

Draft Subdivision Standards – Natural Resources

(a) **Buildable [Developable] Area.** For purposes of these regulations, including the platting of building lots, and the calculation of the density or intensity of development allowed within a subdivision, “buildable area” shall be defined as the total area of the tract or parcel to be subdivided, less the area occupied by the following physical site constraints, as indicated on subdivision plans and plats, and verified through site investigation:

- Surface waters, [Class I and II] wetlands and associated setbacks and buffers under Article 12;
- Floodplains under Section 10.01;
- [River corridors under ____];
- Very steep slopes equal to or greater than 25%; and existing and planned road and railroad rights-of way.

PC Discussion:
determine required v
recommended for PUD
requirement of parcels
which are majority
conservation area. Staff
recollection is yes to
primary, but not to
secondary.

[SM Note: as commonly defined hazard areas, it is typical under subdivision regulations (and sometimes site plan review) to exclude these areas from development, and from the calculation of the buildable area—which may also affect allowed density, depending on how this is addressed under zoning. Except for rights-of-way, these are also typically included in “Primary Conservation Areas” where defined for purposes of resource protection.]

F. Natural, Cultural and Scenic Resources. [SM Note: This section generally follows the approach recommended by CCRPC and in the 2014 Open Space Plan as discussed (e.g., w/ re to defining Primary and Secondary Conservation Areas); however, the regulations could also be more resource-specific. Once more detailed resource protection standards are finalized, it may be appropriate to simply reference these under the subdivision regulations—except as necessary to address resource parcelization/fragmentation—e.g., building envelope requirements may also apply under site plan review. Another option may be to include a matrix of accepted mitigation techniques, by resource]

The applicant must demonstrate that the proposed subdivision will be laid out to:

- incorporate significant natural, historical and scenic site features located on the parcel or tract to be subdivided in subdivision layout and design;
- exclude Primary Conservation Areas from land subdivision and development, and to
- minimize and mitigate the impacts of land subdivision and development on Secondary Conservation Areas located on or contiguous to the parcel or tract to be subdivided.

(1) **Applicability.** Resource protections standards under this subsection generally apply to all subdivisions of land [unless waived by the DRB].

(a) The DRB may modify or waive the requirements of this section for a minor subdivision; a transect zone subdivision within the City Center Form-Based Code District.....

(b) Where fifty percent or more [other?] of the land in a major subdivision is located within one or more primary ~~or secondary~~ conservation areas, a conservation planned unit development under Article ___ is [required/recommended] to allow for the transfer of density, and more flexible resource-based

subdivision lay-out and design, to include the clustering of development outside of Primary and Secondary Conservation areas.

(2) **Resource Identification.** *Features or resources to be considered in subdivision layout and design shall [may] be initially identified from imagery, resource inventories and maps available from the City at the time of application, from the Vermont Agency of Natural Resource's Natural Resource Atlas, and through site investigation. The location and extent of mapped resources, as indicated on subdivision plans and plats, must be field verified and delineated on the ground by the applicant, unless waived by the DRB.*

(3) **Existing Site Features.** *Existing site features to be considered in subdivision layout and design include:
.....*

(4) **Primary Conservation Areas** *to be incorporated in subdivision layout and design include:*

- *Surface waters and required setbacks/buffers under Article 12*
- *River Corridors*
- *Shoreline Protection area (buffer area to be determined; 100- and 250-foot buffers have recently been added to the Mapviewer; currently have strong local and state applicable regulations)*
- *Class I and II wetlands and associated setback and buffer areas, required under Article 12;*
- *Mapped floodplains, regulated under Section 10.01;*
- *Very steep slopes equal to or greater than 25%; and*
- *Rare, threatened and endangered species habitat. (data source for application TBD in concert with CCRPC)*
- *Water Source Protection Areas (Zone 1)*

(a) *Delineated Primary Conservation Areas shall be shown on subdivision plans and plats submitted with the application [and permanently marked/pinned/posted on the ground].*

(b) *Subdivision boundaries and lot lines shall be configured to extend contiguous resource areas on adjoining parcels, and to avoid further subdivision and fragmentation of Primary Conservation Areas.*

(c) *Building lots and building envelopes are prohibited within these areas, except as necessary to accommodate resource-dependent facilities (e.g., water and wastewater treatment facilities, public or community recreation facility).*

(d) *A building lot may incorporate a primary conservation area that is less than the minimum lot size for the district in which it is located.*

(e) *A building envelope must be defined to exclude conserved resources, and limit the siting of buildings and parking areas on the lot, for any building lot that extends into or incorporates a Primary*

Conservation Area, as indicated on the subdivision plat, [in supporting legal documentation, and as clearly marked on the ground].

- (f) *Allowed encroachments within primary conservation areas are restricted to resource-dependent infrastructure and facilities, road and utility corridors, and shared facilities that provide access to conserved resources (e.g., a shared path, driveway, boat ramp, or dock). [SM Note: Review against resource protection standards...]*
- (g) *All encroachments must be sited, designed and constructed to avoid very steep slopes, to minimize stream and wetland crossings, and to mitigate adverse impacts to conserved resources, using accepted mitigation techniques.*
- (h) *Road surfaces and facilities allowed within mapped flood hazard areas must be elevated at least [2 feet] above the Base Flood Elevation to ensure access and minimize flooding during flood events. All roads, utilities and other infrastructure located within a flood hazard area must be designed and constructed to withstand flooding, and result in no adverse impact to surrounding properties during flood events.*
- (i) *Primary Conservation Areas are to be set aside and identified on the subdivision plat, and in associated legal documents, as protected open space to be maintained and managed in single or common ownership.*

This is a list of how primary conservation areas are considered/ excluded/ avoided in the process of subdivision. This directly addresses the question the Commission asked the project team to address to help understand what impacts it means to be a primary vs secondary resource. Consider this list of impacts and make a recommendation related to primary and secondary conservation lists.

- (5) **Secondary Conservation Areas** *to be incorporated in subdivision layout and design include [SM note: in order of priority or functional resource value—could also involve weighting by resource type; mitigation and encroachment permissions will vary as delineated a through l below, and also by resource type, outlined in Chapter 12, with some DRB discretion in accordance with stated goals]:*
 - *Scenic areas [to be updated with the Scenic Views project underway- largely a no-build except as currently permitted where the views are not blocked due to topography and distance]*
 - ~~Riparian Connectivity~~ *(this will be incorporated below in Significant Wildlife Habitat per conversation with J. Hilke, ANR)*
 - *Class III wetlands*
 - *Class III wetland buffers*
 - *Primary Agricultural Soils (Prime, not “Statewide Importance”) [For PC discussion on 3/26; some concern about patchiness of soils layer in use of this in subdivision design].*
 - *Forest blocks [equal to or greater than ½- acre]*
 - *[Farm parcels equal to or greater than 10 acres]*
 - *Significant Wildlife Habitat (CCRPC has spoken with ANR; J. Hilke recommendation is to start with VNRC definition of this title, and remove those not relevant to SBurl, including deer wintering areas, black bear habitat, high elevation bird habitat, etc. It would then include Mast stands, riparian areas and surface waters, wetlands and vernal pools, wildlife travel corridors)*
 - ~~[Necessary/ACT 250] Wildlife habitat and travel corridors~~ *(see note above, incorporated through there per suggestion of J. Hilke, ANR)*
 - *Intermittent stream and swales [added by commission on 12/11/19]*
 - *Water source protection areas (Zone 2)*
 - *Slopes 15-25%*

- (a) All Secondary Conservation Areas shall be shown on subdivision plans submitted with the application.
- (b) At minimum [50 - 70%] of the parcel or tract of land within Secondary Conservation Areas shall be identified for protection as open space [in stated order of priority], as incorporated in subdivision layout and design, as shown on subdivision plans and plats submitted with the application [and as permanently marked/pinned/posted on the ground]. [SM Note: the concern here w/ re to specifying percentages are perceived or potential regulatory takings – a clear nexus must exist between the impacts of a subdivision proposal and imposed open space restrictions, and the regulations must allow for some continued, viable economic use of the property – which would also be addressed through an elective Conservation PUD requirement.]
- (c) Subdivision boundaries and lot lines shall be configured to extend contiguous resource areas on adjoining parcels, and to avoid further subdivision and fragmentation of Secondary Conservation Areas identified for protection as open space.
- (d) A building lot located entirely within a Secondary Conservation Area identified for protection as open space is prohibited, except as necessary to accommodate resource-dependent facilities (e.g., farm structure, public or community recreation facility).
- (e) A building lot may extend or encroach within a Secondary Conservation Area identified for protection as open space, only as necessary to meet minimum lot size or frontage requirements for the zoning district in which it is located.
- (f) A building lot may incorporate a secondary resource area that is less than the minimum lot size for the district in which it is located.
- (g) A building envelope that excludes conserved resources, and restricts the siting of buildings and parking areas on the lot, must be defined for any building lot that extends into or incorporates a secondary conservation area, as indicated on the subdivision plat, [in supporting legal documentation, and as clearly marked on the ground].
- (h) The DRB may approve a proposed subdivision, though development on one or more building lots in the subdivision would exceed the limitations of the Scenic View Protection Overlay District (“view restrictions”), only as allowed under Section 10.03 (J).
- (i) All encroachments must be sited, designed and constructed to avoid or otherwise minimize and mitigate adverse impacts to conserved resources, using accepted mitigation techniques.
- (j) Access roads, driveways and utility corridors must be shared to the extent physically feasible, and follow existing linear features where present (e.g., existing corridors, tree lines, fence lines, field edges), as necessary to minimize the physical fragmentation of conserved resource areas
- (k) Areas identified for long-term farm or forest management should be of sufficient area to qualify for enrollment in state tax stabilization (Use Value Appraisal) programs, where feasible. Access to conserved farm and forest land shall be maintained as necessary to allow for long-term resource

PC Discussion:
Consider this new standard. We haven't previously discussed it.

management. Management plans, prepared by a qualified professional, may be required by the DRB to ensure sustainable, long-term resource management.

- (l) Unbuilt land within Secondary Conservation Areas are to be set aside and identified on the subdivision plat, and in associated legal documents, as protected open space to be maintained and managed in single or common ownership.*