



South Burlington Planning Commission

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

Meeting Tuesday, November 24, 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-2020-11-24>

Telephone (audio only): (669) 224-3412 Access Code: 870-053-661

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 Regulation Amendments:** (7:15 pm)
 - a. Review options for [Habitat Blocks & Connectors](#) (7:15 pm)
 - b. Consider [functions of Conservation & Traditional Neighborhood Development](#) Planned Unit Development types within the Southeast Quadrant (8:00 pm)
5. ***Minutes:** October 28, 2020 and November 10, 2020 (8:45 pm)
6. **Adjourn** (8:50 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: Planning Commission Meeting Memo
DATE: November 24, 2020 Planning Commission meeting

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)

Staff Report:

- The City Council **received the draft Land Development Regulation** amendments you approved at your last meeting and **has scheduled a public hearing for December 7th**. One piece of feedback provided was a request for proposed amendments to include, right at the start of each amendment, a “plain English” summary of what the changes entail. Something like this is currently included in the “Planning Commission Report”, but users need to go find that in order to get the summary. Staff will start to include this kind of summary moving forward.
- Jessica Louisos will be making a **presentation to the City Council about the Habitat Block and other natural resources work** that the Commission has been working on, also at the **December 7th meeting**.
- With the uptick in Covid-19 cases and the Governor’s recent announcements, City Hall is again generally closed to the public and staff who can work remotely is doing so. Title searchers can make appointments to review the Land Records in the Clerk’s office. P&Z staff, as we did previously, are able to do bulk of our work remotely. We do not anticipate any changes to the schedule or format of Commission/committee meetings; the plan at this time is to continue as we have been with committees being able to meet on their regular schedule via GoToMeeting
- **A new sidewalk segment has been completed** (with some lighting and landscaping work to be done in the spring) connecting Spear Street to East Terrace.
- The City Council approved a **grant application for a new segment of recreation path along Spear Street**, from the US Forest Service Building to Swift Street. If funded, design work would begin. Project construction would still be a few years away due to design, permitting, easements, etc.

4. ***Work Session on Land Development Regulation Amendments:** (7:15 pm)
 - a. *Review options for [Habitat Blocks & Connectors](#) (7:15 pm)* - See attached memo
 - b. *Consider [functions of Conservation & Traditional Neighborhood Development](#) Planned Unit Development types within the Southeast Quadrant (8:00 pm)* - See attached memo
5. ***Minutes:** October 28, 2020 and November 10, 2020 (8:45 pm)
6. **Adjourn** (8:50 pm)



MEMORANDUM

TO: South Burlington Planning Commission
FROM: Paul Conner, Director of Planning & Zoning
SUBJECT: Habitat Blocks & Connectors Regulations
DATE: November 24, 2020 Planning Commission meeting

Last month, the Commission reviewed the mapped Forested Habitat Blocks and made a series of preliminary determinations for public comment and feedback. Following this, staff has returned to the draft Article 12 to update and revise the proposed standards for Habitat Blocks and Connectors, which had been initially prepared back in May prior to the Commission's return to meeting.

With the Commission having reviewed the boundaries of these Habitat Blocks & Connectors, staff would like to have Commissioners examine the standards for how these would apply **and importantly, what the allowances would be for an applicant to modify the boundary as mapped.**

When the draft of Article 12 was released in May, it included three options for applicant seeking to modify the boundary of a Habitat Block:

- Have a wildlife biologist perform a Habitat and Disturbance Assessment and seek approval from the DRB to modify the boundary through a 1-for-1 trade with land to be added to the Habitat Block elsewhere
- Have a wildlife biologist perform a Habitat and Disturbance Assessment and seek approval from the DRB to modify the boundary and mitigate the land that's been removed through a payment to the Open Space Fund
- For parcels containing more than 80% Habitat Block, an allowance for the portion exceeding 80% to be removed and built upon.

Since that time, the Commission has done a lot of work assessing the boundaries and has also determined to allow for a Conservation PUD that would largely replace any need for the third bullet above. We've also received feedback expressing concern both for the rigidity of a boundary line and the potential for legal challenges to a flexible standard.

With that in mind, staff has a handful of new options for Commissioners to consider as possible allowances to modify the boundaries of a Habitat Block. See the table below.

Meeting objective: consider possible options for flexibility (or not) now that the Commission has reviewed the Habitat Block boundary line on October 13. Once this is addressed, we expect to be able to provide an updated Article 12 for your review at the next meeting. The remainder of the language would remain substantially similar the May draft, except to be clear that land within Habitat Connectors would subject to the same standards for maintenance and incursions as for Habitat Blocks once established on a site.

	Option 1	Option 2	Option 3	Option 4	Option 5
Title	<i>Minor Adjustments</i>	<i>Small on-site exchange</i>	<i>1-for-1 Habitat Block Trade</i>	<i>Open Space/TDR Contribution</i>	<i>Conservation PUD</i>
Summary	Allow for minor adjustments to boundary of up to 50' in any direction. Stated objective would be to be neutral in total land, but allow for reduction of up to 2,000 - 3,000 s.f.	Allow the DRB to approve an "exchange" of up to 2-3 acres (and possibly a % cap) of Habitat Block for another equally-sized piece of land on the same parcel/PUD. Land must have desired characteristics: forested, connected, prominent in the landscape, contain a mature tree stand, and/or help foster context-sensitive transitions	Allow for a Habitat and Disturbance Assessment to be completed on the site. Following the Assessment, land could be removed from Habitat Block designation if it doesn't negatively affect the function of the Block. Land removed would be mitigated via a 1-for-1 trade elsewhere on-or-off site connected to the Habitat Block	Similar to Option 3, allow for a Habitat Assessment. If conditions are met, applicant could make a contribution to the Open Space Fund (and/or purchase TDRs).	Allow limited incursion onto properties with more than 70% resource coverage via a Conservation PUD. Would also allow an incursion on properties that fall below the threshold of a Conservation PUD.
Purpose	Account for the particular circumstances of specific properties without significant investment. A similar allowance already exists between the boundaries of zoning districts and has worked well.	Staff has received feedback that there may be times when the mapped habitat blocks may not best serve wildlife and/or the design of a neighborhood, and meanwhile other areas of the property have a greater value. This would allow for an "exchange" without a full-blown study, so long as connections are maintained.	This was drafted in May to provide some flexibility to the Habitat Blocks as mapped by Arrowwood.	This was drafted in May to provide some flexibility to the Habitat Blocks as mapped by Arrowwood.	Was initially drafted into Article 12 to address "takings" issues associated with heavily-forested properties.
Staff recommendation	Include. Commission determine the appropriate "maximum reduction"	Include. Allows for some changes that may serve applicants (and neighbors) well without creating a large burden. Commission determine amount.	Commission discuss. Now that the Commission has reviewed the mapping, perhaps this option no longer needs to exist. But alongside Option 4, removal would eliminate ability to modify the Habitat Block by more than 2-3 acres or to reduce at all.	Commission Discuss. See note under Option 3. If it does, perhaps to replace the "Open Space" fund contribution with purchase of TDRs to support the goals of that program.	(Mostly) remove and replace with Conservation PUD. Now that the Commission has decided to create Conservation PUDs, this section is largely redundant. Can mostly be eliminated except for the rare circumstances where a property cannot be a Conservation PUD.



MEMORANDUM

TO: South Burlington Planning Commission
FROM: Paul Conner, Director of Planning & Zoning
SUBJECT: Functions of Conservation & Traditional Neighborhood Development Planned Unit Development types within the Southeast Quadrant
DATE: November 24, 2020 Planning Commission meeting

In the last few meetings, there has been some discussion of how the Planned Unit Development (PUD) Types would function within the Southeast Quadrant (SEQ) Zoning District. Specifically, the SEQ operates a little differently from the rest of the City in the following ways:

- The SEQ has a Transfer of Development Rights (TDR) system in place. Base density is 1.2 dwelling units per acre and an allowance, in designated development sub-zones, for up to 4 or 8 dwelling units per acre with the transfer of TDRs from one of the designated conservation sub-zones.
- The SEQ-Natural Resource Protection Sub-District is principally a conservation district. Residential development on these parcels is (essentially) prohibited when the property also includes land within a subdistrict that allows for residential development, and is extremely limited when the property is entirely contained within the Natural Resource Protection Sub-District.

With this in mind, staff has considered alternatives for the two principal PUD types (Traditional Neighborhood Development and Conservation) could work within this existing structure. Staff performed an analysis of approximately 45 principally unbuilt properties in the SEQ greater than 3 acres in size that include land in a development sub-zone.

Conservation PUDs:

- Staff recommends that where permitted, a Conservation PUD's minimum conserved land (70% at present) be based on the parcel's area *outside* the NRP. This would be consistent with how a TND is proposed to be calculated, and staff's analysis found that otherwise, it would not result in much more total conservation on many parcels than would be the case without the Conservation PUD to begin with.
- Commissioners have expressed interest in exploring options for a small number of "estate lots" to be able to be created in a Conservation PUD. A Conservation PUD typically includes a sub-set of the subdivision standards that apply to all development, including street length standards, etc. If Commissioners are interested in allowing for some exception to these rules and/or some larger lots, this could potentially be made an option for a property owner by creating a "stretch conservation" requirement – for example, requiring that 85%-90% of the land be set aside as conservation/working land.

Traditional Neighborhoods:

- The principal different between the SEQ's residential sub-districts and the rest of the City is the base density of 1.2 units per acre and the purchase of TDRs.

- Staff recommends there be an option available to property owners who choose not to buy TDRs, or to buy only some TDRs.
- In order to allow for this, but also to achieve the neighborhood intent of a TND, and also to be efficient in the development of land, staff recommends that a TND in the SEQ allow for portions of the property to be designed as open space, working land, conserved land, and/or “reserved for future use” in the Master Plan. This would allow the portion of the property that is built upon to meet the minimum density requirements of a TND while not forcing a property owner to buy TDRs.
- Specifics:
 - TDRs would be eligible to be transferred from NRP land on the same property, just as they can be today.
 - Staff recommends that for any amount of housing beyond the average base density of 1.2 units per acre (including NRP land on the same parcel) be required to purchase TDRs, just as it is today. Affordable Housing (or inclusionary housing) would be exempt just as it is today.
- Properties below the threshold of a PUD. Currently all subdivisions in the SEQ must be a PUD, even if they are simply for 2 lots. Staff recommends that small properties below the threshold of a PUD under the draft regulations (2-4 acres) be eligible to be a standard subdivision under the updated subdivision rules, so long as no TDRs are used.

General:

- At a future meeting (likely in December), Commissioners will be asked to consider how to address the possibility of neighboring properties choosing to be a Conservation PUD and a TND PUD.
- Base Density and Hazards. Commissioners have inquired as to whether Hazards should be allowed to be included in the calculation of base density (1.2 units per acre). There are pros and cons to this. Staff’s initial sense is that since the 1.2 units per acre has been a foundation of the SEQ for 30 years, and since the figure is only a starting point for development in districts that allow for housing, and is a tool for returning value to property owners in the NRP, that perhaps the 1.2 units per acre base density should continue to include Hazards for these purposes.

DATE: November 2, 2020

TO: Jessica Louisos, members of the Planning Commission, Paul Conner. Sent to Jessica Louisos <jlouisos@sburl.com>

FROM: Vince and Allyson Bolduc, 252 Autumn Hill Road, South Burlington

First of all, I want to thank the PC and Paul Conner for all your hard work on this massive IZ and PC project. It is really appreciated, especially among those of us who have some understanding of all the effort that is required. It looks like real progress is underway.

At several points towards the end of the PC meeting on October 13, mention was made of the desirability of landowner feedback as we reach various mileposts on Interim Zoning. Accordingly, please share the following with the Planning Commission and Paul Conner. This is the personal reaction of my wife and me as we consider the changes that are being considered for the land use regulations. I apologize for its length.

We live on a 16 acre parcel off of Dorset Street that is east of the Dorset Farms entrance on Midland Avenue and about 300 yards from the Shelburne line. We also own a contiguous 6 acre wood lot that is currently an NRP area. We hand built the house we live in over the course of 7 years. We have no plans to develop either parcel, but in the future we would like our heirs to have the right to do so. We bought these parcels 40+ years ago to build a homestead and grow and maintain a woodlot, small orchard, and large garden. We've planted some 850 trees, welcomed neighbors to hike the trails we maintain, and host school groups to see the "old fashioned ways" that we use to press cider and make maple syrup in our small sugar house. Someday we hope that our heirs will carry on the same tradition of stewardship.

But to make this homestead more sustainable, we needed a measure of economic security for our family. The decision to buy these 22 acres was the biggest expenditure we ever made, and we did so as a long term financial investment. Since we do not intend to develop the land (and given our age) it now appears that the land will be passed on to our three children and five grandchildren, all of whom live in South Burlington. Quite simply, the value of this land is the core of our material estate. Were the land to be suddenly stripped of its economic value, our family would bear a significant financial loss.

Over these decades I have been involved in many planning efforts for the SEQ, including at least three City committees on the subject. One Committee resulted in the radical idea of TDRs and recommended building a golf course to protect some of the open space along Dorset Street, our central transportation corridor. The final result of all this committee work was not perfect, but it is better than what might have been and it has allowed for many housing developments as well as the protection of open spaces. The approval of the 222 unit Dorset Farms (we were an Act 250 party in general opposition) forced us to acknowledge the inevitable change that this has brought in the character of the SEQ. The ambitious extension of underground sewer, water and gas to the Shelburne town line is what opened up the possibilities for most of the development that we now have along the Dorset Street corridor, including a planned commercial district around the Cider Mill.

Historical geographers remind us of how the Vermont landscape is ever changing. Evolution of this SEQ neighborhood has been inevitable, especially in light of the critical need for housing in Vermont's largest growth center. Vermont is more forested today than a century ago, and the same is true of South Burlington. This can be seen in 1977 aerial photographs of the SEQ that I found in the Planning office some 35 years ago. The same is certainly true of our particular parcel. We have more trees on our property today than at any time in recent history. Public criticism of a developer selectively cutting trees often lacks historical perspective.

In the past three years, a small development of 14 units has been built immediately north of our 16 acre parcel. It has a new dead-end City street (Windswept Lane) that is not-too subtly aimed at our border, ready for extension through our property. Storm drains and hook-ups are in place and we now have a fire hydrant on the edge of what used to be our pasture. The suggestion is obvious. With infrastructure literally on our doorstep, our parcel is ready for the next phase of building. While we would have preferred the 14 units to be not so close to our home, truth be told, we have quickly adjusted to their presence and actually count two friends among the neighbors. The same may be said of the large Dorset Farms neighborhood across the street which we once adamantly opposed. Where first we only saw bulldozers and a loss of our view, we now see a cozy neighborhood with attractive tree lined streets and many conscientious new families adding to the vitality of our community. According to John Stewart's "Cost Benefit of New Housing" report, these new neighbors are apparently paying more taxes than the City is expending on their support.

On our south border, we have a City maintained sewer pump station and a long-existing ROW that provides 1,700 feet of east-west access along our property line from Dorset Street to two parcels that otherwise would be completely landlocked. The City required this ROW some decades ago and preceded our purchase of the property. One landlocked parcel is our six acre woodlot (under a different legal title) and the other is a three acre parcel that Charles and Judy Scott held for themselves when they sold the land that is now known as the Scott Preserve. Without improbable changes by the City, this ROW on our property is the only access to those two parcels. To deny them right to develop would be a "taking" that we believe would be illegal.

IN CONCLUSION: This means that our 16 acre property is bound on two sides by full urban infrastructure (west along 500 feet of Dorset Street and north on Windswept Lane). The south is encumbered by that lengthy ROW that serves as the only access for two other parcels. Someday this ROW will likely become driveways for at least two homeowners. Sections of our parcels unambiguously warrant natural resource conservation, but there are other sections of a long abandoned pasture that are plagued with invasive species and hold promise as an attractive and efficient location for housing. We would like the City to establish land use regulations that would allow our heirs the eventual right for a well-planned development, perhaps in the form of a thoughtfully designed "Conservation PUD."

City planning and land use regulations seems to have already effectively "downzoned" our property in two significant ways. First, landowners in the SEQ were once entitled to develop at a density of 1.2 units per gross acre. Presently, it seems that the density will probably not be

allowed to exceed 1.2 of net acreage after hazards are removed from the calculation. This is a significant “downzoning” of potential, especially on our property with wetlands and forest. Secondly, some 15 years ago City Planner July Beth Hines asked us to allow our 6 acre forested parcel to be categorized as NRP. It is a beautiful natural resource area and she assured us that it would still carry the same economic potential since the TDRs would carry equivalent value to the development potential, perhaps with the possibility of a very few house lots as well. We agreed to support the change without dispute. Unfortunately, the TDR value now seems to be only a small fraction of the development value. In summary, City land use regulations have twice decreased the economic potential of our property and we ask that your present revisions of the Regs not cause us any further loss.

ADDITION THOUGHTS ON THE LARGER PC WORK

To say that our nation is dangerously polarized is an understatement. We do not need more tension and conflict over land use in our own backyards. We need less “either/or” and more compromises. We need to preserve open space and we need more housing, especially affordable housing. We need less segregation of the rich in one neighborhood and the not-so-rich people everywhere else. We need more land use regulations that recognize both rights of landowners to use their property and the need for balance with the natural world. We need less NIMBY thinking and more holistic attention to the needs of the larger community beyond SB. To put it metaphorically, let’s not be guilty of the ironic “gangplank” impulse we sometimes hear from new residents to Vermont: “I’m on board now. Pull up the gangplank so no one else gets on!” As every environmentalist knows, we need to think broadly about protecting the regional environment, not just our neighborhoods and our back yards. Perhaps it is time for South Burlington to be more open to “YIMBY” or “Yes in My Back Yard” for the good of the larger whole.

It has become obvious over the decades that South Burlington has essentially and irrevocably evolved into a major suburb in the middle of a growing metropolitan area. The “town” is no longer rural by any stretch. It is a City—legally, organizationally, socially, and demographically. My wife and I feel strongly that selected open spaces can and should be preserved, but we also must keep in mind that too rigid a restriction on residential growth in South Burlington not only squeezes out the lower end of the housing market, but will force population growth into the more distant exurbs where the most prized natural areas may still stand a chance. This is simply good environmental planning; not NIMBY planning. If housing developments have to leapfrog over South Burlington, traffic here will increase as more commuters drive longer distances to work and shop. Our growing population in Chittenden County needs housing—especially affordable housing—and we cannot in good conscience and as good neighbors, shut them out of the market. Everyone needs to live somewhere. We think that the City has thus far done a good job balancing the pressure for housing with the desire to maintain as much open space as can reasonably be done given our location in the epicenter of Vermont’s only metropolitan area—and the only significant growth center in the State as well.

We remain faced with dilemmas everywhere we turn. We all want to preserve open space, but no one wants to do it on the backs of individual landowners. Large parcel landowners should not be asked to shoulder heavy economic losses to provide open space for the neighbors who complain

the loudest. We believe that environmentalists need to be willing give up some open space in our city to allow more open space in the exurbs beyond our borders. There are few “win-win” situations in such competitions, but the saving grace is the very real potential for compromise.

As I read many of the IZ reports, I am reminded that they typically contain caveats which tell us that they should be interpreted with caution. This includes the Arrowwood Report, a recent focus of the PC. At the PC meeting on the 13th virtual viewers like me were captivated by the specifications of the green habitat blocks applied to the City maps as indicators of wildlife activity. Yet the Report only identifies the potential for important wildlife in the habitat blocks. It does not document the existence of actual wildlife. Nor is the type of wildlife known. Squirrels hardly warrant the same safeguards that a protected species deserves.

Here is another example of imperfect knowledge. When I look at how our own property is coded for habitat blocks, I am at a loss to understand why the curves move inward here and outward there. I am intimately familiar with the areas so coded and I sometimes cannot see differences either in vegetation, slope, soil differences, water, or animal activity. In short, I cannot discern any rhyme or reason for the lines drawn here rather than there. Replication being the gold standard for scientific fact findings, we wonder how two or three independent environmental organizations might have drawn the lines for habitat blocks if they were given the same task. As we know, a qualified scientist would be needed to make the final determination. Therefore we urge the PC to be cautious about writing land use regulations based on these rough lines on a map.

Open space advocates offer an impressive presence in our community, and they should be listened to. However, an equally compelling case can be made for the acute need for more housing in our community. Unfortunately those most in need of housing are virtually invisible; they do not live here and have few advocates. Neighbors are easy to rile up and can fill a City Council room in opposition to a new development, but citizens from outside South Burlington who need the housing are invisible and unheard. Responsible decision makers know that their decisions affect all citizens, both present and noisy as well as the less visible who are nonetheless in need of housing options.

Decision makers must use the utmost discretion and a spirit of compromise in making decisions for land use in our community, especially in the most challenging cases. Somehow the rights of landowners, the rights of the public, and the gifts of the natural world need to be balanced so that fair and equitable compromises can be found. And compromise is never perfect.

Thank you for your patience in reading this.

Respectfully,

Vince and Allyson Bolduc

Paul Conner

From: Charles Scott <clscott2nd@earthlink.net>
Sent: Friday, November 13, 2020 2:54 PM
To: Paul Conner; Jessica Louisos
Subject: EXTERNAL: Fw: Interim Zoning and our lot off of Dorset St at the end of Jenny Blair Lane

This message has originated from an **External Source**. Please use proper judgment and caution when opening attachments, clicking links, or responding to this email.

Let's try this again. Thanks, Charles Scott

-----Forwarded Message-----

From: Charles Scott
Sent: Nov 11, 2020 4:17 PM
To: jlouisos@sburl.com
Cc: "Bolduc Vincent L."
Subject: Fw: Interim Zoning and our lot off of Dorset St at the end of Jenny Blair Lane

Ms. Louisos, I sent this a couple of days ago, but it bounced back. Hopefully you get it this time. Best, Charles Scott

-----Forwarded Message-----

From: Charles Scott
Sent: Nov 10, 2020 8:46 AM
To: Jessica Louisos
Subject: Interim Zoning and our lot off of Dorset St at the end of Jenny Blair Lane

TO: Jessica Louisos<jlouisos@sburl.com>

Please share this email with Paul Conner and members of the SB Planning Commission.

My wife and I are writing to you in regard to the Planning Commission meeting on October 13, 2020 and its discussion of Interim Zoning where you asked for landowner feedback. My wife and I own a 3-acre lot off of Dorset Street, 250B Autumn Hill Road.

In 2003 our property consisted of 46 acres. The city approached us to discuss the preservation our land. Part of the deal was for us to sell, at a bargain price, 40 acres (now known as the City-owned Scott Preserve) and for us to keep two 3-acre lots – one with our existing house and one which was to become a new building lot. On March 21, 2006 we received DRB and City approval for this new lot and we also received a State Waste Water permit that runs with the land. We have been paying taxes on it for over 14 years. Our plan is to build a house on this parcel in the future. Our current access to this 3-acre lot is the long established and City approved 60' ROW called Jenny Blair Lane from Dorset Street to our property line. This ROW also offers access to the Bolduc parcels.

In the PC's deliberations on Interim Zoning, we ask that you take this all into consideration. Thank you,

Charles and Judith Scott

Charles L & Judith S Scott
250B Autumn Hill Rd, South Burlington
and
701 Wild Rose Lane
Saint George, Vermont 05495-7966
Home: 802-482-4828
Cell: 802-318-1662

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**SOUTH BURLINGTON PLANNING COMMISSION
MEETING MINUTES
28 OCTOBER 2020**

The South Burlington Planning Commission held a special meeting on Wednesday, 28 October 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; L. Kingsbury, L. Ravin,

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:

No announcements or reports were presented.

4. Work Session on Land Development Regulation Amendments:

a. Continue review of Subdivision & Master Plan Standards:

Ms. Louisos noted that in the list to be removed from “buildable” density, it had been suggested to add Level 2 resources. This includes moderate slopes, intermittent streams and class 3 wetlands with wetland buffers. The latter 2 are typically very small and could be in a buildable property but not be built on. Mr. Gagnon noted the intent was to allow increased density in other areas of the property with level 2 resources.

Mr. Conner reminded members that the rules in Article 12 would still apply. He added that the result of taking Level 2 out of the buildable area would encourage lot lines to be drawn around them. They would also have to figure a way to be consistent with “moderate slopes.” He stressed that Article 12 still protects Level 2 resources even if they are in a buildable area.

Members agreed to keep the language as written.

Master Plans:

Mr. Conner said for projects that qualify, a Master Plan provides a wholistic view and lays out a broad perspective at an early time in the process. It also rewards an applicant for providing more detail early on.

Ms. Louisos said she liked the neighborhood meeting idea but suggested it might come earlier in the process.

Ms. Ostby liked the idea of a sign on a property before anything is planned. She felt abutting property owners should be notified of any upcoming plan.

Mr. Mittag questioned whether it is possible to have an early warning list on the city's website before anything is done. Mr. Gagnon said he didn't want "rumors" to be posted on the website. He did think the early neighborhood meeting was a good idea.

Mr. Conner said that for the Planning Department, the marker for announcing a project is when the application is complete. That is when it gets a number. He was not comfortable posting that someone is "thinking about" a project. He did feel that getting feedback on an actual project is better early in the process.

Ms. Ostby said people shouldn't feel afraid to come to the Planning & Zoning Department with an idea because it might get posted. She then asked whether a proposal that has been through the staff process can be changed before it goes to the DRB.

Mr. Conner said a "complete" submittal doesn't mean a project meets all the regulations. A lot happens before it goes to the DRB, but the DRB is likely to continue it because of the new information. If there is a "wholesale" change, a new application is required.

Mr. Gagnon felt the neighborhood meeting should happen before the formal submission, even if it is only a concept drawing. The minutes of that meeting should be submitted with the application. Mr. Conner said that could be a requirement for a full submission.

Ms. Ostby said the meets should be allowed to be via ZOOM. She felt the notification should be to abutters and via a sign on the property. To do more would create anxiety and would not be fair to the property owners. She also was opposed to having a pre-conceptual meeting posted in the newspaper.

Mr. Conner said the big "carrot" for a Master Plan is "vesting." If you do a good Master Plan, you would have the opportunity to say this is how we will build the project (e.g. antique lighting). That item would not have to be approved again. If there were choices, the DRB

would say the applicant would come under the rules at the time the Master Plan was submitted. If there is not enough information provided, the DRB could say the applicant is subject to the rules when the project comes to them.

Ms. Ostby asked what happens when there is new technology. Mr. Conner said it is the design that is relevant. The technology can be upgraded.

Mr. Conner then reviewed the sketch plan requirements:

- a. Neighborhood meeting
- b. Submittal of sketch plan
- c. Presented at DRB (5 weeks later)
- d. Master Plan presented within the next 6 months
- e. Presented to DRB 5 weeks after submittal

Ms. Ostby asked what happens if all the neighbors don't want an applicant to do something that is allowed. Mr. Conner said that is the downfall of a neighborhood meeting that is not in front of the DRB. The other problem is with something that neither the applicant nor the neighbors want, but that is the rule.

Mr. Mittag asked about using the Master Plan tool in the Form Based Code district to be consistent. Mr. Conner said it is not an "easy drop in." Mr. Gagnon asked if they are excluded from being a Master Plan. Mr. Conner said he would have to consider that as he wasn't sure. Mr. Engels said PUDs, TDRs and Master Plans don't exist in Form Based Codes.

b. Recap and Review of Environmental Protection Standards & PUD Applicability:

Mr. Conner said staff received the Natural Resources mapping today. He showed a map including the 500-year flood plain and noted that in checking with the State floodplain manager, they were not aware of a municipality in Vermont that has treated the 500 year flood plain the same as the 100 year flood plain, but noted that based on research that has been performed there is a likelihood that the current 500-year could in the future become the 100-year.

Mr. Conner asked what the Commission's objectives are. Mr. Mittag said he wanted to expand buffer zone expanded to equal the boundary of the 500-year flood plain. He also felt that any new development in a developed area should be more resilient. Ms. Louisos felt if there is no development, new development shouldn't be allowed. She felt their buffer language does that. She also felt that where there is development, new development should adhere to 100-year flood plain standards.

Mr. Conner noted that in South Burlington, almost nothing is built in the 100-year flood plain. The only tricky thing is that because it is not a “one size fits all,” they would have to identify which ones are subject to which rules. It would have to be clear and obvious to people. Ms. Louisos felt that if someone is modifying an existing building beyond 25%, they should meet a certain standard.

Mr. Macdonald said there needs to be communication with people in the Ethan Allen Business Park as to what is coming. Many of the people with businesses there have forgotten they are in a flood plain. Mr. Gagnon agreed. He felt it may cost them if they modify a building, but it could save them in the long term.

Ms. Ostby asked when they can look at maps of the habitat blocks. She felt there is a connector missing. Mr. Conner said they are close to that. He then showed maps with new forested blocks and what is removed. Connectors are not yet shown.

Mr. Conner said his new task is to go back to Article 12 and do edits and incorporate cross-discussions to sew it all together.

Ms. Ostby asked at what point they will talk about when a PUD can go further than the underlying zoning, or does the building type process address that. Mr. Conner said that is already addressed.

5. Staff Status Report on PUD/Subdivision/Master Plan project components:

Mr. Conner said that by November 15th, he should have the PUD language from the consultant. That is where the Commission can get into all the “pieces.” He will have a map of where PUD types will apply. TDRs will have to be sorted out (within and outside the SEQ).

Mr. Conner raised the question of whether “pieces” can go the City Council individually. He felt it made more sense to do it all together. He also explained the expiration of Interim Zoning and the potential for a maximum one-year extension.

6. Discussion of presentation to the City Council on 2 November:

Mr. Conner noted that Ms. Louisos will be giving the Council a brief overview of where the Commission is now. Mr. MacDonald asked how far they are from “the finish line.” Mr. Conner said he felt that before the holidays the Commission should have seen all the language and will be able to share it with the public after January. Ms. Louisos felt spring was the earliest it would be sent to the City Council.

As there was no further business to come before the Commission, the meeting was adjourned by common consent at 9:05 p.m.

Clerk

DRAFT

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

The South Burlington Planning Commission held a regular meeting on Tuesday, 10 November 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, J. Wilking, A. Jensen-Vargas, J. Weith, B. Shearer, D. Long, C. Trombly, V. Bolduc, D. Long, A. Chalnack, C. & A. 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:

Ms. Louisos advised that the City Council extended Interim Zoning for 6 months with 2 more 3-month periods if needed. The hope is that the Commission will be finished with its work within 6 months. The Council also expressed interest in a presentation from the Commission regarding preservation of resources at it 7 December meeting.

Mr. Conner reminded members and others in attendance that tomorrow is Veterans' Day. There will be no formal ceremonies due to COVID. City Hall will be closed.

Mr. Riehle said the Spear Street project is interesting and shows some creativity. The project is in front of the DRB and was presented to the City Council. Mr. Conner showed the proposed plan of the development. It is a bit south of the Miller Farm and now has an existing single-family home and a metal storage building. A neighborhood is proposed in the middle with a new city street along the southern boundary. There will be a series of 4-plexes around a community civic space with pedestrian connectivity. It maximizes the current allowable density. Mr. Riehle noted the developer is proposing a solar farm that would take care of all the electricity for the development. The existing metal building could be storage of residents' recreational items, or work space. Ms. Jensen-Vargas suggested a gym. Mr. Mittag asked about dead end streets. Mr. Conner said a public and private street both extend to the north and south, so there are potential connections. He reminded the Commission that you can have up to 50 units with a single entrance. Ms. Ostby asked who is responsible to see if there is a hazard on the adjacent property so a road might not be able to be built. Mr. Conner said that is the purpose of a Master Plan. Ms. Ostby was also concerned that there would be many people sharing a vehicle charging station. She felt that could lead to chaos.

4. Public Hearing on Proposed Amendments to Land Development Regulations:

- a. **LDR-17-13A: Allow for increase in maximum building and lot coverage on properties with land in the Urban Design Overlay District via installation of an on-site civic space**
- b. **LDR-17-13B: Allow for increase in maximum building and lot coverage on properties with land in the Urban Design Overlay District via use of Transfer of Development Rights from designated sending areas**
- c. **LDR-19-06: Modify Table of Open Space Types (Appendix F) and applicability in the City Center Form Based Code District**
- d. **LDR-20-18A: Eliminate requirement for submission of paper copies of applications under the Land Development Regulations**

Mr. Mittag moved to open the public hearing. Mr. Gagnon seconded. Motion passed unanimously

Mr. Conner noted that one change was made after a legal review by the City Attorney. In LDR-17-13B, a TDR would equal 10,000 sq. ft. or it could be purchased in ¼ TDR increments. Zero to 10,000 sq. ft. as a range would require one TDR purchase. 11,000 to 20,000 sq. ft. would be a second TDR. A property owner could still do something other than a full TDR.

Ms. Ostby felt that for a seller, ¼ TDR would be difficult as it would leave something that's hard to deal with.

Mr. Conner noted that LDR-19-06 came about when changes were made to the Open Space Table last year which required the references to be changed.

Ms. Ostby asked if a business choosing the "civic space" could choose to enhance the Shelburne Rd. Cemetery which is city-owned. Mr. Conner reminded the Commission that they chose not to allow that option.

Public comment was then solicited.

Mr. Weith, representing Bill Shearer, asked how they might find someone interested in selling TDRs. Mr. Mittag said he could connect them to people who are interested in selling. Ms. Ostby suggested having a list of interested sellers.

There was no further public comment.

Mr. Mittag moved to close the public hearing. Mr. Gagnon seconded. Motion passed unanimously.

5. Review input from public hearing on Draft Amendments and possible action to approve and submit Amendments and Planning Commission Report to the City Council:

Mr. Gagnon moved to approve LDR Amendments LDR-17-13 A, LDR-17-13B, LDR-19-06 and LDR-20-18A as presented to this meeting with legal amendments and to submit Amendments and Planning Commission Report to the City Council. Mr. Mittag seconded. Motion passed unanimously.

6. Work Session on Land Development Regulation Amendments:

a. Review possible standards applicable to the 0.2% (500-year) flood plain zone:

Mr. Conner noted that currently no new structures are allowed in the 100-year flood plain. The new language will allow new building in the 500-year flood plain. Mr. Macdonald asked whether CCRPC had any issues with Zone B residential and commercial areas. Mr. Conner said they did a preliminary review but didn't provide any comment regarding residential and commercial. They did flag a question of non-mapping in the 100-year flood plain. The homeowner is responsible for that. In the 500-year flood plain, it would be very expensive so they just say "two feet above the existing grade of the property."

Ms. Louisos said a shed or a deck wouldn't have to meet the standard, only buildings with people living in them. Also, small improvements don't have to meet the standards either, but a major rebuild would, and it would have to be built above the flood elevation. In the 100-year flood plain, the homeowner has to make the study. For the Ethan Allen Industrial Park, they could use a study already done for the Winooski River.

Ms. Ostby asked about a building with a basement. Ms. Louisos said there are floodproofing guidelines. There is language to reduce damage if there is flooding. You can't put in new basements.

Mr. Engels said that "500 years" give people an unrealistic viewpoint. Ms. Louisos said that was a good point and noted that this is why it is more often referred to as to the 0.2% zone.

Mr. Mittag said the aim is also to protect infrastructure. He cited the damage to the bridge between South Burlington and Williston that occurred during a storm.

Mr. Gagnon said he didn't want to come up with an arbitrary number and then have people get damage at that level. They need to be confident that people are protected by the number they choose.

Ms. Louisos said whatever number they come up with, they should allow people to do their own study.

Mr. Mittag asked how those areas can be delineated.

Ms. Jensen-Vargas asked if there is a way to provide insurance if a property owner wants to know if they are in a flood plain. Ms. Louisos said the homeowner needs to have the property surveyed (100-year flood plain) in order to get insurance. Insurance is not required here, but lending agencies do require it.

Mr. Conner then showed a map and identified the 500-year flood plain areas. He also indicated which are built and those generally unbuilt. Mr. Riehle noted the Hill property is not built, but building is anticipated. He suggested using the term "never built." Ms. Louisos said she would prefer not to see new buildings in the areas not built on.

Mr. Macdonald asked if the parcel south of Dorset Farms isn't scheduled for development. Mr. Conner showed the buffers. He noted that the map does not show the wetland delineation. That would be a field delineation.

Ms. Ostby noted a lot of the areas are already "no build" areas. She felt that to be consistent they should be added to the resource list.

Noting the colors on the map, Mr. Conner said the difference between the "red" and "blue" areas is that no new buildings would be allowed in the "red" areas, but buildings could be added in the "blue" areas. He also noted there are some unbuilt parcels in Ethan Allen Park and asked whether the Commission would allow new buildings there. He noted that in some places the stream is underground, and they may want not prohibit a rebuild there.

Mr. Gagnon said the "blue" areas have existing development. If they are upgraded by more than 50%, they should have to take flood design into consideration. If nothing is built in a "blue" zone, you can't say you're improving a property by 50%, and you would have to meet the standards. He asked if they could say "build to flood standard" in the 500-year flood plain.

Mr. Conner asked about areas where a building just touches the flood plain. Ms. Louisos said they could rebuild to the same size with standards. Mr. MacDonald asked why they couldn't be larger. Ms. Louisos said you couldn't build a separate residential building, but you could build a shed. The question is whether to allow a new house or accessory unit within the flood plain in a developed area. Mr. Gagnon said he would allow it as long as it meets flood standards.

Mr. Engels noted the property at Hinesburg Road/Williston Road. He said it is a valuable property that will probably be redeveloped. Ms. Ostby said there is a difference between rebuilding when there was a building there and building where there never was a building. Ms. Louisos said that is why there are the "red" and "blue" areas. Mr. Conner said there are "shades" of developed and not developed. He cited a lot in the Ethan Allen Park that is right in the middle of the development and is not yet built on. Ms. Ostby said maybe they could make that business park an exception. Mr. Gagnon said he has no problem with a new build in Ethan Allen Park as long as it meets federal standards.

Mr. Riehle asked what would happen if a home burned down. What would apply? Ms. Louisos said they could rebuild with floodproof standards.

Mr. Conner pointed out the Farrell property where the city does and doesn't want development. He cautioned the Commission to be careful of the cumulative impact of regulations on a property.

Mr. Conner said he would come back with language cleaned up. Staff is also looking at how to notify property owners of changes to their property.

b. Habitat Blocks:

Mr. Conner showed a map indicating areas identified by Arrowwood and noted areas the Commission had decided to remove. All the identified areas were added to the NRP. He then showed a map indicating all the environmental/proposed standards. He noted that one thing the Commission did in the SEQ was to align forest blocks and the NRP. He then indicated some areas with forest blocks outside the NRP and asked members to think about what to do with them.

Ms. Ostby felt there were connectors that should be given their own protection in Article 12. The resources should be identified regardless of what zone they are in.

Ms. Louisos indicated one “finger” of land to be removed. Ms. Ostby said she thought it was to be kept because of what is below it. Mr. Conner said he will go back to the tape.

Mr. Mittag said he felt that the area at Autumn Hill Road should be NRP. He noted an area that is both forest block and NRP and asked if it has double protection. Mr. Conner showed that parcel. Currently, if a property is entirely in the NRP and is less than 15 acres, you can build one home on it. If it is more than 15 acres, you can build 3 houses. This can’t be in an “identified” area. In the future, these regulations would be replaced with new standards, and you would prioritize where a permitted home could and could not be built. Mr. Conner added that they tried to line up forest blocks and NRP zones to make it more user friendly to people.

Ms. Ostby felt a map of resources needs to exist in case zoning changes. Ms. Louisos noted that in forest blocks you cannot cut down trees, but in the NRP trees can be cut down in some cases.

Ms. Ostby noted that the connector between the UVM ropes course and the Hort Farm is not mapped. She felt Article 12 should recognize there is a habitat resource there. Ms. Louisos suggested adding that.

c. Discuss PUD types within the Southeast Quadrant Zoning District:

Mr. Conner asked how the Commission wants to look at/shape the remaining areas of the SEQ that have potential for development...large lots, TNDs, Conservation PUDs, etc. He also asked how they would handle a situation where one property only wants 3 or 4 homes on large lots and the neighboring property wants to fully develop.

Mr. Riehle noted that Butler Farms is a nice development, but there is a lot of wasted space there. Dorset Farms, on the other hand, is a nice neighborhood with smaller homes on smaller lots, well planned out. He suggested allowing more density but with public space in mind, not emulating Butler Farms. Mr. Conner noted the Rye development is more like what Mr. Riehle is describing.

Mr. Macdonald asked if anything is coming on board in the SEQ at the end of Interim Zoning. Mr. Conner said there is a short list of properties “in play.” He will update the map to show them.

Mr. Mittag said there is a question of “minimum density.” He asked if developers can be forced to all do the same thing. Mr. Conner said there could be identification of a “neighborhood area” and a “conservation area.” Ms. Ostby felt the Affordable Housing Committee should weigh in on this. Mr. Conner said he would be happy to talk with them as an introduction.

Public comment was then solicited. A number of comments were delivered to the “Chat Box” as follows:

Ms. Dooley: Did not want to create NRP areas outside the SEQ since that would mean more TDRs to compete in the TDR marketplace. She also said it is important to strive for density in combination with natural resource protection. She felt the Planning Commission needs to be better apprised of the advantages of density.

7. Meeting Minutes of 13 October and 27 October 2020:

Mr. Mittag moved to approve the Minutes of 13 and 27 October 2020 as written. Mr. Macdonald seconded. Motion passed unanimously.

8. Other Business:

No other business was presented.

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

_____, Clerk