



southburlington
PLANNING & ZONING

MEMORANDUM

TO: South Burlington Planning Commission
FROM: Cathyann LaRose, AICP, City Planner
SUBJECT: Subdivision Standards, Administrative Section
DATE: February 26, 2019 Planning Commission meeting

In the creation of new standards and typologies for Planned Unit Developments, we anticipate that there will be increased use of subdivision standards. As previously discussed, we are working on a large overhaul of our current subdivision standards. You will be seeing the totality of those in the next few weeks.

We've received the first draft of the administrative portions of those standards from our consulting team. There are some excellent adjustments, some items which are currently undergoing legal review, and some which require a high-level policy discussion. I've included those below for your review and consideration.

All text in italics are new and for consideration. All notes in [] are staff comments on the draft.

15 SUBDIVISION REVIEW

15.01 Purpose and Authority [Currently 15.01, 15.02– substantially expanded, revised]

A. Purpose. *These subdivision Regulations are intended to implement the City's Comprehensive Plan, in conformance with plan policies and objectives, and the City's adopted Official Map and Capital Improvement Program, to:*

- Ensure orderly, coordinated growth and development within the City of South Burlington;
- Promote the comfort, convenience, safety, health and welfare of city residents;
- *Accommodate planned rates of growth, and ensure that the rate of development does not exceed the City's capacity to provide municipal facilities and services in an efficient and cost-effective manner;*
- *Ensure that land to be subdivided for development is physically suited for its intended use;*
- *Minimize the fragmentation of and adverse impacts to identified natural, cultural, scenic and other open space resources, in conformance with the city's open space and resource conservation objectives;*
- *Ensure that the pattern of land subdivision and development, and supporting facilities, infrastructure and utilities, conform to the planned pattern, density and form of development for the zoning district(s) in which it is located, or type of Planned Unit Development (PUD) specified under Article ___.*

- *Establish and maintain an integrated, multi-modal transportation and public street network that connects existing and planned development, supports adjacent land uses, and maximizes efficiency and safety for all users including pedestrians, cyclists, motorists, and transit riders;*
- *Foster and reinforce diverse, compact, accessible and walkable residential neighborhoods that offer a full spectrum of housing choices, community facilities and civic and open space; and to*
- *Facilitate community-based renewable energy production in locations that do not contradict or interfere with the City’s land use, open space and resource conservation objectives*

[As you can see above, most of the purpose statement is new. Staff recommends a careful read here to ensure that the statements reflect community goals. We’re connecting with the consulting team to determine how many of these come directly from the Comprehensive Plan.]

C. Waiver Authority. [Note: new for consideration, as provided in statute for subdivision regs—a version of this language could instead be included under Article 17, also for reference under site plan and conditional use review, per statutory waiver provisions. Generally, new subdivisions/ lots should not require “hardship” waivers, unless there are extensive physical constraints—e.g., to avoid a taking.] *The DRB has limited authority under § 4418 to waive or modify, subject to conditions, required subdivision application materials, review processes, and standards under this article If it finds that:*

- (1) *A requirement or standard does is not relevant to a particular application; or that,*
- (2) *Because of physical site limitations or constraints specific to the land to be subdivided, including the lack of existing and planned connecting facilities or services:*
 - a. *The requirement is not requisite in the interest of public health, safety and welfare;*
 - b. *The requirement will cause unnecessary and [or] extraordinary hardship;*
 - c. *The modification or waiver is the minimum necessary to afford relief [avoid a regulatory taking of property], 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.* [Note: taken in part from 14.04(G) site plan review]

The DRB, in granting a modification or waiver under this Article, may [*shall*] impose conditions that in its judgment are necessary to meet the objectives or mitigate the impacts of any modified or waived subdivision standard or requirement. A type of Planned Unit Development (PUD) under Article __ should be considered for more innovative forms of subdivision and development that incorporate modifications in layout, density and design to meet specific community objectives.

[Notable here is that waiver provisions do not currently exist under subdivision standards except in PUDs. We're working through what is an acceptable waiver outside of PUDs, if any. Commissioner feedback here is especially welcome.]

C. Minor Lot Line (Boundary) Adjustments. [currently under 15.19]

- (1) A permit from the Administrative Officer is required for a minor lot line adjustment for which:
- (a) 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;*
 - (b) *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;*
 - (c) *No new or irregularly shaped lots are created through the adjustment;*
 - (d) The relocated lot line does not result in the creation of a nonconforming lot, structure, or use, *or increase the existing degree of nonconformance;* and
 - (e) The proposed adjustment does not violate the terms or conditions of any prior municipal permit or approval.

[new here is an increase in what is considered a minor lot line adjustment and thus subject to simple administrative permitting rather than full Board review]

15.04 Sketch Plan Review [Currently under 15.05]

A. Purpose. *The purpose of pre-application sketch plan review, required for any proposed subdivision, 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. Sketch plan review offers the subdivider 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.*

[this purpose statement is new; we've been working with our legal team to determine the purpose and process involved in sketch plan review to make it as clear as possible to the community and the applicant what level of advice or decision, and vesting, a sketch plan provides; this is ongoing and will likely be reflective of recent decisions by the Vermont Environmental Court].

D. Findings and Recommendations. Based on information provided the DRB shall, in writing or meeting minutes:

- (1) Confirm or amend the Administrative Officer's initial classification of the proposed subdivision as a Minor, Major or Transect Zone Subdivision;
- (2) Indicate whether the subdivision as proposed will require Master Plan review under Section 15.06, or review as a Planned Unit Development under Article __; and
- (3) Provide a preliminary determination [*indication?*] of whether the sketch plan generally conforms to the Comprehensive Plan and these Regulations.
- (4) The DRB may also offer specific recommendations for consideration by the subdivider in preparing an application, including suggested modifications or changes to the proposed subdivision layout and design, and any additional information, studies or supporting documentation to be included with the application.
- (5) At this time, the DRB may also direct an applicant for a minor subdivision to provide additional information and materials normally required for major subdivision review, as applicable to the proposed subdivision.

E. Effect. *Sketch plan review, while mandatory, is advisory only. Initial DRB findings and recommendations are not binding on the subdivider or the City, and as such are not subject to appeal. Sketch plan review simply authorizes the subdivider to proceed with an application for subdivision approval; it in no way implies formal subdivision approval by the DRB.*

- (1) *Sketch plan findings and associated recommendations shall remain in effect for six months from the date issued, unless extended by the DRB at the request of an applicant.*
- (2) *Within six months of the completion of sketch plan review, unless extended by the DRB, the applicant must apply to the DRB for preliminary subdivision review, as required for a Major Subdivision under Section 15.05(A), final subdivision review as required for a Minor Subdivision or Transect Zone Subdivision under Section 15.05(B); or master plan review under Section ____ as applicable to a particular subdivision proposal.*

[see number 3 above. While not new text, we encourage the Planning Commission to further consider the relationship between a subdivision application and the Comprehensive Plan. This standard is currently vague. We can work with our legal team upon the direction of the Commission.]

[See E (1) above. The effect dates here are also newly proposed. We currently do not have an expiration date for sketch plan review as no decision is formally issued.]

The document is much larger and is attached for reference, without internal staff notes or legal comments, which are forthcoming. The Commission, as always, is welcome to provide feedback on the totality of the document, but we've outlined those areas we find to be most heavily policy-based above.

1 **15 SUBDIVISION REVIEW**

2 **15.01 Purpose and Authority** [Currently 15.01, 15.02– substantially expanded, revised]

3
4 **A. Purpose.** *These subdivision Regulations are intended to implement the City’s*
5 *Comprehensive Plan, in conformance with plan policies and objectives, and the City’s adopted*
6 *Official Map and Capital Improvement Program, to:*

- 7 • *Ensure orderly, coordinated growth and development within the City of South Burlington;*
- 8 • *Promote the comfort, convenience, safety, health and welfare of city residents;*
- 9 • *Accommodate planned rates of growth, and ensure that the rate of development does not*
10 *exceed the City’s capacity to provide municipal facilities and services in an efficient and*
11 *cost-effective manner;*
- 12 • *Ensure that land to be subdivided for development is physically suited for its intended use;*
- 13 • *Minimize the fragmentation of and adverse impacts to identified natural, cultural, scenic and other*
14 *open space resources, in conformance with the city’s open space and resource conservation*
15 *objectives;*
- 16 • *Ensure that the pattern of land subdivision and development, and supporting facilities,*
17 *infrastructure and utilities, conform to the planned pattern, density and form of*
18 *development for the zoning district(s) in which it is located, or type of Planned Unit*
19 *Development (PUD) specified under Article __.*
- 20 • *Establish and maintain an integrated, multi-modal transportation and public street network that*
21 *connects existing and planned development, supports adjacent land uses, and maximizes*
22 *efficiency and safety for all users including pedestrians, cyclists, motorists, and transit riders;*
- 23 • *Foster and reinforce diverse, compact, accessible and walkable residential neighborhoods*
24 *that offer a full spectrum of housing choices, community facilities and civic and open*
25 *space; and to*
- 26 • *Facilitate community-based renewable energy production in locations that do not*
27 *contradict or interfere with the City’s land use, open space and resource conservation*
28 *objectives.*

29
30 **B. Authority.** *The Development Review Board (DRB) has the authority, under 24 VSA §§*
31 *4418 and 4463 and these Regulations, to review and approve, approve with modifications or*
32 *conditions, or deny an application for the subdivision of land.*

33
34 **C. Waiver Authority.** *[Note: new for consideration, as provided in statute for subdivision*
35 *regs—a version of this language could instead be included under Article 17, also for reference*
36 *under site plan and conditional use review, per statutory waiver provisions. Generally, new*
37 *subdivisions/ lots should not require “hardship” waivers, unless there are extensive physical*
38 *constraints—e.g., to avoid a taking.] The DRB has limited authority under § 4418 to waive or*

1 *modify, subject to conditions, required subdivision application materials, review processes, and*
2 *standards under this article If it finds that:*

- 3
- 4 (1) *A requirement or standard does is not relevant to a particular application; or that,*
- 5
- 6 (2) *Because of physical site limitations or constraints specific to the land to be subdivided,*
7 *including the lack of existing and planned connecting facilities or services:*
 - 8 a. *The requirement is not requisite in the interest of public health, safety and welfare;*
 - 9 b. *The requirement will cause unnecessary and [or] extraordinary hardship;*
 - 10 c. *The modification or waiver is the minimum necessary to afford relief [avoid a*
11 *regulatory taking of property], and represents the least deviation from the standards*
12 *and requirements of these Regulations; and*
 - 13 d. *The modification or waiver, if granted, will not have the effect of nullifying the intent*
14 *and purpose of these Regulations, the comprehensive plan, or other municipal bylaws*
15 *and ordinances in effect. [Note: taken in part from 14.04(G) site plan review]*
- 16

17 The DRB, in granting a modification or waiver under this Article, may [shall] impose conditions
18 that in its judgment are necessary to meet the objectives or mitigate the impacts of any modified
19 or waived subdivision standard or requirement. A type of Planned Unit Development (PUD)
20 under Article __ should be considered for more innovative forms of subdivision and development
21 that incorporate modifications in layout, density and design to meet specific community
22 objectives.

23
24 **15.02 Applicability** [New; see current definition of “Subdivision”]

25 **A. Subdivision Approval.** Final subdivision plan and plat approval from the DRB under 15.05
26 (B) is required prior to:

- 27 (1) The sale, lease or conveyance of any portion of a parcel of land;
- 28
- 29 (2) Site preparation, grading, clearing, construction or the installation of site improvements
30 associated with the subdivision of land or the development of a parcel to be subdivided,
31 excluding forestry, agricultural and land surveying activities;
- 32
- 33 (3) Recording a subdivision plat or deed for a subdivided parcel in city land records; or
- 34
- 35 (4) Issuing a zoning permit for the development of a subdivided parcel.

36 **B. Exceptions.** The following may be recorded in city land records without first obtaining
37 DRB subdivision approval under these Regulations:

- 1 (1) A right-of-way or easement such as a trail, conservation, stormwater or utility easement
- 2 that does not define or result in the subdivision of land.
- 3
- 4 (2) The transfer of a portion of a parcel to an adjoining public parcel or right-of-way, for a
- 5 public purpose that conforms to the City’s Comprehensive Plan, Official Map or Capital
- 6 Improvement Program (see Minor Lot Line Adjustment under (C)).
- 7
- 8 (3) *Technical corrections to a previously recorded survey plat or deed which document or*
- 9 *correct existing metes, bounds, elevations, or other known errors or deficiencies.*
- 10
- 11 (4) The division, lease or use of a portion of a parcel larger than twenty-five (25) acres solely
- 12 for agricultural or forestry purposes, which does not require a new highway access or the
- 13 installation of a permanent road or municipal infrastructure, provided that an instrument
- 14 which waives development rights, until or unless subdivision review occurs, is approved
- 15 by the City Attorney and City Council and is recorded in city land records.
- 16
- 17 (5) *The notice of a Certificate of Public Good (CPG) issued by the Vermont Public Utility*
- 18 *Commission for an in-state energy generation facility with a capacity greater than 15*
- 19 *kilowatts, as required under 30 VSA § 248, which identifies the land on which the facility*
- 20 *is to be located by reference to the deed of record for the property as conveyed to the*
- 21 *current landowner.*

22 **C. Minor Lot Line (Boundary) Adjustments.** [currently under 15.19]

- 23 (1) A permit from the Administrative Officer is required for a minor lot line adjustment for
- 24 which:
- 25
- 26 (a) The sale or exchange of land is between adjacent property owners, *and the*
- 27 *application is authorized and signed by the owner of each affected lot;*
- 28 (b) *The acreage of land to be transferred between each affected lot is less than the*
- 29 *minimum lot area for the zoning district(s) in which the lots are located;*
- 30 (c) *No new or irregularly shaped lots are created through the adjustment;*
- 31 (d) The relocated lot line does not result in the creation of a nonconforming lot, structure,
- 32 or use, *or increase the existing degree of nonconformance;* and
- 33 (e) The proposed adjustment does not violate the terms or conditions of any prior
- 34 municipal permit or approval.
- 35
- 36 (2) The application for a minor lot line adjustment must be accompanied by a survey plat
- 37 prepared by a licensed land surveyor that depicts and references each lot to be modified
- 38 by the adjustment.
- 39
- 40 (a) The survey shall clearly indicate the area, metes, bounds and ties of each lot.

1 (b) The survey shall also clearly depict all existing structures, site improvements,
2 delineated setbacks, parking spaces, lot coverage and other details specified by the
3 Administrative Officer *as necessary to determine conformance with this section.*
4

5 (3) Where there is uncertainty as to whether an application constitutes a minor lot line
6 adjustment, the Administrative Officer may refer the application to the DRB for review as
7 a subdivision.
8

9 (4) All other lot line adjustments shall require subdivision approval from the DRB.

10 **15.03 Classification** [Note: incorporates current definitions, with noted changes]

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

13 (1) A **Minor Subdivision**, to be reviewed under Section 15.05(B), which is limited to:

14
15 (a) The subdivision of an existing lot, tract or parcel of land into two lots, *including the*
16 *parent or retained lot, if the lot to be created is less than two times the minimum lot*
17 *area for the district in which it is located, and has required frontage on a public*
18 *roadway,*

19 (b) *A lot line adjustment which does not meet the requirements for administrative*
20 *approval under Section 15.02(C), or.*

21 (c) *A proposed amendment to an approved subdivision that does not substantially alter*
22 *the subdivision or conditions of subdivision approval or result in a major subdivision.*
23

24 (2) A **Major Subdivision**, to be reviewed under Section 15.05(A) and (B), which includes a
25 subdivision of land that involves any of the following:

26
27 (a) *The subdivision of an existing lot, tract or parcel of land into two lots, which does not*
28 *qualify as a minor subdivision;*

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

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

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

34 (e) A Planned Unit Development (PUD) under Article ____, *to be reviewed by the DRB*
35 *concurrently with subdivision review; or*

36 (f) *A proposed amendment to an approved subdivision which substantially alters the*
37 *subdivision or conditions of subdivision approval, or which results in the creation of a*
38 *major subdivision.*
39

1 (3) **A Transect Zone Subdivision**, to be reviewed under Section 15.05(B) and Article 8, for any
2 subdivision of land within a designated Transect Zone.

3 **15.04 Sketch Plan Review** [Currently under 15.05]

4 **A. Purpose.** *The purpose of pre-application sketch plan review, required for any proposed*
5 *subdivision, is to acquaint the DRB with the subdivision proposal at a conceptual stage in the*
6 *design process, prior to the submission of a formal application. Sketch plan review offers the*
7 *subdivider and DRB the opportunity to consider and discuss a conceptual subdivision plan under*
8 *relevant regulations, prior to incurring the expense of preparing a complete application and*
9 *surveyed subdivision plat.*

10 **B. Submission Requirements.**

11 (1) For the purpose of initial classification and review, the subdivider must provide the
12 Administrative Officer with the information and materials specified for sketch plan review
13 under Appendix E. Submission Requirements.

14
15 *[Note: Currently detailed site plan information under 14.05 is also included under sketch plan review, for*
16 *consideration at the preliminary plat stage for subdivisions involving commercial, industrial or multifamily*
17 *uses, or a PUD... confusing as included under "sketch plan" review...especially w/ re to level of detail*
18 *required.]*

19
20 (2) The subdivider may schedule one or more meetings with the Administrative Officer to
21 discuss the proposed subdivision, sketch plan, and associated application requirements and
22 review processes.

23 **C. Review Process.**

24 (1) **Classification.** Once all required information is received, the Administrative Officer shall
25 classify the proposed subdivision as a Minor Subdivision, Major Subdivision, or Transect
26 Zone Subdivision, and refer the sketch plan to the DRB for consideration at a regularly
27 scheduled DRB meeting. *[Also include referrals to other staff, committees?]* The
28 Administrative Officer shall also note whether the proposed subdivision in concept, or as
29 requested by the subdivider, would require Master Plan Review under Section 15.07 or
30 review as a Planned Unit Development under Article ____.

31
32 (2) **Sketch Plan Meeting(s).** The subdivider or his/her duly authorized representative shall
33 attend the scheduled DRB to present the sketch plan and discuss the proposed
34 subdivision in concept. *The DRB may schedule additional meetings as needed, or upon*
35 *request of the subdivider, to consider supplemental information, including alternative*
36 *conceptual designs.*

1 **D. Findings and Recommendations.** Based on information provided the DRB shall, in writing
2 or meeting minutes:

- 3 (1) Confirm or amend the Administrative Officer’s initial classification of the proposed
4 subdivision as a Minor, Major or Transect Zone Subdivision;
5 (2) Indicate whether the subdivision as proposed will require Master Plan review under
6 Section 15.06, or review as a Planned Unit Development under Article ___; and
7 (3) Provide a preliminary determination [*indication?*] of whether the sketch plan generally
8 conforms to the Comprehensive Plan and these Regulations.
9 (4) The DRB may also offer specific recommendations for consideration by the subdivider in
10 preparing an application, including suggested modifications or changes to the proposed
11 subdivision layout and design, and any additional information, studies or supporting
12 documentation to be included with the application.
13 (5) At this time, the DRB may also direct an applicant for a minor subdivision to provide
14 additional information and materials normally required for major subdivision review, as
15 applicable to the proposed subdivision.

16 **E. Effect.** *Sketch plan review, while mandatory, is advisory only. Initial DRB findings and*
17 *recommendations are not binding on the subdivider or the City, and as such are not subject to*
18 *appeal. Sketch plan review simply authorizes the subdivider to proceed with an application for*
19 *subdivision approval; it in no way implies formal subdivision approval by the DRB.*

- 20 (1) *Sketch plan findings and associated recommendations shall remain in effect for six months*
21 *from the date issued, unless extended by the DRB at the request of an applicant.*
22
23 (2) *Within six months of the completion of sketch plan review, unless extended by the DRB,*
24 *the applicant must apply to the DRB for preliminary subdivision review, as required for a*
25 *Major Subdivision under Section 15.05(A), final subdivision review as required for a Minor*
26 *Subdivision or Transect Zone Subdivision under Section 15.05(B); or master plan review*
27 *under Section ___ as applicable to a particular subdivision proposal.*

28 **15.05 Subdivision Review** [Currently 15.06, 15.08 -- move hearing processes, etc. to Article 17?]

29 **A. Preliminary Subdivision Review.** Preliminary subdivision review by the DRB is required
30 for all Major Subdivisions, including Planned Unit Developments under Article ___. *The purpose*
31 *of preliminary subdivision review is to evaluate a proposed subdivision under the standards of*
32 *these Regulations, to determine conformance with a previously approved master plan, to allocate*
33 *available infrastructure capacity, to identify specific issues or concerns that must be addressed or*
34 *mitigated prior to final subdivision review and, upon preliminary approval, to allow the applicant*
35 *to seek other necessary permits or approvals that may result in proposed modifications, prior to*
36 *preparing final survey plats, engineering plans and legal documentation.*

- 1 (1) **Combined [Concurrent] Review.** Preliminary subdivision review by the DRB may be
2 combined [*conducted concurrently*] with master plan review under Section ___ and site
3 plan or conditional use review under Article 14, as requested by the applicant, for one or
4 more phases of subdivision and development, if the application requirements and
5 standards for each type of review are considered and met. *[Note: This reflects current
6 practice, but since the timing/effective date of respective permits and approvals may vary, this
7 may need some further clarification-may be better included under final subdivision review?].*
8
- 9 (2) **Application Requirements.** Within six (6) months of the date of a final sketch plan review,
10 *unless otherwise extended by the DRB at the request of applicant*, the applicant shall file
11 an application for preliminary subdivision review with the Administrative Officer.
12
- 13 (a) The application must be submitted on forms provided by the City, to include
14 information and materials listed in Appendix E, Submission Requirements, any
15 additional information requested by the DRB under Sketch Plan Review, and any
16 requested modifications or waivers under 15.01(C), including the stated justification
17 for this request.
18
- 19 (b) The Administrative Officer shall refer a complete application to the DRB for public
20 hearing and review [*within thirty days of the date of receipt of all required forms, fees
21 and materials*].
22
- 23 (c) *The Administrative Officer shall also refer the application to other city officials,
24 departments and advisory committees authorized to review applications under these
25 Regulations, in accordance with 24 VSA § 4464, and adopted city policies, standards
26 and procedures.*
27
- 28 (d) *An application for a subdivision that requires improvements within or encroaches upon
29 a mapped floodplain [or river corridor] shall also be referred to the Agency of Natural
30 Resources or its designee for review and comment under 24 VSA § 4424.*
31
- 32 (3) **Public Hearing.** The DRB shall hold a warned public hearing on the application, as
33 required under 24 VSA §§ 4463 and 4464.
34
- 35 (a) *The hearing notice shall also be sent, at least fifteen (15) days prior to the hearing
36 date, to the clerk of an adjoining municipality, if the proposed subdivision is located
37 within 500 feet of a city boundary.*
38
- 39 (b) The DRB may request additional information and testimony during the hearing
40 process as necessary to determine project compliance with these Regulations; and
41 may recess the hearing on an application pending the submission of additional
42 information.

1 (c) The applicant, developer or his/her duly authorized representative must attend all
2 DRB meetings on the application, including scheduled site visits, public meetings or
3 hearings which are continued to a specified date and time. The DRB may disapprove
4 the application if the applicant or his/her authorized representative fails to attend
5 required meetings, provide requested information within a reasonable time period,
6 or actively participate in the hearing process.
7

8 (4) **Decision.** Within forty-five (45) days after the close of the public hearing, the DRB shall
9 issue its written findings of fact and decision to approve, approve with modifications, or
10 disapprove the preliminary subdivision plat, supporting plans and documents. Failure to
11 act within this 45-day period shall constitute approval under 24 VSA § 4464(b), *as deemed*
12 *by the court and certified by the City Clerk.* The decision, including findings and
13 information for appeal, shall be sent by certified mail to the applicant. Copies of the
14 decision shall also be mailed to all parties who participated in the public hearing process.
15 When granting approval, the DRB shall state the conditions of approval, if any, with
16 respect to:
17

18 (a) Specific changes required to the preliminary plat, plans or supporting documents for
19 consideration under final subdivision review.

20 (b) The character and extent of any required improvements which, in the DRB's opinion,
21 may be waived under Section 15.01(C).

22 (c) *Initial allocations of available water, wastewater, stormwater and transportation*
23 *infrastructure capacity needed to serve the proposed subdivision and required system*
24 *connections or improvements.*

25 (d) *Proposed measures intended to mitigate the adverse impacts of land subdivision and*
26 *development on identified natural, cultural or scenic resources, and public facilities,*
27 *infrastructure and services.*

28 (e) *The timing and sequence of subsequent applications for phased or combined*
29 *subdivision and development review.*

30 (f) *Other municipal, state or federal permits or approvals to be obtained in advance of*
31 *applying for final subdivision review.*
32

33 (5) **Effect.** Preliminary subdivision approval does not constitute final approval of a
34 subdivision plan or plat. It is intended only to guide the preparation of the final plat,
35 supporting plans and documents. A preliminary subdivision approval shall remain in
36 effect for twelve (12) months from the date of approval *unless, upon written request of*
37 *the applicant, the expiration date is extended by the DRB for cause, for example due to an*
38 *appeal, permitting or seasonal site analysis delays.* If an application for final subdivision
39 approval is not submitted by the expiration date, the DRB may require resubmission of
40 the preliminary plat, supporting plans and documents for preliminary subdivision review.

1 **B. Final Subdivision Review.** Final subdivision review by the DRB is required for all Minor
2 Subdivisions, Major Subdivisions, including Planned Unit Developments under Article __, and
3 Transect Zone Subdivisions. *The purpose of final subdivision review is to determine whether the*
4 *final subdivision, and supporting plans, documents, infrastructure and facilities comply with these*
5 *Regulations, a previously approved master plan, and the conditions of preliminary subdivision*
6 *approval, prior to recording a subdivision plat, deeds, easements and other legal documents in*
7 *the land records of the City.*

8 (1) **Concurrent [Combined] Review.** At the request of the applicant, final subdivision review
9 by the DRB may be conducted concurrently [*combined*] with site plan and conditional use
10 review under Article 14, *if the application requirements and standards for each type of*
11 *review are considered and met.*

12
13 (2) **Application Requirements.** Unless otherwise extended by the DRB, within six (6) months
14 of sketch plan approval (for Minor Subdivisions and Transect Zone Subdivisions), or
15 twelve (12) months of preliminary subdivision plan approval (for Major Subdivisions,
16 including Planned Unit Developments), the applicant shall file an application for final
17 subdivision review with the Administrative Officer.

18
19 (a) The application must be submitted on forms provided by the City, to include the
20 information and materials listed in Appendix E, Submission Requirements, any other
21 information requested by the DRB under sketch plan or preliminary subdivision
22 review, and any requested modifications or waivers under 15.01(C) or the conditions
23 of preliminary approval, including the stated justification for this request.

24
25 (b) The application must also be accompanied by a Certificate of Title showing the
26 ownership of all properties and easements to be dedicated or acquired by the City,
27 and supporting legal documents of conveyance, to be reviewed and approved by the
28 City Attorney. [Note: currently under

29
30 (c) The application for final subdivision review may be submitted in one or more phases,
31 as specified under preliminary subdivision or master plan approval, to include only
32 that phase of a subdivision for which final subdivision approval is requested.

33
34 (d) The Administrative Officer shall refer complete applications to the DRB for public
35 hearing and review [*within thirty days of the date of receipt of all required forms, fees*
36 *and materials*].

37
38 (e) *The Administrative Officer shall also refer the application to other city officials,*
39 *departments and advisory committees authorized to review applications under these*
40 *Regulations, in accordance with 24 VSA § 4464 and adopted city policies, standards*
41 *and procedures.*

1 (6) **Public Hearing.** The DRB shall hold a warned public hearing on the application, as
2 required under 24 VSA §§ 4463 and 4464.

3
4 (a) *The hearing notice shall also be sent, at least fifteen (15) days prior to the hearing*
5 *date, to the clerk of an adjoining municipality, if the proposed subdivision is located*
6 *within 500 feet of a city boundary; and to all interested persons who participated in*
7 *the preliminary subdivision review hearing process.*

8
9 (b) The DRB may request additional information and testimony during the hearing
10 process as necessary to determine project compliance with these Regulations; and
11 may recess the hearing on an application pending the submission of additional
12 information.

13
14 (c) The applicant, developer or his/her duly authorized representative must attend all
15 DRB meetings on the application, including scheduled site visits, public meetings or
16 hearings which are continued to a specified date and time. The DRB may disapprove
17 the application if the applicant or his/her authorized representative fails to attend
18 required meetings, provide requested information within a reasonable time period,
19 or actively participate in the hearing process.

20
21 (7) **Decision.** Within forty-five (45) days after the close of the public hearing, the DRB shall
22 issue its written findings of fact and decision to approve, approve with modifications, or
23 disapprove the final subdivision plat, supporting plans and documents. Failure to act
24 within this 45-day period shall constitute approval under 24 VSA § 4464(b), *as deemed by*
25 *the court and certified by the City Clerk.* The final decision, including findings, shall be sent
26 by certified mail to the applicant. Copies of the decision shall also be mailed to all parties
27 who participated in the public hearing process.

28
29 (a) *Any conditions of final subdivision approval for performance bonding or other sureties,*
30 *phasing, construction or inspection schedules, or the timing of required improvements,*
31 *shall be specified in the written DRB decision, or in a separate Development Agreement*
32 *approved by the City Council under Section ____, as referenced in or attached to the*
33 *DRB decision.*

34
35 (b) The DRB decision may also, as a condition of approval, specify final changes to the
36 content of the plat, supporting plans or documents that must be completed to the
37 satisfaction of the Administrative Officer before the plat is approved and endorsed by
38 the DRB for recording under 15.06.

39
40 (8) **Effect.** Final subdivision approval by the DRB remains in effect for 180 days from the date
41 of approval, unless extended by the Administrative Officer under 15.06. Final subdivision

1 approval shall expire unless, within this 180-day period the subdivision plat as approved
2 and endorsed by the DRB, is filed and recorded in the land records of the City.

3
4 (a) Final subdivision approval by the DRB shall not constitute or be evidence of
5 acceptance by the City of any streets, easements, water and sewer facilities, open
6 space or other public facilities and improvements shown on the subdivision plat or
7 associated plans. Final public acceptance of any proposed street, required facility or
8 improvement shall conform to procedures established by the City Council or other
9 City Commission or Board, and shall not take place until after the City Engineer has
10 determined that the required facility or improvement has been satisfactorily
11 completed, and associated sureties, other than that required to guarantee up to two
12 years of maintenance, have been released or closed.

13 **15.06 Plat Recording** [Currently under 15.09]

14 **A. Recording Requirements.** The final subdivision plat as approved and endorsed by the
15 DRB, or as otherwise deemed approved and certified by the City Clerk, must be recorded in the
16 land records of the City within 180 days of the date of approval. *The Administrative Officer may*
17 *extend the date for filing by an additional 90 days, if final municipal or state permits or approvals*
18 *are still pending.* If the plat is not recorded within this period, then subdivision approval shall be
19 void and the plat, supporting plans and documents must be resubmitted for final subdivision
20 approval under Section 15.05(B).

- 21 (1) The survey plat to be recorded in the land records shall comply with the requirements of
22 27 VSA Chapter 17 (Filing of Land Plats) and adopted city policies and fee schedules.
23
24 (2) In addition to the original mylar and required copies of the final plat, the applicant shall
25 provide the plat in a digital format acceptable to the City that contains all the information
26 on the final plat, including monument locations, lot lines, rights-of-way and easements,
27 public facilities and field surveyed and verified wetland, [*river corridor*] and floodplain
28 boundaries.
29
30 (3) Once recorded, the survey plat shall become part of the South Burlington Official Map.

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

- 32 (1) No subdivision plat which requires DRB approval shall be filed or recorded in the Office
33 of the City Clerk until it has been approved by the DRB, as endorsed in writing on the plat.
34 DRB endorsement shall not take place until all required plats, plans, construction
35 drawings and supporting documents have been submitted to and reviewed by the
36 Administrative Officer for compliance with the conditions of final subdivision approval.
37

1 (2) The DRB endorsement shall state that “This plat has been approved by Resolution of the
2 Development Review of the City of South Burlington, Vermont.” It shall also specify the
3 date of DRB approval subject to any conditions or requirements of the resolution, and be
4 signed by the DRB Chair or Clerk.
5

6 (3) For any subdivision plat that was deemed approved for failure of the DRB to issue a
7 decision under 15.05(B)(7), the accompanying City Clerk’s Certificate must be attached
8 to the plat as filed and recorded.
9

10 (4) A plat that has been duly filed and recorded shall not expire. However, a plat that has
11 been recorded or subsequently revised without DRB approval and endorsement or Clerk
12 Certification shall be considered null and void, and the DRB [*Administrative Officer*] shall
13 institute proceedings to have the plat stricken from city records.
14

15 **15.07 Subdivision Amendments** [*New, based in part on process used in other communities*]

16 **A. Requirement.** *Subdivision plats and plans that have received final subdivision approval*
17 *from the DRB may not be altered, modified, revised or amended without DRB approval.*
18 *Requested modifications or revisions to a previously approved subdivision plat, plans or conditions*
19 *of approval must be submitted as proposed subdivision amendments for DRB review under this*
20 *section. Before granting approval, the DRB must find that a proposed amendment is substantially*
21 *consistent with the subdivision as originally approved. If a proposed amendment involves*
22 *changes to the overall design or layout of the subdivision, the DRB may require that the*
23 *application be reviewed as a new subdivision under Section 15.05.*

24 **B. Minor Subdivision Amendments.** *A minor amendment, as initially determined by the*
25 *Administrative Officer, includes an amendment to a minor subdivision that does not result in the*
26 *creation of a major subdivision; or a subdivision amendment which does not result in a substantial*
27 *change, alteration, revision or modification of the subdivision plat, plans or conditions of final*
28 *subdivision approval. [Include a more detailed listing based on current practice?] A minor*
29 *subdivision amendment shall be administratively reviewed by the Administrative Officer, and*
30 *considered by the DRB for approval as follows:*

31 (1) *The Administrative Officer shall review the proposed minor amendment for compliance*
32 *with these Regulations and the conditions of final subdivision approval, prepare a draft*
33 *decision for DRB review, and have the proposed amendment and draft decision placed on*
34 *the consent agenda for the next available DRB meeting.*
35

36 (2) *The Administrative Officer shall provide written notification to the applicant, adjacent*
37 *property owners and other interested parties [including all parties who participated in*
38 *final subdivision review] of the proposed amendment, draft decision and the date of the*

1 DRB meeting in which the proposed amendment and draft decision will be considered, at
2 least fifteen (15) [other?] days in advance of the meeting date.

3
4 (3) The DRB, at this meeting, may act to approve, approve with conditions, modify or deny
5 the draft decision on a proposed minor amendment; or, based on the information
6 provided, direct the applicant to apply for final subdivision review, as required for a major
7 subdivision amendment.

8 **B. Major Amendment.** Any proposed subdivision amendment that involves a substantial
9 change, alteration or revision to an approved subdivision plat, plan or condition of subdivision
10 approval, as initially determined by the Administrative Officer, shall require final subdivision
11 review by the DRB under Section 15.05(B). Notice of the proposed amendment and scheduled
12 public hearing shall be sent to all parties who participated in the previous hearing process.

13 **C. Recording Requirements**

14 (1) If a proposed amendment is submitted and approved by the DRB prior to the filing and
15 recording of a subdivision plat under Section 15.06, the amendment shall be incorporated
16 into the final plat before it is filed for recording.

17
18 (2) If the proposed amendment is approved after the original plat has been recorded, an
19 amended plat shall be prepared and recorded under Section 15.06 that carries a notation
20 that it supersedes the original plat as previous recorded, to include the date and recording
21 information for the original plat.

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1 **Master Plan Review**

2 **A. Purpose.** *The intent of master plan review by the DRB is to ensure the orderly, coordinated*
3 *subdivision and development of larger parcels of land within the City, in conformance with the*
4 *Comprehensive Plan, Official Map and Capital Improvement Program; and that the timing and*
5 *rate of land subdivision and development is consistent with the provision of supporting*
6 *infrastructure, facilities, services and amenities. Specifically, master plan review and approval are*
7 *intended to:*

- 8 • *Establish a comprehensive framework for the integrated and orderly subdivision and*
9 *development of parcels of land of five [other?] acres or more, projects to be developed over*
10 *extended periods of time, not to exceed ten [other?] years, and Planned Unit Development*
11 *under Article ___.*
- 12
- 13 • *Serve as the long-term development or “regulating” plan for use by the developer, city*
14 *officials, property owners, and other interested parties to determine whether subsequent*
15 *development conforms to the approved master plan.*
- 16
- 17 • *Identify the overall impacts of a proposed subdivision and development through buildout, and*
18 *associated development parameters (buildout budgets), improvements and mitigation*
19 *measures necessary to accommodate planned development at full buildout.*
- 20
- 21 • *Provide the basis for phased subdivision and development, specifying the timing and sequence*
22 *of each phase in relation to existing and planned infrastructure capacity, identified*
23 *development parameters, required facilities, improvements and mitigation measures, and the*
24 *provision of public or other common open space and amenities.*
- 25
- 26 • *Define and clarify respective roles, responsibilities, interests and management structures for*
27 *project development under the master plan, and for ongoing management and maintenance*
28 *following project completion.*
- 29
- 30 • *Establish vested rights that provide predictability for the subdivider, developer(s) and City for*
31 *the duration of the project through buildout, under phasing and construction schedules and*
32 *development agreements approved by the City.*

33 **B. Applicability.** *For any application involving subdivision for which Master Plan approval is*
34 *elected or required, the applicant must follow the procedures outlined in this Section. The*
35 *applicant may elect to apply concurrently for preliminary subdivision review under Section*
36 *15.05(A) for one or more phases of a proposed subdivision.*

37