someone look at habitat blocks so critical parts are protected. Mr. Conner said the DRB can be given guidance as to priorities for what can be built on.

Ms. Louisos cited the importance of connectors and felt that shouldn't be lost. Ms. Ostby said she would rank habitat block edge higher than Class 3 wetland buffers.

Mr. Conner said he is hearing a preference for Option 1. Regarding density with that option, there are possible options:

- a. The same amount of development as allowed today
- b. Allow full transfer of density from conserved Level1/Level2 land within the parcel to the buildable area
- c. Allow partial transfer of density from hazards and full transfer of Level1/Level 2 to the buildable area
- d. Transfer of Level 2 land first; if that is not enough, some of Level 1

Mr. Gagnon said he liked Option “b.” Mr. Macdonald liked Option “c” to incentivize more. If someone goes beyond, they should be rewarded. Ms. Ostby favored letting people build more densely if they conserved the rest of the land.

Mr. Gagnon said an applicant could decide between a TND and a Conservation PUD and go with the standards that apply to that option.

Members generally supported Option 1 and Option “b” with some additional discussion.

Mr. Conner suggested a special Commission meeting next week to get into the other items on the agenda. Members agreed.

**5. Continue review of amendment to permit an increase in lot/building coverage within the Urban Design Overlay District:**

Mr. Conner outlined possible options in addition to the previously discussed park option if the Board chooses to allow the additional lot coverage requested by Mr. Shearer:

- a. A payment to the open space fund in an amount to be determined based on the assessed value of the land
- b. Use of TDRs – this would be a pilot program. The sending areas would be the same as if transferring a residential unit. The recipient would get a certain number of additional square feet of lot coverage. This could apply at first in one area and see how it works, then consider it city-wide.
- c. A small park on the property or on a nearby property.

Ms. Ostby favored doing the TDR version to help the TDR marketplace.

Mr. Gagnon favored keeping it simple with a payment.

Mr. Macdonald was OK with the payment method but favored the TDRs to create more of a market.

Mr. Mittag noted the timing issue for Mr. Shearer and felt the buyout would be much quicker for him, but he also wanted to leave the TDR route on the table. Mr. Riehle also noted that Mr. Shearer has been waiting a long time and didn’t want to hold him up longer. Ms. Louisos and Mr. Gagnon also agreed to keep the TDR route as an option. Mr. MacDonald suggested offering an option but making the TDR more appealing by making the payment higher.

Mr. Conner noted there is leg work and legal work with the TDR method.

Mr. Weith spoke on Mr. Shearer's behalf and said his preference is to keep it as simple and affordable as possible, possibly a menu of options so people can use what works best for them. He suggested options such as the park, TDR and payment in lieu and maybe even enhanced beautification of the property. He said every property is different, and these are areas where the City wants growth. Payment in lieu is simpler and more predictable. With TDRs you don't know the cost down the road.

In a straw poll, Mr. Gagnon and Mr. Macdonald favored leaving all the options. Mr. Mittag favored two options with the buyout and TDRs. Ms. Ostby and Mr. Engels favored only the TDR. Ms. Louisos favored the TDRs and park options. Other members said they could support that.

**6. Meeting Minutes of 25 August 2020:**

Mr. Gagnon moved to approve the Minutes of 25 August as written. Mr. Macdonald seconded. Motion passed unanimously.

**7. Other Business:**

**a. Shelburne Planning Commission public hearing on proposed amendments to Zoning Bylaw, October 8, 2020:**

No action was taken on this item.

**As there was no further business to come before the Commission, the meeting was adjourned by common consent at 9:40 p.m.**

***Minutes Approved by the Planning Commission October 13, 2020***