



## South Burlington Planning Commission

575 Dorset Street  
South Burlington, VT 05403  
(802) 846-4106  
[www.sburl.com](http://www.sburl.com)

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# Meeting Tuesday, October 27, 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://www.gotomeet.me/SBCity/pc-2020-10-27>

*Telephone (audio only):* (408) 650-3123; *Access Code:* 684-554-853

## 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. \*Work Session on [Land Development Regulation Amendments](#): (7:15 pm)
  - a. Draft [Subdivision Standards](#)
  - b. Draft [Master Plan Standards](#)
5. Possible discussion of presentation to City Council November 2 (8:45 pm)
6. \*Minutes (8:59 pm): [September 9, September 29](#)
7. Adjourn (9:00 pm)

Respectfully submitted,

Paul Conner, AICP,  
Director of Planning & Zoning

\* item has attachments

## **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.



## MEMORANDUM

**TO:** South Burlington Planning Commission  
**FROM:** Paul Conner, Director of Planning & Zoning  
**SUBJECT:** Draft Subdivision & Master Plan Regulations  
**DATE:** October 27, 2020 Planning Commission meeting

Enclosed please find Draft Subdivision and Master Plan chapters of the Land Development Regulations for your review. Both of these sets of standards represent significant overhauls to the existing Regulations.

The enclosed Master Plan standards are based on the outline the Commission had previously reviewed and ok'd for drafting into full text, and the draft Subdivision standards build on partial sections and prior elements previously reviewed by the Commission.

### Structure and Context:

Under the amended Regulations, Master Plans, Subdivisions, and Planned Unit Developments, and Site Plan all work together. The sections are separate, however, and have different roles.

	<b>Subdivision</b>	<b>Planned Unit Development</b>	<b>Master Plan</b>	<b>Site Plan</b>
<b>Purpose</b>	Establishes the framework (ownership, settlement pattern) for subsequent land use, management and development	Establishes the parameters for more flexible, innovative forms of development that offer clear community benefits	Establishes standards for the timing, integration of phased and/or large parcel development	Specific Design and layout development on non-residential & multi-family parcels

### **1. Subdivision**

Subdivision standards are the foundation for the layout of lots, including natural resource protection areas, streets, blocks, lots, and civic spaces. The term civic spaces is new to the regulations and refers to areas designed for human recreational activity, distinct from resource protection areas and/or working lands.

The enclosed draft shows language that is the same as, or substantially similar to existing text in regular font, and new or substantially modified text in *italics*.

Below please find a summary of key changes and key discussion points for the Commission. Staff has also flagged these items as well as notes to the Commission in the "comments" portion of the draft language itself.

Subdivision Key Changes, Commission discussion points:

[Note: these are also called out in the Text. *[Key Questions for Commission consideration are in Blue below]*

- *Modify/Waiver Authority (15.A.01(B))*: This is a new section that consolidates the DRB's authority to waiver or modify standards in a single section with specific review criteria. Presently, there are various sections that include broad language that allow the DRB to alter standards, but it is not consistent or uniform. This standard is also designed to give the DRB some leeway in a standard subdivision instead of the current practice of projects that are seeking minor modifications applying to be PUDs.
- *Minor Lot Line Adjustments and Lot Mergers (15.A.03)*: Sets a cap on the amount of land that can be transferred and still be considered an Administrative action, and specifically authorizes the merger of small lots to qualify.
- *Sketch Plan Review (15.A.05)*: Provides additional clarity that this process, while a required step, does not constitute a "complete application" which is the point in time at which an application is vested. As a result, further clarifies that the DRB's feedback is guidance only at this stage.
- *Subdivision Amendments (15.A.09)*: Distinguishes between minor and more significant amendments to a subdivision after approval. The current regulations do not provide a great deal of guidance on this.
- *Subdivision standards (overall statement)*:
  - The subdivision standards, as presented in this new chapter, are intended to provide both a guide to applicants preparing an application (it is structured from "big picture" to "specifics" in order) and also significantly more clarity in the City's standards for the identification and management of natural resources, and the design and layout of streets, blocks, lots, and civic spaces. It also places an emphasis on connectivity in all manners.
- *General Standards (15.A.11)*: This is an introductory section identifying the principal considerations to begin with in a subdivision:
  - *Development suitability*: Identifies and set aside those areas physically not suited for the intended activity on the property.
  - *Buildable Area*: Defined as the area excluding Hazards, Level 1 Resources, and Rights-of-way. This becomes the basis for future density calculations (where applicable) and minim civic space requirements
  - *Context and Connectivity*: Requires applicant to provide information on connections within ½ mile
- *Resource Protection (15.A.12)*: This section directly connects the subdivision standards to your work on Article 10 & 12, and would require that larger natural resources be carved out and set aside as their own lots.
  - *For Commission consideration: Resource Identification (15.A.12C): The City's consultant included a section on identification and consideration of site features such as historic sites, stone walls, prominent shade trees. This is entirely optional and up to the Commission as to how you'd like to address (or not) these elements.*
- *Subdivision Design process (15.A.13)*: Lays out how an applicant is to approach a proposed subdivision. Includes an introductory section on Buildable
- *Street Network (15.A.14)*: A number of changes are included in this section. A purpose statement has been added. The standards continue to require connectivity of streets and adds additional descriptors related to walkability and natural resources. The Street Types first prepared for the City Center FBC District are applied – this replaces 3 existing sets of Street standards in the current LDRs, as presented to the Commission last year), and requires that functional of proposed street to be evaluated in selection of street type. Dead end streets are limited to 200' in length citywide, an expansion from current SEQ standards.

- *For Commission Consideration: Street orientation (15.A.14(B)(2)) Applicants would be required, to the extent feasible, to orient streets to maximize solar gain potential for future buildings. This was a recommendation from the Energy Committee. Does the Commission wish to include?*
- *For Commission Discussion: The Current regulations discourage dead-end streets city-wide but only set a strict length limit in the SEQ. These standards would extend the limitation city-wide. Does the Commission wish to apply this standard across the City? Staff recommends yes.*
- **Public and Private Streets (15.A.14):** Updates these standards. Currently private streets can serve up to 3 lots, 5 single family homes, or 9 total dwelling units. This standard would update this to distinguish between dead end roads, which could remain private, and connecting roads, for which an Irrevocable Offer of dedication to become public must be provided.
  - *Staff recommends that the Commission / Council establish a policy indicating that the Council will not accept roads not built to public standards, and that encourages the City NOT to take over roads until they connect to another roadway.*
- **Complete Streets (15.A.14):** Subdivisions along an existing roadway must construct all streetscape elements required by the Street Type from the curb inward. *Staff recommends the Commission review.*
- **Blocks (15.A.16):**
  - Requires that new streets in residential & commercial districts be laid out with specific min/max block lengths and block perimeters and include whole blocks. A similar standard presently applies in the SEQ, but not city-wide. Lots must be rectangular shape unless unusual circumstances apply. The Commission concurred with this approach at its 9/11 meeting
  - *Connectivity: As drafted, the language places a strong emphasis on connectivity. A block may be defined by a natural resource, railway, etc. on one side but dead end streets leading to those areas are strongly discouraged.*
- **Lots (15.A.16)**
  - A minimum of 10% of the Buildable Area of a subdivision, excluding street ROWs, is proposed to be required to be allocated to civic space. This would make standard subdivisions consistent with the requirements of PUDs and the Comprehensive Plan.
  - *Minimum civic space for subdivision presently only applies in the SEQ, for PUDs. The Commission should determine whether to apply to developable area and extend city-wide.*
  - *As drafted, this applies to an entire subdivision and must be provided in a manner that is central and accessible to all users. An alternative would be to require the civic space within each block.*
  - Lots must be logically laid out with respect to their topography and the streets & blocks on which they are established
  - Building lots must generally be rectangular in shape, with limited exceptions
  - *As drafted, lots would need to meet a width-to-depth ratio in order to support narrow building lots along streets. This would also allow for rear-lot parking access. The SEQ currently includes a requirement for ratios. The ratios are a little aggressive in the SEQ, and are proposed to be less restrictive Citywide (and replace the SEQ standard). Staff recommends the Commission review.*
- **Renewable Energy Facilities (15.A.17):** Requires subdivisions to demonstrate, to the extent feasible and within the development context, that the subdivision has been designated to maintain access to and use of renewable energy resources.
  - *Recommendation from Energy Committee. Commission should decide whether to include.*

## 2. Master Plan

The enclosed Master Plan chapter is proposed to replace the existing standard. The current Master Plan provisions establish a threshold for review and modification but do not provide significant guidance to the DRB or applicants regarding the scope of review or vesting in a set of regulations. The enclosed draft is intended to closely complement the Subdivision and (forthcoming) Planned Unit Development Standards and provide the Development Review Board with a clear, broad-brush picture of the proposed development.

The draft Regulations provide the DRB with the authority to approve specific elements of a plan or approve an schema or design palate for a project, both of which could vest those elements of the Plan under the Regulations in effect at the time of the Master Plan, and/or to determine that elements of the project have been shown but are not sufficiently provided so as to vest that element of the project under the current Regulations. The Master Plan is structure to incentivize an applicant to provide detail early. The applicant and City would then be bound by those elements of the project.

### Master Plan Key Changes, Commission discussion points:

As noted above, the proposed Master Plan provision are a significant modification to the current standards and are intended to provide a full picture of a project's component elements (though not at the level of detail of a subdivision or site plan for any phases not proposed for immediate development) and to give applicants regulatory certainty over the course of a multi-phase project.

- *Applicability (15.B.02)*: Proposed to apply to larger projects, multi-phased projects, or projects with multiple buildings on a lot. Staff is working through examples on the latter and welcomes feedback on the thresholds for required Master Plans.
- *Review process – Neighborhood Meeting (15.B.03)*: Recommended by the City's consultant. This would be a meeting outside the DRB context. It adds another action required for a Master Plan but gives an opportunity for neighborhood feedback outside the regulatory proceedings.
  - *Staff recommends the Commission discuss whether this should be required and if so how notice should be given.*
- *Master Plan Components (15.B.04)*: These are submittal requirements but also become the Master Plan. Staff recommends the Commission review the list and provide feedback.
  - *Design Standards (15.B.04)*: This section is intended to establish the design parameters that will direct the project through all of the remaining stages of review. The DRB has the authority to approve a design, to vest the standards in the current regulations, or to determine that the element must be reviewed under the regulations in place at the time of the subsequent review. Applicants are therefore incentivized to make commitments early on in order to be vested. Commissioners are encouraged to review these components and provide feedback.
- *Review Standards (15.B.05)*: The DRB must find that each of the criteria below are met in order to approve
- *Master Plan Duration and Effect (15.B.06)*:
  - The Master Plan, as proposed, grants an approval for the overall approach and standards for review. The DRB is authorized to make findings to vest elements of the project in the regulations in *effect* at the time of the Master Plan. This is a significant incentive to applicants and is the principal carrot to the proposed Master Plan standards. The current Regulations do not provide for vesting.
  - The *proposed* maximum duration is 10 years, after which a new Master Plan would be required.
  - *Staff encourages the Commission to review these provisions and provide feedback.*

## 15.A SUBDIVISION REVIEW

### Notes:

1. This Article has been prepared as a complete replacement of the former Article 15.
2. Text in *italics* represent changes to existing terminology or language.
3. Master Plan and Planned Unit Development are prepared as separate Articles, 15B and 15C

15.A.01	Purpose and Authority
15.A.02	Applicability
15.A.03	Minor Lot Line Adjustments and Mergers
15.A.04	Classification
15.A.05	Sketch Plan Review (All Subdivisions)
15.A.06	Preliminary Subdivision Review (Major Subdivisions)
15.A.07	Final Subdivision Review (All Subdivisions)
15.A.08	Plat Recording Requirements (All Subdivisions)
15.A.09	Subdivision Amendments
15.A.10	Subdivision Standards
15.A.11	Development Suitability
15.A.12	Resource Protection
15.A.13	Subdivision Design Process
15.A.14	Street Network
15.A.15	Sidewalks, Bike Lanes and Recreation Paths
15.A.16	Blocks and Lots
15.A.17	Utilities and Services
15.A.18	Required Improvements
15.A.19	Performance Bonds, Escrow Accounts, Letters of Credit

### 15.A.01 Purpose and Authority

**A. Purpose.** *These Regulations, enacted under 24 V.S.A. § 4418 and § 4463, apply to the subdivision of land, and are intended to implement the following objectives in conformance with the City's adopted Comprehensive Plan, Official Map, and Capital Improvement Program:*

- Ensure orderly, coordinated growth and development within the City of South Burlington;
- Promote the comfort, convenience, safety, health and welfare of city residents;
- *Ensure that the rate of development does not exceed the City's capacity to provide municipal infrastructure, facilities and services in an efficient and cost-effective manner;*
- *Ensure that a proposed subdivision conforms to the planned pattern, density and form of development for the zoning district or type of Planned Unit Development in which it is located;*
- *Avoid undue adverse impacts to natural, cultural, scenic and other open space resources identified for protection under Articles 10 and 12;*
- *Establish and maintain an integrated, multi-modal transportation network that connects existing and planned development, supports adjacent land uses, minimizes vehicle miles traveled, and*

maximizes safety and efficiency for all users including pedestrians, cyclists, motorists, and transit riders;

- Foster and reinforce compact, walkable, mixed use neighborhoods.
- Facilitate integrated, community-based renewable energy production in locations that do not interfere with the City's development, open space and resource conservation objectives.

**B. Authority.** The Development Review Board (DRB) has the authority under these Regulations and 24 V.S.A. § 4418 and § 4463 to:

(1) Review and approve, approve with modifications or conditions, or disapprove an application for the subdivision of land under the standards of these Regulations.

(2) Hold one or more public meetings or hearings warned in accordance with 24 V.S.A. §§ 4463 and 4464, and Section 17.08 of these Regulations as required prior to the recording of a subdivision plat.

(3) Modify or waive a required standard under this article, subject to conditions, if it finds that due to physical site limitations, Hazards or Level 1 Natural Resources, or other legal or development constraints specific to the land to be subdivided, including the lack of existing or planned connecting facilities adjacent to or in proximity to the subdivision:

(a) The requirement is not necessary to ensure public health, safety and welfare;

(b) The requirement will cause unnecessary or extraordinary economic hardship;

(c) The modification or waiver is the minimum necessary to afford relief and represents the least deviation from the standards and requirements of these Regulations; and

(d) The modification or waiver, if granted, will not have the effect of nullifying the intent and purpose of these Regulations, the comprehensive plan, or other municipal bylaws and ordinances in effect.

The DRB in granting a modification or waiver under this section may impose conditions that in its judgment are necessary and appropriate to meet the objectives or to mitigate the adverse impacts of any modified or waived requirement.

**Commented [PC1]:** NOTE TO PC This is a new section. Currently, waivers are managed through PUD. Here the DRB would be given authority for specific waivers under subdivision, as authorized under VT Statutes, and specifically subject to the standards below.

*Note! A Planned Unit Development (PUD) under Article 15C should be considered for more innovative types of planned development that incorporate modifications in layout, density and design intended to meet specific community objectives.*

## **15.A.02 Applicability**

**A. Required Approval.** Final subdivision plan and plat approval from the DRB under 15.A.07 is required prior to:

- (1) The sale, lease, or conveyance of any portion of an existing lot, tract or parcel of land;

**Commented [PC2]:** Note to PC: staff has forwarded to legal counsel for clarification/definition of "lease" in this context – as well as proposed condominium subdivisions and "footprint" lots



- (2) Site preparation, grading, clearing, construction or the installation of site improvements associated with the subdivision of land or the development of a parcel to be subdivided, excluding forestry, agricultural and land surveying activities;
- (3) Recording a subdivision plat or deed for a subdivided parcel in city land records; or
- (4) Issuing a zoning permit for the development of a subdivided parcel.

**B. Exceptions.** The following may be recorded in city land records without first obtaining subdivision approval from the DRB:

- (1) A right-of-way or easement such as a trail, conservation, stormwater or utility easement that does not define or result in the subdivision of land.
- (2) A minor lot line (boundary) adjustment *or small lot merger* that has been issued a permit by the Administrative Officer under 15.A.03.
- (3) The transfer of a portion of a parcel to an adjoining public parcel or right-of-way, for a public purpose that conforms to the City's Comprehensive Plan, Official Map or Capital Improvement Program.
- (4) *Technical corrections to a previously recorded survey plat or deed which document or correct existing metes, bounds, elevations, or other known errors or deficiencies, and do not alter a subdivision plat as previously approved by the City.*
- (5) *A land lease of less than 400 square feet for the siting of utility infrastructure (electrical, telecommunications, internet, etc.) on a portion of a parcel, in conformance with these Regulations, as long as a survey plat showing the lease area is recorded in the land records.*
- (6) The division, lease or use of a portion of a parcel larger than twenty-five (25) acres solely for agricultural or forestry purposes, which does not require a new highway access or the installation of a permanent road or municipal infrastructure, provided that an instrument which waives development rights, until or unless subdivision review occurs, is approved by the City Attorney and City Council and is recorded in city land records.
- (7) *The notice of a Certificate of Public Good (CPG) issued by the Vermont Public Utility Commission for an in-state energy generation facility with a capacity greater than 15 kilowatts, as required under 30 V.S.A. § 248, which identifies the land on which the facility is to be located by reference to the deed of record for the property as conveyed to the current landowner.*

#### **15.A.03 Minor Lot Line Adjustments and Mergers**

**A. Lot Line (Boundary) Adjustment.** The Administrative Officer has the authority, without prior DRB approval, to issue a permit for the adjustment, relocation or realignment of a lot line between existing lots provided that:

- (1) The sale or exchange of land is between adjacent property owners, *and the application is authorized and signed by the owner of each affected lot;*
- (2) *The acreage of land to be transferred between each affected lot is less than the minimum lot area for the zoning district(s) in which the lots are located;*

**Commented [PC3]:** Note to PC: adapted from Hinesburg. Staff has forwarded to legal counsel to determine if this is a subdivision under SB's definitions.

**Commented [PC4]:** Note to PC: Per more recent statutory requirements re renewable energy facilities which are exempted from city regulations

**Commented [PC5]:** For PC: Currently under 15.19. Adds mergers as an administrative option.

(3) *No new, irregularly shaped, or undevelopable building lots, including flag lots without required frontage, are created through the adjustment;*

(4) *The relocated lot line does not result in the creation of a nonconforming lot, structure, or use; increase the existing degree of nonconformance; or affect the ability to develop a lot in conformance with these Regulations; and*

(5) *The proposed adjustment does not violate the terms or conditions of any prior municipal permit or approval.*

**B. Small Lot Merger.** *The Administrative Officer also has the authority, without prior DRB approval, to issue a permit for the elimination of a lot line between two contiguous, pre-existing nonconforming small lots that come under common ownership, consistent with 24 V.S.A. § 4412(2), provided that:*

(1) *Either or both lots are undeveloped or are proposed for redevelopment as a single lot at the time of the merger request;*

(2) *The merged lot will be served by single water supply and wastewater connections or systems; and*

(3) *Existing highway accesses are consolidated so that the merged lot is served by a single highway access.*

**C. Survey Plat.** *The application for a minor lot line adjustment or merger must be accompanied by a survey plat prepared by a licensed land surveyor that depicts and references each lot to be modified by the adjustment or merger.*

(1) *The survey plat must clearly indicate the area, metes, bounds and ties of each lot and, as applicable, the merged lot.*

*The survey plat must also clearly depict all existing structures, site improvements, delineated setbacks, parking spaces, lot coverage and other details specified by the Administrative Officer as necessary to determine conformance with this section.*

**D. DRB Referral.** *Where there is uncertainty as to whether an application constitutes a minor lot line adjustment or merger, the Administrative Officer may refer the application to the DRB for review as a Minor Subdivision.*

#### **15.A.04 Classification**

**A. Subdivision Classes.** *For purposes of these Regulations, subdivisions of land shall be classified as by the Administrative Officer as follows:*

(1) **A Minor Subdivision**, to be reviewed under Section 15.A.07, which is limited to:

(a) *The subdivision of an existing lot, tract or parcel of land into two lots, including the parent or retained lot, if the lot to be created is less than two times the minimum lot area for the district in which it is located, and either has required street frontage, or shares highway access with the retained lot; or*

(b) *A lot line adjustment or lot merger which does not meet the requirements for administrative approval under Section 15.A.03.*

(2) A **Major Subdivision**, to be reviewed under Sections 15.A.06 and 15.A.07, which includes a subdivision of land that involves any of the following:

(a) *The subdivision of an existing lot, tract or parcel of land into two lots, which does not qualify as a minor subdivision under (A)(1);*

(b) The creation of three or more lots through the subdivision or re-subdivision of an existing lot, tract or parcel;

(c) The installation or extension of one or more streets;

(d) The extension of any off-tract municipal or governmental infrastructure, facilities or other improvements; or

(e) A Planned Unit Development (PUD) under Article 15.C, *to be reviewed by the DRB concurrently with subdivision review.*

(3) A **Transect Zone Subdivision**, to be reviewed under Section 15.A.07 and Article 8, for any subdivision of land within a designated Transect Zone.

#### 15.A.05 Pre-Application Sketch Plan Review

**A. Purpose.** *The purpose of a pre-application sketch plan review, required for any proposed subdivision of land, is to acquaint the DRB with the subdivision proposal at a conceptual stage in the design process, prior to the submission of a formal application for master plan, preliminary or final subdivision review. Sketch plan review offers the applicant and DRB the opportunity to consider and discuss a conceptual subdivision plan under relevant regulations, prior to incurring the expense of preparing a complete application and surveyed subdivision plat. Sketch plan review while required, is advisory in nature, intended only to guide the application and review process.*

#### **B. Submission Requirements.**

(1) As stated in Appendix E. **Submission Requirements.**

(2) The applicant is encouraged to schedule one or more meetings with the Administrative Officer to discuss the sketch plan, the proposed subdivision, and relevant application requirements, review processes and standards under these Regulations, including whether the project may also require or allow for Master Plan review, or review as a Planned Unit Development (PUD).

#### **C. Review Process.**

(1) **Classification.** Upon receipt of a complete sketch plan, the Administrative Officer shall classify the proposed subdivision as a Minor Subdivision, Major Subdivision, or Transect Zone Subdivision, and refer the sketch plan to the DRB for consideration at a regularly scheduled DRB meeting.

(2) **Sketch Plan Meeting(s).** *Notice and participation in Sketch Plan meetings must be conducted in accordance with Section 17.08(F) of these Regulations.*

**D. DRB Review.** Based on the information provided the DRB may provide guidance regarding:

**Commented [PC6]:** Note TO PC: Currently, site plan information is stated here, under sketch plan, as being required for consideration at the preliminary plat stage of review. That is confusing, and therefore has been removed.

**Commented [PC7]:** Note to PC: sketch plan is currently, as is proposed to remain, non-binding. This has been confirmed by the Environmental Court.

(1) Whether the subdivision as presented in concept will also require Master Plan review under Article 15.B, or review as a PUD under Article 15.C.

(2) Whether the sketch plan as presented generally conforms to the Official Map, and relevant standards under these Regulations.

(3) Considerations for the applicant in preparing their application, including suggested modifications or changes to subdivision design and layout; and any additional information, studies, or supporting documentation to be included with the application. The DRB may also request that the applicant for a minor subdivision provide additional information and materials normally required for major subdivision review, as applicable to the proposed subdivision.

**E. Effect.** Sketch plan review authorizes the subdivider to proceed with an application for subdivision review; it in no way implies subdivision approval by the DRB.

(1) Within six months of the date of the final sketch plan review meeting by the DRB, the applicant must apply to the DRB for preliminary subdivision review as required for a Major Subdivision under Section 15.A.06, final subdivision review as required for a Minor Subdivision or Transect Zone Subdivision under Section 15.A.07; or Master Plan Review under Article 15.B as applicable to a particular subdivision proposal.

(2) If an application for master plan, preliminary or final subdivision approval is not submitted within six (6) months of the final sketch plan review meeting by the DRB; or the application as submitted differs substantially from the sketch plan as reviewed by the DRB, Administrative Officer may require submission of a new sketch plan for review under this section.

#### **15.A.06 Preliminary Subdivision Review (Major Subdivisions)**

**A. Purpose.** Preliminary subdivision review by the DRB, required for all Major Subdivisions, including a Planned Unit Development (PUD) under Article 15.C, is intended to evaluate a proposed subdivision under the standards of these Regulations, to determine conformance with an approved master plan, to preliminarily allocate available infrastructure capacity, to identify specific issues or concerns that must be addressed or mitigated prior to final subdivision review and, upon preliminary approval, to allow the applicant to seek other necessary permits or approvals that may result in project modifications, prior to preparing a final survey plat, engineering plans, and required legal documents.

#### **B. Combined Review.**

(1) Preliminary subdivision review by the DRB may be combined with master plan review under Article 15.B for one or more phases of subdivision and development, if the application, hearing requirements and standards for each type of review are considered and met.

(2) At the request of an applicant, the DRB may agree to combine preliminary and final subdivision review for one or more phases of subdivision and development where either a Master Plan under Article 15.B has been previously approved and is in effect, or where no Master Plan Review under Article 15.B is required.

**Commented [PC8]:** Note to PC: Minor re-adjustment of process for clarity.

1 **C. Application Requirements.** The applicant must file an application for preliminary subdivision  
2 review with the Administrative Officer within six (6) months of the date of the final sketch plan review  
3 meeting; or, as applicable, within six (6) months of the date of master plan approval under Article 15.B,  
4 unless the time for filing is extended or waived by the DRB in association with master plan approval.

5 (1) The application must be submitted on forms provided by the City, to include information and  
6 materials listed in Appendix E, Submission Requirements, additional information requested by the  
7 DRB under Sketch Plan Review, *and any requested modifications or waivers under 15.A.01(C),*  
8 *including the stated justification for this request and any supporting documentation.*

9 (2) *The preliminary subdivision application must reasonably conform to the sketch plan as*  
10 *reviewed by the DRB, or the Administrative Officer or DRB may require the submission of a new sketch*  
11 *plan for review by the DRB under Section 15.A.04.*

12  
13 (3) *The preliminary subdivision application must also conform, as applicable, to a master plan*  
14 *previously approved by the DRB under Article 15.B. Any requested amendments to an approved*  
15 *master plan must be submitted in advance of or concurrently with the application for preliminary*  
16 *subdivision review under this Article.*

17 **D. Application Referrals.** The Administrative Officer must refer a complete application to the DRB  
18 and applicable entities in accordance with Section 17.09(C) of these Regulations.

19 **E. Public Hearing.** The DRB must schedule and hold a warned public hearing on the application, as  
20 required under 24 V.S.A. §§ 4463 and 4464 and Section 17.08(F) of these Regulations.

21 **F. Decision.** Within forty-five (45) days after the close of the public hearing, the DRB must issue  
22 written findings of fact and its decision to approve, approve with modifications, or disapprove the  
23 preliminary subdivision plat, supporting plans, and documents. Failure to act within this 45-day period  
24 shall constitute approval under 24 V.S.A. § 4464(b), *as deemed by the court and certified by the City Clerk.*  
25 The decision, including findings of fact *and provisions for appeal*, must be sent by certified mail to the  
26 applicant. *Copies of the decision must also be mailed to all parties who participated in the public hearing*  
27 *process. When granting approval, the DRB shall state the conditions of approval, if any, with respect to:*

28 (1) Specific changes required to the preliminary plat, plans or supporting documents for  
29 consideration under final subdivision review.

30 (2) The type and extent of any required improvements which, in the DRB's opinion, may be  
31 waived under Section 15.A.01(C);

32 (3) *Initial allocations of available water, wastewater, stormwater, and transportation*  
33 *infrastructure capacity, and required system connections or improvements needed to serve the*  
34 *proposed subdivision;*

35 (4) *Requested or required measures intended to avoid or mitigate the adverse impacts of land*  
36 *subdivision and development on environmental resources identified for protection under Articles 10*  
37 *and 12; and on existing and planned public facilities, infrastructure and services;*

(5) *The timing and sequence of subsequent applications for phased or combined subdivision and development review;*

(6) *Additional information the DRB finds necessary to determine compliance with the Regulations as part of final subdivision review; and,*

(7) *Other municipal, state or federal permits and approvals, performance bonds or other sureties, and development agreements to be obtained in advance of applying for final subdivision review and approval.*

**G. Effect.** Preliminary subdivision approval does not constitute final approval of a subdivision plan or plat. It is intended only to guide the preparation of the final survey plat, supporting plans and documents. A preliminary subdivision approval shall remain in effect for twelve (12) months from the date of approval *unless, upon written request of the applicant, the expiration date is extended by the DRB for cause, for example due to an appeal of related permits, or other permitting or seasonal site analysis delays.* If an application for final subdivision approval or an extension request is not submitted by the expiration date, the DRB may require resubmission of the preliminary plat, supporting plans and documents for preliminary subdivision review under the regulations in effect at the time of resubmission.

#### **15.A.07 Final Subdivision Review (All Subdivisions)**

**A. Purpose.** *Final subdivision review by the DRB is required for all minor subdivisions, major subdivisions including a Planned Unit Development (PUD) under Article 15C, and Transect Zone Subdivisions. It is intended to determine whether the final survey plat, supporting plans and documents, and proposed improvements comply with these Regulations and, as applicable, with an approved master plan and the conditions of preliminary subdivision approval, prior to recording a survey plat, deeds, easements and other legal documents in the land records of the City.*

**B. Combined Review.** At the request of the applicant, the DRB may combine final subdivision review with Site Plan or Conditional Use Review under Article 14, *if the submission and hearing notice requirements for each type of review are met.*

**C. Application Requirements.** Unless otherwise extended by the DRB, within six (6) months of sketch plan approval for a Minor or Transect Zone Subdivision, or twelve (12) months of preliminary subdivision approval for a Major Subdivision, including a PUD, the applicant must file an application for final subdivision review with the Administrative Officer.

(1) The application for final subdivision review may be submitted in one or more phases, as specified by the DRB under preliminary subdivision or master plan approval, to include only that phase of a subdivision for which final subdivision approval is requested.

(2) The application must be submitted on forms provided by the City, to include the information and materials listed in Appendix E, Submission Requirements, any other information requested by the DRB under sketch plan or preliminary subdivision review.

(3) *The application must also include requested modifications or waivers of required improvements under 15.A.01(C), of the preliminary subdivision plat as approved by the DRB, or the conditions of preliminary subdivision approval, and the stated justification for this request.*

(4) The application must also be accompanied by a Certificate of Title showing the ownership of all properties and easements to be dedicated or acquired by the City, and supporting legal documents of conveyance, to be reviewed and approved by the City Attorney.

**D. Application Referrals.** The Administrative Officer must refer a complete application to the DRB and applicable entities in accordance with Section 17.09(C) of these Regulations.

**E. Public Hearing.** The DRB must schedule and hold a warned public hearing on the application, as required under 24 V.S.A. §§ 4463 and 4464 and Section 17.08(F) of these Regulations.

**F. Decision.** Within forty-five (45) days after the close of the public hearing, the DRB must issue its written findings of fact and decision to approve, approve with modifications, or disapprove the final subdivision plat, supporting plans and documents. Failure to act within this 45-day period shall constitute approval under 24 V.S.A. § 4464(b), *as deemed by the court and certified by the City Clerk*. The final decision, including findings, must be sent by certified mail to the applicant. Copies of the decision must also be mailed to all parties who participated in the public hearing process.

(1) *Any conditions of final subdivision approval for performance bonding or other sureties, phasing, construction or inspection schedules, or the timing of required improvements under Section 15.15, must be specified in the written DRB decision, or in a separate Development Agreement approved by the City Council, as referenced in or attached to the DRB decision.*

(2) The DRB decision may also, as a condition of final subdivision approval, stipulate changes to the content of the plat, supporting plans or documents that must be completed to the satisfaction of the Administrative Officer *before the plat is approved and endorsed by the DRB for recording under 15.A.08.*

**G. Effect.** Final subdivision approval by the DRB remains in effect for 180 days from the date of approval, *unless extended by the Administrative Officer under 15.A.08*. Final subdivision approval shall expire unless, within this period, the subdivision plat as approved and endorsed by the DRB is filed and recorded in the land records of the City under Section 15.A.08.

(1) Final subdivision approval by the DRB shall not constitute or be evidence of acceptance by the City of any streets, easements, water and sewer facilities, open space or other public facilities and improvements shown on the subdivision plat or associated plans.

## **15.A.08 Plat Recording Requirements**

**A. Recording Requirements.** The final subdivision plat, as approved and endorsed by the DRB *or as otherwise deemed approved and certified by the City Clerk under 24 V.S.A. § 4463*, must be recorded in the land records of the City within 180 days of the date of DRB approval. *The Administrative Officer may extend the date for filing by an additional 90 days if other final municipal or state approvals are pending, and the extension request is filed within this 180-day period.* If the plat is not recorded within this period, final subdivision approval shall be deemed null and void, and the plat, supporting plans and documents

must be resubmitted for final subdivision approval under Section 15.A.07 *under the regulations in effect at the time of resubmission.*

(1) The survey plat to be recorded in city land records must comply with the requirements of 27 V.S.A. Chapter 17 (Filing of Land Plats), the DRB decision, including any stipulations or required conditions of approval, and adopted city policies and fee schedules.

(2) *The locations of all permanent surveying monuments, lot corner markers, and building envelope markers must be identified on the final subdivision plat as recorded in the land records.*

(3) In addition to the original mylar and required copies of the final plat, the applicant must also provide the Administrative Officer with a digital copy of the plat in a format that meets adopted state (Vermont Geographic Information System) and city data standards.

(4) Once properly recorded, the survey plat shall become part of the South Burlington Official Map and shall not expire, except as subsequently amended in conformance with these Regulations.

#### **B. DRB Endorsement or Clerk Certification**

(1) No subdivision plat which requires DRB approval shall be filed or recorded in the Office of the City Clerk until it has been approved by the DRB, as endorsed in writing on the plat. DRB endorsement shall not take place until all required plats, plans, construction drawings and supporting documents have been submitted to and reviewed by the Administrative Officer for compliance with the conditions of final subdivision approval.

(2) The DRB endorsement shall state that "This plat has been approved by Resolution of the Development Review of the City of South Burlington, Vermont." It shall also specify the date of DRB approval, subject to any conditions or requirements specified in the resolution, and be signed by the Chair or Clerk of the Development Review Board.

(3) For any subdivision plat that was deemed approved for failure of the DRB to issue a decision under 15.A.07(F), the accompanying City Clerk's Certificate must be attached to the plat as filed and recorded.

(4) Any plat that is recorded or subsequently revised without DRB approval and endorsement or Clerk Certification shall be considered null and void, and the Administrative Officer shall institute proceedings to have the plat stricken from city land records.

#### **15.A.09 Subdivision Amendments**

**A. Required Review.** *As subdivision plan and plat that has received final subdivision approval from the DRB may not be altered, modified, revised or amended without DRB approval.*

(1) *Requested modifications or revisions to a previously approved subdivision plat, plans or conditions of approval must be submitted to the Administrative Officer as an application for a proposed subdivision amendment for DRB review under this section.*

(2) *The scope of review under this section will be limited to those aspects of the approved subdivision plan and plat affected by the proposed amendment.*

**Commented [PC9]:** NOTE TO PC New section, clarifies when an application must start anew vs final plat only.



1 **B. Minor Subdivision Amendment.** *A minor amendment, as determined by the Administrative*  
2 *Officer, includes an amendment to a minor subdivision that does not result in the creation of a major*  
3 *subdivision; or a subdivision amendment that does not result in a substantial change, alteration, revision*  
4 *or modification of the subdivision plat, plans or conditions of final subdivision approval. A minor subdivision*  
5 *amendment shall require only Final Plat Review. Modifications to an approved subdivision which do not*  
6 *result in elements of the plat may be reviewed and approved by the Administrative Officer.*

7 **C. Major Subdivision Amendment.** *Any proposed subdivision amendment that involves a substantial*  
8 *change, alteration, revision or modification to an approved subdivision plat, plan or condition of*  
9 *subdivision approval shall be considered a new subdivision pursuant to these Regulation.*

10 **D. Amendment Recording Requirements**

11 (1) *If an amendment is approved by the DRB prior to the recording of the subdivision plat under*  
12 *Section 15.08 as previously approved, the amendment must be incorporated on the final subdivision*  
13 *plat as filed for recording.*

14 (2) *If an amendment is approved by the DRB after the original plat has been recorded, an*  
15 *amended subdivision plat must be prepared and recorded under Section 15.08 which carries a notation*  
16 *that this plat as amended supersedes the original plat as previously recorded, referencing the date and*  
17 *recording information for the original plat.*

18  
19 **15.A.10 Subdivision Standards – Applicability and Compliance**

20 **A. Applicability.** *Any subdivision of land subject to these Regulations must meet applicable*  
21 *subdivision standards under this Article unless waived by the DRB under Section 15.A.01(C). The DRB, in*  
22 *determining compliance with these standards, may require:*

23 (1) *Disclosure of the intended use and development of all land to be subdivided, including*  
24 *subsequent development plans for any retained portion of the existing tract or parcel to be subdivided.*

25 (2) *An independent technical review of the proposed subdivision under one or more standards,*  
26 *prepared by a qualified professional, in accordance with Section 17.08.*

27 (3) *Modification of subdivision layout and design, the phasing of subdivision and development, or*  
28 *other measures necessary to avoid or mitigate the adverse impacts of a proposed subdivision on*  
29 *adjoining properties and uses; the transportation network; public facilities, infrastructure and services;*  
30 *and environmental resources identified for protection under Articles 10 and 12.*

31 **B. Compliance with Zoning Regulations.** *The applicant must demonstrate that the subdivision*  
32 *conforms to the planned pattern of subdivision and development as defined by relevant zoning district*  
33 *purpose statements and standards; or as specified for a type of Planned Unit Development (PUD) under*  
34 *Article 15.C. In addition to meeting required zoning district, transect zone, or PUD standards:*

35 (1) **Overlay Districts.** *The subdivision must also meet applicable overlay district standards under*  
36 *Article 10.*

(a) In all subdivisions and PUDs in which the provisions of the Traffic Overlay District in Section 10.02 of these Regulations apply and in which the Traffic Overlay District provisions conflict with those of this section, the more restrictive provisions shall apply.

(2) **Multiple Districts.** For the subdivision of land located in more than one zoning district, the district regulations specific to that portion of the subdivision within each zoning district shall apply, except as specified for a Planned Unit Development under Article 15C.

(a) Subdivision boundaries and lot lines must be located and configured to avoid creating building lots that are split by zoning district boundaries except where the DRB finds such split building lots unavoidable due to pre-existing lot and infrastructure layout.

(b) The DRB may approve a request to extend zoning district standards up to fifty (50) feet in either direction beyond the district boundary line as necessary to avoid a subdivision or building lot split by a zoning district boundary.

**C. Compliance with Regulations.** Subdivisions, including building lots, dwelling units, and supporting facilities and infrastructure, must also be designed, configured and constructed to comply with other relevant standards under these Regulations and other city ordinances and standards in effect at the time of application, including those listed below. Where a standard under this Article conflicts with another standard, the more stringent, restrictive, or specific standard shall apply.

- Official Map, adopted under 24 V.S.A. § 4421
- Capital Improvement Program, adopted under 24 V.S.A. § 4430
- Department of Public Works Standards
- Fire Prevention and Safety Ordinance
- Water and Cross Connection Ordinances
- Sanitary Sewer and Stormwater Ordinance
- Impact Fee Ordinance
- E-911 Ordinance

**D. Conformance with an Approved Master Plan.** The applicant must demonstrate that the subdivision conforms, as applicable, to a Master Plan approved by the DRB under Article 15.B, including the approved development plan, management plan, buildout budgets and phasing schedule.

#### **15.A.11 Subdivision Standards – General**

**A. Development Suitability.** The applicant must demonstrate that the land to be subdivided is physically suited for its intended use and the proposed density or intensity of development, and that the proposed subdivision will not result in undue adverse impacts to public health and safety, environmental resources as identified and regulated under Articles 10 and 12, neighboring properties and uses, or public facilities and infrastructure located on or within the vicinity of the land to be subdivided.

(1) **Physical Site Constraints.** Land that is physically unsuited for development, including land that is characterized by periodic flooding, poor drainage, shallow soils, landslides, environmental site contamination or other known physical hazards or constraints, must not be subdivided for

development unless the applicant can demonstrate that such limitations can be overcome, remediated, or mitigated as necessary to allow for subsequent development.

(2) **Buildable Area.** For purposes of these Regulations, including the platting of building lots and the calculation of the density or intensity of development allowed within a subdivision, "Buildable Area" is defined as the total area of the tract or parcel to be subdivided, less the area occupied by the following physical and legal site limitations or constraints, including "Hazards" and "Level 1 Resources" as defined and regulated under Articles 10 and 12, as indicated on sketch and master plans, and as field verified and delineated on preliminary and final subdivision plans and plats:

- Surface waters and associated setbacks and buffers
- Class I and II wetlands and associated setbacks and buffers;
- River Corridors
- 100-Year (1%) floodplains and floodways;
- Very steep slopes with a natural grade equal to or greater than 25%;
- Rare, Threatened, and Endangered Habitat (if applicable by species);
- Forested Habitat Blocks and Habitat Block Connectors; and,
- Existing and planned street, railroad rights-of way, and transmission line corridors.

(3) **Buildable Area Calculations.** The allowed number of building lots or dwelling units within the subdivision shall be calculated based on the Buildable Area of the parcel or tract to be subdivided except as otherwise specified for a Transect Zone Subdivision under Article 8, a Planned Unit Development under Article 15.C; and as provided for the transfer of development rights under Article 9, or affordable housing offsets, bonuses, or incentives under Article 18.

(1) Any proposed alteration of the existing grade to create developable building lots, including land excavation or fill, must meet the standards of Section 3.12 (Alteration of Existing Grade), Article 16 (Construction and Erosion Control) and other applicable resource protection, flood hazard area and stormwater management standards under these Regulations.

**C. Development Context.** The applicant must demonstrate that the subdivision conforms to the planned pattern of subdivision and development in the area, as defined by district purpose statements and standards, or as specified for a type of Planned Unit Development (PUD) under Article 15.C.

**D. Connectivity.** A subdivision, to the extent physically feasible, must be configured and laid out to maximize connections with adjoining parcels and neighborhoods, and to avoid creating isolated and disconnected enclaves of development, except where necessary to separate incompatible land uses or to avoid undue adverse impacts to resources identified for protection under Articles 10 and 12. Accordingly, the applicant must demonstrate that the subdivision is laid out to connect with and extend existing and planned streets, sidewalks, recreation paths, transit routes, and utility and greenway corridors located adjacent to or within ½-mile of the subdivision, or as indicated on the City's Official Map. Off-site improvements necessary to serve the proposed subdivision must be provided in accordance with 15.A.18.

**Commented [PC10]:** Note to PC: this section is intended to be consistent with the Commission's direction 9/25/20

**Commented [PC11]:** Note to PC: Staff reviewing 500-year flood plain and will provide recommendations

**15.A.12 Resource Protection**

**A. Purpose.** *The applicant must demonstrate that the proposed subdivision has been configured and laid out to:*

- (1) *incorporate significant natural, historical and scenic site features located on the parcel or tract to be subdivided;*
- (2) *avoid and exclude Hazard and Level 1 resource areas identified for protection under Articles 10 and 12 from parcelization, physical fragmentation, and development; and,*
- (3) *minimize and mitigate the adverse impacts of land subdivision and development on Level 2 resource areas identified for protection under Article 12.*

**B. Applicability.** Resource protection standards under this section apply to all subdivisions of land, unless modified or waived by the DRB under 15.A.01(C), resource-specific allowances under Articles 10 or 12, and the following:

- (1) *The DRB may consider the context, planned type and pattern of development and necessary extension of proposed supporting facilities, infrastructure, and service of the proposed Subdivision, Transect Zone Subdivision, or Planned Unit Development in reviewing requests for waiver or modifications permitted within Articles 10 and 12.*
- (2) *The DRB may modify the requirements of this section for a Minor Subdivision, or the subdivision or re-subdivision of a previously developed tract of land of less than four (4) acres as necessary to allow for fully integrated infill or redevelopment.*
- (3) *Notwithstanding a subdivision waiver or modification, other resource protection standards under these Regulations shall apply as applicable, including any requirements for on- or off-site impact mitigation.*

*Note! Application for a Conservation Planned Unit Development under Article 15.C is recommended for a proposed subdivision in which a significant portion of the total tract area is within a Hazard, Level 1 or Level 2 resource area, as necessary to allow for a more flexible subdivision layout and design, including the transfer of development density within the project area, and the clustering of development on building lots that exclude these resource areas.*

**C. Resource Identification.** *Site features or resources to be incorporated in subdivision layout and design, as shown to scale on sketch and master plans, must be field verified and delineated on the ground by the applicant, as indicated on preliminary and final subdivision plans and plats, as specified in Articles 10 or 12 of these Regulations specific to each resource.*

- (1) **Existing Site Features.** *Existing site features of significance to the City, to be considered in subdivision layout and design include:*

**Commented [PC12]:** This section is for Commission Consideration. These could be recommended or required to be mapped.

- (a) Archaeological and historical sites and structures that are listed on the State Register of Historic Places, and historical landscape features such as stone walls and fences.
- (b) Prominent shade trees, street trees, or documented specimen or witness trees.
- (c) Exceptional or unique geological features such as exposed ledges, cliffs, waterfalls and cascades.

**Commented [PC13]:** Commission Option: "Eligible for Listing"

(2) Listed site features must be considered for retention and incorporation in subdivision layout and design.

(3) At minimum the DRB may require, as a condition of subdivision approval, that a listed historical site, structure or landscape feature present on the parcel to be subdivided must be inventoried, assessed and documented [by a qualified historic preservationist or architect], before any site development, or any structural relocation, removal or demolition may occur.

**Commented [PC14]:** For Commission consideration. Keep or remove?

(2) **Resource Protection Areas.** Resource protection areas to be incorporated in subdivision layout and design include Hazards, Level 1, and Level 2 resources identified for protection and regulated under Articles 10 and 12.

(a) Subdivision boundaries and lot lines must be located and configured to avoid or, where deemed necessary by the DRB, to minimize the subdivision, parcelization and physical fragmentation of resources located on contiguous parcels, and on the tract or parcel to be subdivided.

**Commented [PC15]:** NOTE TO PC This is an update to Section 15.18(A)(6) which refers to undefined "open space" areas.

(b) Contiguous Hazard and Level 1 Resource protection areas that exceed the minimum lot size must be set aside and identified on the subdivision plat, and in associated legal documents, as "Conservation Lots" to be maintained and managed in single or common ownership, or under a conservation easement held by the City or qualified third party, such as an established land trust. As a condition of subdivision approval, future subdivision of conservation lots shall be prohibited except where all land is being conveyed for conservation purposes, to be noted on the subdivision plat.

**Commented [PC16]:** NOTE TO PC This is an update and replacement to section 15.18(A)(4) that refers to the 2002 Open Space Strategy, and ties in directly with the Article 10 & 12 work.

(c) Hazard and Level 1 resource protection areas must be excluded from the calculation of Buildable Area. Building lots and building envelopes are prohibited within these areas, except as necessary to accommodate resource-dependent facilities (e.g., water and wastewater treatment facilities, public or community recreation facility), as specified under Articles 10 and 12, or as allowed under this subsection.

(d) A building lot may extend or encroach within a delineated resource protection area only to the extent necessary to meet minimum lot size or frontage requirements for the zoning district in which the lot is located

(e) A building lot may incorporate a Hazard, Level 1, or Level 2 resource area that is less than the required minimum lot size; however in this case the DRB may require the delineation of a building envelope that excludes delineated resource areas, as shown on the subdivision plat and pinned on the ground, as necessary to limit the siting of buildings, other structures, and parking areas to the developable portion of the lot.

(f) Encroachments within resource protection areas, including by transportation and utility corridors, are subject to and limited to those allowed under Article 12, or as otherwise specified within Flood Hazard Areas or River Corridors under Article 10.

(g) A resource protection area may be incorporated and improved as green infrastructure (e.g., for stormwater management or flood control), or as a public amenity serving the subdivision, consistent with the provisions of Articles 10 and 12, to the extent that this does not interfere with its critical natural functions or intended use.

### 15.A.13 Subdivision Design Process

**A. Design Process.** The design process to be followed by the applicant under this Subsection, in preparing subdivision plans and draft plats included with the application, includes the following steps in order of preference:

(1) Delineate and set aside resource areas identified for protection, and other existing site features for consideration under 15.A.12 above.

(2) Layout and configure the proposed street network to:

(a) connect with and extend existing streets;

(b) define one or more contiguous blocks that meet applicable block standards under 15.A.16 or as otherwise specified for the Zoning District, Transect Zone, or type of Planned Unit Development in which the subdivision is located); and to

(c) incorporate allowed Street Types and design standards under 15.A.14, including existing and planned streets, sidewalks, recreation paths, and transit stops.

(3) Delineate building lots that front on and are oriented to the abutting street or civic space, and that meet applicable lot size and dimensional requirements by Zoning District, Transect Zone or type of Planned Unit Development or Building Type under **Appendix \_\_\_\_**, as applicable.

(4) Designate within each block, or as otherwise provided within the subdivision, required civic spaces, parking lots or facilities, and infrastructure and utility corridors or easements that meet the requirements of these Regulations, which are to be retained in common or single ownership or dedicated to the City.

(5) Incorporate within block configurations, as applicable, one or more alleys or service lanes, and midblock pedestrian passages as necessary to provide rear, side or shared vehicular and pedestrian access to fronting building lots, civic spaces and designated parking areas or facilities.

### 15.A.14 Street Network

**A. Purpose and Intent.** It is the intent of the City to establish and maintain an integrated, interconnected transportation system that efficiently and safely serves all users, including pedestrians, bicyclists, motorists, transit riders and people with disabilities. Accordingly, the applicant must demonstrate that the proposed street network serving the subdivision is consistent with City objectives to:

- Maximize network accessibility and connectivity for all transportation modes and users;

- *Minimize vehicle miles traveled;*
- *Provide adequate emergency vehicle access, and minimize emergency response times;*
- *Limit direct access onto arterial and collector streets, as necessary to preserve and enhance functional capacity;*
- *Create interconnected, walkable pedestrian- and bicycle-friendly residential neighborhoods and mixed use development;*
- *Provide for multiple, direct routes and connections between residential neighborhoods, schools, parks, employment, shopping and other activity centers or destinations;*
- *Incorporate or provide direct pedestrian connections to existing and planned public transit routes for any subdivision and development located within the Transit Overlay District; and to*
- *Accommodate on-street parking where appropriate or required.*

**B. Street Layout.** The arrangement of streets serving the subdivision must incorporate and extend the network of existing and planned arterial, collector and local streets in the vicinity, including existing and planned streets serving adjoining subdivisions, and as shown on the City's Official Map.

(1) **Street Grid.** The street layout must *establish or extend an interconnected street grid that logically relates to existing site topography, defines walkable blocks, produces useable building lots, reasonable street grades, and safe intersections, incorporates adequate stormwater drainage, and avoids or, where deemed necessary by the DRB, minimizes encroachments within and mitigates adverse impacts to resources identified for protection under Articles 10 and 12.*

(2) **Street Orientation.** *The street layout to the extent feasible, consistent with the existing and planned pattern of development and local topography, should be oriented to maximize solar access and gain on abutting building lots and block faces. Longer streets and block faces should either be aligned east-west or north-south, within 20 degrees of true east or true north, in relation to anticipated building lot and building roof orientation.*

(3) **Existing and Planned Public Streets.** The street network must incorporate existing and planned public streets, recreation paths and sidewalks shown on the City's Official Map; or as required by the DRB if the location, length or function of a proposed street within the City's street network warrants public ownership. The right-of-way provided for a public street shown on the Official Map must be of a similar location and alignment as that shown on the map, subject to approval and acceptance by the City Council. Planned right-of-way widths listed for public streets under Table 3-1: Planned Street Rights-of-Way, must also be incorporated in the proposed street layout as applicable.

(4) **Street Connections.** The street network must maximize connectivity and provide for the future extension of streets *of equivalent functional class* and other connecting rights-of-way or easements through adjoining properties *upon future subdivision, development or redevelopment.* *Street rights-of-way* must extend to adjoining property lines to allow for future street, sidewalk, recreation path and utility connections. *Accordingly:*

- (a) *Right-of-way connections to properties adjoining the subdivision must be provided along property boundaries at regular intervals, spaced according to functional class, street type and, where applicable, required block lengths unless modified or waived by the DRB under 15.01(C).*

**Commented [PC17]:** For PC discussion.  
Prepared on an Energy Committee  
recommendation.



(b) *In making its determination to waive or modify a street right-of-way requirement, the Board shall consider substitution of a recreation path, sidewalk, or trail right-of-way prior to determination that a full waiver of a right-of-way is warranted.*

(c) The DRB shall require that applicant construct a connecting street or recreation path to the property line; or to contribute *a proportionate share* of the cost to complete construction, in addition to any required impact fees. *Where a street or recreation path is identified in the Impact Fee Ordinance, construction of planned improvements may receive credit pursuant to the Ordinance.*

(d) *For phased development*, the DRB may approve a street or other right-of-way shown on the subdivision plat and, as a condition of subdivision approval, require that the right-of-way be clearly marked on the ground with one or more signs that indicate its existence and future use; and that construction must occur before any further subdivision or development may be allowed.

(e) The DRB may require *temporary* turnarounds at subdivision boundaries, designed to City specifications under Appendix \_\_, as approved by the City Engineer and Fire Chief. The applicant must then show on the subdivision plat the right-of-way area to be returned to adjacent property owners when street and sidewalk extensions to abutting properties are constructed.

(5) **Dead-End Streets.** Permanently gated streets, dead-end streets and cul-de-sacs are prohibited unless the DRB finds that the presence of physical, right-of-way or other legal constraints, incompatible land uses, or resources identified for protection under Article 10 or 12 preclude required connections.

(a) Permanent dead-end streets are subject to review and approval by the Fire Chief and City Engineer under these Regulations *and other public works specifications and fire codes in effect at the time of application.*

(b) A permanent dead-end street allowed under this provision *must not exceed two hundred (200) feet in length measured to the center of the turnaround; and* must include a turnaround designed to City specifications under **Appendix \_\_**. Hammerhead turnaround designs are the City's preferred dead-end configuration.

**C. Street Design.** *The street network must incorporate allowed Street Types under Appendix \_\_, or as specified by Zoning District, Transect Zone or type of Planned Unit Development, which are consistent with the functional class and the pattern and type of development or uses to be served by the street network. Streets must be designed by a Vermont licensed professional engineer, and constructed to City specifications. Proposed street types and functional classifications must be identified on subdivision plans submitted with the application.*

(1) All streets, including both public and private streets, must be designed and constructed by the applicant *or developer* to City specifications, unless otherwise specifically authorized by the DRB under final subdivision approval.

(2) In reviewing master plan and subdivision applications, including applications for Planned Unit Development under Article 15.C, the DRB has the authority to require the design and construction of proposed streets to City standards; *the upgrade or improvement of an existing street as necessary to*

**Commented [PC18]:** Note to PC: added the words "proportionate share" here to clean up what had been a matter of some confusion in the past, where it simply said "a portion." The section has been interpreted to mean "proportional" in the past but this codifies that.

**Commented [PC19]:** Note TO PC: consistent with 15.12(A) but more restrictive to match SEQ objectives.



1 *serve the proposed subdivision; and the provision of an irrevocable offer of dedication of one or more*  
2 *streets to the City. Any action to accept an offer of dedication shall be the sole authority of the City*  
3 *Council.*

4 (3) **Public Streets.** The DRB shall require a street to be offered for dedication to the City as a  
5 public street in accordance with the following:

6 (a) The proposed street will or could provide a future extension to an adjoining unaffiliated  
7 property or to another existing, proposed, or planned public street.

8 (b) The DRB determines, upon recommendation from the Director of Public Works and  
9 Planning & Zoning Director, that the significance of the proposed street within the City's street  
10 network warrants public ownership.

11 (c) Any street proposed to be public shall be built to public standards as enumerated in these  
12 Regulations or associated Public Works Standards and Specifications.

13  
14 (4) **Private Streets.** The DRB may approve, or require, a proposed street to be a private street,  
15 as clearly marked on the subdivision plat and in any applicable legal documents, in accordance with  
16 the following:

17 (a) The proposed street will serve lots within a commercial subdivision, master plan, or  
18 Planned Unit Development

19 (b) *The proposed street is a dead end street that cannot connect to an adjacent unaffiliated*  
20 *property or street.*

21 (c) Homes built on a private roadway may be required to be sprinklered to the satisfaction  
22 of the South Burlington Fire Chief. All proposed sprinkler systems must be reviewed and agreed  
23 upon prior to plat approval. This requirement may be waived by the DRB upon recommendation  
24 by the City of South Burlington Fire Chief.

25 (5) **Street Types** under **Appendix** specify standards that must be followed in designing,  
26 redesigning, modifying, or reconstructing a street, except for an existing or proposed public street for  
27 which there exists separate engineering plans developed by the City. Street, streetscape, or any other  
28 construction or improvements within these street rights-of-way must conform to City engineering  
29 plans, as modified by the Director of Public Works.

30 (6) **All** streets must be designed and constructed with sidewalks, greenbelts, bike facilities,  
31 medians, travel lanes and on-street parking as specified for each street type, unless an acceptable  
32 alternative is approved by the DRB under Subsection (7) below. The street type standard applicable  
33 to a proposed street or section of roadway shall be determined by the Development Review Board,  
34 in consultation with the Public Works and Planning & Zoning Departments, based on supporting  
35 documentation and the following criteria:

36 (a) Any street type listed for a specific section of roadway, as shown on the Official Map or  
37 the Official Zoning Map, shall be the applicable street type for purposes of these regulations.

38 (b) The street type must be listed as an eligible or allowed street type as specified by Zoning  
39 District, Transect Zone Building Envelope Standard, or PUD type.

**Commented [PC20]:** Note to PC: Staff recommends this section be accompanied by a Resolution to be adopted by the City Council indicating that Offers of Dedication will not be accepted until the roadway connects to an adjacent roadway.

**Commented [PC21]:** Note to PC: Staff recommends this section be accompanied by a Resolution to be adopted by the City Council affirming that the City will not accept roads private roads or roads not built to public standards

**Commented [PC22]:** NOTE TO PC Generalized from current Section 11.02 – Street types in FBC

**Commented [PC23]:** NOTE TO PC From Section 11.02 & 11.03 FBC. Proposed to expand city-wide

(c) The proposed street must conform to the stated intent of an applicable street type and intended uses and activities listed for that type.

(d) The street type must be consistent with planned, proposed or anticipated connections to or extensions of existing streets.

(e) The street type must be consistent with the specified design speed and design vehicle and accommodate projected traffic volumes at buildout.

(f) The street type, including associated facilities, must accommodate all anticipated users, including motorists, pedestrians, cyclists *and transit riders*.

(g) The street type must conform to Comprehensive Plan policies, and any long range studies, capital plans, and other related city planning and policy documents specific to the street, the location, and the planned pattern of development in the vicinity of the subdivision.

(7) The DRB is authorized to allow modifications of City street *types and standards* within a Subdivision, Transect Zone *Subdivision* or Planned Unit Development, *at the request of an applicant*, if it finds that the proposed modification furthers stated Comprehensive Plan goals and policies specific to the *Zoning District*, Transect Zone or PUD type in which the street is located, and that such modification is consistent with provisions for public health, safety and welfare and the orderly development of the City. In no case shall a public or private street have a width of less than (20) feet. *In making such a finding, the DRB may consider, as applicable:*

(a) The stated reasons why a cited standard or specification cannot be achieved;

(b) The estimated cost of construction to meet the cited standard *in relation to the total project cost, and the cost of any proposed alternative, if cost is cited as a factor in the request;*

(c) Projected traffic volumes, including projected truck, pedestrian and bicyclist traffic, and the minimum standards necessary to accommodate the stated design vehicle(s);

(d) The compatibility of a requested modification with present and anticipated improvements to adjacent street sections or connections;

(e) Accident data for the area, to determine the potential impact of a proposed modification on safety and accident rates; and any proposed countermeasures that will be employed to reduce the frequency and severity of future accidents.

(f) Recommendations of the City Engineer, Director of Public Works, Fire Chief, *Director of Planning and Zoning*, and City Committees, with respect to the proposed street design in relation to its development context, functional classification, and the City's ability to provide emergency and other services within the proposed subdivision;

(g) Any other information the Board deems necessary to render a decision.

**D. Functional Capacity and Transit Oriented Development.** The nearest signalized intersection or those intersections specified by the DRB shall have an overall level of service "D" or better, at the peak street hour, including the anticipated impact of the fully developed proposed PUD or subdivision. In

**Commented [PC24]:** Note TO PC: combines language under 15.A.12(E)(4) and 11.06 re street types as currently applied only to transect zone subdivisions.

**Commented [PC25]:** For Commission Consideration: Are the requirements below overly strenuous?

**Commented [PC26]:** NOTE TO PC: This section is slated to be updated and replaced with a project to update the City standards to reflect the different circumstances and goals in City Center, urban areas, and rural areas. It is nearing completion but slightly behind this project.

addition, the level of service of each through movement on the major roadway shall have a level of service "D" or better at full buildout.

**E. Access and Circulation.** The applicant must demonstrate that the street network is arranged to meet applicable access management, traffic and pedestrian circulation standards under these Regulations, including criteria for site plans under Article 14, Transect Zone Subdivisions under Article 8, or a type of Planned Unit Development under Article 15.C; and, for state highways, VTrans Access Management Program Guidelines in effect at the time of application. Unless otherwise specified under these Regulations, the street network, including the location and arrangement of streets, must be designed to:

(1) Provide a minimum of two (2) entrances or access points from an arterial or collector street to a subdivision with more than fifty (50) dwelling units on four (4) or more lots or within four (4) or more principal buildings, unless otherwise approved by the DRB in consultation with the City Engineer and Director of Planning & Zoning.

(2) Separate subdivision entrances by a minimum distance of four hundred (400) feet on either side of a public street, as necessary to ensure safe access and traffic movement into and out of the subdivision. Subdivision entrances on opposite sides of a public street may be allowed by the DRB if substantially aligned with each other. Signalized subdivision entrances must be separated from existing, signalized highway intersections (as measured between the near edges of the driveway and the intersection) based on street traffic volumes:

**Table 15-1: Signalized Intersection Spacing**

Projected Peak Hour Volume (VPH per access lane)	Distance (Feet)
Below 450	300
450-550	350
551-650	400
651-750	450
751 and greater	500

(3) Provide for street intersections as close to ninety (90) degrees as physically possible.

(4) Incorporate offset "T" intersections and other traffic calming measures as necessary to reduce through traffic and traffic speeds within residential and mixed use neighborhoods and to establish terminal views. Street jogs with centerline offsets of less than two hundred (200) feet on local streets are not allowed unless specifically approved by the DRB, in consultation with the Fire Chief and City Engineer, for purposes of traffic calming.

(5) Provide deceleration, acceleration and turn stacking lanes as necessary to meet specified Level of Service (LOS) standards under (3) above.

**Commented [PC27]:** NOTE TO PC Based on, and expands on 15.12

**Commented [PC28]:** Note TO PC: intended to clarify, substitute for existing provision under 15.12(J) re street end alternatives—as addressed above, for dead-end streets].

**Commented [PC29]:** NOTE TO PC From 15.12(I)

**Commented [PC30]:** Note to PC: newly added

(6) Design intersections and other access points *to City specifications under Appendix [redacted]*, to include curb radii necessary to accommodate anticipated vehicle types and speeds *while also minimizing pedestrian crossing distances*.

(7) Provide for safe access to abutting properties *for motorists, cyclists, and pedestrians, including safe sight distances, access separation distances, and accommodations for high- accident locations*.

(8) Align access points with existing intersections or curb cuts and consolidate existing access points or curb cuts within the subdivision, *to the extent physically and functionally feasible*.

(9) *Minimize vehicular access points (curb cuts) to abutting properties and building lots along pedestrian-oriented street frontage; and provide, where physically feasible, shared vehicular access to frontage and other abutting building lots via rear alleys, side streets, service lanes, shared driveways, or rear cross connections between adjoining parcels.*

**F. Street Names and Signs.**

(1) **Names.** Proposed streets and street names must be identified on the *final* subdivision plat submitted with the application. Street names and numbering shall be provided and approved in accordance with the City's E-911 Ordinance.

(2) **Signs.** All street signs and posts will be provided and must be installed by the City at the expense of the subdivider. Street and other highway signs must conform to the South Burlington Sign Ordinance *and applicable Manual on Uniform Traffic Control Devices (MUTCD) standards* in effect at the time of application.

**15.A.15 Sidewalks, Bike Lanes, Recreation Paths**

**A. Purpose and Intent.** As necessary to facilitate pedestrian and bicycle access and circulation throughout the subdivision, and to provide direct pedestrian and bicycle connections to adjoining neighborhoods, public parks, transit stops, and other community focal points or destinations in the vicinity (e.g., schools, recreation facilities, civic buildings, shopping and employment centers), *the applicant must demonstrate that subdivision layout and design, including the proposed street network, incorporates as applicable:*

- (1) pedestrian-oriented streetscapes, as defined by Street Type under **Appendix [redacted]**;
- (2) pedestrian sidewalks, crosswalks, and mid-block crossings that meet ADA requirements;
- (3) interior block pedestrian passages and walkways;
- (4) direct pedestrian access from the street to fronting building lots and civic spaces, and to existing and planned transit stops;
- (5) bicycle access to all building lots, and existing and planned transit stops;
- (6) bicycle lanes, as incorporated by street type; and
- (7) existing and planned pedestrian trails and multiuse recreation paths, as identified in the Comprehensive Plan, or on the City's Official Map.

**C. Complete Streets.** *Unless otherwise specified by Zoning District, Transect Zone or PUD type, the subdivision must incorporate sidewalks or recreation paths as required by Street Type under Appendix*

1       , and other City specifications, including Americans with Disabilities Act (ADA) requirements as  
2 applicable.

- 3 (1) Where a subdivision is proposed to front along an existing roadway, all elements of the  
4 Street Type from the curb inward shall be installed by the applicant.

Commented [PC31]: Note to PC: added to be consistent with FBC standards.

6 **E. Pedestrian Easement.** A permanent pedestrian easement twenty (20) feet in width may be  
7 required by the DRB, as necessary to facilitate pedestrian and bicycle circulation within the subdivision:

- 8 (1) Through any block that is six hundred (600) feet or more in length;  
9 (2) As a continuation of a dead-end street;  
10 (3) To provide direct pedestrian access to an existing or planned transit stop within or adjacent  
11 to the subdivision;  
12 (4) In conjunction with a utility easement.

14 **B. Additional Easements.** Additional pedestrian or recreation path easements must be reserved, as  
15 indicated on subdivision plans and shown on the subdivision plat, in conformance with planned public  
16 trail and recreation path systems included on the Official Map and Comprehensive Plan.

Commented [PC32]: NOTE TO PC From 15.12(M)(5)

#### 18 **15.A.16 Blocks and Lots**

19 **A. Purpose.** The layout and configuration of blocks and building lots in relation to the street network  
20 establishes the overall pattern of development, including the creation or extension of walkable,  
21 pedestrian-friendly neighborhoods and mixed use developments. As such, the configuration of blocks and  
22 building lots represent a fundamental component of subdivision design. Accordingly, the applicant must  
23 demonstrate that the proposed subdivision incorporates:

- 24 (1) A street layout or grid under 15.A.14 above that establishes blocks that meet required block  
25 standards under these Regulations, including interconnected, walkable blocks and neighborhoods in  
26 all residential and mixed use zoning districts, or as specified by Transect Zone under Article 8 or by PUD  
27 type under Article 15.C.  
28 (2) Blocks that are configured to accommodate and provide access to building lots that comply  
29 with these Regulations.  
30 (3) Block faces and building lots that, where feasible, are oriented to maximize solar access and  
31 gain;  
32 (4) Regularly shaped building lots that front on, and minimize lot frontage or width along  
33 abutting streets;  
34 (5) Required civic spaces, parking lots or structures, and utility corridors and other facilities or  
35 easements that are intended to be held, managed and maintained in single or common ownership.

Commented [PC33]: Energy Committee Recommendation

36 **B. Blocks.** In all Zoning Districts except the SEQ-Natural Resource Protection, Mixed  
37 Industrial/Commercial, Industrial-Open Space, Airport, Airport Industrial, Institutional Agricultural, Park  
38 and Recreation, and Form Based Code District, a major subdivision with a contiguous developable area of  
39 four (4) or more acres must incorporate one or more blocks defined by intersecting street rights-of-way or

other defining features such as a lake or river, railway, historic feature, or permanently conserved land.  
Block configurations must be designed meet the following requirements:

(1) Blocks must be of sufficient developable area, length and width to accommodate building lots that meet zoning district, transect zone (building envelope standards) or PUD standards with regard to intended use, lot size and dimensions and, where applicable, proposed building types.

(2) A rectangular block configuration that accommodates two tiers of building lots that front on abutting streets (which may be accessed by a rear alley) is the preferred block configuration; however a square block configuration that incorporates a shared interior parking area, parking facility, or courtyard is also acceptable.

(3) The DRB may also allow a trapezoidal, triangular or other block configuration as necessary to accommodate existing physical, resource protection, or right-of-way constraints, or to create a design focal point to a neighborhood, to the extent that such a configuration otherwise meets applicable block length and perimeter requirements, and can accommodate regularly shaped building lots that front on at least one abutting street.

(4) Unless otherwise specified under these Regulations, or as approved by the DRB under 15.A.01(B); in order to ensure and maintain a pedestrian-oriented scale of development within residential and mixed use subdivisions:

- (a) The block perimeter must not exceed 2,000 feet
- (b) The minimum block length allowed is 200 feet; and
- (c) The average block length (for all block sides or faces) must not exceed 500 feet.

(5) The DRB may require, per (C)(3) above, a mid-block pedestrian easement for any block that exceeds 600 feet in length, as necessary to provide more direct and convenient pedestrian access, connections and circulation.

**B. Lots.** All lots must be laid out to logically relate to topography and their intended use or purpose. Building lots must be laid out within existing and planned street and block configurations, in such a way that they can be developed in full compliance with their intended use and these Regulations. Unless otherwise specified under these Regulations as applicable to the subdivision:

- (1) All proposed lots must be numbered, as shown on subdivision plans and plats.
- (2) The arrangement and configuration of lots must allow for the further subdivision of any remaining developable land on the tract or parcel to be subdivided. Where proposed building lots exceed minimum lot area requirements, the DRB may require that such lots be configured and developed in a manner that allows for further subdivision and infill development.

(3) Unless otherwise specified under these Regulations, a minimum of ten percent (10%) of the total buildable area within the developed portion of any Major Subdivision exceeding two acres in size must be allocated to functionally integrated civic space lots, as shown on the subdivision plan and plat.

- (a) Required civic space must incorporate one or more allowed Civic Space Types under Appendix \_\_\_ and meet associated type requirements.

**Commented [PC34]:** Note to PC: Per Commission discussion and direction 9/2020

**Commented [PC35]:** Note to PC: Based on current SEQ standards

**Commented [PC36]:** For PC Discussion: proposed addition setting a minimum standard for Civic Space Standard. 10% is fairly common place and is consistent with current SEQ standards (7.5 acres per 1,000 population) and Comprehensive Plan goals

(b) Designated civic space lots must have frontage on or pedestrian access from an abutting street. The entrance to a civic space that does not front on an abutting street must be readily visible, apparent, and accessible from the street.

(4) The arrangement and configuration of building lots within the subdivision must be consistent with the intended use, street type, and the planned pattern of development for the Zoning District, Transect Zone or PUD type in which the subdivision is located, including the existing or planned street and block network.

(5) All building lots must front on a public or private street, a designated civic space, or a shared courtyard with pedestrian access to the abutting street.

(6) Building lots must be configured to comply with all relevant lot area, dimensional and lot coverage requirements under these Regulations, including as applicable:

- Lot requirements under Section 3.05;
- Setback and buffer requirements under Section 3.06;
- Lot requirements specific to an allowed use under Article 13;
- Zoning district dimensional standards under Appendix C-2;
- Transect Zone Building Envelope Standards under Article 8;
- SEQ Subdistrict standards under Article 9; and
- PUD or Building Type standards under Article 15.C and Appendix     .

(7) Unless otherwise specified under these Regulations, building lots must have sufficient developable area to accommodate proposed building types, associated yard or other required open space areas, site drainage, utilities, or other improvements required under these Regulations, including site plan standards under Article 14.

(8) A building lot generally must be rectangular in shape, with side lot lines that are perpendicular or radial to the abutting street, and rear lot lines that parallel the street, except as necessary to accommodate existing rights-of-way or other physical site constraints (see Figure 2-1, Lots, Yards and Lot Lines). Irregular or oddly shaped building lots, including flag and through lots, are prohibited, except for:

(a) A flag lot, with a minimum of fifteen (15) feet of frontage on the abutting street, as necessary to accommodate a back-lot subdivision and infill development within an existing subdivision, block pattern, or development;

(b) A triangular or trapezoidal building lot defined by abutting streets that otherwise has sufficient street frontage and lot area to meet minimum lot requirements; or

(c) A through lot with frontage on two parallel or intersecting streets that cannot be further subdivided under minimum lot requirements, provided that front setback requirements can be met on both streets.

(d) Building should be oriented and configured to minimize lot width (frontage) along the street. The preferred building lot width to depth ratio is 1:2; however a ratio of 1:1 to 1:5 may be allowed as necessary to accommodate physical site constraints, stormwater drainage, or rear lot access and parking.

**Commented [PC37]:** NOTE TO PC Based on current SEQ standards, slightly adjusted to be more flexible.



(9) *Building lots must be configured to avoid or, where necessary, minimize rear lot lines that abut side lot lines. Unless otherwise specified under these Regulations, corner lots must be configured to meet lot frontage and front setback or build-to-zone requirements on all abutting streets.*

**Commented [PC38]:** NOTE TO PC Per Section 3.05

(10) *Temporary or permanent surface parking lots, where parking is the principal use, must at minimum meet the minimum lot area requirement applicable to building lots, to allow for future parking lot redevelopment. Such lots must also be shown on subdivision plans and plats submitted with the application.*

#### **15.A.17 Utilities and Services**

**Commented [PC39]:** NOTE TO PC Currently 15.13, 15.18, and generally updated.

**A. Capacity of Community Facilities, Utilities and Services.** *The applicant must demonstrate that the proposed subdivision and development will not exceed the existing or planned capacity of, or cause a disproportionate or unreasonable burden on City facilities, utilities and services, including:*

- *Public schools,*
- *Police, fire protection and ambulance services,*
- *Street infrastructure and maintenance,*
- *Parks and recreation facilities, and*
- *Water supply, wastewater disposal, and stormwater management systems and infrastructure.*

**B. Potable Water Supply and Wastewater Systems.** *The applicant must demonstrate that adequate potable water supply and wastewater facilities exist to serve the subdivision at buildout, and for each phase of development, in accordance with the following:*

**Commented [PC40]:** Note TO PC: These sections have been updated to also incorporate provisions under other city ordinances relevant to subdivisions

(1) *A subdivision within the City's public water supply and wastewater system service areas must be connected to municipal systems unless physical constraints preclude such connection. For the sewer system this includes any area located within the City Center Service Area, or within 200 feet of an existing sewer line. Each building lot within the subdivision must be served by the municipal system as required under the City's Water Ordinance, and *South Burlington Ordinance Regulating the Use of Public and Private Sanitary Sewerage and Stormwater Systems*, as most recently amended.*

**Commented [PC41]:** Note to PC: Added for clarity

(2) *Private community or other onsite systems are not permitted within the City's existing public water supply and sewer service areas. A community system outside of an existing service area may be allowed only with approval from the DRB, the Department of Public Works and the Vermont Department of Environmental Conservation, under the Department's Environmental Protection Rules. The applicant must demonstrate that a community system has been designed in accordance with City and state standards, and to eventually connect to the municipal system.*

(3) *Existing or planned water supply and wastewater system capacity must be adequate to meet total water demand and wastewater flows at buildout, and for each phase of development, as evidenced by City allocations of available reserve capacity for projects connecting to municipal systems. The applicant must apply to the Department for a preliminary allocation of available uncommitted water and wastewater system reserve capacity in advance of preliminary subdivision review.*



(a) Preliminary capacity determinations are not binding on the City but may be used by the applicant and DRB to determine that system reserve capacity, at the time of application, is sufficient to serve the proposed subdivision. Final capacity allocations will be issued by the Department only after the DRB issues final subdivision approval.

(b) Capacity allocations are not transferrable, and unused allocations expire with the expiration of final subdivision approval, or within (5) years of the date of issuance, unless a one-time extension of up to five (5) years is requested and approved by the Department.

(4) Proposed mains, distribution lines and connections to the City's water distribution and wastewater systems, and associated equipment and appurtenances, must be designed to City specifications by a Vermont registered engineer, and are subject to review and approval by the Public Works Department.

(5) Utility corridors and easements must be shown on subdivision plans and plats submitted with the application. Water and sewer mains must be located within the limits of public rights-of-way or, with approval of the DRB and the Department of Public Works:

(a) within other property owned by the City; or

(b) within a restrictive, perpetual utility easement granted to the City which is of sufficient width to allow Department access for maintenance and repair work.

(6) Sufficient water system pressure must be maintained throughout the subdivision, to serve all building lots and to provide for adequate fire protection.

(7) A water or sewer main must extend across the entire property, to the adjoining property line, to allow for future extensions through adjoining properties.

(8) The DRB, in consultation with the Department of Public Works and Planning & Zoning Department, may also request that the applicant oversize required system improvements, including pipes and pumping stations, as necessary to also serve adjoining parcels, or to comply with planned system improvements, subject to review and approval by the City Council.

(a) If requested improvements are approved by the City Council in advance of preliminary or final subdivision approval, system infrastructure must be installed by the applicant as approved, and the City shall reimburse the applicant or developer for the difference in cost.

(b) If the City Council does not approve requested improvements, the applicant will not be required to comply with the DRB or Department request.

**C. Fire Protection.** The subdivision must be laid out to ensure that adequate fire protection can be provided in accordance with City specifications.

(a) Subdivision layout and design must also comply with applicable City and state public safety and fire codes in effect at the time of application, including standards for minimum separation distances between structures, street width, water flow and pressure, fire hydrant installation, sprinkler systems, and emergency vehicle access.

(b) Fire hydrants connected to the municipal water system must be located and designed to meet City specifications, as recommended by the Department of Public Works and City Fire Marshal. For a subdivision that is not connected to the municipal system, the DRB may require the subdivider to install

**Commented [PC42]:** NOTE TO PC Paul removed an operational statement about City maintaining systems before they are taken over.

**Commented [PC43]:** NOTE TO PC From 15.18(7)

hydrants, fire ponds or other measures necessary to provide adequate fire protection, as recommended by the Fire Marshall.

**D. Stormwater Facilities.** The applicant must demonstrate that stormwater management system serving the subdivision has been designed to meet City standards and specifications under Article 12 of these regulations, the *South Burlington Ordinance Regulating the use of Public and Private Sanitary Sewerage and Stormwater Systems*.

**E. Utilities and Services.** The applicant must demonstrate that subdivision design has been coordinated with utility companies serving the proposed subdivision, as necessary for the DRB to determine that adequate service capacity exists and that the areas identified for utility installation, on subdivision plans and plat, meet the requirements of these Regulations.

(1) Utility connections must be provided to each building lot, and to other subdivision lots on which service is necessary or required.

(2) Utilities must be located within street rights-of-way, or within permanent utility access and maintenance easements identified on subdivision plans and plats.

(3) New electrical, natural gas, telephone, internet, cable television, and outdoor lighting systems must be installed underground, unless prevented by ledge or other physical constraints that make burying utility lines impractical.

(4) Utility lines or corridors must be located and designed in a manner that is compatible with the extension of utilities and services to adjacent properties.

**F. Street and Sidewalk Lighting.** Where provided along local and collector streets, street and sidewalk lighting must be pedestrian-scaled (e.g., 12 to 14 feet in height) to ensure pedestrian safety traveling to and from public spaces. Overall illumination levels should be consistent with the development patterns and character of the neighborhood, with smooth levels of illumination (rather than hot-spots) and light trespass minimized to the lowest level consistent with public safety.

**G. Renewable Energy Facilities.** The applicant must demonstrate that, to the extent physically feasible, reasonable, and as appropriate to its development context, the subdivision has been designed to incorporate best practices that maintain access to and use of renewable energy resources-, e.g., to include one or more of the following as indicated on subdivision plans and plats:

(1) Street and building lots that are oriented to maximize solar access and gain, for passive solar construction or rooftop solar installations.

(2) Parking lots or structures that are designed and constructed to accommodate electric vehicle infrastructure, including charging stations and solar canopies or rooftop solar installations.

(3) One or more suitable open areas ("solar lots") within the subdivision that are specifically designated for a ground-mounted community or neighborhood solar installation.

(4) Solar access easements, as necessary to maintain solar access across adjoining building lots or properties.

(5) Covenants, deed restrictions or other legal mechanisms that require "solar-ready" construction within the subdivision.

**Commented [PC44]:** Note to PC: Moved from SEQ standards and modified slightly.

**Commented [SM45R44]:** Is this lighting provision required or optional (per "where provided") —e.g., under Street Type Standards? Clarification needed...

**Commented [PC46]:** For Planning Commission consideration based on meeting with the Energy Committee. This could be a "should" or a "must"

**15.A.18 Required Improvements**

**A. General Standards.** All required improvements must be designed and installed in accordance with the design standards, development requirements, specifications and procedures set forth in these Regulations and other applicable City regulations and standards. Typical plans and sections are attached to these Regulations. Installation and design standards apply to both public and privately owned required improvements. Proposed privately owned streets and other improvements shall be marked as such on the final plat.

**B. Reference Monuments.** Permanent reference monuments, *as shown on the final subdivision plat*, must be set in concrete for all corners and angle points of the boundaries of the subdivision and as required by the City Engineer for new roads. Lot corner markers shall be set at corners and angle points of all lots, plots, or parcels, and located in the ground to finish grade.

**C. Modification of Design or Improvements.** If at any time after approval before or during the construction of the required improvements, the subdivider demonstrates that unforeseen conditions make it necessary or preferable to modify the location or design of structures, utility cabinets, curb cuts, roads, parking lots, lighting, or landscaping, such minor alterations may be authorized by the Administrative Officer pursuant to the standards in Section 14.05(l) for as-built plans and field changes, upon the advice of the City Engineer. Such authorization may be provided if the proposed changes are within the spirit and intent of the Development Review Board's approval and that they do not waive or substantially alter the function of any improvements previously required by the Development Review Board. The modification of minor engineering or construction details or improvements may be authorized by the City Engineer without further approval, provided such changes do not alter the approved function, location or design of structures, curb cuts, roads, or parking lots.

**D. Inspection of Improvements.** The City Engineer may, at their discretion, may perform inspections as needed during the installation of required improvements to verify the satisfactory completion of required work.

**E. Proper Installation of Public Facilities and Improvements.** Prior to the release of any bond, escrow account, or letter of credit pursuant to Section 15.A.19, the subdivider or developer must submit to the City Engineer as-built construction drawings, certified by a licensed engineer. The City Engineer shall then inspect the required public facilities and improvements. In the event deficiencies are found and are not remedied by the subdivider or developer, the Administrative Officer shall notify the holder of the surety and take all necessary steps to preserve the City's rights under any performance bond, escrow account, or letter of credit.

**F. Acceptance of Required Improvements.** *The City Council is not obliged to accept any public street, facility, or improvement.* City acceptance of proposed public streets and required public facilities and improvements must conform to procedures established by the City Council. Acceptance shall not take place until after the City Engineer has determined that required public facilities and improvements have been satisfactorily completed and after all bonds, escrow accounts or letters of credit, other than an amount that may be required to cover maintenance and-guarantee work for a two-year period, have been

**Commented [PC47]:** Note TO PC:  
streamlined from current requirements  
following consultation with DPW.

released or closed.

**15.A.19 Performance Bonds, Escrow Accounts, Letters of Credit**

**A. Public Facilities and Improvements.**

(1) Public facilities and improvements under this Article shall include, without limitation, streets, sidewalks, recreation paths, curbing, water and sewer mains and pipes, stormwater infrastructure, pipes and catch basins, fire hydrants, parks, recreational facilities and other improvements which are public or are intended to become public.

(2) Before the issuance of a zoning permit, the applicant, subdivider or developer must furnish the City with a suitable performance bond, escrow account, or letter of credit in an amount sufficient to cover the full costs of all proposed public facilities and improvements and ancillary site improvements and their maintenance for two years after completion.

(3) **Term.** Such bonds, escrow accounts, or letters of credit shall run until the City Engineer has deemed the work to be complete in accordance with City approvals and regulations and for two (2) years thereafter, but in no case for a longer term than three (3) years. However, with the consent of the applicant, subdivider or developer, the term of that bond, escrow account or letter of credit may be extended for an additional period not to exceed three (3) years. If any public facilities and improvements have not been installed or maintained as provided within the term of the bond, escrow account or letter of credit then the amount secured by the bond, escrow account or letter of credit shall be forfeited to the City.

(4) **Partial Release.** Upon a determination by the City Engineer that a phase of the construction of public facilities and improvements is complete as provided in Article 15.A.18(E), the Administrative Officer may recommend that the City Treasurer approve a partial release of the amount of the bond, escrow account or letter of credit equivalent to the phase or portion of the completed construction, up to a maximum of 90% of the original amount. Any amounts that the City Treasurer releases shall not exceed the proportion of the total project that has been built, up to a maximum of 90% of the original amount. The remaining 10% of the original amount of the bond, escrow account or letter of credit only shall be released upon the determination of the City Engineer that the public facilities and improvements have been maintained for two years after the City Engineer determined the public facilities and improvements to be complete. Upon a determination by the City Engineer that the public facilities and improvements have been maintained as provided within the term of the bond, escrow account or letter of credit, the Administrative Officer may recommend that the City Treasurer approve the release of the remaining 10% of the original amount.

**B. All other bonds, escrow accounts, or letters of credit required by these Regulations,** including but not limited to Landscaping and Site Restorations or rehabilitation, Earth Products and required demolition and removal of buildings.

(1) Before issuance of a zoning permit, the applicant, subdivider or developer shall furnish the City with a suitable performance bond, escrow account, or letter of credit in an amount sufficient to guarantee all landscaping and plantings as required under Article 14, and any site restorations or rehabilitations as required under Article 3 or Article 13, for a period as described in this section.

(a) For development with a total landscaping budget requirement of \$2,000 or less, no performance bond, escrow account, or letter of credit shall be required.

(b) For development with a total landscaping budget requirement of over \$10,000, the required amount for performance bond, escrow account, or letter of credit shall be \$10,000, plus fifty percent (50%) of the landscaping budget amount over \$10,000. Example: a development with a total required landscaping budget of \$20,000 shall have a performance bond, escrow account, or letter of credit of not less than \$15,000.

(2) **Term for Bonds, Escrow Accounts, or Letters of Credit for demolition and removal of buildings required by Article 3.09.** Bonds, escrow accounts or letters of credit for the demolition and removal of a principal building upon the construction and occupancy of a new principal building, as required by Article 3.09 of these Regulations, shall run for a period of two (2) years. The Administrative Officer may recommend that the City Treasurer approve the release of the bond, escrow account or letter of credit upon a demonstration of compliance with Article 3.09(E)(3). If an applicant, subdivider or developer does not demonstrate compliance with Article 3.09(E)(3) as provided within the term of the bond, escrow account or letter of credit, then the amount secured by the bond, escrow account or letter of credit shall be forfeited to the City.

(3) **Term for Other Bonds, Escrow Accounts, or Letters of Credit required by Articles 3, 13 and 14 and 15.** All other bonds, escrow accounts, or letters of credit shall run for a period of three (3) years. However, with the consent of the applicant, subdivider or developer, the term of that bond, escrow account or letter of credit may be extended for an additional period not to exceed three years. If any required work has not been constructed, installed or maintained as provided within the term of the bond, escrow account or letter of credit then the amount secured by the bond, escrow account or letter of credit shall be forfeited to the City.

**C. Bond Amounts.** The amount of such bond, escrow account or letter of credit shall be established by the Development Review Board and shall be equal to: 100% of the estimated project costs for public facilities and improvements, plus a 15% contingency; or 100% of the estimated project costs for all other types of bonds required by these Regulations. The applicant, subdivider or developer shall be responsible for providing accurate cost estimates. Where amounts are not specified by these Regulations, the City Engineer shall review all cost estimates and provide a recommendation to the Board. The Board may invoke technical review to confirm the accuracy of estimates.

**D. Form of Bonds, Other Sureties.** The form of any such bond, escrow account, or letter of credit shall be approved by the City Attorney and City Council and shall include procedures for the City to make use of such funds in accordance with 24 VSA § 4464.

**E. "As-built" construction drawings and plans** shall be submitted in paper and digital form to, and approved by, the City Engineer, prior to the release of any bonds, or portions thereof, for the installation of all required improvements.

## 15.B MASTER PLAN REVIEW

### Notes:

1. This Article has been prepared as a complete replacement of the current Master Plan provisions of Article 15.
2. Subdivision and Planned Unit Development are prepared as separate articles, 15A and 15C

15.B.01	Purpose
15.B.02	Applicability
15.B.03	Review Process
15.B.04	Master Plan Components
15.B.05	Review Standards
15.B.06	Approval, Effect, Duration, Amendment

### 15.B.01 Purpose

For purposes of these Regulations a master development plan, or “Master Plan,” is a plan for the integrated, long-term development of a tract of land which prescribes the overall pattern, type, density, form and timing of development, consistent with applicable regulations, the City’s adopted Capital Improvement Program, and Official Map. Master plan review and approval by the Development Review Board (DRB) is intended to:

- Establish the framework for the orderly, well-planned and integrated development of large tracts of land, and land subdivision and development projects that occur over an extended period;
- Identify and address the cumulative and overall impacts of more complex or phased development on the planned pattern and density of development, resources identified for protection under Articles 10 and 12, municipal infrastructure, and existing and planned community facilities and services;
- Ensure that the location, timing and rate of proposed development does not exceed the ability of the City to provide municipal infrastructure, facilities and services in an efficient and cost-effective manner;
- Serve as the basis for development phasing, by specifying the timing and sequence of development in relation to existing and planned infrastructure capacity, required improvements, and the provision of open space, including civic spaces and other public amenities;
- Define and clarify respective interests, roles, responsibilities, and management structures for project development under the Master Plan, and for long-term management and maintenance.
- Provide assurances to the City, neighbors and other interested parties that subsequent development will be consistent with the approved master plan; and
- Provide assurances to the applicant, investors, and developers that, for the duration of the approved master plan, development consistent with the plan may proceed under regulations in effect at the time of master plan approval.

### 15.B.02 Applicability

**Commented [PC1]:** Note to PC: Master plan approval is currently required under § 15.07 for 1) land development involving ten or more acres; 2) development of more than ten dwelling units in the SEQ; and 3) Development of more than ten units in a five-year period in the R1-Lakeshore District.

**(A) Required Approval.** A Master Plan review and approval by the DRB is required prior to site plan or preliminary subdivision review for:

- (1) Subdivision of development involving four (4) or more contiguous acres, except for a Transect Subdivision within the City Center Form Based Code District.
- (2) Subdivision or land development proposed to occur over two (2) or more phases, or three (3) or more years.
- (3) A Planned Unit Development under Article 15.C, except for a small infill PUD as defined and exempted under Section \_\_\_\_.
- (4) *[Other – e.g., projects with multiple principal buildings/lot, projects >= “x” DUs or GSF?]*.
- (5) The DRB may also require the submission of a Master Plan for any tract of land where there exists clear potential for future growth and development beyond what may be presented in an application, as necessary to establish physical and functional connections between areas of proposed and potential future development.

**(B) Elective Review.** An applicant may request master plan review for any project that involves two (2) or more acres in any zoning district, except within the City Center FBC District.

### 15.B.03 Master Plan Review Process

The following procedures apply to any subdivision or development project for which Master Plan review is requested or required:

**(A) Pre-Application Sketch Plan Review.** An applicant must submit a sketch plan for review and follow the procedures and submittal requirements of Section 15.A.04. If master plan review is requested or required, the applicant must then file an application for master plan approval within six (6) months of the final DRB sketch plan review meeting. The Master Plan must generally conform to the layout shown on the sketch plan, and incorporate recommendations made by the DRB.

**(B) Master Plan Application.** The applicant must submit a Master Plan that includes the components described under (D) below; and specific submission requirements as listed in Appendix E, Submission Requirements. The applicant must meet with Planning & Zoning Department Staff to review application requirements, relevant codes and standards, and proposed phasing schedules, prior to submitting a formal application.

**(C) Combined Review.** At the applicant's request, master plan review may be combined with preliminary subdivision or site plan review for the entire development or a discrete portion or phase of the proposed development. Any land proposed for development for which master plan review is secured without preliminary subdivision or site plan review shall require preliminary subdivision or site plan review and approval prior to final review unless the DRB has waived the preliminary subdivision stage of review in an approved master plan. The DRB may review the master plan and all areas proposed for preliminary subdivision or site plan review simultaneously, and shall issue separate findings of fact under each.

**Commented [PC2]:** For PC Discussion: Currently there is no PUD or Master Plan in the City Center FBC District. This tool could be used to establish a Master Plan if appropriate, in the future. Perhaps refer to the FBC Subcommittee?

**Commented [PC3]:** Note to PC: This threshold still to be established.

**Commented [PC4]:** Note to PC: currently as specified for “elective PUD review,” except for parcels of land less than two acres in the R1, R1-LV, R2, R4 and LN Districts.

**Commented [PC5]:** Note to PC: Note: reflects current requirements under 15.06.C.

Findings of fact pertaining to the Master Plan shall be binding on the DRB and the applicant for all subsequent preliminary subdivision or site plan applications made pursuant to master plan approval.

**(D) Neighborhood Meeting.** The applicant for master plan review must conduct at least one (1) neighborhood meeting in the neighborhood in which the project is located, the costs of which are to be borne by the applicant. The purpose of this meeting is to present the pending proposal, provide an opportunity for public questions and comments, and to allow the applicant to identify and address potential neighborhood concerns in advance of the formal hearing process.

**Commented [PC6]:** For discussion by the PC. Modelled after the City Center FBC (where no DRB hearing takes place)

(1) The neighborhood meeting must be held within thirty (30) calendar days of filing a complete application, and no less than seven (7) calendar days prior to the first public hearing.

(2) The meeting should be held on a weekday evening or Saturday and in an ADA-accessible public building in the City of South Burlington;

(3) The meeting should include an overview of the project by the applicant, an opportunity for all members of the public in attendance to offer oral input, and acceptance of any written input.

(4) The meeting should not be held on the same day as a regularly scheduled Development Review Board or City Council meeting.

(5) A meeting invitation that includes a brief project description, and the date, time and location of the neighborhood meeting must be posted on the development site, and sent by regular mail to all property owners within 1,000 feet of the proposed development at least seven (7) calendar days prior to the meeting date. A digital copy of the meeting notice must also be provided to the Administrative Officer in advance for posting and forwarding to the City's notice list.

**Commented [PC7]:** For PC discussion: the objective here is positive but logistically this may be difficult. Perhaps an alternative requirement such as a newspaper ad or other?

(6) Following the meeting, the applicant must submit the meeting attendance list and meeting minutes to the Administrative Officer for inclusion in the public hearing record.

**(E) Public Hearing.** Following the submission of a complete application, the Administrative Officer must schedule and the DRB must hold a warned public hearing on the application, as required under 24 V.S.A. §§ 4463 and 4464 and Section 17.08(F) of these Regulations.

#### **15.B.04 Master Plan Components**

A Master Plan required under this section must include all components listed below and in Appendix E, Submission Requirements, unless waived by the DRB because they are not applicable, to be presented in narrative, graphic, and tabular form.

**Note!** The greater the level of detail provided in the Master Plan, the less need for extensive review of subsequent phases of development. Conversely, the more general the details provided, the greater the level of information and review that may be required by the DRB for subsequent phases of development.

**(1) Project Description.** A map, narrative and accompanying table(s) that describe:

- The overall vision for and scope of the proposed development;
- The land area and properties to be included under each phase of development;



- Current property ownership and contact information;
- Current zoning district designations;
- Project consistency with applicable zoning and subdivision regulations; and
- Requested modifications or waivers, as allowed under applicable regulations.

(2) **Context Report.** A map and accompanying narrative that describe the area proposed for development in relation to the surrounding neighborhood, and to existing and planned City facilities, services, and infrastructure in the vicinity of the project, to include:

- Existing parcels, and existing and planned streets, recreation paths, transit routes, buildings, land uses, open spaces and community facilities located within ½-mile of project boundaries;
- Proposed street, recreation path, transit, infrastructure and open space connections between existing, planned and proposed development; and
- A description of how concerns raised in the neighborhood meeting will be addressed.

(3) **Existing Conditions Report.** A Site Conditions Map for the entire tract and accompanying narrative that depict and describe:

- Existing topographic conditions, including elevation contours, surface waters, wetlands and other natural features;
- Environmental resources identified for protection under Articles 10 and 12, or otherwise regulated by the City;
- Existing streets, rights-of-way and utility corridors; and
- Existing land uses and structures, including any historic sites or structures listed or eligible for listing on the Vermont State Register of Historic Places.

(A) **Development Plan.** One or more maps and an accompanying narrative that depict and describe the overall pattern, density and type of development proposed for the entire project, and for each phase of development, to include:

- Environmental resource areas identified for protection, consistent with adopted Environmental Protection Standards under Articles 10 and 12;
- Designated open space areas, including any land areas to be set aside for renewable energy production;
- The proposed street grid within and connecting each phase of development, including the location of major streets by street type, and any existing rights-of-way, easements or intersections identified for relocation;
- Proposed recreation paths, transit routes, and infrastructure and utility corridors between and serving each phase of development;
- Designated development areas, including land use allocation areas by proposed use type(s), and associated acreages for each; at minimum to include designated residential areas, nonresidential areas, mixed use areas, civic spaces, and principal or shared parking areas.

**Commented [PC8]:** Note to PC: This Section would require the applicant to provide an assessment of the project's context.

**Commented [PC9]:** Note to PC: this is intended to be shown as maps and accompanying narrative.

- Proposed transition areas along the project perimeter, in which proposed development will be integrated with or buffered from adjoining properties and development;
- Existing buildings to be incorporated in proposed development or redevelopment; and
- Public and private transportation, infrastructure and utility improvements necessary to accommodate each phase of development, and the entire project buildout, to include any improvements proposed for future public dedication, consistent with the City's adopted Official Map.

(B) **Summary Statistics.** The following project statistics, presented in an easy to reference tabular format, must be provided for the entire tract or project area, and for each phase of development unless waived by the DRB:

- Total acreage;
- Open space acreage by open space or environmental resource type;
- Development acreage by land use or building type for each designated development area, excluding proposed streets, but including the acreage of designated principal or shared civic spaces and parking areas;
- Number of proposed dwelling units by housing or building type;
- Gross square feet of building floor area by use or building type for nonresidential and mixed use development; and
- Other statistics or data required by the DRB as necessary to determine conformance with relevant standards under these Regulations.

(C) **Buildout Analysis and Budget.** Based on projections provided under (E) above, the applicant must also provide an analysis for each of the following based on total projected demand at buildout, and as allocated for each phase of development, for use in determining the project's total buildout budget:

- Minimum and maximum acreage allocations by use type, as percentages of designated development acreage;
- Gross and net development densities by use type;
- Minimum number or percentage of affordable housing units required per designated residential and mixed-use development area and phasing plan for proposed units, as applicable pursuant to Article 18;
- Minimum acreage or percentage of civic space required per designated development area;
- Maximum peak hour trip generation rates, by use type;
- Maximum water supply and wastewater system demand, by use type;
- Maximum total impervious surface (percentage, total square footage) and projected volume of stormwater runoff per designated development area; and
- Other measures or parameters required by the DRB as necessary to identify and limit the projected impacts of development on municipal facilities, infrastructure and services, and properties and uses within the vicinity of the project.

**Commented [PC10]:** Note to PC: These are intended to be provided in table-format at this Master Plan Stage.

**Commented [PC11]:** Note to PC: this information is based on the above and becomes the foundation for the decision and future amendments.

1 **(D) Design Standards.** The application must include proposed standards, specifications, illustrations,  
2 best management practices, or other forms of guidance for the following, consistent with City regulations  
3 in effect at the time of Master Plan approval, as applicable to all subsequent development under the  
4 Master Plan:

- 5 • Environmental resource protections for identified resources, consistent with associated standards  
6 and accepted mitigation measures under Articles 10 and 12.
- 7 • The mix or allocation of land uses, as specified for each phase of development;
- 8 • Typical street cross-sections by Street Type, as referenced under Appendix \_\_\_\_;
- 9 • Typical open space types, including designated civic space types, as referenced under Appendix  
10 \_\_\_\_;
- 11 • Typical block and building lot dimensions and configurations, consistent with applicable  
12 subdivision and zoning regulations, and zoning district or PUD type, and for designated transition  
13 areas as necessary to complement or match the adjoining pattern of development;
- 14 • Typical building types, as applicable and referenced under Appendix \_\_\_\_, including proposed  
15 housing types, and elevations;
- 16 • Building height and setback standards as applicable by zoning district, PUD or building type; and  
17 for designated transition areas as necessary to complement or match the adjoining the form of  
18 development;
- 19 • Parking specifications for on-site, off-site, and on-street parking areas, needed to serve  
20 proposed development;
- 21 • Setbacks, buffering, screening or other mitigation measures necessary to separate incompatible  
22 land uses, particularly within designated transition areas;
- 23 • Overall lighting plan, including typical fixtures, consistent with relevant lighting requirements  
24 under Section 13.07 and Appendix D;
- 25 • Landscaping and screening specifications, consistent with relevant landscaping standards under  
26 Section 13.06;
- 27 • Specifications for the siting and design of new buildings, and the retrofit of existing buildings, as  
28 necessary to meet applicable energy standards under Section 3.15, and to promote renewable  
29 energy installations; and
- 30 • Any additional architectural or design guidance for each type or phase of development, and for  
31 proposed transition areas, that is intended to integrate existing and new forms of development,  
32 and to ensure coordinated and cohesive forms of phased development;

33  
34 **(E) Phasing Plan.** The application must include a narrative or table and map that clearly identify,  
35 describe and depict each phase of development, including properties included, designated development  
36 areas by use type, major streets, supporting infrastructure and facility improvements, civic spaces, and  
37 other public amenities to be provided prior to or in association with each phase; and a schedule for the  
38 timing and sequence of development over the period covered by the Master Plan, consistent with the  
39 City's adopted Capital Improvement Program and Official Map. Each phase should account for at least  
40 20 percent of the total project area or expected buildout in units/SF, incorporate one or more distinct  
41 areas identified for coordinated development and management, and the infrastructure and facilities

**Commented [PC12]:** Note to PC: This section is intended to establish the design standards that will direct the project through all of the remaining stages of review. The DRB has the authority to approve a design, to vest the standards in the current regulations, or to determine that the element must be reviewed under the regulations in place at the time of the subsequent review. Applicants are therefore incentivized to make commitments early on in order to be vested.

necessary to support that phase of development. Any temporary or interim structures or uses (e.g., buildings, parking, construction or staging areas) intended for conversion or redevelopment in a subsequent phase should also be identified in the phasing plan.

**(F) Management Plan.** A narrative description of the proposed management structure responsible for project development, to include all principals or entities with direct control over and responsibility for the financing, permitting, construction, and completion of development under the Master Plan; and, following project completion, for long-term ownership, management, operation, and maintenance of capital and community assets. The management plan must also clearly identify any streets, infrastructure, facilities, civic or other open spaces proposed for public dedication under each phase of development, consistent with the City's adopted Official Map and Capital Improvement Plan, for consideration in subsequent DRB conditions of approval or development agreements to be approved by the City Council.

#### 15.B.05 Review Standards

**(A) Findings.** For Master Plan approval, the DRB must find that:

- (1) The Master Plan includes all the components required under D above, unless specifically waived by the DRB, in enough detail to provide the framework and standards for future development under the plan;
- (2) The overall type, pattern and density of development, and allocation of land uses, are consistent with these Regulations and other City regulations in effect at the time of application, including relevant subdivision, zoning district or planned unit development standards;
- (3) The proposed Development Plan demonstrates the efficient, coordinated and integrated development and use of land which:
  - (a) Considers existing topography and physical site constraints;
  - (b) Avoids or minimizes and mitigates the impacts of future development on environmental resources identified for protection, as enumerated in Articles 10 and 12, and as incorporated into the overall design;
  - (c) Defines an overall pattern of development, including proposed streets and blocks, that is consistent with the zoning district or type of planned unit development;
  - (d) Maintains street, pedestrian, and transit connectivity, and contiguous or accessible open space with the adjoining neighborhood, and within and between each phase of development;
  - (e) Avoids, or minimizes and mitigates the adverse impacts of development on adjoining properties and uses, through the designation of transition areas or buffer areas along the project perimeter; and
  - (f) Includes adequate standards specific to each type and phase of development, to include guidance for the functional and aesthetic integration of development with the surrounding neighborhood, and provisions for buffering or screening incompatible land uses.

**Commented [PC13]:** Note to PC: The DRB must find that each of the criteria below are met in order to approve

(4) The Buildout Budget sets reasonable development parameters for the entire project and as allocated for each phase of development, for reference in subsequent regulatory reviews, as necessary to identify and limit the cumulative and overall impacts of project development on City infrastructure, facilities and services.

(5) Design Standards are sufficiently detailed to provide standards for development that apply for the duration of the Master Plan.

(5) The Phasing Plan and Schedule:

- (a) are consistent with the City's adopted Capital Improvement Program;
- (b) ensure that all phases of development will occur in an orderly fashion; and that
- (c) infrastructure and facility improvements necessary to support each phase of development will be provided concurrently with such development, as may be further ensured through subsequent or separate regulatory review processes and development agreements.

(6) The Management Plan:

- (a) defines a management structure for the duration of the Master Plan that supports long-term project viability through buildout;
- (b) identifies those principals or entities responsible for securing necessary municipal permits and approvals for development under the Master Plan; and
- (c) clearly identifies proposed ownership and responsibilities for the long-term management, maintenance and operation of capital and community assets, including any proposed dedications of land, facilities and infrastructure to the City.

#### **15.B.06 Master Plan Approval, Effect, Duration, Amendment**

**(A) Decision.** Within forty-five (45) days after the close of the public hearing on the Master Plan, the DRB must issue its written findings of fact and decision to approve, approve with conditions, or disapprove the Master Plan. Failure to act within this 45-day period shall constitute approval under 24 VSA § 4464(b), as deemed by the court and certified by the City Clerk. The DRB decision, including findings and information for appeal, shall be sent by certified mail to the applicant, and filed in the City land records. Copies of the decision shall also be mailed to all parties who participated in the DRB hearing process.

**(B) Subsequent Regulatory Review.** In its approval of a Master Plan, the DRB shall specify the level of review and review processes required for subsequent applications filed under the Master Plan, provided such procedure is consistent with the intent of these Regulations and the following:

- (1) Sketch plan review is not required for any application for preliminary subdivision or site plan review that complies with the approved Master Plan, and associated conditions of approval.
- (2) The DRB may waive preliminary subdivision or site plan review for specified phases or portions of a project.

(3) The DRB may in its decision specify allowed modifications or changes under the Master Plan which require only administrative review and approval by the Administrative Officer.

**(C) Effect.** Once a Master Plan has been approved, all subsequent development must conform to the Master Plan as approved.

(1) The Development Review Board in issuing a decision shall make specific findings as to which elements in the Master Plan are vested. The Board may approve elements of the Master Plan for all subsequent applications; determine that elements of the Master Plan are vested; and/or determine that elements are not vested.

**Commented [PC14]:** Note to PC: this section enumerate the DRB's authority to vest elements of the plan.

(2) Master Plan approval is binding upon the applicant, the owner(s), their agents and successors in interest.

(3) Once the Master Plan is approved, the applicant may apply for other permits and approvals referenced in the conditions of Master Plan approval, as required prior to the start of construction.

(4) Unless the applicant fails to comply with the conditions of Master Plan approval and these Regulations, the Master Plan as approved shall not be modified, revoked or otherwise impaired by any action of the City without the consent of the applicant. For purposes of subsequent regulatory reviews under the Master Plan, for the duration of the plan the regulations in effect at the time of Master Plan approval shall apply to vested elements under Subsection(C)(1). For vested elements, Regulations enacted following master plan approval shall apply only as necessary to address public health and safety or, at the request of the applicant, to incorporate types or forms of development allowed under more recently adopted regulations, in conjunction with an application to amend the Master Plan.

**(D) Duration.** The duration of the Master Plan, as specified in the conditions of DRB approval, shall be determined by the DRB in consultation with the Planning Director and City Engineer.

**Commented [PC15]:** Note to PC: This duration would be authorized to last a maximum of 10 years, after which a new Master Plan would be required. 10 years has been recommended as a typical Master Plan duration.

(1) The Master Plan should be approved for a period of time, not to exceed six (6) years, for which the impacts of proposed development can clearly be ascertained from the quality and detail of the information provided; which allows sufficient time for project planning, permitting and development, including required regulatory reviews; and which accommodates full project buildout in relation to the timing of planned infrastructure and facility improvements.

(2) The Master Plan shall remain in effect as approved until the development allowed by the plan has been completed, the plan expires, or the plan is amended or superseded.

(3) Applicant shall submit a complete preliminary or final subdivision or site plan application (as applicable) for at least one phase of the project within two (2) years of the date of approval of the Master Plan. Concurrent review with Master Plan shall be deemed to have satisfies this requirement. Failure to submit a complete application within two (2) years of the date of approval shall result in expiration of the Master Plan.

(4) The duration of an approved Master Plan may be extended by the DRB for up to two (2), 2-year periods, for cause, if the request and reasons for the extension are submitted in writing prior to

the Master Plan expiration date; however in no event shall the duration of an approved Master Plan exceed ten (10) years in total, to include all authorized extensions or amendments.

**(E) Amendment.**

**(1) Minor Amendment.** An approved Master Plan may be amended concurrently with the application for preliminary or final subdivision or site plan review, without sketch plan review, if the proposed amendment represents a material change that does not deviate significantly from the Master Plan as approved, including the approved development plan and phasing schedule, and does not alter the overall buildout budget. This may include the reallocation of budgeted development parameters between development phases.

**(2) Substantial Amendment or Re-Approval.** Full Master Plan review and approval under (C), including sketch plan review and required pre-application meetings, will be required to re-approve a Master Plan beyond the duration established in Subsection (D) above or for any development representing a substantial change that deviates from the approved Master Plan in one or more of the following respects:

(a) Proposed development that incorporates land or properties that were not included in the master plan as approved;

(b) Proposed development that significantly alters the development plan as approved, including a change in the overall pattern of development (e.g., streets, blocks, connectivity), the location and extent of permanent open space, designated development areas and civic spaces, or the allocation of development densities and land uses; or,

(c) Proposed changes that significantly alter the parameters and associated impacts of development at buildout as set forth in the approved buildout budget, including but not limited an increase in total site coverage, an increase in PM peak hour trip ends, and other parameters that require additional infrastructure, facilities or services.

Re-approval of a Master Plan shall be subject to the Land Development Regulations in effect at the time of application and shall be considered a new application for the purposes of Subsection D, Duration.

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

The South Burlington Planning Commission held a regular meeting on Tuesday, 9 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; S. Dooley, M. Abrams, D. Long, F. Von Turkovich, C. & A. Long, L. Ravin, V. Bolduc

**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 said he has lived on Highland Terrace since 1981 when there were large, long lots. He is concerned with a lot of small houses going in. Trees are being taken down and there are 5 houses that will be on wells. He asked that construction be halted until his proposal is considered. He felt that residents need “predictability.” Ms. Louisos said the Commission will review Mr. Abrams’s letter.

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

Ms. Ostby: Hosted a mapping session. Despite low attendance people left with better understanding. She is willing to try it again. She also went through it with Vince Bolduc in light of the housing group he is associated with. The group will probably be back in touch.

Mr. Riehle: The tragic accident on Route 15 got his attention as a biker. Route 15 isn’t too different from Hinesburg or Shelburne Roads, and the Commission should keep this in mind. He didn’t want there to be a day when a child in South Burlington is hit and “we haven’t made it safe for every child.”

Mr. Conner: Construction begins this week on the missing sidewalk in the “jughandle.” Public Works is doing this. Staff is also working on sidewalk connection on Airport Parkway from Kirby Road to Berard Drive and on Dorset Street near Old Cross Road.

**4. Work Session on Land Development Regulations Overhaul:**

Mr. Conner showed a chart of ‘Recommended Minimum and Maximum Residential Density by PUD Type.’ He noted the number can be moved around. He showed how 4 units per acre with single family homes looks using density as the driver (e.g., the Orchards) and a concept with the same density but with half of the houses being duplexes. The feeling of “neighborhood” is lost in the latter instance. He also showed the same concept at 8 units per acre with 4plexes, and the “oddly matched” look it creates.



Mr. Conner then showed how this changes with “building type” density with at least 3 housing types. NO one type is more than 50% of the building and none is less than 10%. He showed this with different mixes of housing. He noted that the DRB could still look at the context and environment to see what works well. He also said that some of the multiplex buildings could be made to look like single family homes.

Mr. Riehle asked about “common space” in the building type. Mr. Conner said about 10% of the buildable land would be a neighborhood park.

Ms. Ostby questioned whether a 4-plex would have enough land for more cars, more children, etc. She said it felt like there would be less “private space.” Mr. Conner said that is true, but there could be one and two bedroom units. There would also be a requirement for parking accommodation. Ms. Ostby asked if the size of the unit can be defined/controlled. Mr. Conner said that is up to the creativity of the designed. Ms. Ostby felt it makes sense if the number of bedrooms can be limited.

Mr. Macdonald felt this could create a major increase in density, from 16 units to as much as 50. Mr. Conner said this would require a 10-acre minimum parcel. Mr. Mittag asked if it could be a 4-acre parcel. Mr. Conner said that would be for infill, and there would be a relationship to what is next to it. At 10 acres, you can build a neighborhood, and you can adjust the mix of building types.

Ms. Ostby noted that even today you can get the increased density in an R-4 zone with Inclusionary Zoning. She said they would have to figure out the density bonus piece with this type of development.

Mr. Conner then showed an example of what exists on Allen Road. At 4 units per acres, there are two 4-story buildings with a single home between them. Ms. Ostby asked what could have been done differently. Mr. Conner showed where there might have been a street and a park, possible other streets creating a “neighborhood pod” but with the same density as exists today. He added there wouldn’t be a hard cap set on the number of homes, and the number of each type of home could be adjusted to create a desired outcome.

Mr. Conner said staff would still recommend a parcel-based concept in the Conservation PUD.

Mr. VonTurkovich asked whether separate lots would be defined for buildings. Mr. Conner said the classic approach is that you would assign lots to them. He noted that the DRB allows lot lines to be drawn but does not count these for development purposes. He added that developers have said they would like lot lines. Mr. Von Turkovich agreed that the buildings on Allen Road are “unfortunate.” He felt there would be a much different look if they were 2 stories instead of 4.

Ms. Dooley said that having a variety of housing types is more likely to get a differencing in the pricing for housing. She encouraged the Commission to think positively about the “housing type” of development. She felt South Burlington has become a city of 2 districts: the median income in one district is twice that of the other. She said the city needs to address this.

Ms. Ravin asked if the aim is to change the Allen Road type so there will be more buildings with less open space. Mr. Mittag said it is more a matter of how the density is laid out in a parcel. There might be smaller buildings but more of them and still have open space. Ms. Ostby added that what is built would be more efficient. Mr. Conner added that each building would be properly scaled. He also noted that open space today is not necessarily usable or functional.

Mr. Conner suggested people look at South Village where there is a 10-plex where each unit has its own entry door. He also noted that the Kirby Cottages could have been a 7-plex, but that wouldn't have fit in the neighborhood.

Ms. Ostby asked how the building type approach connects with the density bonus for affordable housing. Mr. Conner said Inclusionary Zoning could be expanded or "affordable housing" could be a different "type" of building. There could be a point structure for such things as affordability, energy, etc. Mr. Conner reminded the Commission that the Kirby Cottages are the only non-multi family building development in the city to take advantage of the affordability bonus in the last 15 years.

Ms. Ostby asked if people would have deeded outdoor private space. Mr. Conner said municipalities don't have authority over that. There could be an arrangement where people on the ground floor have land with it. Or there could be a condominium concept. That would be up to the developer. Ms. Ostby felt that every residential unit built should have guaranteed private outdoor space. Mr. Mittag felt outdoor space can be shared, not necessarily private.

Members then returned to consider the chart of staff recommendations.

Mr. Riehle asked about allowing the total parcel density on the 30% buildable area in a Conservation PUD. Mr. Conner said allowing that density would forestall the concern of a "taking." Mr. Riehle said units would really have to be packed in. Mr. Conner said there could be a limit on the largest building that could be built (e.g., a 4-plex).

Mr. Conner suggested having the City Attorney come in and discuss the "taking" issue. Members felt this would be a good idea.

Mr. Gagnon felt that density should be encouraged in transportation routes with more multi-plexes. Further out, you might have more single family homes. Mr. Conner said you could also look at the relationships to what is next door to the development. You could wind up with a "transitional" lot.

Ms. Ostby said single family homes are expensive. That's what drives division in the community. She felt diverse housing should always be encouraged and noted that multi-family buildings can look beautiful. She didn't feel the mindset should be toward a preference for single-family homes. Ms. Ravin noted that Burlington is encouraging adding a unit onto a single family home. She noted that if you put more expensive housing further out, you are adding to the rich/poor separation.

Ms. Dooley said that people at median income can afford a car, so housing doesn't have to be on a transit route.

Mr. Conner said he would like feedback as to whether the “building approach” is the right way to go. Mr. Gagnon said he looked the overall approach. Ms. Ostby was concerned that density be maximized appropriately. Mr. Macdonald wanted to see more detail (e.g. percentages). Mr. Conner said what the Commission decides on percentages is up to them.

Ms. Ravin said the building type approach would be easier to understand if she knew the goals of the Planning Commission. She added that land owners will want to know whether they will be getting more with that approach. She felt part of the problem is that what the Commission wants is “beautiful buildings, not ugly ones.” She said if you want creativity, you should give builders choices, not minimums and maximums.

Ms. Ostby said she hoped they can clearly articulate the goal. She noted that the community has thought that R-4 was R-4, but, there are density bonuses that change that. The building type approach may be a way to make that clearer.

Ms. Louisos said she thought Commissioners were in general agreement that a “building approach” to maximum density in PUDs other than Conservation PUDs, and a “parcel approach” to conservation PUDs as recommended by staff. Commissioners concurred.

**5. Summary and priority of related work:**

Mr. Conner said the first priority is Interim Zoning. Another is the Shearer request. He suggested having sub-groups to work on some things. He showed a chart with PUD projects, City Center/Form Based Code projects, and stand-alone projects and asked members to think about these. Ms. Ostby noted there may be some pockets in the city that could be considered for rezoning.

**6. Consider possible application for 2022 Municipal Planning Grant:**

Mr. Conner felt the Commission has enough on its plate not to be chasing after another grant, and he recommended not applying this year. Members agreed.

**7. Naming of Road:**

Mr. Conner noted that staff is recommending the second option (Medalist Drive) instead of Clubhouse Drive. Mr. Riehle moved to approve Medalist Drive. Mr. Gagnon seconded. Motion passed unanimously.

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

The approval of the Minutes was postponed until the next meeting.

**9. Other Business:**

Mr. Conner noted that the City of Burlington is rewarning its public hearing.

**As there was no further business to come before the Commission, the meeting was adjourned by common consent at 9:25 p.m.**

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Clerk

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

The South Burlington Planning Commission held a special meeting on Tuesday, 29 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, J. Simson, J. Morway, D. Long

**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:**

No issues were raised.

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

Mr. Riehle spoke to the need to have neighborhoods understand the potential for development so that people aren't surprised by what happens. He suggested something to alert people to changes in zoning (e.g., infill potential) that are being considered. He noted that in Shelburne they are talking about the undue adverse impact of infill on a neighborhood. He felt the Commission should continue to look into this issue.

There was no staff report.

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

- a. Continue review of Forested Habitat Block Applicability**
- b. Discuss applicability of Planned Unit Development Types throughout the City**
- c. Preview of minor amendment to SEQ-NRP subdistrict design standards to support conservation**
- d. Staff update on 500-year Floodplain questions from Commissioners:**

Mr. Conner showed a series of maps which were done by Arrowwood. These included forested habitat blocks as identified by Arrowwood, NRP, parks, privately protected forested blocks, those protected by Articles 10 and 12, those not regulated, and parcels conserved that are not in the regulations. In regards to the forest blocks, they show the "core" areas and the outer 300 feet.

Mr. Riehle expressed surprise at the west side of the Hill property. Mr. Conner said it is just outside of the SEQ and is in the Industrial-Open Space District, and therefore was not part of the SEQ rezoning in 2006.

Mr. Macdonald asked about the proposed extension of Swift Street. Mr. Conner showed the proposed route. He also noted that the Tilley Drive study talks to the pros and cons of that.

Ms. Ostby said it would be nice to get into the details, particularly the lighter green areas, areas of the transitional habitat blocks. Mr. Conner indicated the drawn in connectors.

Ms. Louisos suggested having a subcommittee come back with suggestions. She noted a lot of overlap with other protected areas.

Ms. Ostby drew attention to “fingers” of light green that don’t seem connected to anything and don’t seem to have hazard or core. Mr. Gagnon said he thought there was “wiggle room” with the light green areas. He added that a buffer around a critical habitat area is important, but what that is is the question. Ms. Louisos suggested the light green could possibly move to a Level 2 resource or could be lopped off the map. Mr. Riehle said there is no basis for how deep they go into the light green and asked if there is a way to get a professional recommendation.

Mr. Gagnon said he is still concerned with invasive species in these areas. He stressed that Arrowwood did their study from a vehicle, not on the ground. He wanted to be sure the Commission is not “chasing after invasives.” Mr. Mittag said an area could be reforested after invasives are removed.

Mr. Macdonald asked if land is in the light green, what is not there that is important and where would those fingers of land lead to. He questioned whether they would be “dead ends” for critters. He cited one near Spear Street.

Mr. Gagnon said he was OK with identifying areas of concern and what they are looking to conserve and then to have a developer come back with a plan that shows they are protecting core areas. He noted there aren’t many of those areas, and like wetlands which are identified, they still have to be delineated.

Ms. Louisos said she has almost the opposite view and felt this is very different from wetlands. People are trained specifically for forests, and you would never get 2 people to agree.

Mr. Gagnon said a lot of Arrowwood was windshield and aerial surveying, and is not defensible. That opens it up to experts who are seeing things differently.

Ms. Louisos said she sees these as areas based on size and type of vegetation. They need to put a line somewhere. She sees them more as an NRP zone. She felt that may be where the light green line comes into play. She also noted that people could chop down trees in anticipation of a delineation or trees could grow and expand into a forested area. She felt that requiring delineation could open up a “can of worms.” She added it might be better to try to preserve the core and come up with language regarding use of the outer area.

Mr. Gagnon said he agreed with flexibility in light green areas. He asked whether they could decide that some dark green areas are not so important. Ms. Louisos said if there is something on the official map, they should take a look at it.

Mr. Conner said that one thing that became apparent to him is that the amount of land in the green is very small in the SEQ. Starting with the SEQ, the Commission might decide whether to just expand the NRP in those areas or not. He noted that one of these areas is in South Village, and it is either built on or conserved. Mr. Gagnon said he could buy into that approach.

Ms. Ostby asked if they go that route, should they also look at areas in the NRP to see if there are any buildable areas without hazards, etc. She felt that adding to Article 12 is the most streamlined way to go. She also felt that habitat connectors are important but noted they can be moved.

Mr. Mittag suggested using State resources to delineate what is on the ground.

Ms. Louisos suggested protecting the core, but the 300 foot outer areas would become partially developable (Level 2). Then the land would not be taken away completely from a landowner.

Mr. Gagnon questioned whether the edges and boundaries of the NRP are related to anything on the ground and whether the edges and boundaries of Arrowwood are related to anything on the ground. He asked how they can tie boundaries into what is on the ground.

Mr. Conner said the NRP replaced a system where there were developable and restricted areas. Arrowwood looked at a few core areas, and the Planning Commission added buffers to some of them. It was entirely policy based, and the intent was to move some boundaries around. Mr. Gagnon asked if the edges are defined in any way. Mr. Conner said they are defined by the map. Ms. Ostby asked if anything is staked in the ground. Mr. Conner said it is not. He added that someone could come to the Commission and ask for an interpretation of where the one is. On any application to the DRB, a plan has to show zoning boundaries. The DRB can adjust those boundaries 50 feet in either direction. Mr. Gagnon asked if the green areas could be treated the same way. Ms. Louisos said that is what she has been thinking. The Commission would be creating a "policy district." Mr. Conner reminded members of the possibility of Conservation PUDs.

Ms. Louisos noted receipt of emails regarding the "fingers" that don't lead anywhere. There is also an email noting areas where habitat blocks have been found to be appropriate for housing. Ms. Ostby said they should look at areas that are in the core but have no resources under them to see what is contained in those areas.

Mr. Gagnon said the light and dark green areas are not otherwise protected, and the Commission should go through them. He thought the southern half of them could possibly be added to the NRP, but those in the northern half should be looked at.

Mr. Conner said that in terms of substantive change, there are maybe 6 areas that are consequential. He suggested having the Commission focus on those and let staff deal with the smaller ones.

Mr. Conner then showed one of the "finger" areas. He asked the Commission whether they felt it was more important to connect 2 habitat blocks or to connect 2 neighborhoods. Mr. MacDonald said that a

“finger” between two developments seems like it could be developed, especially with a road going through there. Mr. Gagnon agreed. Ms. Louisos suggested using this process with other blocks in future meetings. Mr. Gagnon said they should indicate areas where there is already protection then see where to focus the Commission’s limited time. Mr. Conner felt that was reasonable and suggested focusing time on areas where there is a policy decision (e.g., the Hill Farm area). He said he would put together information on several of the areas for members to consider.

The Commission then considered PUD applicability. Mr. Conner said that what the staff and consultant recommend is that lower density areas be traditional neighborhoods. Medium density areas (Kennedy Drive, Allen Road, etc.) could be either a TND or a Neighborhood Commercial Center. Higher density areas could be Neighborhood Commercial Districts.

Conservation PUDs would be an option in any low-density areas (e.g., waterfront, R-1 districts, and areas where more than 70% is covered with natural resources). This does not cover the Industrial areas, and though they are important, the consultant was asked to focus on more neighborhood areas. Mr. Conner noted the Hill Farm area would require a zoning change, and staff has some other zoning change recommendations.

Ms. Ostby said that members of the Affordable Housing Committee asked to be included on an agenda to see how affordability would fit into all of this.

Mr. Riehle felt the Hill Farm area should be residential due to what is around it. Mr. Conner said a TND would have very neighborhood scale commercial. An NCD typically would allow more commercial (offices, grocery, etc.). He suggested there could be R7 zoning along Kennedy Drive with some small scale offices and the rest residential. It is one of the largest remaining pieces of land in the city.

Mr. Engels asked whether the zoning allows for an Exit 12B. Mr. Conner said that would be a decision point as to whether that should be a high-intensity area which is common near an Interchange exist. He noted that 2B is a very active discussion. Ms. Ostby said that for that area, she would give an owner the option for the most flexibility.

Mr. Mittag felt there should be a transition on the west and south of the Hill property because of the forest areas and proximity to Wheeler. Mr. Conner said they can do an intensive look at that. Mr. Mittag said he was OK with some flexibility on the Hill Farm with concern for the forested area and the piece connecting to Wheeler. He was not OK with the Swift St. Extension.

Mr. Conner then showed the Conservation PUD map. He noted that is a conversation with UVM regarding defining their properties. The Commission will have to decide regarding any zoning changes (e.g., Edlund property). Ms. Ostby asked whether there is anything other than hazards and Level 1. Mr. Conner said the issue is to give an owner the value of the property even if there are significant resources.

Mr. Mittag said he would oppose any zoning change to Edlund. He felt it is one of the most valuable natural resources the city has. Mr. MacDonald said it is probably the biggest chunk of unprotected

forest. Mr. Conner said it could remain Institute-Agricultural zoning. They will have to look at what would happen if UVM decides to come in with a plan for dorms there to know what laws would apply.

Mr. Conner then addressed potential minor amendments to the NRP area as follows:

- a. If someone is not in a developable area, they wouldn't be required to by a TDR. They would have to build on a certain portion of the land and conserve the rest. They could bring in TDRs up to the cap for development.
- b. Tweaks to the NRP standards would include how encompassing the area for a house can be. Staff is suggesting a maximum building envelope (e.g., garage, tennis court, etc., would have to fit within that envelope).

A member of the public questioned "forcing development on a lot." Mr. Conner said there are options for owners:

- a. Carving out just one lot
- b. Have a couple of lots and conserve the large piece
- c. For a number of homes on a property, the owner would have to consider the whole property

Regarding the 500-year flood plain discussion from the last meeting, it was noted that there aren't many towns with a full regulatory plan. There is some reason to have a plan as climate change is bringing about more storms, and a 500-year flood plan is a potential 100-year flood plain.

Mr. Conner showed a map indicating the city's 500-year flood plain areas. The biggest is at Ethan Allen Industrial Park. The question is what to do with new and existing development there. Ms. Ostby said there could still be building but with certain restrictions. Ms. Louisos noted that most towns have 500-year flood plains targeted to standards for 100-year flood plains. Mr. Gagnon said they could say "no new construction." Where you are replacing a building you would have to use "flood resiliency standards."

Ms. Ostby said that in every lot where the Commission is making a change, the city should send a letter to the landowner pointing out the impact of the change and when there is a public hearing. Mr. MacDonald agreed noted the number of businesses in the Ethan Allen Industrial Park. He felt business owners should know they are in a flood plain.

Mr. Conner noted that there are probably a dozen homes in Butler Farms in the 500-year flood plain and some in the Chamberlain area. Ms. Louisos said she wouldn't change the zoning, just change what can go there.

## **5. Consider approach to review of LDR amendments under consideration:**



Mr. Conner said there is one amendment related to PUDs, one to Form Based Codes, one to the Traffic Overlay District. These are not controversial but require review. He suggested that the Form Based Code Committee might meet again. He also suggested a subgroup of the Commission be formed to deal with these amendments. Mr. Conner said he would work with Ms. Louisos to see if there are some amendments that can be done quickly by the Commission.

**6. Other Business:**

**a. Act 250 Notice of Initial Application Filing – Chittenden Solid Waste District, 1021 Redmond Road Williston:**

Mr. Conner noted that the City of Burlington has is allowing temporary tents to remain for a longer time. They are also allowing day cares in more areas.

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

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Clerk