

TOWN OF SOUTH HERO

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PUBLIC HEARING

SOUTH HERO DEVELOPMENT REGULATIONS

**Scheduled for Wednesday, October 2nd at 7 p.m.
at the South Hero Worthen Library**

Notice is hereby given to the residents of the Town of South Hero, Vermont that the South Hero Planning Commission will hold a hearing on October 2nd at 7 p.m. at the South Hero Worthen Library Community Room to consider for adoption the following proposed South Hero Development Regulations pursuant to Chapter 117 of Title 24, §4384 and §4441 V.S.A. The South Hero Development Regulations will modify and replace the current zoning bylaws, subdivision regulations and flood hazard regulations. The purpose of these regulations is to provide for orderly community growth, to further the purposes established in §4302 of Title 24 V.S.A. Chapter 117, and to implement the South Hero Town Plan.

The draft proposed regulations include ten general sections: Enactment, Intent, Amendment, and Effective Date, Zoning Districts and District Regulations, Development Review, Subdivision and Boundary Line Adjustment Review, General Regulations, Development Regulations, Specific Uses and Structures, Administration and Enforcement, Flood Hazard Area and River Corridor Regulations, and General Definitions. The South Hero Planning Commission has revised and updated the regulations to be more user-friendly and to conform with current state and federal regulations. Proposed changes include the creation of two village zoning districts to ensure that future development reflects the historic, traditional pattern of development in these areas. A full report outlining proposed changes to the regulations, and the full text of the proposed regulations, are available at the South Hero Town Clerk's Office.

Town of South Hero, Vermont Planning Commission Report in accordance with VSA Title 24, Chapter 117, Subchapter 9, §4441(c).

Amendments to Development Regulations
Adopted on September 13, 2011.

PURPOSE:

The purpose of the bylaw is to implement the South Hero Town Plan and to carry out the overall goals and vision of that plan. This bylaw also furthers the purposes of the Vermont Planning and Development Act, Title 24 V.S.A Chapter 117 (the Act) to promote the health, safety and general welfare of the inhabitants of South Hero, Vermont.

EXPLANATION:

The following is a summary of proposed amendments to the Town of South Hero Development Regulations adopted by the Selectboard and effective on September 13, 2011.

The proposed amendments conform with or further the goals contained in the 2015-2020 South Hero Town Plan. The Development Regulations have been merged into one document titled “Development Regulations for the Town of South Hero, VT.” The regulations have been organized to provide for easier use by staff, board members, and the public. Language throughout the regulations has been revised to provide additional clarity and to provide mandatory, enforceable language. Two new village zoning districts have been created: the South Hero Village District and the Keeler Bay Village District. The intent of these districts is to ensure that future development reflects the historic, traditional pattern of development in these areas.

The proposed amendments are compatible with the proposed future uses and densities of the 2015-2020 South Hero Town Plan. Most major areas of change are listed below:

Article I – Enactment, Intent, Amendment, and Effective Date

- (1) Integrated language that clarifies the **jurisdiction** of the regulations. (Section 103)
- (2) Refined the language applicable to **separability** (Section 106).

Article II – Zoning Districts and District Regulations

- (1) Created **two new village zoning districts**: the South Hero Village District and the Keeler Bay Village District. The intent of these districts is to ensure that future development reflects the traditional, historic development patterns in these areas (Section 203).
- (2) Refined the purpose statement for the **Rural Residential District** to ensure that future development in this district is focused on residential development (Section 203).
- (3) Added a purpose statement for the River Corridor Area located with the **Flood Hazard Overlay District** (Section 203). See Article IX for additional information.
- (4) Added a subsection that differentiates between different types of land **uses**. Clarified that uses that are not defined in the bylaw may be applied for subject to conditional use review (Section 204).

- (5) Substantially revised **Table 2.1**. Several new uses were added to the table. Most commercial uses will now be subject to site plan review. However, many commercial uses located in the new village district will now be permitted uses, not conditional uses (Section 204).
- (6) Added a section that provides clarity about terminology used in regards to **structures** (Section 205).
- (7) Revised setbacks standards and added **dimensional requirements** for the two new village districts (Section 206).
- (8) Provided clarity about how to measure **setbacks** (Section 206).

Article III – Development Review

- (1) Section 301: **Zoning Permit Procedure** contains mostly new language. The intent of this section was to clearly explain to users of the document what types of development review may be required for their project and to outline the process to obtaining the correct permits. This section also includes language about **exemptions** and **certificates of occupancy**.
- (2) Language explaining the applicability of **conditional use review** has been added. The standards used during conditional use review specifically reflect the standards in state statute (Section 302).
- (3) Figure 3.2 has been added to help the Development Review Board figure out if the impact of project constitutes an **“undue adverse effect.”** The “test” in Figure 3.2 can be used any time the development regulations refer to an “undue adverse effect.”
- (4) **Site plan review** language has also been updated to include a clearer applicability, application requirements and review standards (Section 303).
- (5) Added a **setback waiver**. Then intent was to simplify some existing regulation pertaining to nonconforming structures (Section 304).
- (6) Clarified the applicability, application requirements, and notice requirements of **variance** applications (Section 306).

Article IV – Subdivision and Boundary Line Adjustment Review.

- (1) Added an **applicability** section (Section 401).
- (2) Clarified **application materials** for all types of subdivision applications and added Table 4.1. Added Figure 4.1 to show the entire **subdivision process**. (Section 402).
- (3) Added a **waiver provision for the subdivision of large lots** which clarifies when a survey plat of entire parent parcel is required. (Section 402).
- (4) Reorganized the review procedure for **major and minor subdivisions** to provide clarity regarding the approval process (Section 404).
- (5) Clarified **subdivision plat requirements** and added **subdivision standards** (Section 405 and Section 408).
- (6) Clarified the **subdivision amendment process and subdivision** expiration (Section 406 and 407).

Article V – General Regulations

- (1) Added an **applicability** section (Section 501).
- (2) Substantially restructured the standards for **driveways and access to lots**. This includes provisions for access management, access to multi-household dwellings, and access for emergency vehicles (Section 503).
- (3) Simplified the standards for **nonconforming structures and nonconforming** uses without changing their intent (Section 505).
- (4) Clarified the applicability and standards for **outdoor lighting** (Section 506).
- (5) Clarified standards for **parking** for commercial and residential uses. Parking requirements are now generally based on square footage (Section 507).
- (6) Added general **performance standards** (Section 508).

Article VI – Development Standards

- (1) Added an **applicability** section for the development standards (Section 601).
- (2) Added specific standards that pertain to **landscaping and screening** (Section 602).
- (3) Added standards for the designs of **parking lots**. Clarified how shared and off street parking can be required and regulated in the Village Districts (Section 603).
- (4) Created a section dedicated to explaining how **public infrastructure** can be required and how it is controlled by the municipality (Section 604).
- (5) Clarified the standards for the design and constructions of new **roads and pedestrian infrastructure** (Section 605). This includes strengthening language related to the upgrade of private roads to private road standards.
- (6) Created new standards that clarify when a **stormwater management** plan is required and clarified what information is required to be a part of a stormwater management plan (Section 606).
- (7) Added **village form and design standards**. These standards outline how structures and lots within the village district shall be designed (Section 608).

Article VII – Specific Uses and Structures

- (1) Clarified standards that pertain to **accessory dwellings** appurtenant to single household dwellings and to farm operations (Section 701).
- (2) Added applicability, application requirements, and review standards for **earth resource extraction uses** (Section 702).
- (3) Clarified applicability of **fence** standards (Section 703).
- (4) Added clearer standards for **home businesses and home occupations**. Added standards for **home enterprises** that are larger in size than home occupations (Section 704).
- (5) Clarified the applicability of standards for **lake access structures and marinas** (Section 705 and 706).

- (6) Clarified the rules for the **conversion of seasonal dwellings** for year-round use (Section 708).
- (7) Added standards, as required by statute, for **telecommunications facilities** (Section 709).

Article VIII – Administration and Enforcement

- (1) Updated the duties of the **Zoning Administrator** (Section 801).
- (2) Replaced the Zoning Board of Adjustment section with a section about the appointment, rules, and duties of the **Development Review Board** (Section 802).
- (3) Replaced the appointment and duties language for the **Planning Commission** to account for the creation of the Development Review Board (Section 803).
- (4) Updated the section about **zoning permit issuance and public notice**. Including additional administrative guidance and clarified when a certificate of occupancy required (Section 804).
- (5) Clarified how **combined reviews** will be completed by the Development Review Board and how the Board can continue hearings to another meeting (Section 805).
- (6) Clarified when **DRB approvals expire** (Section 806).
- (7) Provided language that clarifies the **appeal** application requirements and clears up the Development Review Board's authority when there are successive appeals (Section 807).
- (8) Added a new section that explains how **violations** will be addressed and how enforcement will be pursued. This section includes a provision for the issuance of municipal tickets (Section 808).

Article IX – Flood Hazard Area and River Corridor Regulations

- (1) Removed all existing language pertaining to the regulation of the **Flood Hazard Area Overlay District**. Replaced language using an existing State model language that ensures compliance with minimum National Flood Insurance Program standards (Article IX). Added language regulating **River Corridors**, areas subject to fluvial erosion, as mapped by the Vermont Agency of Natural Resources.
- (2) Separated **definitions** specific to the Flood Hazard Overlay District from the rest of the definitions to ensure that users understand when specific definitions are applicable (Section 911).

Article X – General Definitions

- (1) Revised or added the following **definitions** (Article X):
 - a. **Abandoned Use**
 - b. **Affordable House**
 - c. **Agriculture or Farming**
 - d. **Agricultural or Farm Use, Commercial**
 - e. **Agricultural or Farm Use, Accessory**
 - f. **Agricultural or Farm Use, Auxiliary**
 - g. **Agricultural Practices, Required (RAPs)**
 - h. **Bed and Breakfast**

- i. **Boundary Line Adjustment**
- j. **Building**
- k. **Building Envelope**
- l. **Child Care Home**
- m. **Child Care Facility**
- n. **Commercial Agricultural Operation**
- o. **Conditional Use**
- p. **Density**
- q. **Driveway**
- r. **Dwelling, Multi-household**
- s. **Dwelling, Single household**
- t. **Dwelling, Two household**
- u. **Dwelling Unit**
- v. **Earth Resource Extraction**
- w. **Excavation**
- x. **Fence**
- y. **Final Subdivision Plan and Plat**
- z. **Footprint**
- aa. **Frontage**
- bb. **Gas/Service Station**
- cc. **Height**
- dd. **Home Business**
- ee. **Home Industry**
- ff. **Home Occupation**
- gg. **Household**
- hh. **Lake Access Structure**
- ii. **Landscaping**
- jj. **Lodging Establishments**
- kk. **Lot Area**
- ll. **Lot Depth**
- mm. **Lot Width**
- nn. **Mean Lake Level**
- oo. **Minor Subdivision**
- pp. **Mobile Home Park**
- qq. **Motor Vehicle Repair**
- rr. **Motor Vehicle Sales**
- ss. **Nonconforming Structure**
- tt. **Nonconforming Use**
- uu. **Open Air Market**
- vv. **Open Space**
- ww. **Open Space, Common**
- xx. **Open Space, Private**
- yy. **Open Space, Public**
- zz. **Overlay District**
- aaa. **Personal Services**
- bbb. **Planned Unit Development**
- ccc. **Pre-existing Small Lot**
- ddd. **Recreation, Public**
- eee. **Renewable Energy Resources**
- fff. **Required Agricultural Practices**
- ggg. **Retail Establishemnt**

- hhh. **Road**
- iii. **Setback**
- jjj. **Storage Facilities**
- kkk. **Structural Alteration**
- lll. **Structure, Principal**
- mmm. **Subdivision Amendment**
- nnn. **Survey Plat**
- ooo. **Town Plan**
- ppp. **Undue Adverse Effect**
- qqq. **Use**
- rrr. **Use, Accessory**
- sss. **Use, Principal**

PUNCTUATION, WORDING, AND FORMATS HAVE CHANGED TO INCREASE CLARITY AND FUNCTION OF THESE BYLAWS AND REGULATIONS.

CONFORMANCE AND IMPLEMENTATION:

The proposed South Hero Development Regulations conform with and further the goals and policies contained in the South Hero Town Plan including all goals and policies pertaining to the availability of safe and affordable housing. This change has no detrimental effect upon, and is entirely compatible with, the proposed future land uses and densities of the South Hero Town Plan. The proposed changes do not inhibit nor carry out any specific proposals for any planned community facilities.

DRAFT

TOWN OF SOUTH HERO

DEVELOPMENT REGULATIONS

Zoning, Flood Hazard, and Subdivision Regulations

Effective XXXX

INTERIM ZONING WENT INTO EFFECT JULY 11, 1972

ZONING REGULATIONS WENT INTO EFFECT JULY 29, 1976

AMENDMENTS ON:

SECTION 501, 502 AND 508 WENT INTO EFFECT MARCH 6, 1990

REVISED ZONING BYLAWS MARCH 3, 1992

REVISED ZONING BYLAWS MARCH 7, 1995

REVISED ZONING BYLAWS MARCH 5, 1996

REVISED ZONING BYLAWS NOVEMBER 5, 2002

REVISED ZONING BYLAWS OCTOBER 4, 2005

~~REVISED ZONING BYLAWS MARCH 25, 2013~~

REVISED DEVELOPMENT REGULATIONS: Zoning, Flood Hazard, and Subdivision Regulations

Effective date March 3, 2009

REVISED DEVELOPMENT REGULATIONS: Section 404 A. 2. Effective date September 13, 2011

~~REVISED ZONING BYLAWS~~DEVELOPMENT REGULATIONS MARCH 25, 2013

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In Cooperation with Northwest Regional Planning Commission

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Contents

ARTICLE I: ENACTMENT, INTENT, AMENDMENT AND EFFECTIVE DATE	1
SECTION 101: ENACTMENT	1
SECTION 102: INTENT	1
SECTION 103: APPLICATION OF REGULATIONS.....	1
SECTION 104: CONSTRUCTION APPROVED PRIOR TO ADOPTION OF AMENDMENT OF REGULATIONS	1
SECTION 105: AMENDMENTS	1
SECTION 106: SEPARABILITY	1
SECTION 107: EFFECTIVE DATE	1
ARTICLE II: ZONING DISTRICTS AND DISTRICT REGULATIONS.....	2
SECTION 201: ESTABLISHMENT OF ZONING DISTRICTS AND OFFICIAL MAP	2
SECTION 202: INTERPRETATION OF ZONING DISTRICT BOUNDARIES	2
SECTION 203: ZONING DISTRICT PURPOSES.....	3
SECTION 204: LAND USES.....	5
SECTION 205: STRUCTURES.....	9
SECTION 206: DIMENSIONAL STANDARDS.....	9
ARTICLE III: DEVELOPMENT REVIEW	15
SECTION 301: ZONING PERMIT PROCEDURE	15
SECTION 302: CONDITIONAL USE REVIEW.....	19
SECTION 303: SITE PLAN REVIEW	22
SECTION 304: PLANNED UNIT DEVELOPMENTS	24
SECTION 305: SETBACK WAIVER	28
SECTION 306: VARIANCES.....	29
ARTICLE IV: SUBDIVISION AND BOUNDARY LINE ADJUSTMENT REVIEW.....	32
SECTION 401: APPLICABILITY	32
SECTION 402: APPLICATION MATERIALS	32
SECTION 403: BOUNDARY LINE ADJUSTMENT	37
SECTION 404: MAJOR AND MINOR SUBDIVISION REVIEW PROCEDURE	38
SECTION 405: FILING OF FINAL SURVEY PLAT	40
SECTION 406: EXPIRATION	41
SECTION 407: SUBDIVISION AMENDMENTS	41
SECTION 408: SUBDIVISION DEVELOPMENT STANDARDS.....	41
ARTICLE V: GENERAL REGULATIONS.....	46
SECTION 501: APPLICABILITY	46
SECTION 502: ABANDONMENT AND RESTORATION	46
SECTION 503: DRIVEWAYS AND ACCESS TO LOTS.....	46
SECTION 504: EXISTING SMALL LOTS.....	49

SECTION 505: NON-CONFORMING STRUCTURES AND NON-CONFORMING USES	49
SECTION 506: OUTDOOR LIGHTING	52
SECTION 507: OFF-STREET PARKING SPACE REQUIREMENTS.....	52
SECTION 508: PERFORMANCE STANDARDS.....	54
SECTION 509: WASTEWATER AND POTABLE WATER SUPPLY.....	54
ARTICLE VI: DEVELOPMENT STANDARDS	56
SECTION 601: APPLICATION OF STANDARDS	56
SECTION 602: LANDSCAPING AND SCREENING.....	56
SECTION 603: PARKING AREA DESIGN AND SHARED PARKING	57
SECTION 604: PUBLIC INFRASTRUCTURE	58
SECTION 605: ROADS AND PEDESTRIAN INFRASTRUCTURE	59
SECTION 606: STORMWATER MANAGEMENT AND EROSION CONTROL.....	62
SECTION 607: UTILITIES.....	64
SECTION 608: VILLAGE DISTRICT FORM AND DESIGN STANDARDS	64
ARTICLE VII: SPECIFIC USES AND STRUCTURES	68
SECTION 701: ACCESSORY DWELLINGS	68
SECTION 702: EARTH RESOURCE EXTRACTION	69
SECTION 703: FENCES	70
SECTION 704: HOME BUSINESS, HOME OCCUPATION AND HOME ENTERPRISE	71
SECTION 705: LAKE ACCESS STRUCTURE	73
SECTION 706: MARINAS	74
SECTION 707: PUBLIC FACILITIES	75
SECTION 708: SEASONAL CONVERSION.....	75
SECTION 709: TELECOMMUNICATION FACILITIES	76
ARTICLE VIII: ADMINISTRATION AND ENFORCEMENT	80
SECTION 801: ZONING ADMINISTRATOR	80
SECTION 802: DEVELOPMENT REVIEW BOARD	80
SECTION 803: PLANNING COMMISSION	81
SECTION 804: ZONING PERMIT ISSUANCE AND PUBLIC NOTICE	83
SECTION 805: PUBLIC HEARING AND NOTICE REQUIREMENTS FOR DEVELOPMENT REVIEW BOARD APPLICATIONS	85
SECTION 806: DECISIONS.....	87
SECTION 807: APPEALS	87
SECTION 808: VIOLATIONS AND ENFORCEMENT	88
ARTICLE IX: FLOOD HAZARD AREA AND RIVER CORRIDOR REGULATIONS.....	90
SECTION 901: STATUTORY AUTHORIZATION AND EFFECT	90
SECTION 902: STATEMENT OF PURPOSE	90
SECTION 903: LAND TO WHICH THESE STANDARDS APPLY.....	90
SECTION 904: DEVELOPMENT REVIEW IN FLOOD HAZARD AREAS	92
SECTION 905: FLOOD HAZARD AREA DEVELOPMENT STANDARDS.....	94
SECTION 906: STANDARDS FOR REVIEW OF NON-CONFORMING STRUCTURES.	97
SECTION 907: VARIANCES TO THE DEVELOPMENT STANDARDS	97
SECTION 908: APPLICATION REQUIREMENTS	98
SECTION 909: CERTIFICATE OF COMPLIANCE	99
SECTION 910: VIOLATION OF FLOOD HAZARD AREA REGULATIONS	99
SECTION 911: HAZZARD AREA DEFINITIONS	100
ARTICLE X: GENERAL DEFINITIONS	106

List of Tables	
Table	Page
Summary of Municipal Permits and Approvals	<u>i7</u>
Table 2.1 Allowed Uses	<u>6-8</u> 14-16
Table 2.2: Dimensional Standards for Non-Village Districts	<u>9-10</u> 17-18
Table 2.3: Dimensional Standards for Village Districts	<u>18-19</u> 10-11
Table 3.1: Site Plan Requirements	<u>22-23</u> 29
Table 4.1 Subdivision Application Requirements	<u>32-35</u> 40-43
Table 5.1: Minimum Parking Ratios	<u>51-52</u> 7
Table 6.1 Parking Area Design Standards	<u>56</u> 63
Table 7.1: Comparison of Standards for Home Occupations and Home Enterprises	<u>70</u> 8
Table 9.1 River Corridor Standards	<u>87</u> 95

List of Figures	
Figure	Page
How to Get a Zoning Permit: At a Glance	<u>ii8</u>
Figure 2.1 Measuring Height	<u>11</u> 9
Figure 2.2 Measuring Setbacks	<u>12</u> 20
Figure 2.3 Consistent Setback Line in Village Districts (An Example)	<u>13</u> 21
Figure 2.4 Average Setback Line in Village Districts (An Example)	<u>13</u> 21
Figure 3.1. Timeline for Zoning Permits and Approvals	<u>16</u> 23
Figure 3.2 - Determining Undue Adverse Effect	<u>21</u> 8
Figure 3.3 Shifting Densities within a PUD	<u>25</u> 33
Figure 3.4 Planned Unit Development	<u>27</u> 34
Figure 4.1 Subdivision Review Process: At a Glance	<u>36</u> 44

List of Figures	
Figure	Page
Figure 5.1 – B-71 Standards for Residential Drives (VTrans)	47 53
Figure 5.2 Increasing the Degree of Non-conformity	49 55 56
Figure 6.1. Single Access Road Turnaround Specifications	59 67
Figure 6.2 Examples of Prominent Entrances	62 70
Figure 6.3 Example of building modulation and articulated façade planes	62 70
Figure 6.4: Example of articulated façades with decorative details.	63 71
Figure 6.5 Percent Window Coverage Calculation (window coverage area/façade area)	64 72
Figure 9.1 Flood Hazard Areas	10 19
Figure 9.2 Finding Top of Slope and Top of Bank for Measuring Buffer Setbacks	10 24

Summary of Municipal Permits and Reviews			
Permit/Review	Required for	Issued by	See
Zoning Permit	All land development as defined in Article X, including accessory structures, conversions, and changes of use (unless specifically exempted from these regulations).	Zoning Administrator	Section 301
Conditional Use Review	All uses classified as conditional uses in Table 2.1 and changes in non-conformities.	Development Review Board	Section 302
Site Plan Review	All uses identified as requiring site plan review in Table 2.1, access to lots without frontage and certain planned unit developments	Development Review Board	Section 303
Setback Waiver Review	Requests for a setbacks waiver in the Village Districts or the Shoreland District	Development Review Board	Section 305
Variance Review	Requests for a variance from the requirements of these regulations.	Development Review Board	Section 306
Development in the Special Flood Hazard Area -or River Corridor	Requests for land development in the Flood Hazard Overlay District.	Development Review Board	Article IX
Subdivision Review	Any land, vacant or improved, which is divided or proposed to be divided into two or more lots, plats, sites, or other divisions of land.	Development Review Board	Article IV
Planned Unit Development (PUD) Review	Land subdivision and/or land development, which incorporates modifications from the provisions of these regulations to meet specific purposes.	Development Review Board	Section 304
Certificate of Occupancy	All land development that requires a Zoning Permit shall also be required to receive a Certificate of Occupancy that documents all work has been completed in accordance with the Zoning Permit.	Zoning Administrator	Section 804

How to Get a Zoning Permit: At a Glance

Step	Instructions	Reference	Title
1	Find the zoning district for your parcel.	Article II	Zoning Districts
2	If you want to subdivide your property, follow the procedures and comply with the requirements for subdivision review.	Article IV	Subdivision Review
3	Find out if your property is located in the Flood Hazard or River Corridor Overlay District and if so, comply w/ the procedures and standards for review.	Article IX	Flood Hazard and River Corridor Regulations
4	Assure your use is allowed and complies with general standards for uses.	Article II	Uses - Table 2.1 Allowable Uses by Zoning District
5	Assure any structures are located and designed in compliance with the applicable general standards.	Article II	- Structures - Table 2.2 or Table 2.3 Dimensional Standards by Zoning District
6	Check to see if there are any existing nonconformities on your lot, and if so, that you comply with the applicable standards.	Section 505	Nonconformities
7	Check to see if your use has any specific standards that apply.	Article VII	Specific Use Standards
8	Check to see which Development Standards apply. Make sure your project complies with any that do.	Article VI	Development Standards
9	Follow the procedures and comply with the requirements for a Development Permit application	Section 301 and Article VIII	- Zoning Permit Procedure - Administration and Enforcement

ARTICLE I: ENACTMENT, INTENT, AMENDMENT AND EFFECTIVE DATE

SECTION 101: ENACTMENT

In accordance with the Vermont Planning and Development Act, Title 24, Chapter 117, hereinafter referred to as the "Act", there are hereby established Zoning, Subdivision and Flood Hazard Regulations for the Town of South Hero which are set forth in the following text and map. These Regulations shall be known and cited as the "Town of South Hero Development Regulations." All permits issued under previous zoning and subdivision bylaws, including attached conditions, shall remain in effect.

SECTION 102: INTENT

It is the purpose of these Development Regulations to provide for orderly community growth, to further the purposes established in the Act, and to implement the Town Plan.

SECTION 103: APPLICATION OF REGULATIONS

These regulations apply to the division of any parcel of land into two (2) or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining, excavation or landfill, and any change in the use of any building or other structure, or land, or extension of use of land, pursuant to the definition of "land development" in the Act (24 V.S.A. §4303).

In accordance with the Act (24 V.S.A. §4446), no land development shall commence within the jurisdiction of the Town of South Hero except in compliance with the regulations and requirements of this bylaw. Any land development not specifically authorized, unless otherwise exempted under Section 301, or the Act, is prohibited.

SECTION 104: CONSTRUCTION APPROVED PRIOR TO ADOPTION OF AMENDMENT OF REGULATIONS

Nothing contained in these Regulations shall require any change in plans or construction of a structure for which a building permit has been issued.

SECTION 105: AMENDMENTS

These Regulations may be amended according to the requirements and procedures established in the Act. Mandatory requirements enacted by the state law or federal law shall automatically become part of these regulations.

SECTION 106: SEPARABILITY

If any portion of these regulations is held unconstitutional or invalid by a court of competent jurisdiction, the unaffected portions shall remain in force, and for this purpose the provisions of these regulations are severable.

SECTION 107: EFFECTIVE DATE

These Regulations shall take effect in accordance with the procedures of the Act.

ARTICLE II: ZONING DISTRICTS AND DISTRICT REGULATIONS

SECTION 201: ESTABLISHMENT OF ZONING DISTRICTS AND OFFICIAL MAP

The Town of South Hero is divided into the following zoning districts:

- South Hero Village District,
- Keeler Bay Village District,
- Rural Residential District
- Conservation District and
- Shoreland District.

In addition, the Special Flood Hazard Area and the River Corridor Area are established to protect the town's flood hazard and river corridor areas. These areas shall be considered an overlay district (Flood Hazard Overlay District) which impose an additional layer of regulations upon the affected lands. Where the provisions of the underlying district differ from those in the overlay districts, the more restrictive shall govern. See Article IX governing the Special Flood Hazard Area and River Corridors.

The official zoning map, the National Flood Insurance Program's Flood Insurance Rate Maps and the river corridor maps (see Section 903) shall be located in the office of the Town Clerk and shall be the final authority as to the current zoning status of the land and water areas in the town.

SECTION 202: INTERPRETATION OF ZONING DISTRICT BOUNDARIES

Where uncertainty exists on the boundaries of zoning districts shown on the Official Zoning Map, the following rules shall apply:

- A.** When the Zoning Administrator cannot definitively determine the location of a district boundary line by the scale or dimensions stated on the Zoning Map, he or she shall refer the issue to the Planning Commission who shall interpret the location of the district boundary with reference to the scale of the map and the purposes set forth in all relevant provisions of these regulations.
- B.** When a zoning district boundary established by these regulations divides a parcel, the parcel may be developed in accordance with the following requirement:
 - 1. When subdividing the parcel, each newly created lot must meet the dimensional standards for the district in which it is located unless it is part of a planned unit development. If a newly created lot lies in two districts, the more restrictive dimensional standards shall apply.

2. The permitted and conditional use restrictions for the district in which the use is to occur shall control, and if the use is to occur in both districts, it must conform to the restrictions of both.

2.3. When building a structure, the minimum frontage and minimum setback requirement for the district in which the structure is to be located shall control, and if the structure is to be in both districts, the more restrictive requirement shall control.

SECTION 203: ZONING DISTRICT PURPOSES

The following section describes the purpose for each zoning district.

Village Districts

The Village Districts, consisting of South Hero Village and Keeler Bay Village, encompass the traditional village centers in South Hero consisting of a concentration of residential, commercial and public land uses at higher densities than other parts of town. The majority of commercial and mixed use development shall be located in the Village Districts and shall be designed and sited to further traditional village center characteristics such as walkable, pedestrian friendly streets, sidewalks and walkways; human-scale buildings with architectural details, landscaping and lighting; an integrated street network; shops and services intermixed with homes; a variety of commercial establishments from retail shops to home businesses, professional offices, and tourist services; places for the community to gather for social and cultural events; small, low impact industry; and government services. Historic buildings are a significant contributor to village character and should be preserved when possible. New development shall be consistent in siting and scale with the surrounding historic structures in the villages.

- **South Hero Village District**

The South Hero Village District is the Town's historic village center, with the intersection of Route 2 and South Street at its center. Despite the limitation on development density due to the current unavailability of municipal or community scale sewer and water supply infrastructure, it is South Hero's goal to continue to grow this village as the community's center consistent with its traditional character. Enhancing the pedestrian friendly streetscape is a high priority in the South Hero Village District.

- **Keeler Bay Village District**

The Keeler Bay Village District encompasses the historic settlement of Keeler Bay centered around the intersection of Route 2 and Route 314. The District serves as a small community center in addition to serving commuters and tourists using the Lake Champlain Ferry accessed off Route 314. New development will be required to provide safe vehicular and pedestrian access and landscaping to improve the district's pedestrian friendliness and soften the landscape. While there is municipal water available in the district, Keeler Bay Village does not have municipal or community scale sewer infrastructure.

Rural Residential District

The purpose of the Rural Residential District is to provide for rural residential and business land uses at lower densities than the village centers to preserve the traditional working landscape and to maintain South Hero's rural character. Rural residential, small-scale commercial and light industrial land uses are balanced with the natural landscape of meadowlands, agricultural fields, wetlands and Lake Champlain views. Home-based occupations and agricultural related enterprises are common throughout the Rural Residential District.

Shoreland District

The Shoreland District includes land within 500 horizontal feet measured from the mean water level on the shoreline of Lake Champlain within the Town of South Hero (95.5 feet above sea level). The purpose of this district is to carefully evaluate development in order to protect water quality, scenic beauty and to control development along public waters in the best interest of the community. Some parcels or portions of parcels within this district may be limited in their suitability for development.

Conservation District

The purpose of this district is to permit limited development and uses that respect the natural environment. Included are areas of state identified wetlands, floodplain and other sensitive resources as identified in the South Hero Town Plan with limited suitability for development.

Flood Hazard Overlay Districts

- **Special Flood Hazard Area**

The purpose of this district is to minimize and prevent the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public service that result from flooding, erosion hazards, and other natural or human-made hazards. The purpose of this district is also to ensure that the design and construction of development in flood and other hazard areas are accomplished in a manner that minimizes or eliminates the potential for flood and loss or damage to life and property. Designation of this district is also required for continued town eligibility in the National Flood Insurance Program. Included are all areas in the town identified as areas of flood hazard on the National Flood Insurance maps which are hereby adopted by reference and declared to be part of these regulations.

- **River Corridor Area**

In Vermont, most flood-related damage occurs outside the Special Flood Hazard Areas, much of which is due to the erosive power of water causing damage to critical public infrastructure such as roads and stream-crossings. Homes, businesses, and community buildings have also been damaged by flooding-related erosion. Where stream meanders are confined by human activity, streams lose their equilibrium and become steepened, straighter and more powerful. The more powerful the flooding stream the higher the risk for damage. The purpose of the zone is to identify the space a river needs to re-establish and maintain stable "equilibrium" conditions. In other words, if the river

has access to floodplain and meander area within this corridor, the dangers of flood erosion can be reduced over time.

SECTION 204: LAND USES

A. Uses. Table 2.1 establishes the uses allowed in each district. Within each district uses are designated as:

- permitted (P);
- permitted with site plan review (P/S);
- conditionally permitted (C);
- conditionally permitted with site plan review (C/S);
- exempt (E); or
- prohibited (X).

1. **Permitted Uses.** Permitted uses are marked in Table 2.1 by the letter 'P' or 'P/S'. In districts where they are allowed, permitted uses require a zoning permit and may be approved by the Zoning Administrator subject to the zoning permit standards in Article III. Permitted uses may also require site plan review.
2. **Conditional Uses.** Conditional uses are marked in Table 2.1 by the letter 'C' or 'C/S'. Conditional uses require approval by the Development Review Board according to the conditional use provisions in Section 303 as a pre-requisite to the Zoning Administrator issuing a zoning permit. Conditional uses may also require site plan review.
3. **Prohibited Uses.** Where a use listed in Table 2.1 is not designated as permitted, conditional or exempt in a zoning district (when the cell is marked with an X); such use is prohibited in that zoning district.
4. **Exempt Uses.** Uses marked with an (E) in Table 2.1 are exempt and do not require a zoning permit. See also the exemptions listed in Section 301.

B. Uses Not Identified. Uses not specifically listed as permitted or conditional uses in Table 2.1 shall be considered prohibited unless such use is approved by the Development Review Board as a conditional use according to Section 302, in addition to the standards below.

1. The Development Review Board must find that the use is of the same general character as one or more uses permitted or allowed as conditional uses in the zoning district in which the use is proposed. The burden of proof to show that the proposed use is of the same general character as allowed uses in the area shall be on the applicant.
2. The Development Review Board will determine the minimum lot size, setbacks, lot frontage and other requirements for the use based on the zoning district regulations

and specific use standards for similar uses (Article VI). In no case will the minimum lot size, setback or frontage be less than the minimum otherwise required in the district.

3. The Planning Commission shall be given 15 days notice of the conditional use public hearing and may submit written or oral recommendations to the Development Review Board relative to the acceptability of the proposed use.

C. Principal Uses. In all zoning districts except the Village Districts there shall be only one principal use on a lot unless approved as a planned unit development. In the Village Zoning Districts, more than one principal use may be permitted on any single lot subject to the site layout and form standards in Article III. For other zoning districts, see Section 704 for provisions on locating businesses on the same lot as single household dwellings.

D. Accessory Uses. Accessory uses may be permitted by the Zoning Administrator subject to the following requirements.

1. **Accessory Dwelling Units.** Accessory dwelling units, as mandated by 24 VSA 4412 (1)(E), shall be regulated as set forth in Section 701.
2. **Relation to Principal Uses.** Accessory uses are permitted only in connection with a principal use. Accessory uses shall be incidental to principal uses and on the same lot as a principal use permitted in the particular zoning district. It is the burden of the applicant to provide evidence that a particular use is accessory.

Table 2.1 Allowed Uses Permitted with zoning permit (P); Permitted with site plan review (P/S); Conditionally permitted (C); Conditionally permitted with site plan review (C/S); Prohibited (X); Exempt (E).						
	South Hero Village	Keeler Bay Village	Rural Residential	Conservation	Shoreland	Notes
Dwelling Units						
Accessory Dwelling Unit	P	P	P	P	P	Section 701
Conversion from Seasonal Dwelling to Year-Round Dwelling	P	P	P	P	P	Section 708
Multi-Household Dwelling	P/S	P/S	C/S	X	C/S	
Seasonal Dwelling	P	P	P	X	P	
Single Household Dwelling	P	P	P	C	P	

Table 2.1 Allowed Uses Permitted with zoning permit (P); Permitted with site plan review (P/S); Conditionally permitted (C); Conditionally permitted with site plan review (C/S); Prohibited (X); Exempt (E).						
	South Hero Village	Keeler Bay Village	Rural Residential	Conservation	Shoreland	Notes
Two Household Dwelling	P	P	C	C	C	
Home Occupations						
Child Care Home	E ¹	E ¹	E ¹	E ¹	E ¹	
Bed and Breakfast (< 4 guest rooms)	P	P	P	P	P	
Bed and Breakfast (4 or more guest rooms)	P/S	P/S	C/S	C/S	C/S	
Home Enterprise	C/S	C/S	C/S	C/S	C/S	Section 704
Home Occupations	P	P	P	C	P	Section 704
Commercial Uses						
Accessory Uses	P	P	P	P	P	
Agricultural Use Commercial	p ²	p ²	p ²	p ²	p ²	Section 301(E) (1)
Agricultural Use, Auxiliary	C/S	C/S	C/S	C/S	C/S	
Camping Facility	C/S	C/S	C/S	X	C/S	
Child Care Facility	P/S	P/S	C/S	X	C/S	
Earth Resource Extraction	X	X	C/S	X	C/S	Section 702
Gas/Service Station	C/S	C/S	C/S	X	X	
Lodging Establishment	P/S	P/S	C/S	X	C/S	
Industrial	X	X	C/S	X	X	
Marinas	X	X	C/S	X	C/S	Section 706

Table 2.1 Allowed Uses

Permitted with zoning permit (P); Permitted with site plan review (P/S); Conditionally permitted (C);
Conditionally permitted with site plan review (C/S); Prohibited (X); Exempt (E).

	South Hero Village	Keeler Bay Village	Rural Residential	Conservation	Shoreland	Notes
Motor Vehicle Repair	C/S	C/S	C/S	X	X	
Motor Vehicle Sales	C/S	C/S	C/S	X	X	
Open Air Market	C/S	C/S	C/S	X	X	
Professional Services	P/S	P/S	C/S	X	C/S	
Retail Establishment	P/S	P/S	C/S	X	C/S	
Restaurants	P/S	P/S	C/S	X	C/S	
Recreation	C/S	C/S	C/S	C/S	C/S	
Storage Facilities	X	X	C/S	X	X	
Other Uses						
Congregate Housing	P/S	P/S	C/S	X	C/S	
Group Home or Residential Care Home	E ¹	E ¹	E ¹	E ¹	E ¹	
Places of Worship	P/S	P/S	P/S	P/S	P/S	Section 707
Public Utility Generation and Transmission Facilities	E	E	E	E	E	Section 301(E) (1)(e)
Public or Semi-Public Facilities	C/S	C/S	C/S	C/S	C/S	Section 707
Recreation (Public)	P/S	P/S	P/S	P/S	P/S	
Telecommunications	C	C	C	C	C	Section 709

¹ These uses are considered permitted single household uses of property. As long as a valid permit is in place for a single household dwelling, no additional permit or approval is required. Note: Any structural alterations or other land development associated with these uses that are not exempt according to Section 301 shall require a Zoning Permit.

² Operations that are subject to and compliant with the Required Agricultural Practices as set by the Agency of Agriculture are exempt from these Regulations.

SECTION 205: STRUCTURES

- A. Principal Structures.** In all zoning districts, except the Village Districts, there shall be only one principal structure occupied by one principal use on a parcel unless approved as a Planned Unit Development.

In the Village Districts, more than one principal structure (occupied by one or more principal uses) may be permitted by the Zoning Administrator on any single lot subject to the site layout and form standards in Article III.

- B. Accessory Structures.** Accessory structures may be permitted by the Zoning Administrator only in connection with a principal structure. Accessory structures shall be incidental to a principal structure and shall be on the same parcel with a principal structure and use permitted in the particular zoning district.

SECTION 206: DIMENSIONAL STANDARDS

- A. Establishment of Dimensional Standards.** All new lots, uses and structures shall meet the district dimensional standards except as authorized by approval of a planned unit development. Table 2.2 and 2.3 establish the dimensional standards in each of the districts.

Table 2.2: Dimensional Standards for Non-Village Districts				
	Zoning Districts			
	Rural Residential	Shoreland	Conservation	Flood Hazard Overlay Districts
Minimum Lot Size (acres)	1	.75-ac.	25	same as underlying district
Minimum Right-of-Way Frontage for Lots ¹ (feet)	125	125	125	same as underlying district
Minimum Lot Depth (feet)	n/a	250	n/a	same as underlying district
Maximum Structure Height (feet) (See Section 206(B))	35	35	35	same as underlying district
Minimum Road Right-of Way Setback (feet) (See Section 206(C))	25 ²	25 [15 ³]	25	same as underlying district
Minimum Property Line Setback for Principal Structures and Accessory Dwellings (feet) (See Section 206(C))	25	25	25	same as underlying district

Table 2.2: Dimensional Standards for Non-Village Districts

	Zoning Districts			
	Rural Residential	Shoreland	Conservation	Flood Hazard Overlay Districts
Minimum Property Line Setback for Accessory Structures (feet) (See Section 206(C))	15	15 ⁴	15	same as underlying district
Lake Setback⁵ (feet) (See Section 206(C))	n/a	75 ⁴	n/a	same as underlying district
Green Space Requirement for Conditional Uses				
Percentage of Green Space Per Lot (See Section 206(D))	30%	30%	N/A	N/A

¹ Existing lots without adequate frontage must obtain approval for access by right-of-way in accordance with Section 503.

² In the Rural Residential district, the required ROW setback for structures may be reduced based on the average of the ROW setbacks of up to two principal buildings located on each side of the proposed structure (up to four total buildings), but in no event shall be less than 10 feet.

³ For lots with frontage on a private right of way, accessory structures shall only require a 15 feet setback.

⁴ Flood walls and retaining walls are exempt from the property line setback and lake setback.

⁵ Lake access structures, as defined in Article X, are exempt from the lake setback.

Table 2.3: Dimensional Standards for Village Districts

	Zoning Districts	
	South Hero Village	Keeler Bay Village District
Lot Size and Density	There is no districtwide lot size or density requirement; however, the site layout and form requirements in Article III may impact allowable lot size and density for a particular site.	
Minimum Right-of-Way Frontage for Lots	50 feet	50 feet

Table 2.3: Dimensional Standards for Village Districts				
Zoning Districts				
	South Hero Village		Keeler Bay Village District	
Maximum Structure Height (See Section 206(B) below)	40 feet		40 feet	
Flexible Structure Setback from Public and Private Road Right-of-Way (See Section 206(C) below)	Principal Structures	Accessory Structures	Principal Structures	Accessory Structures
	10 feet min; 40 feet max	≥ the setback of the principal structure	10 feet min; 40 feet max	≥ the setback of the principal structure
Minimum Structure Setback from Property Lines (See Section 206(C) below)	10 feet	5 feet	10 feet	5 feet

- B. Measuring Height.** Height shall be measured from the average natural grade abutting the structure to the highest point of a structure with the exception of antennae, chimneys, mechanical systems and other un-occupied architectural elements of a structure.

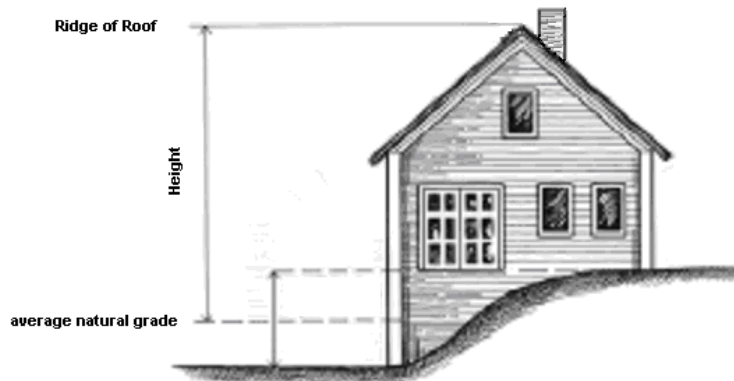
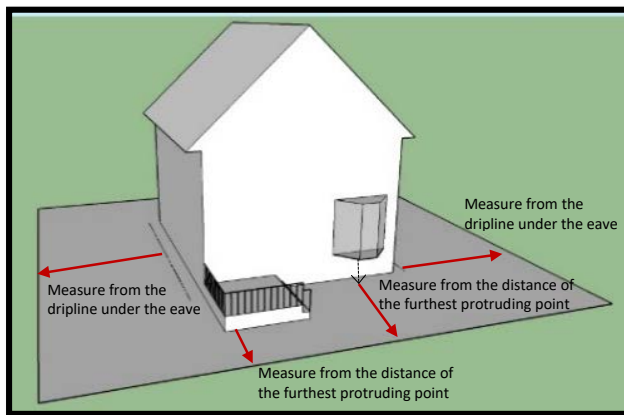


Figure 2.1 Measuring Height

C. Measuring Setbacks (In all Districts).

1. **Where to Measure From.** Setbacks shall be measured as the distance along a horizontal plane perpendicular to the nearest property line, edge of right-of-way, and/or mean lake level of 95.5 ft, as applicable, to the closest point on the exterior of a building or structure. Setbacks shall be unobstructed from the ground to the sky. If there is an eave overhang, the setback distance shall be measured to the dripline at the base of the structure. See Figure 2.2.

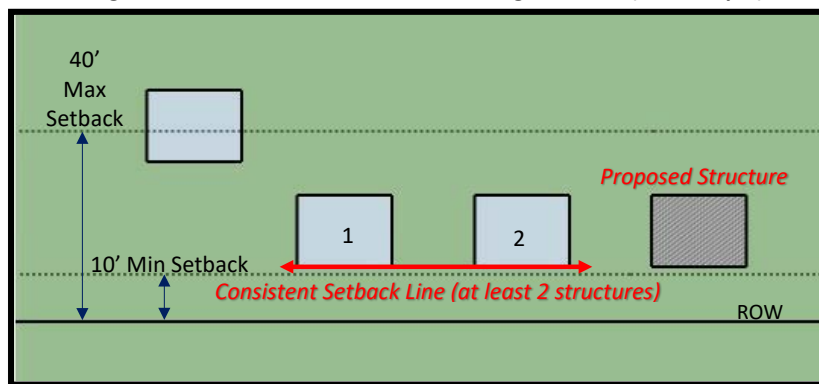
Figure 2.2. Measuring Setbacks



2. **Determining Road Right-of-Way Setback for Principal Structures in the Village Districts.** The exact location of the road right-of-way setback for principal structures within the flexible setback area required in Table 2.3 shall be established in the following way:
 - As a matter of first priority, a proposed principal structure shall match any pre-existing consistent setback line (within 5 feet) established by adjacent structures on either side of the proposed structure. See Section (a) and Figure 2.3 below for the definition of a consistent setback line.
 - If no consistent setback line is established, the maximum setback line shall be reduced based on the average of the road right-of-way setbacks of four (4) adjacent principal buildings with conforming setbacks, incorporating two (2) on each side of the proposed structure. See Section (b) and Figure 2.4 below for directions on how to calculate the average setback.

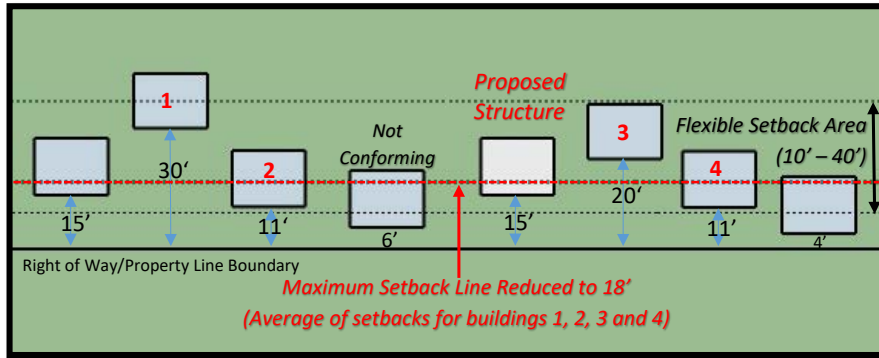
- If no pre-existing setback line exists and there are no adjacent principal structures with setbacks within the required range listed in this table, the applicant may choose any setback within the required range listed in this table.
- a. **Establishing a Consistent Setback Line for Principal Structures in the Village Districts.** A consistent setback line is defined by at least two (2) adjacent structures having the same setback (within five (5) feet), one (1) of which must be adjacent to the proposed structure. Only structures with setbacks that are within the required flexible setback range listed in Table 2.3 shall be counted towards establishing a consistent setback line. See Figure 2.3 below for an example illustration of a consistent setback line.

Figure 2.3 Consistent Setback Line in Village Districts (An Example)



- b. **Determining the Average Setback Line in Village Districts.** When no consistent setback line is established, the maximum setback line shall be reduced to the average of the road right-of-way setbacks of four (4) principal structures located on the same side of the street as the proposed structure, incorporating two (2) on each side of and nearest the proposed structure. Only principal structures with setbacks within the required range listed above shall be counted in the average. See Figure 2.4 below for an example illustration of establishing a reduced maximum setback based on the average of adjacent structures.

Figure 2.4 Average Setback Line in Village Districts (An Example)



- D. Calculating Green Space for Conditional Uses.** The percent green space should be calculated according to the following formula: $\text{Area of green space} / \text{Total lot area} \times 100 = \text{Percent Green Space}$.

ARTICLE III: DEVELOPMENT REVIEW

SECTION 301: ZONING PERMIT PROCEDURE

See Figure 3.1 for a flow chart of the process to obtain a zoning permit.

A. Applicability. No land development as defined herein shall commence without a zoning permit issued by the Zoning Administrator, unless specifically exempted under Section 301(E) of these Regulations. Land development may require one or more board approvals before the ZA may issue a zoning permit. Specific activities included in the definition of land development that require a zoning permit include, but are not limited to, the following:

- Erecting a new structure
- Moving a structure
- Adding footprint area or height to an existing structure
- Initiating a new land use
- Changing from one type of land use to a different land use
- Moving an existing land use to another lot
- Grading, excavation, and placement of fill

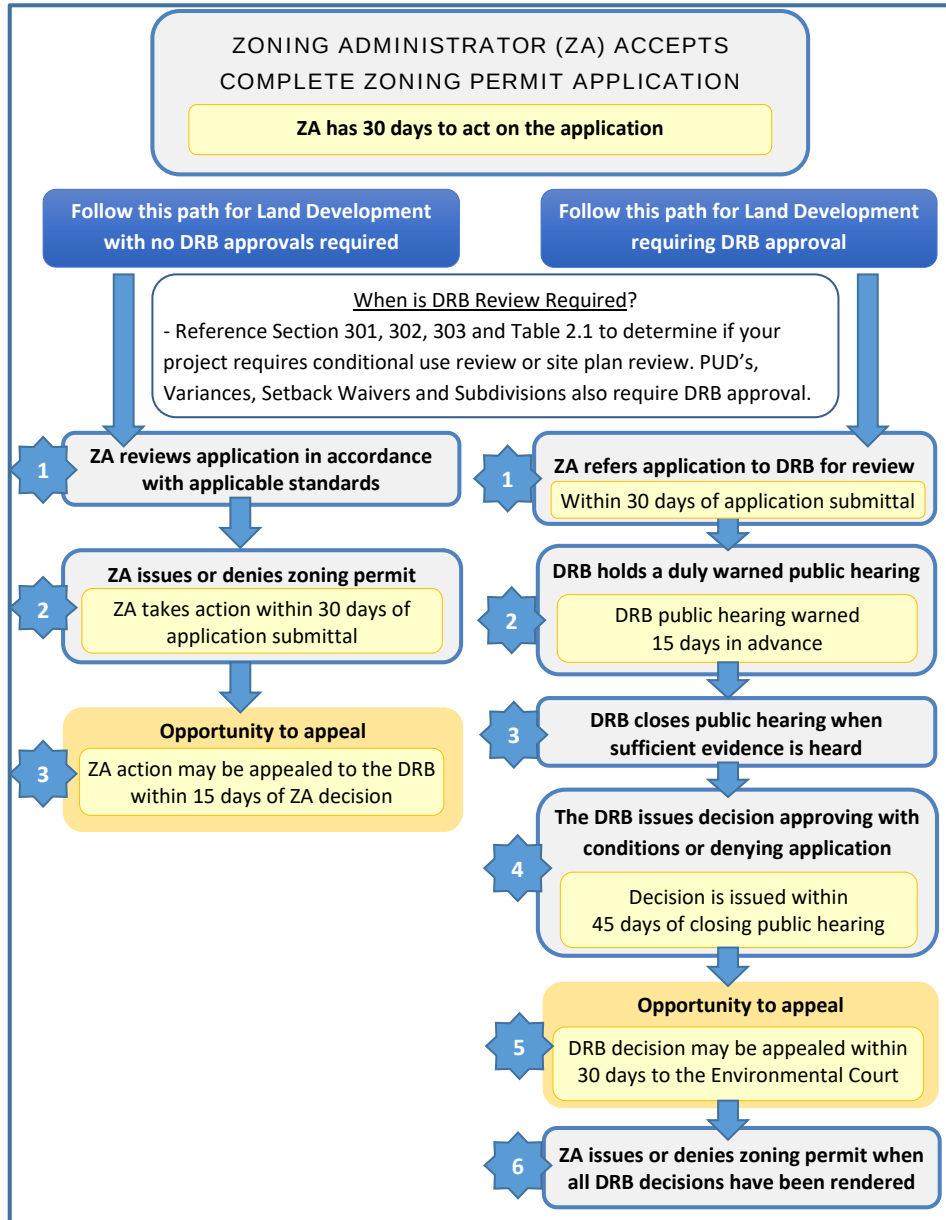
B. Application Requirements. Applications for zoning permits shall be made on the South Hero Zoning Permit Application Form provided by the Town and submitted by the landowner, or an authorized agent, directly to the Zoning Administrator. The applicant shall pay the required fee and provide all information requested on the form, including a Letter of Intent for a State Highway Access Permit from VTTrans, if applicable, and any other information that the Zoning Administrator may reasonably require to determine compliance with these regulations and in accordance with the Act. The Selectboard shall establish, and amend as necessary, a schedule of fees for applications and types of land development.

C. Zoning Permit Approval Requirements. The Zoning Administrator shall review applications in accordance with the following five (5) standards:

1. **Does the proposal require review by the Development Review Board?** Development Review Board approval is required for conditional uses (Section 302), requests for variances (Section 306), site plan review (Section 303), PUDs (Section 304) and subdivision approval (Article IV). Non-conformities shall comply with Section 505 and may require Development Review Board approval. The Zoning Administrator can aid an applicant in determining which approvals may be needed. All required approvals must be obtained before the Zoning Administrator may issue a zoning permit.
2. **Does the proposal meet the zoning district use and dimensional standards?** Before issuing a zoning permit, the Zoning Administrator shall confirm that the use proposed is a permitted use according to Table 2.1 or has received conditional use and/or site plan approval from the Development Review Board. In addition, the Zoning Administrator shall confirm that the proposal conforms to the dimensional standards, including setbacks, as

listed in Table 2.2 or Table 2.3.

Figure 3.1. Timeline for Zoning Permits and Approvals



3. **Does the proposal meet the standards in Article V, Article VI, and Article VII?** Before issuing a zoning permit, the Zoning Administrator shall confirm that the proposal conforms to the decision and conditions imposed in the Development Review Board approval (if one exists) and meets the standards in Article V, Article VI, and Article VII, as applicable.
4. **Has the applicant obtained all other required local permits or approvals?** Before issuing a zoning permit, the Zoning Administrator shall confirm that the proposal has obtained all required local permits and approvals, including but not limited to approval for a curb cut on a town highway (access permit) and conformance with municipal road ordinances.
5. **Are there any State Permits and/or Approvals Required?** As a general rule, zoning permits shall not be conditioned on any required state permits or approvals. However, the Zoning Administrator shall require the following before the issuance of a zoning permit in relation to state permits, as applicable:
 - a. If a Wastewater and Potable Water Supply Permit is not required, written proof of such from the Vermont Department of Environmental Conservation. See Section 509 for requirements relating to the initiation of construction and certificates of occupancy concerning Wastewater and Potable Water Supply permits.

D. Zoning Permit Public Notice, Issuance, Effective Date and Expiration. Public notice and issuance requirements shall be met before a zoning permit may be issued according to Sections 804, 805 and 806.

E. Exemptions. A zoning permit shall not be required for the following types of land development:

1. ~~1.~~ **State Exemptions.** These Regulations shall not regulate:

- a. Required Agricultural Practices as those practices are defined by the Secretary of Agriculture, Food and Markets. Violations of the Required Agricultural Practice Rules may be reported by the municipality to the Commission of Agriculture, Food and Markets for enforcement.
- b. Farm structures associated with required agricultural or farming practices. However, the Town of South Hero shall be notified of the intent to build a farm structure associated with a required agricultural or farming practice according to 4413(d)(3) of the Act and the provisions below:
 - i. Prior to the construction of farm structures, the farmer must notify the Zoning Administrator in writing of the proposed construction activity. The notification must contain a sketch of the proposed structure including the setbacks from adjoining property lines and road rights-of-way.

- ii. Local setbacks established by the municipality shall be maintained unless, upon written petition by the farmer, the Commissioner of Agriculture, Food and Markets has approved other reasonable setbacks for the specific farm structure being constructed or maintained. Such approval shall be attached to the notification filed with the Zoning Administrator.
- iii. All farm structures within the Flood Hazard Area Overlay (see Article II) shall be constructed and maintained in accordance with the requirements of the rules established by the Vermont Agency of Natural Resources.
- c. Accepted silvicultural practices, as defined by the Commissioner of Forests, Parks and Recreation, including practices which are in compliance with the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation.
- d. Forestry operations as those practices are defined by the Secretary of Agriculture, Food and Markets.
- e. Public utility power generating plants and transmission facilities that are regulated by the Vermont Public Service Board [under 30 V.S.A. §248], including net-metered wind generation facilities and solar panels.
- f. Hunting, fishing or trapping on public or private land as specified by the state [under 24 V.S.A. §2295]. This excludes facilities that may support such activities, such as firing ranges, rod and gun clubs, and fish and game clubs, which are subject to these Regulations.

2. 2. **Local Exemptions.** These Regulations shall not regulate the following types of land development:

- a. Modifications of building interiors if no change of use is proposed; repairs and minor alterations (including but not limited to chimneys, re-roofing or re-siding) to existing structures not resulting in any change to the exterior dimensions or height of the structure.
- b. Any residential fence or wall less than six (6) feet in height which does not extend into or obstruct public rights-of-way, or interfere with corner visibility or sight distances for vehicular traffic.
- c. Any incidental structure, such as a dog house, child's play house, tree house, shed or similar structure, which meets the following requirements:
 - i. A floor area of one hundred (100) square feet or less;
 - ii. A height of 10 feet or less; and
 - iii. Not attached to a permanent foundation, such as poured concrete.
 - iv Located at least 5 feet

t from a property line and 35 feet from the edge of a public or private road right of way.

- d. Signs; however, signs shall comply with any local sign ordinance.
- e. Garage sales, yard sales, auctions or other similar types of time-limited sales.
- f. The stabilization of damaged structures to prevent imminent hazards to public health and safety, and to adjoining properties. .
- g. Gardening and other non-commercial agricultural activities, excavations in cemeteries, and the removal or extraction of topsoil, rock, sand, gravel or other similar material in connection with the construction of a permitted structure or other permitted use.
- h. Resurfacing of an existing impervious surface (ex. resurfacing a driveway).
- i. Excavation, filling and grading involving less than 100 cubic yards of material and/or new patio and driveway areas less than 100 square feet in size, which meets the following requirements:
 - i. The location of the proposed excavation, filling and/or grading is not located within a 100-year floodplain, river corridor, or in an area with rare, threatened, or endangered species as identified by the Vermont Agency of Natural Resources.
 - ii. The proposed excavation, filling, and grading action is not located within the setbacks for the applicable zoning district.

F. Certificate of Occupancy. All land development that requires a zoning permit shall also be required to receive a Certificate of Occupancy that documents all work has been completed in accordance with the zoning permit. See Section 804.

SECTION 302: CONDITIONAL USE REVIEW

A. Applicability. Approval from the Development Review Board is required for all land development requiring conditional use review before the Zoning Administrator may issue a zoning permit. The following uses require conditional use review:

1. Initiating a new use that is listed in Table 2.1 as conditional (C) or conditional with site plan review (C/S), or is not listed in Table 2.1;
2. Changing an existing use to a different use that is listed as conditional (C) or conditional with site plan review (C/S) in Table 2.1 or to a use that is not listed in Table 2.1;
3. Expanding or modifying an existing conditional use so that it no longer conforms to its existing conditional use decision; and
4. Non-conformities (in some cases, see Section 505).

B. Application Requirements. A complete application for conditional use review shall include all the information requested on the South Hero Conditional Use Application Form, including a written description of how the proposal meets the review standards in Section

302(D), a Letter of Intent for a State Highway Access Permit from VTrans, if applicable, and the application fee.

- C. Public Notice and Issuance Requirements.** The Development Review Board shall hold a public hearing before issuing a decision on whether the proposed land development shall receive conditional use approval. Public notice, public hearing, and decision requirements in Sections 804, 805 and 806 apply.
- D. Review Standards.** The Development Review Board may grant conditional use approval only upon finding that the proposed development shall not result in an undue adverse effect on the standards below. In determining an undue adverse effect, the Development Review Board shall follow the process outlined in Figure 3.2, which shall be documented in the Board's written decision.
1. **The Capacity of Existing or Planned Community Facilities.** The Development Review Board shall consider the demand for community services and facilities resulting from the proposed development and determine whether that demand will exceed the existing or planned capacity of existing facilities or services. In making such a determination, the Development Review Board will consider any South Hero capital program or budget in effect at the time of application.
 2. **The Character of the Neighborhood Area or District Affected.** The Development Review Board shall consider the location, scale, type, density, and intensity of the proposed development in relation to the character of area likely to be affected by the proposed development, as defined by the purpose(s) of the zoning district(s) within which the project is located and specifically stated policies and standards of the South Hero Town Plan.
 3. **Traffic on Roads and Highways in the Vicinity.** The Development Review Board shall consider the projected impact of traffic and patterns of access resulting from the proposed development on the capacity, safety, efficiency and use of affected roads, bridges, and intersections. A traffic impact study may be required.
 4. **Conformance with Applicable General Regulations, Development Standards and Specific Use Standards in Articles V, VI and VII.**
 5. **Other Town Bylaws in Effect.** No development shall be approved in violation of existing bylaws and ordinances in effect.
 6. **The Utilization of Renewable Energy Resources.** The Development Review Board shall consider whether the proposed development will interfere with the sustainable use of renewable energy resources, including the existing and future availability of and access to such resources on adjoining properties.

Figure 3.2 - Determining Undue Adverse Effect

The following test shall be used by the Development Review Board when the bylaw requires the board to determine whether or not an undue adverse effect is being created.

1. First, the Development Review Board shall determine if a project is creating an adverse effect upon the resource, issue and/or facility in question. The Development Review Board shall determine such by responding to the following question:
 - a) Does the project have an unfavorable impact upon the resource, issue and/or facility in question?
2. If it has been determined by the Development Review Board that an adverse effect is being created by a project, the board shall then determine if the adverse effect is undue. To determine whether or not an adverse effect is undue, the board shall respond to the following two questions:
 - a) Does the project conflict with a clear, written standard in these Regulations or the Municipal Plan applicable to the resource, issue or facility in question?
 - b) Can the unfavorable impact be avoided through site or design modifications, or mitigation, or other conditions of approval?

The DRB shall conclude that adverse effect is “undue” if the answer to 2(a) is YES OR the answer to 2(b) is NO.

E. Conditions. In permitting a conditional use, the Development Review Board may impose reasonable conditions necessary to ensure compliance with the conditional use standards above. The conditions may include but are not limited to the following:

1. Requiring project phasing or improvements necessary to accommodate the proposed development to ensure that the demand for facilities or services does not exceed existing or planned capacity.
2. Requiring the property be maintained in a character in keeping with the surrounding neighborhood area or district through landscaping and/or screening;
3. Limiting outdoor storage of materials, goods, and equipment or requiring screening thereof.
4. Requiring that conducting work associated with a land use is inside a building or behind screening.
5. Increasing setback distances and/or requiring screening for non-residential uses which are contiguous to residential uses, recreation uses, or natural areas;

6. Limiting the scale or dimensions of the proposal;
7. Limiting the hours of operation.
8. Controlling the location and number of vehicular access points to the property and the size and location of parking areas. This may include grouping buildings together, sharing access points, construction of through roads, and other design options.
9. Requiring roadway improvements on-site or off-site, if deemed necessary, to accommodate the increased traffic associated with the development. Improvements may also include traffic calming, sidewalks, crosswalks and other similar improvements.
10. Specifying a specific time limit for construction.
11. Other improvements necessary to ensure compliance with these Regulations.

SECTION 303: SITE PLAN REVIEW

- A. Applicability.** All uses in Table 2.1 listed as P/S or C/S require site plan review and approval by the Development Review Board before the Zoning Administrator may issue a zoning permit. This section shall also apply to all excavation, filling or grading that involves 100 or more cubic yards of material and/or any excavation, filling, or grading located within a setback area, 100-year floodplain, river corridor, or in an area with rare, threatened, or endangered species (see Section 301(E)(2)). Home occupations and single and two household dwellings are examples of uses that **do not** require site plan review. Applications for change of use and modifications to existing uses that do not propose or require an alteration to an existing, permitted site design also do not require site plan review.
- B. Application Requirements.** A complete application for site plan review shall include all the information requested on the South Hero Site Plan Review Application Form, including the application fee, a Letter of Intent for a State Highway Access Permit from VTrans, if applicable, and one full size site plan prepared in a clear and legible manner, drawn/printed to scale, in addition to nine (9) 11x17 reductions, and pdf format.

Site plans shall include the information in Table 3.1 below, as applicable.

Table 3.1: Site Plan Requirements:

1	Owner and Preparer Information	- Name and address of the owner of record and adjoining land ownership, including those across public and private roads; - Name and address of person or firm preparing the site plan map.
2	Location, Scale and Date	- Site location map, - Scale of map, including a graphic scale, - North arrow, and - Date of preparation or revision.

Table 3.1: Site Plan Requirements:

3	Features of the Existing Site	• 2-foot contours, vegetation, and natural features; • Structures, access points, easements, and utilities; • Property and zoning boundaries/setbacks
4	Features on Adjacent Sites	• Structures, access points, culverts, wells, and other features that have potential to impact or be impacted by the proposal including those directly across a public or private road.
5	Proposed Site Improvements	• Structures, including principal structure elevations; • Parking areas, access points, loading docks and service areas, and outside storage areas; • Sidewalks and other walkways; • Utilities, stormwater management and lighting; • Landscaping and screening; • Areas of excavation, filling, and grading. • Setbacks
6	Landscaping Details	• Detailed specifications of the planting and landscaping materials to be used.
7	Construction Sequence and Timing Schedule	• Construction sequence and timing schedule for completion of buildings, parking spaces, landscaped areas and other site improvements, including any phasing schedule.
8	Traffic Generation	• Estimate of daily and peak hour traffic generated.
9	Other Information	• Any other information or data that the Development Review Board may reasonably require.

The applicant may request in writing to the Development Review Board to waive application submission requirements that do not apply to a specific project. The Development Review Board may grant such a waiver only if in its judgment of the special circumstances of a particular site plan, the subject materials or information are not applicable to the project and not required to determine compliance with these Regulations.

C. Public Notice and Issuance Requirements. The Development Review Board shall hold a public hearing before issuing a decision on whether the proposed land development shall receive site plan approval. Public notice, public hearing, and decision requirements in Sections 804, 805 and 806 apply.

D. Review Standards. In reviewing site plans, the Development Review Board may impose appropriate conditions and safeguards with respect to the adequacy of pedestrian and vehicular access and circulation, parking and landscaping, screening, exterior lighting; utilization of renewable energy resources and other similar site factors including, but not limited to, stormwater management and municipal services. In approving a site plan, the Development Review Board shall require compliance with the standards listed below, which

provide reference to the provisions of Article VI (Development Standards), and may require modifications to the site plan in order to ensure these standards are met.

1. **Maximum safety of vehicular and pedestrian circulation** between the site and the street network. Particular attention shall be given to visibility at intersections, to traffic flow and control, to pedestrian safety and convenience, and to access in case of emergency. Section 605 shall apply.
2. **Adequate circulation, parking, and loading facilities.** Particular consideration shall be given to the effect of noise, glare or odors on adjoining properties and state and town highways. Adequacy of provisions for erosion control, stormwater management, refuse removal, service areas, and snow removal shall be considered. Sections 507, 508, 603, 605, 606 and 607 shall apply.
3. **Adequate landscaping and screening.** Particular consideration shall be given to preservation of existing vegetation and important features of the site, including trees and tree lines, views and vistas, fences, stone walls, and shrubs; visibility of unsightly or incompatible areas from the road and adjoining properties; and the adequacy of landscaping materials to meet seasonal conditions, soil conditions and erosion control, and light on the site. Section 602 shall apply.
4. **Village District Form and Design Standards.** All projects located within the South Hero Village District and the Keeler Bay Village District shall comply with the form and design standards in Section 608.
5. Applicable sections of the general, development and specific standards in Articles V, VI and VII shall apply.

SECTION 304: PLANNED UNIT DEVELOPMENTS

- A. **Applicability.** In accordance with Section 4417 of the Act and the rules below, the Development Review Board may modify certain requirements of these regulations for a planned unit development (PUD). A PUD may involve the creation of separate building lots or may include a development in which multiple buildings and uses are constructed on a single parcel.
- B. **Purpose.** The purpose of this provision is:
 1. To implement the policies of the South Hero Town Plan;
 2. To encourage any development in the countryside to be compatible with the use and character of surrounding rural lands;

3. To provide flexibility in site and lot layout, building design, placement and clustering of buildings, use of open areas, provision of circulation facilities, including pedestrian facilities and parking, and related site and design considerations that will fit the character of the site and its surroundings;
4. To provide for conservation of open space features recognized as worthy of conservation in the municipal plan and regulations, such as the preservation of agricultural land, forest land, trails, and other recreational resources, critical and sensitive natural area, scenic resources, and protection from natural hazards;
5. To provide for efficient use of public facilities and infrastructure; and
6. To encourage and preserve opportunities for energy efficient development.

C. Application Requirements. In addition to other application requirements, applications for PUDs must include the following:

1. A statement setting forth the nature of all proposed modifications or changes to this Regulation and the standards and criteria which the applicant proposes for the development, including standards for the design and spacing of buildings and sizes of lots and open spaces;
2. A brief summary of the project and how it meets the standards in this section; and
3. Additional information required to determine whether the proposed mix of uses, density, and scale and intensity of uses will meet the standards set forth in these Regulations.

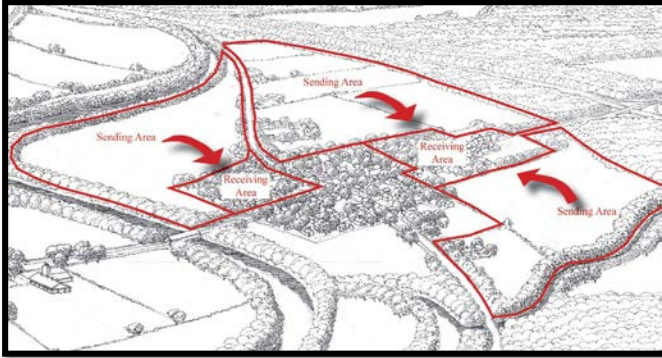


Figure 3.3 Shifting Densities within a PUD

PUDs are normally used to shift the permitted density from one portion of a property to a smaller area to enable more efficient and concentrated development on a single parcel of land.

D. Review Process, Public Notice and Issuance Requirements.

1. Application Review Process. An application for PUD approval shall be reviewed in coordination with other necessary approvals:

- a. For PUDs that involve a subdivision, subdivision review shall be required and will be conducted simultaneously with PUD review.
- b. For PUDs that do not involve a subdivision, site plan review shall be required and will be conducted simultaneously with PUD review.
- c. For PUDs that include one or more uses requiring conditional use review or site plan review, these approvals shall also be required for the specific uses. They may be conducted simultaneously with or after PUD review.
- d. For PUDs requiring multiple reviews, the Development Review Board may warn and hold a joint hearing in accordance with Section 805.

1.2. Public Notice and Issuance. The Development Review Board must hold a public hearing before making a determination as to whether the proposed use conforms to the general and specific standards for site plan review in these Regulations. Public notice, public hearing, and decision requirements in Sections 804, 805 and 806 apply. Any necessary modifications of these Regulations approved by the Development Review Board shall be noted in the written decision. All other provisions of these Regulations not specifically modified shall remain in force and be applicable to the project.

E. Review Standards. PUDs are subject to the following provisions:

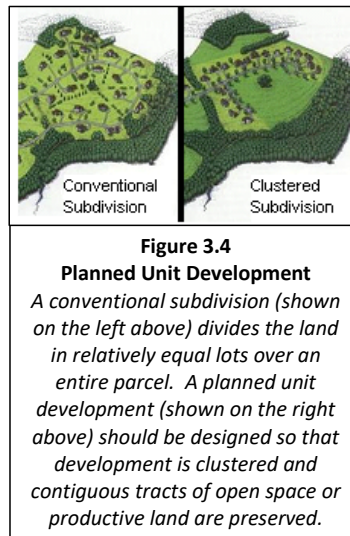
20197 South Hero Development Regulations DRAFT

1. The project shall be consistent with the Town Plan, and the uses of the site shall not differ from the uses allowed in the district in which the project is located.
2. Density may vary within any PUD; however, the number of units or lots shall not exceed the number permitted if the land were subdivided in conformance with the applicable district requirements of this Regulation. This number is determined by dividing the total acreage by the minimum lot size of the district.
3. The minimum setbacks for the district in which the project is located shall apply to the periphery of the development.
4. The development shall be an effective and unified treatment of the project site, and make appropriate provision for preservation of: streams, stream banks, slopes greater than 25%, wetlands soils unsuitable for development, agricultural lands, forested areas, historic sites, natural areas, wildlife habitat, floodplain, and scenic resources.
5. ~~5.~~ The development shall be proposed over a reasonable period of time in order that adequate municipal facilities and services may be provided.

F. Provision of Open Space and Common Land.

Planned unit developments shall be designed to preserve open space and/or common land for parks, recreation, critical areas as identified in the South Hero Town Plan, agricultural land, scenic views, and/or historic site protection. The location, size and shape of lands set aside to be preserved for open space and/or common land shall be approved by the Development Review Board in accordance with the following:

1. The location shape, size and character of the open space/common land shall be suitable for its context and intended use.
2. Open space/common land shall be configured to be contiguous with existing and/or potential open space or common land and conform with and extend existing areas sharing similar characteristics or natural features and resources on adjacent parcels.
3. Areas preserved for agricultural and forestry use should be of a size that retains their eligibility for available tax abatement programs.



4. Sewage disposal areas and utility and road rights-of-way or easements, access, and parking areas shall not be counted as open space or common land areas, except where the applicant can prove, to the satisfaction of the Development Review Board that they will in no way disrupt or detract from the values for which the open space is to be protected.

G. Protection of Open Space/Common Land. Open land shall be protected for its intended use by one of the following means:

1. An easement granted to a third party,
2. The open space may be held in common by a homeowners association and protected by covenant from further development, or
3. The open space may be held by a single owner with a deed restriction prohibiting future development,
4. The open space may be conveyed in fee simple to one of the following as approved by the Development Review Board:
 - a. the Town of South Hero, if it agrees; or
 - b. a non-profit organization whose mission includes the protection of natural resources, historic preservation and/or public recreation.
5. The open space may be held in single ownership and the Development Review Board may condition that it be made available for public or common use in order to further a goal of the Town Plan or one or more purposes of a PUD.
6. The open space may be protected by other reasonable means acceptable to the Development Review Board.

H. Density Bonus. In accordance with 24 V.S.A 4417, and in pursuit of goals articulated in the Town Plan, an Applicant may apply for a density bonus, and the DRB at its discretion shall permit increased density in the Rural Residential and Shoreland Districts under the provisions of 304(F) and 304(G):

1. By a maximum of 1 residential unit for every acre set aside as Open Space/Common Land, and a maximum of 2 residential units for every acre set aside as Public Open Space/Common Land. The Density Bonus may be awarded for Open Space/Common Land set aside in the same lot, or at the DRB's discretion, in separate and/or non-contiguous lots. Setbacks and area set aside for septic do not count as Open Space/Common Land.
2. By a maximum of 1 residential unit for every unit of Affordable Housing, where affordable housing is defined in the Act (The Vermont Municipal and Regional Planning

and Development Act, Title 24, Chapter 117 V.S.A.). Affordable units shall be subject to covenants or restrictions that preserve their affordability for a minimum of 15 years. 10% of the units of any PUD with 20 or more units must be Affordable Housing.

In any case, the area to be developed in each parcel shall not have a density exceeding 15 units per acre.

SECTION 305: SETBACK WAIVER

- A. Applicability.** Structures, driveways, and parking areas located in the Village and Shoreland Districts are eligible for setback waivers.
1. **Proposed New Structures, Driveways, and Parking Areas.** Applications for new structures, driveways, and parking areas within the Village and Shoreland Zoning Districts may apply for a setback waiver to reduce the setback standards required by these Regulations.
 2. **Pre-Existing Structures, Driveways, and Parking Areas (Conforming).** Applications involving pre-existing structures, driveways, or parking areas within the Village and Shoreland Zoning Districts may apply for a setback waiver to reduce the setbacks required by these Regulations.
 3. **Pre-Existing Non-conforming Structures, Driveways and Parking Areas (Due to Setback Encroachments).** Applications involving pre-existing non-conforming structures, driveways, and parking areas, which are non-conforming due to existing setback encroachments and located within the Village and Shoreland Zoning Districts, may apply for a setback waiver to reduce the setbacks required by these Regulations. The setback waiver has the potential to make all or part of a pre-existing non-conforming structure be considered conforming under these Regulations. All applications involving non-conformities shall also comply with Section 505.
- B. Application Requirements.** A complete application for a setback waiver shall include all the information requested on the South Hero Zoning Permit Application Form with specific note that the application is for a setback waiver, the application fee, one full size site plan prepared in a clear and legible manner, drawn/printed to scale and seven (7) 11x17 copies.
- C. Notification and Review Procedure.** The Development Review Board must hold a public hearing before making a decision on whether the application may be granted a setback waiver. Public notice, public hearing, and decision requirements in Sections 804, 805 and 806 apply.
- D. Review Standards.** The Development Review Board may grant a setback waiver when an applicant demonstrates that there are existing topographical or physical conditions on the lot that prevent compliance to the setback standards of these Regulations and in accordance

with the following standards. In granting a setback waiver, the Development Review Board shall define a setback requirement specific to the subject land development.

1. The Development Review Board shall only approve a waiver that will represent the least deviation possible from the South Hero Development Regulations. In no case shall the waiver granted deviate from the required standard by more than 50%.
2. The Development Review Board shall not approve a waiver that would have an undue adverse effect on the character of the area or on public health and safety (See Figure 3.2). The Development Review Board shall include findings on these matters in the written decision.
3. The Development Review Board shall require screening to provide an effective buffer from adjacent properties.

SECTION 306: VARIANCES

- A. Applicability.** Requests for variances from the provisions of these Regulations may be submitted for structures (but not for uses) and shall be regulated as prescribed in Section 4469 of the Act. A variance to allow a use that is prohibited according to Table 2.1 or to modify any of the general or specific standards applying to land uses shall not be considered.
- B. Application Requirements.** A complete application for a variance shall include all the information requested on the South Hero Variance Application Form, including the application fee. The application shall also include a written description of how the proposal meets the requirements of Section 306(D) below.
- C. Public Notice and Issuance Requirements.** The Development Review Board must hold a public hearing before making a determination as to whether the proposed use meets all five variance criteria listed below. Public notice, public hearing, and decision requirements in Article VIII apply.
- D. Review Standards.** The Development Review Board may grant a variance and render a decision in favor of the applicant only if all the five (5) facts listed below are found in the affirmative, and the findings are specified in its written decision. In addition to the five (5) facts listed below, variances for structures in the Flood Hazard Area Overlay District shall conform to Article IX.
1. There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions, and not the circumstances or conditions generally created by

the provisions of the bylaw in the neighborhood or district in which the property is located. AND

2. Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformance with the provisions of the bylaw, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property. AND
 3. Unnecessary hardship has not been created by the appellant. AND
 4. The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare. AND
 5. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the bylaw and from the plan.
- E. Conditions.** In making a decision in favor of the applicant for a variance, the Development Review Board may attach conditions which are necessary to implement the Act and/or the town plan. In no case shall the Board grant a variance for a use which is not permitted or conditionally permitted within the zoning district, or which results in an increase in allowable density.
- F. Renewable Energy Resource Structures.** On an appeal for a variance from the provisions of these regulations that is requested for a structure that is primarily a renewable energy resource structure, the Board may grant such variance only if it finds that the relief requested meets all requirements listed in the Act [§4469(b)] and are specified in its decision.

ARTICLE IV: SUBDIVISION AND BOUNDARY LINE ADJUSTMENT REVIEW

SECTION 401: APPLICABILITY

- A.** Any land development involving the subdivision of any tract of land into two or more lots for the purpose of development or transfer of ownership shall be subject to subdivision review under this Article. Boundary line adjustments are also regulated under this Article.

SECTION 402: APPLICATION MATERIALS

- A. Application Submission Requirements.** For all subdivisions (including boundary adjustments), the applicants shall submit the following set of application materials:

1. A completed South Hero Subdivision Application Form,
2. The application fee according to the fee schedule adopted by the South Hero Select Board, and
3. A set of paper (not Mylar) site plans that include all the information required in Table 4.1 (Copies shall be 11 x 17 reductions). The Information required may be prepared on one (1) or more sheets as necessary to make information clear and legible. A digital copy of the site plan shall also be submitted with the application.

- B. Requests for Modifications or Waivers of Application Materials.** Upon written request at Sketch Plan Review for a major subdivision, or upon plan/plat review for a minor subdivision, the Development Review Board may waive or modify the application submission requirements required in Table 4.1 in accordance with the following standards:

1. The waived or modified requirement(s) is deemed not applicable due to the special circumstances of a particular plat or plats and is not needed for the Development Review Board to confirm that the subdivision conforms to the requirements of these Regulations.
2. The waiver or modification shall not nullify the purpose or intent of the Town Plan or these Regulations or interfere with public health, safety and general welfare.

Table 4.1 Subdivision Application Requirements

	Boundary Line Adjustment	Minor Subdivision: Plan/Plat Review	Major Subdivision: Sketch Plan Review	Major Subdivision: Plan/Plat Review
Submission Requirements				
Application Form (7 copies) and Plans	2 full size (paper, surveyed), 9 11x17 copies	2 full size (paper, surveyed), 9 11x17 copies	1- full size (paper, drawn), 9 11x17 copies	2 full size (paper, surveyed), 9 11x17 copies
Application Fee	✓	✓		✓
Waiver Request, in writing [optional]		✓	✓	
Plan/Plat Mapping Requirements				
Title Block, including the following information:				
- Name of project, if any and name of Town - Name, address of applicant [landowner and/or subdivider] - Preparer information, certifications - Date of Preparation/Revision	✓	✓	✓	✓
Graphic Scale (minimum 1 inch = 100')	✓	✓	✓	✓
North Arrow	✓	✓	✓	✓
Legend	✓	✓		✓
Location Map: A map showing relation of proposed subdivision to adjacent property and surrounding area	✓	✓	✓ (Approximate)	✓
Area of Land: In square feet or acres for each tract, lot, structure, and large feature.	✓	✓	✓ (Approximate)	✓
Lot Identification: Boundaries for the entire property, lot lines for each existing and proposed lot, and for any involved land (access roads, easements, rights-of-way, and any open space or mitigation land). Existing and proposed lots should be differentiated. Each lot should be given a number for reference.	✓	✓	✓ (Approximate)	✓

Table 4.1 Subdivision Application Requirements

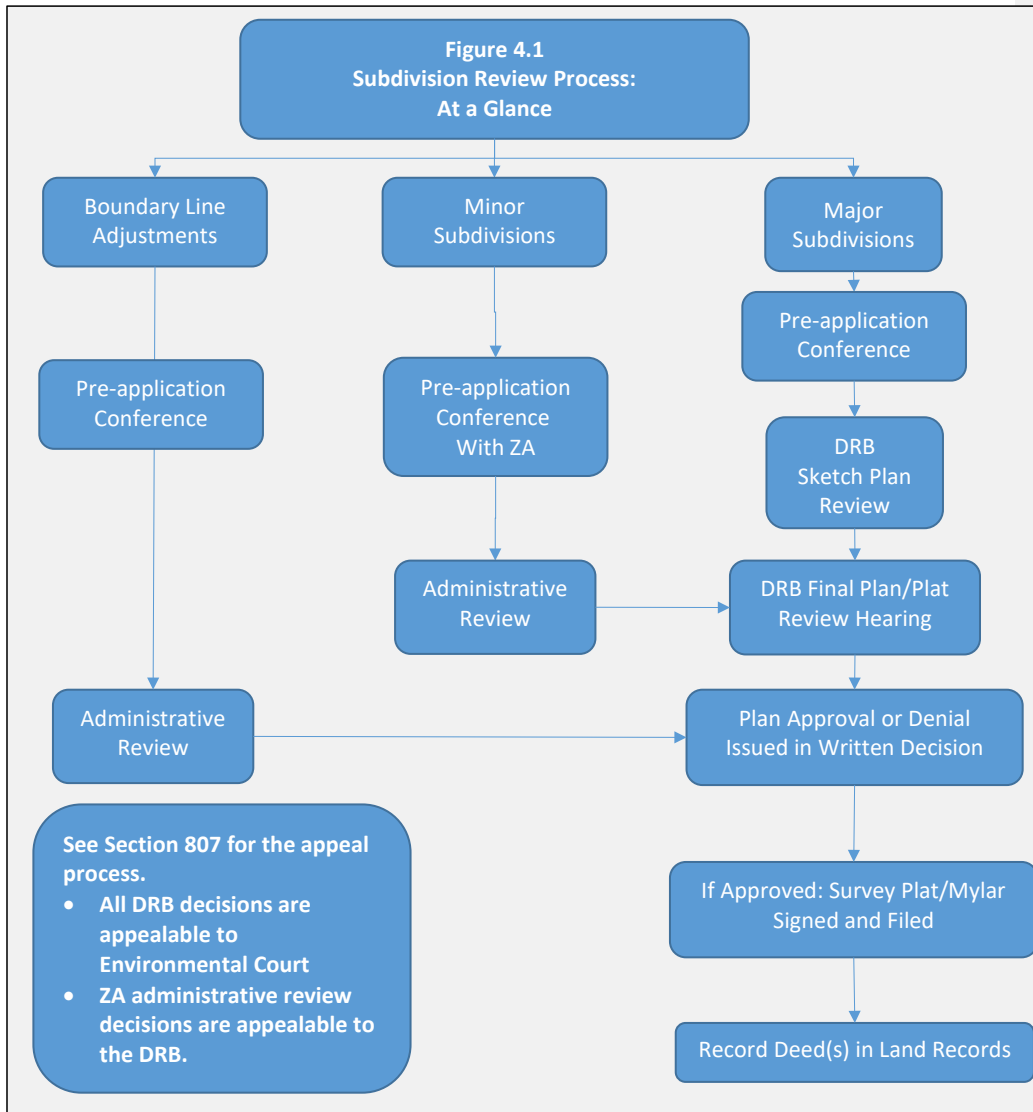
	Boundary Line Adjustment	Minor Subdivision: Plan/Plat Review	Major Subdivision: Sketch Plan Review	Major Subdivision: Plan/Plat Review
Property Boundary Survey Signed and Stamped by Licensed Land Surveyor: Property boundary surveys are required for all new subdivided lots. Property boundary surveys are required for the entire parent parcel (original parcel from which lots are subdivided) when: - it is 10 acres or less in size, and/or - greater than 50% is subdivided into lots	✓ Mylar, signature and stamp required for filing after approval	✓ Mylar, signature and stamp required for filing after approval		✓ Mylar, signature and stamp required for filing after approval
Contour Lines: Five-foot contour lines of existing and proposed grades, unless waived or modified by the DRB.		✓		✓
Zoning Information: Including zoning district, density analysis (how many lots/units allowed according to zoning standards), setbacks, parking standards, etc.	✓	✓	✓ (Approximate)	✓
Natural Features: The location of natural features located on the site, including but not limited to watercourses, wetlands, springs, forest boundaries, fields, large trees, and rock outcroppings. The location of natural features or site elements to be preserved.		✓	✓ (Approximate)	✓
Roads, Circulation and Access Features: Location and names of existing and proposed roads rights of way, trails, sidewalks and parking areas on site and on adjacent properties.	✓	✓	✓ (Approximate)	✓
Structures: The location of existing and proposed structures and land uses located on the site.	✓	✓	✓ (Approximate)	✓

Table 4.1 Subdivision Application Requirements

	Boundary Line Adjustment	Minor Subdivision: Plan/Plat Review	Major Subdivision: Sketch Plan Review	Major Subdivision: Plan/Plat Review
Utilities, Wastewater/Water Supply and Stormwater Management Infrastructure: Existing and proposed utilities, water and wastewater infrastructure, culverts and stormwater management infrastructure, all associated rights-of-way, easements and proposed connections.	✓	✓	✓ (Approximate)	✓
Open Space/Common Land: Proposed open space common land and/or recreation land within the proposed subdivision.		✓	✓ (Approximate)	✓
Transportation/Pedestrian Access Specifications: Specifications and details of any required bridges or culverts. Typical cross section of the proposed grading of roadways and sidewalks, street intersection and parking area profile and geometry; and alleys.	✓	✓	✓	✓
Land Restrictions: The type and location of existing and proposed restrictions on land, such as easements and covenants.		✓	✓ (Approximate)	✓
Supporting Information/Documentation For Subdivisions (As may be required by the DRB at final plan/plat review for Minor Subdivisions OR sketch plan review for Major Subdivisions, as applicable)				
Master Plan: An indication of proposed roads, driveways or streets, the future probable lot lines and building envelopes of the remaining portion of the tract, or adjacent properties, and a description of the probable uses (drawn in sketch plan format). A phasing schedule may be required.				
Proposed Building Envelopes: Buildable portion of the lot.				
Traffic Generation: Existing and proposed traffic generation rates and volumes				
Traffic Impact Analysis: Current and proposed traffic volumes, capacities, levels of service and any proposed mitigation				
Grading Plan: A plan showing proposed areas of cut and fill				
Erosion Control Plan: Locations where sediment must be trapped before entering a watercourse and the devices used to impede erosion (i.e. silt fencing, hay-bale or stone dams around catch basins and at intervals in swales and ditches).				
Landscaping and/or Screening Plan: A landscaping plan shall illustrate to scale all landscaping and screening proposed for the site, including trees, planting beds, shrubs, bushes, grassed and mulched				

Table 4.1 Subdivision Application Requirements

	Boundary Line Adjustment	Minor Subdivision: Plan/Plat Review	Major Subdivision: Sketch Plan Review	Major Subdivision: Plan/Plat Review
areas and other screening features including but not limited to fences, walls and berms. Plans shall include specifications for planting and a plan for maintenance care.				
Site Reclamation Plan: required for subdivisions involving extraction of natural resources.				
Lighting Plan: Locations and illumination of exterior lights.				
Fiscal Impact Analysis: An analysis of fiscal costs and benefits to the town.				
Environmental Impact Assessment: An analysis of potential environmental impacts, proposed mitigation measures.				
Engineer's/Surveyor's Certificate from a professional engineer and/or proposed performance bond or surety.				
Legal Documents: A draft of all newly created or revised deeds, covenants, homeowner agreements, tenant association agreements, or other legal documents associated with the proposed development.				
Other information necessary to determine compliance with the requirements of these regulations.				



SECTION 403: BOUNDARY LINE ADJUSTMENT

A. Application Conference. Applicants shall schedule a meeting with the Zoning Administrator to review a potential subdivision and discuss compliance with these Regulations.

- B. Application Review.** Upon submission of a complete application for a boundary line adjustment between two or more properties, proper payment of fees, and submission of all required supporting documentation, the Zoning Administrator shall conduct an administrative review. The Zoning Administrator shall review the application to determine if the proposal meets all the applicable requirements of these regulations, with specific attention to the dimensional standards in Section 206.
- C. Decision and Filing of Plat.** Within 45 days of receiving a complete application, the Zoning Administrator shall issue a written decision for the approval or denial of the boundary adjustment in accordance with Section 806. If approved, the applicant shall file the survey plat in accordance with Section 405.

SECTION 404: MAJOR AND MINOR SUBDIVISION REVIEW PROCEDURE

- A. Minor Subdivisions.** For applications meeting the definition of minor subdivision in Article X, the following procedure shall apply:

1. **Preapplication Conference.** Applicants shall schedule a meeting with the Zoning Administrator to review a potential subdivision and discuss compliance with these Regulations before submitting an application. This conference shall occur before a plan/plat application is submitted for a minor subdivision.

2. Subdivision Plan Review.

3-2.

- a. **Application Submission.** For minor subdivisions, the application for plan/plat review shall contain those items set forth in Table 4.1 of these Regulations.
- b. **Administrative Review.** Upon the submission of a complete application for a minor subdivision, proper payment of fees, and submission of all required supporting documentation, the Zoning Administrator may conduct an Administrative Review of the proposed subdivision and make a recommendation to the Development Review Board for approval of the plan/plat review. This Administrative Review may replace the requirement for a formal Sketch Plan Review by the Development Review Board.

If, prior to or during the process of conducting the Administrative Review, the Zoning Administrator determines that the subdivision includes an unusual condition or circumstance that requires a novel interpretation of the standards in these Regulations, the Zoning Administrator shall refer the application to the Development Review Board, which shall commence full plan/plat review.

- c. **Subdivision Plan Review and Decision.** The Development Review Board shall hold a public hearing before issuing a decision on whether the proposed land development shall receive subdivision approval based on compliance with Section 408 Subdivision Development Standards and other applicable provisions of these Regulations. Public notice, public hearing, and decision requirements in Sections 804, 805 and 806 apply. As specified in Section 805, the Development Review Board may continue a public hearing to another date and time certain for the purpose of requesting additional evidence needed to determine compliance with these Regulations.
- d. **Effect of Final Approval.** Final approval of a plan/plat by the Development Review Board shall not be deemed to constitute or be evidence of any acceptance by the Town of any street, easement, utilities, park, recreational area, or open space shown on the final plat. Such acceptance may only be accomplished by formal resolution of the Selectboard.

B. Major Subdivisions. For subdivisions meeting the definition of major subdivision in Article X, the following procedure shall apply:

- 1. **Pre-application Conference.** Applicants shall schedule a meeting with the Zoning Administrator to review a potential subdivision and discuss compliance with these Regulations before submitting an application. This conference shall occur before a sketch plan application.
- 2. **Sketch Plan Review.** The applicant is required to submit a sketch plan of the proposed subdivision for the purpose of ensuring that the major subdivision proposal meets the objectives and requirements of these regulations.
 - a. **Application Submission.** The subdivider shall submit a complete sketch plan application containing those items set forth in Table 4.1 of these Regulations.
 - b. **Sketch Plan Review and Decision.** The Development Review Board shall determine whether or not the sketch plan conforms to the Town Plan and these Regulations. Specific to the provisions of these Regulations and the Town Plan, the Development Review Board may make specific specifications and/or recommendations for changes to be addressed in the subdivision plan/plat application.

The Development Review Board shall hold a public hearing before issuing a sketch plan review decision. Public notice, public hearing, and decision requirements in Sections 804, 805 and 806 apply.

c. **Application Waiver and Request for any Supporting Documentation/Information.**

At Sketch Plan Review, the Development Review Board will decide on any requests for application waivers/modifications and request any supporting documentation or information as specified in Table 4.1.

3. **Subdivision Plan/Plat Review.**

- a. **Application Submission.** Within six (6) months of sketch plan approval, the subdivider shall submit a complete subdivision plan/plat application. The application shall contain those items set forth in Table 4.1 of these Regulations and shall conform to the layout shown on the sketch plan, except as amended as a result of specifications or recommendations made by the Development Review Board. If a subdivision plan/plat application is not submitted to the Development Review Board within six (6) months of sketch plan approval, the sketch plan shall be considered expired and the subdivider shall be required to reapply for a sketch plan approval.

If phasing was a requirement of sketch plan approval, subsequent plan/plat applications shall be filed for each phase within the time periods imposed.

- b. **Plan/Plat Review and Decision.** The Development Review Board shall hold a public hearing before issuing a decision on whether the proposed land development shall receive subdivision approval based on compliance with Section 408 Subdivision Development Standards and other applicable provisions of these Regulations. Public notice, public hearing, and decision requirements in Sections 804, 805 and 806 apply. As specified in Section 805, the Development Review Board may continue a public hearing to another date and time certain for the purpose of requesting additional evidence needed to determine compliance with these Regulations.
- c. **Effect of Final Approval.** Final approval of a plan/plat by the Development Review Board shall not be deemed to constitute or be evidence of any acceptance by the Town of any street, easement, utilities, park, recreational area, or open space shown on the final plat. Such acceptance may only be accomplished by formal resolution of the Selectboard.

SECTION 405: FILING OF FINAL SURVEY PLAT

- A. Survey Plat Specifications.** Upon approval of the plan/plat review by the Development Review Board, the subdivider shall prepare a survey plat for recording in conformance with the requirements of 27 V.S.A. Chapter 17. A survey plat is a map drawn to scale on Mylar by a licensed land surveyor of one or more parcels, tracts or subdivisions of land, showing, but not limited to, boundaries, corners, markers, monuments, easements and other rights. A signed certification is required from the licensed land surveyor who prepared the survey plat, indicating that monuments have been set. Survey plats shall be prepared according to

the specifications listed below and are not required to include all the information required on the plan/plat approved by the Development Review Board.

1. Survey plat Specifications:

- Mylar
- Clear and legible data and information
- 18.0 inches by 24.0 inches in size
- Stamp and signature of licensed Land Surveyor
- Margin of 2.0 inches outside of the borderlines on the left side for binding and a 1.0-inch margin outside the border along the remaining sides
- Inset location map clearly indicating the location of the land depicted and a legend of symbols used
- Plat scale ratios sufficient to allow all pertinent survey data to be shown, and graphic scale graduated in units of measure used in the body of the plat

B. Endorsement and Filing. The Chairperson (or acting Chairperson) of the Development Review Board shall endorse the survey plat with the date of plan/plat approval. Following endorsement by the chairperson of the Development Review Board and within 180 days of the Development Review Board's final approval, the subdivider shall submit the survey plat to the Town Clerk for filing. The Town Clerk shall endorse the survey plat before filing. The Development Review Board's written decision, which includes all permit conditions set by the Development Review Board, shall be filed in the land records of the Town and their location must be clearly referenced on the survey plat.

SECTION 406: EXPIRATION

A. Plan/Plat Approval shall expire if the subdivider does not receive endorsement and file the survey plat and related documents within the 180-day period. The Zoning Administrator, upon written request prior to the expiration date, shall extend the date for filing the survey plat by an additional 90 days if final local or state permits or approvals are still pending.

SECTION 407: SUBDIVISION AMENDMENTS

A. No changes, erasures, modifications, or revisions shall be made on any subdivision plan/plat after final approval, unless said plan/plat is first resubmitted to the Development Review Board for plan/plan review under Section 404(B)(3) above and the Development Review Board grants approval to the modifications. In the event that such changes are recorded without complying with this requirement, the revisions shall be considered in violation of subdivision approval.

SECTION 408: SUBDIVISION DEVELOPMENT STANDARDS

A. Application of Standard. The Development Review Board shall evaluate all subdivisions in accordance with the following standards and the applicable Development Standards in

Article VI. The Development Review Board may require the subdivider to submit data addressing impacts related to these standards. In light of findings made on these standards, the Development Review Board may require modification and phasing of the proposed subdivision or correction of any adverse impacts.

B. General Standard of Review. The Development Review Board shall determine that any land proposed for subdivision is designed and laid out to achieve the desired settlement pattern and purpose of the district in which it is located as defined in Section 203. All subdivisions shall:

1. Maintain and extend settlement patterns in conformance with the zoning district purpose statement, including lot area and configuration (See Section 206), road layout (See Section 605(D)), and building locations (See Section 206 and Section 608).
2. Provide for the preservation and protection of existing features as identified in the South Hero Town Plan, including scenic views, streams, rock outcroppings, water bodies, other natural and historical resources.
3. Connect to and extend, where appropriate, existing road, path, utility and open space and forest corridors/areas.

C. Lot Size and Density.

1. **Minimum Dimensional Standards.** No lot shall be created that does not meet the minimum dimensional standards of the district in which it is located, unless approved as a PUD (See Table 2.2 and 2.3).
2. **Calculating the Maximum Number of Lots Allowed.** The maximum allowed number of lots for a particular subdivision is calculated by dividing the total land area by the minimum lot size for the district (See Table 2.2 and 2.3).

D. Lot Shape.

1. Lots shall be designed with consideration of natural and manmade features such as tree lines, stonewalls, ridgelines, roads, shorelines or other features recognizable on the land, in addition to maintaining viable agricultural fields and forest plots.
2. Side lot lines shall generally be at right angles to straight streets, or radial to curved street lines.
3. Lots with irregular shapes (curves, jogs, dog-legs, etc.) may not be approved unless warranted by conditions as noted in subsection (1) above.

E. Lot Corner Markers. Monuments shall be placed on all subdivided lots in conformance with the Rules of the Board of Land Surveyors, Part 5, Standards for the Practice of Land Surveying.

F. Environmental Considerations. The proposed subdivision should demonstrate due regard for energy conservation in design, and for the protection of existing trees, scenic points, brooks and water bodies, and other unique, natural and cultural features of the area in accordance with the following standards:

1. To conserve energy, all subdivisions shall use the least amount of area for roadways and the least length of sewer, water and utility lines within environmentally and economically sound limits.
2. Clustered development (e.g., planned unit development) should be considered wherever feasible, desirable and allowed.
3. The siting of buildings should maximize solar access where feasible.
4. Landscaping should be effectively used to provide wind barriers and reduce heat loss or gain.

G. Community Services.

1. **Traffic.** The proposed subdivision shall not cause unreasonable congestion or unsafe conditions on the affected public or private roads. The proposed subdivision shall provide adequate provision for pedestrian traffic in terms of safety, convenience, access to points of destination and attractiveness.
2. **Municipal Facilities and Services.** The proposed subdivision shall not create an undue burden on municipal facilities or create an unreasonable demand for public services. Considerations shall include the capacity of facilities and services directly affected, and the public cost of improvements relative to the anticipated tax return from the proposed development.
3. **Fire Protection Facilities and Emergency Access.** Subdivisions should provide adequate water storage or distribution facilities for fire protection to the satisfaction of the Development Review Board. The applicant should submit documentation from the South Hero Fire Department as to the adequacy of emergency access and fire protection facilities.

H. Utilities. All utility systems, existing and proposed, throughout the subdivision shall be shown on the final plan and be located as follows:

1. All utility systems, including but not limited to electric, gas, telephone, and cable television, shall be located underground throughout the subdivision, unless a significant topographic hardship is present making underground installation unusually difficult.
2. The applicant shall coordinate subdivision design with the utility companies to ensure adequate and suitable areas for installation, both for the proposed subdivision, and areas adjacent to the subdivision.
3. Utility easements shall be shared with other utility and/or transportation corridors, and located to minimize site disturbance, the fragmentation of agricultural, conservation and shore lands.
4. Utility easements shall be of sufficient width to serve both the proposed subdivision and existing and anticipated development outside the subdivision.

I. Master Plan Review and Phasing. The Development Review Board may require a sketch and description of the potential layout of the entire parcel and adjacent parcels (Master Plan) during Sketch Plan Review for the purpose of promoting orderly development of the Town. It may require the subdivision to be divided into two or more phases to be developed at separate times and may impose such conditions as necessary to assure orderly development in compliance with these Regulations.

1. Any required Master Plan shall include an indication of proposed roads, driveways or streets, the future probable lot lines and building envelopes of the remaining portion of the parcel, and a description of the probable uses. The master plan may be drawn in a sketch plan format. The Development Review Board may require that the master plan and any phasing schedule be submitted as part of an extended sketch plan review, or as a part of the plan/plat review.
2. Review and consideration of a Master Plan as part of any subdivision review does not constitute approval of the full Master Plan build-out.

J. Legal Requirements. The applicant shall provide the Development Review Board with appropriate documentation for the adequate management and maintenance of all commonly owned entities, including community wastewater and water supply systems, community facilities, parking areas, private roads and rights-of-way, trail and utility rights-of-way, and open space. Ownership, management, and maintenance shall be clearly dictated in a covenant, easement, and/or other legal mechanism approved by the Development Review Board. In the case of a right-of-way that is not intended for acceptance by the Town, the mechanism by which the right-of-way is to be privately maintained, owned and/or conveyed shall clearly be documented. All legal documents applying to a particular parcel shall be referenced in the deed and recorded in the South Hero Land Records.

K. Conformance with Other Regulations. Subdivision plats shall conform to all applicable provisions of these Regulations, any Capital Budget and Program in effect, and all other bylaws, ordinances and regulations of the Town of South Hero currently in effect.

ARTICLE V: GENERAL REGULATIONS

SECTION 501: APPLICABILITY

- A. The following standards shall apply to all land development that requires DRB review.. If there is a conflict between a standard in this section and a standard in another part of these regulations, the more restrictive standard shall apply.

SECTION 502: ABANDONMENT AND RESTORATION

- A. **Abandonment.** A use previously approved which has been abandoned (whether with the intent to resume or not) for a continuous period of two years shall not be resumed without a new zoning permit issued in compliance with these regulations. See Section 505 for provisions on abandonment of non-conformities. **This does not apply to single- household or two-household dwellings.**
- B. **Restoration.** Any structure (including a non-conforming structure) damaged or destroyed by fire, accident or act of God may be repaired or reconstructed to the square footage, footprint, number of levels, location, and extent of its prior use (including a non-conforming use). A zoning permit will be required if work is not begun within two years of the date of destruction.

SECTION 503: SINGLE DWELLING DRIVEWAYDRIVEWAYS AND ACCESS TO LOTS

A. Access to Existing Parcels without Public Road or Water Frontage.

1. **Applicability.** In accordance with the Act [§4412(3)], land development may be permitted on parcels which do not have frontage on either a State highway, Class I, II, III, or Class IV town highway or public waters only with the approval of the Development Review Board subject to site plan review or subdivision review, as applicable, and this section.
2. **New Rights-of-Way/Easement Width and Construction Standards.**
 - a. Access to parcelss without public road or water frontage, with not more than three (3) lots, shall be provided within a permanent easement or right-of-way at least fifty (50) feet wide and shall meet the driveway standards in Section 503(A) above. .
 - b. Access to parcels without public road or water frontage, for four (4) or more lots, shall be provided within a permanent easement or right-of-way fifty (50) feet wide and compliance with the private road standards in Section 605.
 - c. The Development Review Board may consider the intended use of the property and safety, traffic, road and site conditions in granting, conditioning or denying approval.

B. Single-Household Dwelling Driveways. For the purpose of these regulations, single household-dwelling driveways shall be defined as access roads serving a single household dwelling.

1. **Access Permits.** All driveways entering onto public town roads shall be subject to a local Access Permit issued by the Town Road Commissioner. Driveways entering onto State Highways are subject to a State Highway Access Permit issued by the Vermont Agency of Transportation.
2. **Construction Standard.** No construction standard is required for a single dwelling driveway.
4. **Accessibility for Emergency Vehicles.** The following standards for single dwelling driveways are suggested for the health, safety, and welfare of the dwelling occupants, with the exception of the outer islands:
 - a. Driveways exceeding 400 feet in length shall include space sufficient for emergency access vehicles, including fire trucks, to turn around. The turnaround shall be located no further than 200 feet and no closer than 50 feet from the residence and shall be kept clear. See Figure 6.1 for turnaround specifications.
 - b. Driveways exceeding 800 feet in length shall include a pull-off area approximately every 400 feet with a minimum width of 12 feet and length 50 feet (the total width of the driveway plus the pull-off area will be 24 feet). The pull-off area shall be kept clear.

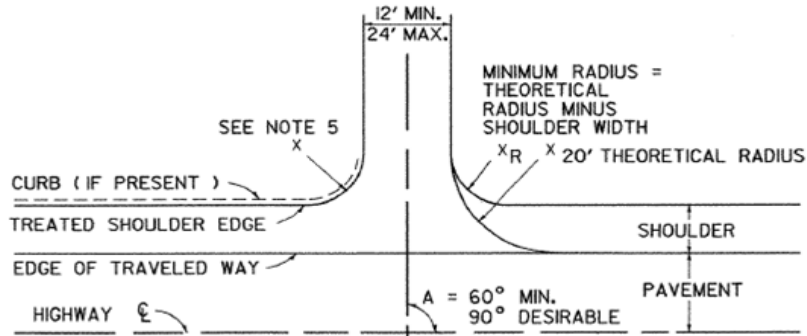
Two Household Dwelling and Multi-Household Dwelling Section 504—Multiple Dwelling Driveways

A.C. Driveways. For the purposes of these regulations, driveways shall be defined as access roads or easements serving two (2) but not more than three (3) lots, uses, or dwelling units, and shall meet the standards in this Section.

Commented [TN3]: Confirm you'd like this for two driveways.

1. **Access Permits.** All driveways entering onto public town roads shall be subject to a local Access Permit issued by the Town Road Commissioner. Driveways entering onto State Highways are subject to a State Highway Access Permit issued by the Vermont Agency of Transportation.
2. **Construction Standard.** Driveways shall be constructed according to the Vermont Agency of Transportation's B-71 Standards for Commercial and Residential Driveways (See Figure 5.1), in addition to the following standards:
 - a. **Minimum traveled way width:** 12 feet
 - b. **Setback:** Driveways shall not be required to meet setback standards.

Figure 5.1 – B-71 Standards for Residential Drives (VTrans)



Note 5. If Curb is present, see appropriate curb detail standard or match town/city standard curb treatment.

3. 3. Accessibility for Emergency Vehicles. All dwellings shall be accessible by emergency and service vehicles, with the exception of the outer islands. The driveway accesses shall comply with the following accessibility standards:

- a. Driveways exceeding 400 feet in length shall include space sufficient for emergency access vehicles, including fire trucks, to turn around. The turnaround shall be located no further than 200 feet and no closer than 50 feet from the residence on driveways and shall be kept clear. See Figure 6.1 for turnaround specifications. For shared driveways, two turnarounds may be required based on the location of the units.
- b. Driveways exceeding 800 feet in length shall include a pull-off area approximately every 400 feet with a minimum width of 12 feet and length of 50 feet (the total width of the driveway plus the pull-off area will be 24 feet). The pull-off area shall be kept clear.

D. 4. Access Management. The follow standards shall apply to all driveways:

1. a. No driveway or exit shall be located within fifty (50) feet of a road intersection. The Development Review Board may reduce this standard for driveways located in the Village Zoning Districts provided there is no adverse impact on public safety.
2. b. Where a site occupies a corner of two (2) intersecting roads, the driveway access should be located on the less traveled road.

3. ~~c.~~ The Development Review Board may require shared driveways between adjoining properties in appropriate instances, including the presence of compatible adjacent uses or areas characterized by congestion and frequent and/or unsafe turning movements.

D.E. Multi-Household Dwelling (4 of More Dwelling Units). Accesses and driveways serving a multi-household dwelling with 4 or more dwelling units shall be built to meet the construction standards for roads in Section 605 (B). The intent of this requirement is to ensure adequate access and circulation on site. The Development Review Board may waive any requirement to create a right-of-way under this section, upon request of the applicant, if the Board determines that creation of a right-of-way does not further the intent of this section, Section 605, or Section 608 (Village District Form and Design Standards).

Commented [TN4]: Does this need to be deleted????

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~~B.A. Access to Parcels without Public Road or Water Frontage~~

~~1. **Applicability.** In accordance with the Act [§4412(3)], land development may be permitted on parcels which do not have frontage on either a State highway, Class I, II, III, or Class IV town highway or public waters only with the approval of the Development Review Board subject to site plan review or subdivision review, as applicable, and this section.~~

~~2. **New Rights of Way/Easement Width and Construction Standards.**~~

- ~~a. Access to parcels without public road or water frontage, with not more than three (3) lots, shall be provided within a permanent easement or right of way at least fifty (50) feet wide and shall meet the driveway standards in Section 503(A) above.~~
- ~~b. Access to parcels without public road or water frontage, for four (4) or more lots, shall be provided within a permanent easement or right of way fifty (50) feet wide and compliance with the private road standards in Section 605.~~
- ~~c. The Development Review Board may consider the intended use of the property and safety, traffic, road and site conditions in granting, conditioning or denying approval.~~

SECTION 50~~45~~: EXISTING SMALL LOTS

A. Any lot that is legally subdivided, that is in individual and separate and non-affiliated ownership from surrounding properties, and in existence on the effective date of any zoning regulation may be developed for the purposes permitted in the district in which it is located, even though not conforming to the minimum size requirement, if such a lot is not less than one-eighth acre in area with a minimum width or depth dimension of 40 feet. Except as provided by the Act, if any existing small lot subsequently comes under common ownership with one or more contiguous lots, the non-conforming lot shall be deemed merged with the contiguous lot (24 V.S.A. §4412(2)).

SECTION 50~~56~~: NON-CONFORMING STRUCTURES AND NON-CONFORMING USES

A. Applicability. Any land development involving non-conforming structures and non-conforming uses is subject to the review process and standards in this section. To be non-conforming means that a structure or use in whole or in part does not conform to these regulations but did conform to all applicable laws, ordinances, and regulations prior to the enactment of these regulations. A structure or use improperly authorized as a result of error by the Zoning Administrator shall also be considered non-conforming subject to this section.

B. ~~B.~~ Continuation of Non-conformities. Non-conformities may continue to exist in their preexisting non-conforming state.

~~1.~~ ~~1.~~ These regulations shall not require any change in plans or construction of a nonconforming structure or a nonconforming use.

~~3.~~

~~2.4.~~ ~~2.~~ The regulations shall not prevent normal maintenance and repair of a non-conforming structure provided that such action does not increase the degree of non-conformity.

C. Abandonment of Non-conforming Uses. A non-conforming use shall not be re-established if the use has been abandoned for a period of at least two (2) years or has been changed to, or replaced by, a conforming use. Intent to resume a non-conforming use shall not give the right to do so.

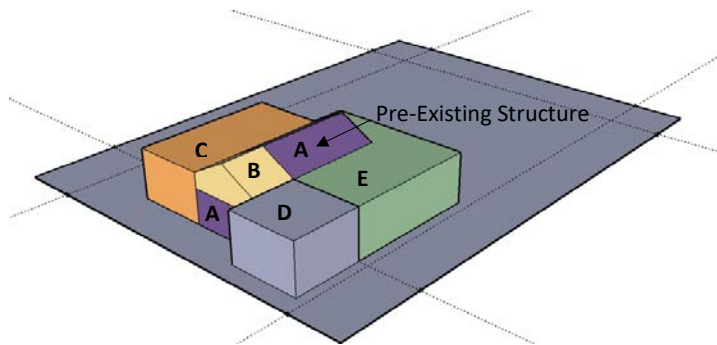
D. Standards for Making Changes to Nonconformities.

1. Non-conforming Structures. The Zoning Administrator may permit the expansion, enlargement, replacement or reconstruction of a non-conforming structure provided that the changes do not increase the existing degree of non-conformity (i.e. the changes made cannot increase the height of the structure within the setback, increase the footprint within the setback, or increase the overall volume of the structure within the setback. ~~size of the structure within setback areas.~~) See Figure 5.2. The DRB is granted discretion to waive the height restriction in circumstances where it is not deemed disruptive to surrounding properties.

a. ~~a.~~ **Setback waivers.** See Section 305.

Figure 5.2 Increasing the Degree of Non-conformity

- Building 'A' is the original non-conforming structure that encroaches into the setback.
- Additions 'B', 'C', and 'D' increase the degree of non-conformance because they make the structure bigger within the setback area. There are various ways of increasing the degree of non-conformance:
 - Addition 'B' increases the height, and therefore the overall volume, of the pre-existing portion of the structure in the setback area.
 - Addition 'C' adds new footprint area to the pre-existing structure in the setback area and increases the volume of the new footprint area is higher than the height of the pre-existing portion of the structure in the setback area.
 - Addition 'D' is the same as addition 'C' except that it also encroaches further into the setback than the pre-existing structure.
- Addition 'E' does not increase the degree of non-conformance because it is not within the setback area.



~~a. Setback waivers. See Section 205~~

2. 2. Non-conforming Uses.

- a. **Non-Residential.** Non-residential non-conforming uses shall not be expanded. As such, improvements that enlarge footprint area, add floor space, or add parking to structures occupied by non-residential non-conforming uses are prohibited.
 - b. **Residential.** Subject to conditional use review, the Development Review Board may permit structural expansions and modifications to residential non-conforming uses that comply with all other provisions of these regulations.
3. **Multiple Dwellings on a Lot.** Section 204 and 205 require that there be no more than a single principal structure occupied by a single principal use on a lot in all districts except the Village Districts unless approved as a Planned Unit Development. There are many dwelling units in South Hero that may be considered non-conforming because there is more than one pre-existing single household detached dwelling on a pre-existing lot. These regulations provide several ways that such dwelling units may be eligible to come

into conformance, including Section 701 Accessory Dwellings and Section 305 Setback Waiver.

- D. Compliance with Mandated Codes, Rules, Laws.** Under conditional use review, the Development Review Board may permit the alteration or expansion of a non-conforming use or an increase in non-conformity of a structure for the sole purpose of compliance with mandated environmental, safety, health, or energy codes.

SECTION 50~~67~~: OUTDOOR LIGHTING

- A. Applicability.** The following standards shall apply to land development, other than residential, in the Town of South Hero to ensure that undesirable effects of outdoor lighting are minimized.
- B. Intent.** The residents of the Town of South Hero strongly value the ability to clearly view and enjoy the night sky. It is also recognized that, while some outdoor lighting may be necessary for security and safe operation, inappropriate or poorly designed or installed lighting can create unsafe conditions and a nuisance for adjoining property owners, and cause sky glow which obstructs night views of the sky.
- C. General Standards.** The following general standards apply to all outdoor lighting in the Town of South Hero, with the exception of temporary holiday lighting:
1. All outdoor lighting shall be kept to the minimum required for safety, security and intended use, consistent with the character of the neighborhood in which the lighting is located.
 2. Permanent outdoor lighting fixtures shall not direct light beyond the boundaries being illuminated or onto adjacent properties, or public waters, shall minimize glare, and not result in excessive lighting levels which are uncharacteristic of neighborhood. Outdoor lighting fixtures shall be designed to direct light downward and located and adjusted so as not to cast light directly on adjacent roadways or properties. Such fixtures may include recessed, shielded or cutoff fixtures, and/or have low luminance lamps (e.g., 150 watts or 2,000 lumens).
 3. The use of timers, dimmers, and/or sensors wherever practicable is encouraged on outdoor lighting fixtures.

SECTION 50~~87~~: OFF-STREET PARKING SPACE REQUIREMENTS

- A. Off-Street parking space requirements** shall apply to all uses as listed in Table 5.1 below. According to Section 603, the Development Review Board may approve fewer or shared off-street parking spaces for non-residential uses and parking space requirements for uses not

listed in Table 5.1. The requirements of this section shall not be met through the use of on-street parking spaces.

Table 5.1: Minimum Parking Ratios	
Use	Minimum Parking Spaces
Residential and Lodging	
Dwelling units with greater than one bedroom	2.0 per DU
Studio and one-bedroom dwelling units	1 per DU
Lodging	1.0 per guest room + 1.0 per 600 sf of public assembly space
Commercial	
Retail or service uses with high customer turnover	1.0 per 300 sf of GFA
Restaurant (take-out and counter service)	1.0 per 300 sf of GFA
Restaurant (table service)	1 per dining table + 1 per every 4 bar seats + 1 per employee during largest shift
Retail, office or service uses with regular customer traffic	1.0 per 450 sf of GFA
Personal and professional service uses with limited customer traffic	1.0 per 600 sf of GFA
Personal and professional service uses with no regular customer traffic	1.0 per 900 sf of GFA
Marinas	1.0 space per mooring or docking berth as permitted by the State of VT
Industrial	
Manufacturing or storage uses with no customer traffic	1.0 per 1,500 sf of GFA
Research or development, data processing or similar office-like uses	1.0 per 900 sf of GFA
Storage facilities, wholesale trade, or industrial uses with customer traffic	1.0 per 600 sf of GFA
Public Assembly and Recreation	
Public facilities for mass assembly	1.0 per 6 seats or 1.0 per 60 sf of assembly area if no seats
Outdoor recreation	As determined by the DRB
Public facilities with high visitor turnover	1.0 per 450 sf of GFA
Public facilities with regular visitor traffic	1.0 per 600 sf of GFA
Public facilities with limited visitor traffic	1.0 per 1,200 sf of GFA
Specifications related to Table 5.1.	

Table 5.1: Minimum Parking Ratios

Use	Minimum Parking Spaces
1. When calculation of minimum parking requirements based on these ratios results in a fractional number, the number of spaces must be rounded up to the nearest whole number. 2. If a proposed use is not listed, the Zoning Administrator will set a ratio based on the listed use most similar to the proposed use and/or on sufficient information provided by the applicant to justify the number of parking spaces. 3. Abbreviations: DU = Dwelling Unit, GFA = Gross Floor Area. 4. Definitions: • High turnover uses - uses characterized primarily by drop-in customers or visitors staying for a short period of time (ex. convenience store). • Uses with regular traffic - uses characterized primarily by scheduled customers or visitors staying for moderate period of time (ex. theater, hair salon, or medical office). • Uses with limited traffic – uses characterized by customers or visitors arriving infrequently and primarily by appointment (ex. attorney or accountant).	

SECTION 5089: PERFORMANCE STANDARDS

- A. The following performance standards shall be met by all land uses in all zoning districts. All land uses shall not:
1. **Air Quality.** Emit any intensity of odor that is considered both offensive and uncharacteristic of the area; normal agricultural odors shall not be deemed uncharacteristic.
 2. **Noise.** Emit any level of noise that is considered both offensive and uncharacteristic of the area; normal agricultural and animal noises shall not be deemed uncharacteristic.
 3. **Airborne Particulates.** Emit any smoke, dust, dirt, or noxious gases that endanger the health, comfort, safety, or welfare of the public or adjoining property owners, or that causes damage to property, business, or vegetation.
 4. **Glare.** Emit glare or reflection that impairs the vision of motor vehicle operators, constitutes a nuisance to other property owners, or that is detrimental to public health, safety, and welfare.
 5. **Hazardous Materials.** Present a risk of fire, explosion, or threat to safety that endangers the public or results in an increased burden upon municipal facilities.

SECTION 50910: WASTEWATER AND POTABLE WATER SUPPLY

- A.** All structures and uses that generate wastewater or require access to potable water may be required to obtain a Wastewater and Potable Water Supply Permit from the Vermont Department of Environmental Conservation (DEC) in accordance with 10 V.S.A. Chapter 64 and the Wastewater System and Potable Water Supply Rules (dated September 29, 2007 or as revised from time to time by the DEC). Applicants proposing land development that generates wastewater or requires access to potable water must contact the Agency of Natural Resources District Permit Specialist to determine if such a permit is required.

If, according to the DEC, a Wastewater System and Potable Water Supply Permit is not required, the property owner/applicant shall provide written proof from the DEC of such to the Zoning Administrator.

- B.** Where a Wastewater and Potable Water Supply Permit is required:
1. Initiation of construction under a zoning permit issued in accordance with these regulations shall be prohibited unless and until a Wastewater and Potable Water Supply Permit, or a Site and Foundation Approval allowing site work and foundation construction, is issued by DEC.
 2. It shall be unlawful to use or occupy or permit the use or occupancy of any premises requiring a Wastewater and Potable Water Supply Permit until a Certificate of Occupancy has been issued by the Zoning Administrator.

ARTICLE VI: DEVELOPMENT STANDARDS

SECTION 601: APPLICATION OF STANDARDS

- A.** Standards in this Article shall apply to all -subdivision, conditional use, site plan and planned unit development (PUD) applications in accordance with standards in this article.

SECTION 602: LANDSCAPING AND SCREENING

- A. Landscaping.** Landscaping is required for the purpose of interrupting the scale and bulk of large facades, integrating the building site with the surrounding landscape, and/or to enhance the quality of the environment, both visually and physically. The Development Review Board shall approve a landscaping plan in accordance with the following standards:

1. Landscaping shall be integrated throughout the site, including front and side yards, within and around parking areas, sidewalks/walkways, and public spaces.
2. Existing trees, shrubs, and other vegetation shall be preserved on the site to the extent practicable.
3. New landscaping shall include a variety of plantings and features as appropriate, such as deciduous or coniferous shade giving trees; complementary flowering, ornamental or other small trees; landscaping beds, hedges or shrubs that define buildings, planting strips, lawns or buffer areas; and grasses/groundcover.
4. Street trees are required along roads in the Village Districts unless waived by the Development Review Board for topographical or physical limitations.

- B. Screening.** In accordance with the standards in this section, the Development Review Board may require screening on a case by case basis to ensure compatible coexistence of development and to enable mixed use development to flourish, in accordance with the South Hero Town Plan. The extent of the screening required may vary from virtually unobscured to almost fully obscured, as deemed appropriate by the Development Review Board.

1. In the Village Districts, screening shall obscure commercial and industrial properties from abutting residential properties.
2. Outside the Village Districts, screening shall obscure commercial and industrial properties from residential properties and public roads in the immediate neighborhood.
3. Parking areas for uses other than single and two household dwellings shall be obscured from adjacent uses (see also parking area landscaping requirements according to Section 603).

4. The amount and type of screening shall be sufficient to fulfill its intended function based on the following standards in order of priority:
 - a. Natural terrain and topography shall serve as screening wherever feasible;
 - b. Existing trees, shrubs, evergreens and other vegetation shall be preserved and used as a method for screening wherever feasible; and
 - c. Where natural terrain and existing vegetation does not provide sufficient screening, new plantings and other landscaping materials such as berms, fences, and stone walls, shall be installed for the purpose of screening.

C. Planting Specifications.

1. New plantings and other landscaping materials shall be selected to meet seasonal conditions, soil conditions, erosion control, and light on the site.
2. Plant selections shall be non-invasive and rated for an appropriate plant hardiness zone. Vermont native species are preferred.
3. Landscaping and screening shall be installed according to a timeline established by the Development Review Board, which shall promote successful, healthy plantings and may require ongoing maintenance.

SECTION 603: PARKING AREA DESIGN AND SHARED PARKING

A. Parking Area Design Standards. Under site plan review, the Development Review Board shall ensure the following parking area design standards are met:

1. Parking areas shall not be larger than necessary to provide the minimum required parking spaces according to Table 5.1 or as otherwise approved by the Development Review Board for the purpose of minimizing stormwater management on impervious surfaces. The Development Review Board may approve fewer off-street parking spaces for non-residential uses if the applicant provides sufficient information to justify a smaller parking space demand.
2. The perimeter of off-street parking areas may be landscaped or screened from adjacent uses and from the roadways in the vicinity. Parking areas with four (4) or more rows of parking spaces shall require planting strips and islands integrated throughout the lot design.
3. In the Village Districts, if possible, new parking areas shall be located to the side or rear of the principal structure. Parking areas located on the side of the structure should be located behind the front façade line of the principal structure.

4. Parking areas shall be designed to provide sufficient maneuverability in and out of parking spaces, circulation within the lot and ingress/egress from the road in accordance with the design standards in Table 6.1.

Table 6.1 Parking Area Design Standards (in feet)				
Parking Angle (degrees)	Space Width	Space Length	Aisle Width (1 way)	Aisle Width (2 way)
30	9	18	12	24
45	9	18	13	24
60	9	18	18	24
90	9	18	20	24
Parallel	9	20	12	24
Up to 15% of provided parking spaces may be compact spaces measuring 8 feet x 16 feet. Aisle width standards shall remain the same.				

5. Non-conforming parking areas may continue to exist in their pre-existing non-conforming state, but shall not increase in size unless the entire parking area is brought into conformance with these Regulations.

B. Shared and Off-Site Parking in the Village Districts. In the Village Districts, off-street parking spaces may be shared between uses and/or provided off-site within approximately 500 feet from the use. Shared parking spaces are encouraged for uses with peak parking demands at different times, such as uses operating primarily on the weekends, weekday daytime, or nighttime. For off-site and shared parking, a written legal agreement between the owners of each use for which shared parking will apply, or in the case of off-site parking, between the owner of the offsite parking land and each use for which off-site parking will apply, is required. The legal agreement shall guarantee access to, use of, and management of designated shared or off-site parking spaces.

SECTION 604: PUBLIC INFRASTRUCTURE

A. Applicability. The following standards may be applied where an applicant has proposed infrastructure with the intent that it may be deeded to the Town of South Hero at a future date. Such infrastructure may include roads, wastewater infrastructure, or potable water infrastructure.

B. Procedure and Standards.

1. **Technical Review.** The Development Review Board may require the applicant to pay for reasonable costs of an independent technical review of any application where an applicant has proposed infrastructure that may be needed in the future to the Town of South Hero, as provided for in 24 V.S.A. §4461(c).
2. **Bonding.** The Development Review Board may require that the developer provide a suitable performance bond with a term not to exceed three years, to guarantee the installation of public improvements that meet the applicable municipal standards. The amount of bond shall be established by the Development Review Board based upon the applicant's estimate, bids or other information related to the installation of the infrastructure and/or deemed necessary by the Development Review Board. The total bond amount shall not exceed one hundred fifty (150) percent of the projected improvement and maintenance cost.

SECTION 605: ROADS AND PEDESTRIAN INFRASTRUCTURE

A. Applicability. The standards of this section shall apply to all proposed public roads and to proposed private roads serving four or more lots, dwelling units, or uses. These standards may be applied to private roads serving three or fewer parcels, dwelling units, or uses when the Development Review Board determines that such standards are necessary to provide suitable access or to accommodate potential future land development (See Section 503). These standards may also apply to existing public or private roads where new proposed development warrants road improvements according to Section C below.

B. Road Construction and Design Standards. Road construction and design, including specifications relating to crown, grade, sub-base, surfacing, and drainage shall conform to the Town of South Hero Ordinance for the Acceptance of Public Roads.

C. Existing Road and Driveway Upgrades. When new development is accessed from an existing road, applicants may be required to make improvements to the existing road according to the following standards:

1. **Existing Driveways and Private Roads.**
 - a. A development that proposes to add a fourth (4th) lot, dwelling unit, or use to an existing driveway may be required to upgrade the driveway to the road construction and design standards in this Section.
 - b. A development proposing to add an access from any parcel, dwelling unit, or use to an existing non-complying private road or driveway may be required to upgrade the road or driveway to comply with the road construction and design standards in this Section.

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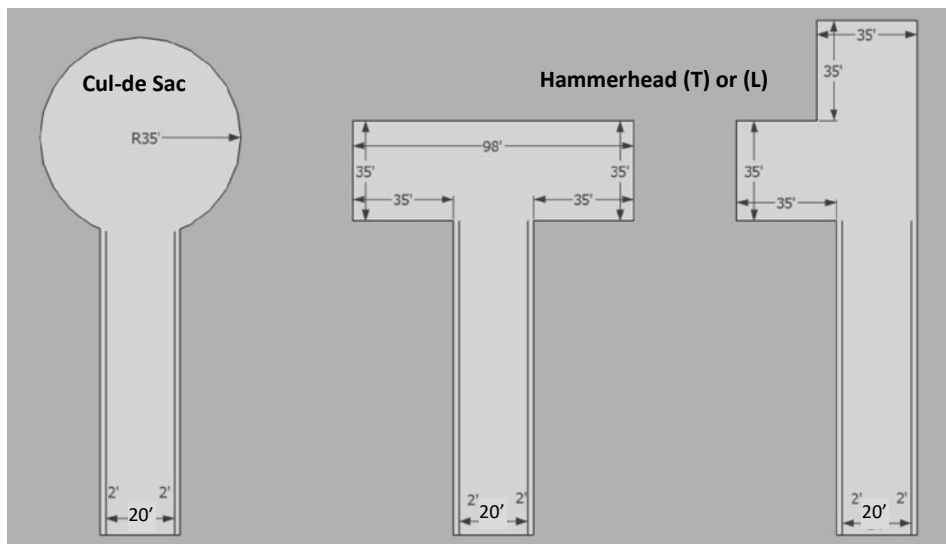
2. **Existing Public Roads.** A development proposing to add access to any parcel, dwelling unit, or use from a non-conforming public road shall not be responsible for road improvements unless required by the Development Review Board based on a traffic impact study according to (3) below. For Class 4 roads, the Development Review Board may require a memorandum of understanding between the applicant and the Town regarding year-round maintenance of the road.
3. **Traffic Impact Study.** The Development Review Board may require the provision of a traffic impact study to analyze the impact of the proposed development on street capacity and safety. A formal traffic impact study shall be required when the project involves twenty-five (25) parking spaces, the creation of twenty (20) dwelling units, or at the discretion of the Development Review Board poses a substantial impact on the capacity and safety of local roads. The formal study shall include details of existing and proposed ingress and egress, traffic volumes, turning movements, levels of service, traffic control, and pedestrian access and safety. To maintain adequate road capacity and safety, the Development Review Board may require improvements to roads in the vicinity of the development based on the results of the traffic impact study.

D. Standards for the Layout and Configuration of New Roads.

1. **Creation of a Road Network (in all districts).** Proposed public and private roads shall further the development of a road network in accordance with the following priorities:
 - a. First priority shall be to connect a proposed road to an existing road on an adjacent property.
 - b. Second priority shall be to extend proposed road rights-of-way to the property boundary to allow for future connection and coordination with development on adjacent land. Adequate turnaround shall be provided in accordance with 605(D)(3) below.
 - c. Third priority shall be to provide a second access for the road along the property's frontage, provided the second access complies with all safety and access management standards in these regulations.
 - d. The Development Review Board may approve a single access road (dead end road) if the first, second and third priorities cannot be met for one of the following reasons:
 - i. The presence of topographic or other physical limitations;
 - ii. To protect public health and safety; or
 - iii. Compliance is not applicable due to projected development patterns of adjacent tracts.
2. **Specific Standards for Creation of a Road Network in the Village Districts.** In the Village Districts only, new public and private roads shall comply with the following standards to further a pedestrian-friendly network of roads:

- a. Intersections with other roads, driveways or other rights-of-way shall create right angles (approximate). The Development Review Board may waive this requirement to accommodate topographic or physical limitations beyond the property owner's control. The waiver shall be the minimum necessary to accommodate the limitation.
 - b. New public or private road rights-of-way shall not be longer than 1,400 feet before connecting to another public or private road, or as an alternative meeting an adjacent property boundary with the intent of connecting to a new road when such adjacent property is developed (See 1(b) above).
- 3. Standards for Single Access (Dead End) Roads.** Dead end roads may be approved according to the priorities in Section 605(D)(1) above and the following standards:
- a. New single access roads that serve 10 or more dwelling units shall not be longer than 1,200 feet in length. This requirement may be waived by the Development Review Board in all districts except the Village Districts.
 - b. Single access roads shall terminate with a suitable cul-de-sac or hammerhead "r", "T" or "Y" design configuration to allow emergency vehicles to adequately turn around.
 - c. A cul-de-sac shall have a turnaround radius of not less than thirty-five (35) feet.

Figure 6.1. Single Access Road Turnaround Specifications



The traveled way and shoulder widths shown above, or the standards in the South Hero Ordinance for the Acceptance of Public Roads, whichever is stricter, shall apply to roads; driveway widths according to Section 503 shall apply.

- E. ~~4. E.~~ **Sidewalks and Pedestrian Accesses.** Sidewalks shall be required by the Development Review Board along all public and private roads within the Village Zoning Districts and may be required within planned unit developments when deemed necessary for the density of development and to enhance pedestrian accessibility and safety. When required, they shall be constructed to standards established by the Vermont Pedestrian and Bicycle Facility Planning and Design Manual. In order to facilitate pedestrian access from public and private roads to schools, parks, playgrounds, or other nearby roads, perpetual unobstructed easements at least twenty (20) feet in width may be required for the purpose of pedestrian accessibility.

SECTION 606: STORMWATER MANAGEMENT AND EROSION CONTROL

A. Erosion Control

1. **Plan.** The preparation and implementation of an erosion and sediment control plan, to be implemented during project construction, shall be required by the Development Review Board. The plan shall be prepared by a professional engineer licensed by the State of Vermont. The plan shall ensure the site improvements, including excavation, road and driveway construction and site clearing and grading, do not have an undue adverse impact on neighboring properties or surface waters.

2. **Standards.** Land shall be developed so as to retain the natural contours and to conserve the natural cover and soil. All areas exposed during construction shall be protected in accordance with the standards of the Agency of Natural Resources “Low Risk Site Handbook for Erosion Prevention and Sediment Control.” Vegetation and structures shall be established according to a schedule as required by the Development Review Board.

B. Stormwater Management

1. **Applicability.** All project applications subject to review by Development Review Board shall indicate how stormwater will be managed. The intent of this regulation is to minimize and control the quantity and quality of stormwater runoff from land development in South Hero. Unmanaged and untreated stormwater runoff may have negative environmental impacts upon surface water and may adversely affect municipal stormwater infrastructure.

2. **Standards – Minor Development.** The following standards shall apply to all land development that involves the addition of less than 5,000 square feet of impervious surface:

- a. A stormwater plan shall be provided that shows all natural and constructed drainage ways and detention areas, both existing and proposed.
- b. Natural drainage features on site shall be preserved. Stormwater runoff shall be directed to existing drainage facilities when they exist on site.
- c. New swales, ponds, or other effective management techniques may be incorporated into the site design.

- ~~2.3.~~ **Standards – Major Development.** The following standards shall apply all land development that involves the addition of 5,000 square feet or more of impervious surface:

- a. A stormwater plan shall be provided that shows all natural and constructed drainage ways and detention areas, both existing and proposed.
- b. Natural drainage features shall be preserved. Stormwater runoff shall be directed to existing separate drainage facilities when they exist on site.
- c. New swales, ponds, or other effective management techniques shall be incorporated into the site design to prevent any runoff from reaching adjacent properties. Natural watercourses and drainage ways shall be incorporated into the design of drainage systems to the fullest extent possible.
- d. The best available technology shall be used to minimize stormwater runoff, increase on-site infiltration, encourage natural filtration functions, simulate natural drainage systems, and minimize discharge of pollutants to ground and surface water. Best available technology may include measures such as:
 - i. Detention basins or ponds;
 - ii. Recharge trenches or swales;

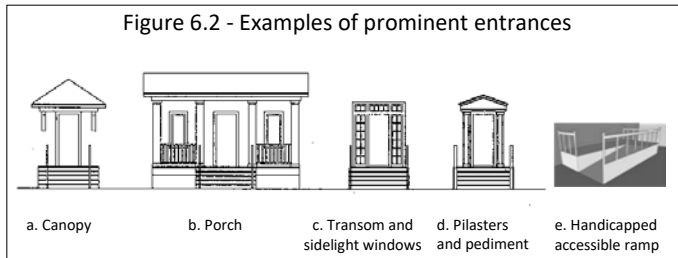
- iii. Bio-retention areas or rain gardens that collect runoff and allow for short-term ponding and slow infiltration;
- iv. Minimizing the use of impervious surfaces;
- v. Vegetative and landscaping controls that intercept the path of surface runoff;
- vi. Dry wells consisting of gravel or stone-filled pits to catch water from roof downspouts or paved areas;
- vii. Permeable pavement or pavers that allow stormwater to seep through into the ground; and/or;
- viii. Rain barrels and cisterns of various sizes that store runoff conveyed through building downspouts.

SECTION 607: UTILITIES

- A.** All utility systems, existing and proposed, shall be shown on a utility plan. All utility systems, including but not limited to electric, gas, telephone, and cable TV, shall be located underground throughout any land that is subject to review under this Article due to an application for any type of land development. The applicant shall coordinate design with the utility companies to insure adequate and suitable areas for underground installation, both for the proposed development or subdivision and adjacent areas.

SECTION 608: VILLAGE DISTRICT FORM AND DESIGN STANDARDS

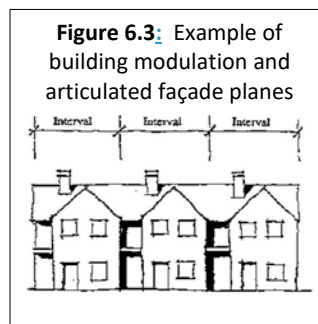
- A. Purpose and Applicability.** This Section applies to all principal structures subject to conditional use and/or site plan review located in the Village Districts. The purpose of the form and design standards is to create structures that further the character and intent of South Hero Village District and Keeler Bay Village District as defined in Section 203.
- B. Entrance Orientation.** Each principal structure shall have at least one public entrance that is prominent and oriented to the public right-of-way.
- 1. An entrance shall be made prominent by complying with the following standards:
 - a. Defining the entrance with architectural detailing, including the use of steps, porches, stoops, porticos or other design features appropriate to the architectural style of the building. See Figure 6.2.
 - b. Defining the entrance with landscape features, such as walkways, planters/planting beds, trees or hedges.



2. An entrance shall be oriented to the public right-of-way by having the entryway located on the façade parallel to the public street with a clearly defined pedestrian connection. When specific circumstances make it impractical for a building to have a public entrance located on the façade parallel to the public street with a clearly defined pedestrian connection, the Development Review Board may approve structures with a side public entrance perpendicular to the public right-of-way as long as the entrance faces and is oriented towards a pedestrian walkway that directly connects to the public right-of-way and sidewalk.

C. Scale. Structure scale shall be managed so that buildings blend in with the historic village character of South Hero.

1. **Building Modulation.** Facades facing a public right-of-way that are longer than sixty (60) feet shall be modulated into smaller segments at intervals of no more than thirty (30) feet. Modulation shall be accomplished through at least two (2) of the following methods (See also Figure 6.3):
 - a. Changes in roof form;
 - b. Changes in façade depth;
 - c. Changes in materials or texture.



D. Architectural Details. Architectural details shall be incorporated in order to provide visually interesting facades and a human scale in accordance with the following standards.

1. **Articulating Façade Planes.** All buildings shall incorporate elements that divide building façade planes (articulation). Long, uninterrupted horizontal elements are prohibited. Building articulation shall be accomplished with design elements such as the following, so long as the articulation interval does not exceed thirty (30) feet (Figure 6.4):

- a. Windows.
- b. A porch, patio, deck, or covered entry.
- c. A balcony or bay window.
- d. A change in the roofline by alternating parapet heights or roof types.
- e. A change in building materials that corresponds to a change in building plane.
- f. Lighting fixtures, trellises, trees, or other landscape features.

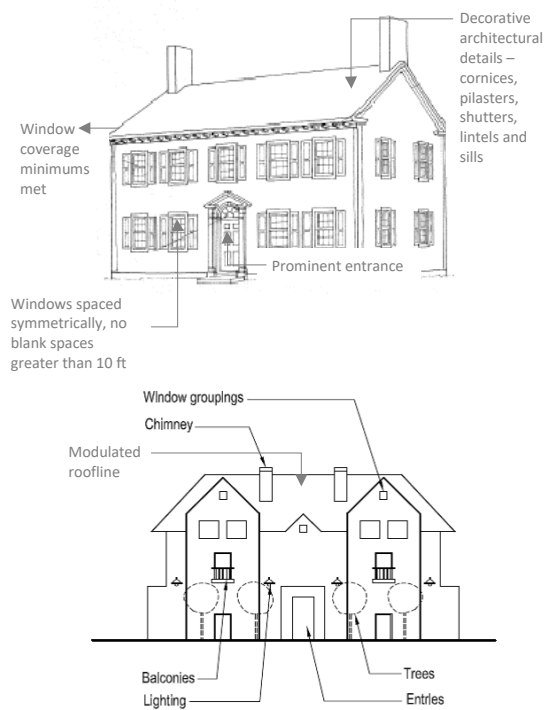
2. **Roofline Modulation.** Rooflines shall be varied in relation to building façade articulations. For flat roofs or facades with a horizontal eave, fascia, or parapet, the roofline shall be changed so that no un-modulated segment of roof exceeds thirty (30) feet in horizontal dimension.

3. **Architectural Decorative Details.** At the discretion of the Development Review Board, structures shall incorporate at least three architectural decorative details appropriate to the structure style into the façade at building corners, between stories, and/or around entrances and windows. Examples include but are not limited to molding, cornicing, columns, pilasters, expression lines, prominent lintels and sills, shutters, balconies, chimneys, and cupolas.

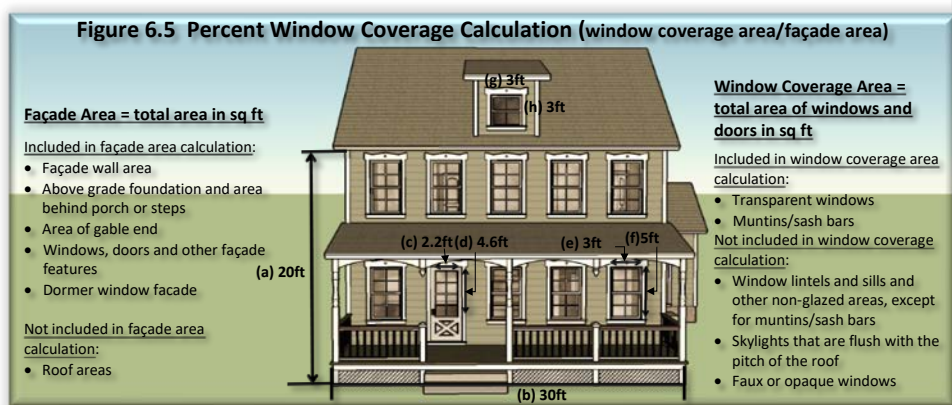
E. Arrangement of Windows. Windows shall be provided according to the following standards.

1. **Minimum Coverage Requirements.** Facades shall incorporate a minimum percentage of window coverage according to the specifications listed below. Window coverage percentages shall be calculated by dividing the total window coverage area by the total façade area (See Figure 6.5).

Figure 6.4: Example of articulated façades with decorative details.



- a. **Façade or facades facing and oriented to public right-of-way:** Minimum 15%
 - b. **Side facades visible from the public right-of-way:** Minimum 10%
 - c. **Rear facades and those not visible from the public right-of-way:** No minimum standard.
2. **Window Placement on Facades Facing and Oriented to the Public Right-of-Way.** For all facades and/or façade segments facing and oriented to the public right-of-way, windows shall be spaced to provide symmetry, whether evenly spaced along the building façade, divided into several equal parts, or symmetrical around a central or local axis. The length of facade without intervening window or entryway shall not exceed ten (10) feet.
 3. **Window Details.** Window edges shall be defined by lintels, sills and trim on all sides.



Example Percent Window Coverage Calculation for Figure 6.5:

Façade area: $20 \times 30 = 600$ sq. ft.
 Window coverage area: $((5 \times 3) \times 9) + (2.2 \times 4.6) + ((3 \times 5) \times 9) + (3 \times 3) = 154.12$ sq. ft.
 Percent window coverage = $154.12/600 = .26$ or 26%

ARTICLE VII: SPECIFIC USES AND STRUCTURES

SECTION 701: ACCESSORY DWELLINGS

A. Applicability. In accordance with the Act, an accessory dwelling unit means an efficiency or one-bedroom apartment that is clearly subordinate to a single household dwelling, which has facilities and provisions for independent living including sleeping, food preparation and sanitation. Accessory dwellings to farm operations are exempt from the bedroom limitation as provided in (B)(3) below.

B. Review Standards. Accessory dwellings may be permitted in accordance with the following standards.

1. Accessory Dwellings to Single Household Dwellings. A single accessory dwelling unit located within or appurtenant (near) to a single-household dwelling may be permitted by the Zoning Administrator, provided there is compliance with all of the following standards:

- a. The property has sufficient wastewater capacity.
- b. The habitable floor area of the accessory dwelling unit can be 30% of the total habitable floor area of the single-household dwelling, but not to exceed 700 sq. ft..
- c. Applicable setback and parking requirements specified in the regulations are met.
- d. The accessory dwelling unit may not be subdivided from the original parcel except under conformance with the subdivision regulations.
- e. The single household dwelling owner must occupy either the principal dwelling or the accessory dwelling.

2. Accessory Dwellings when there are Multiple Non-conforming Dwellings on a Lot. There are many dwelling units in South Hero that may be considered non-conforming because there is more than one pre-existing single household detached dwelling on a pre-existing lot. In such cases, accessory dwelling units that involve the creation of a new structure or an increase in the height or floor area of the existing dwelling may be approved only after conditional use approval from the Development Review Board.

3. Accessory Dwellings to Farms. Up to two accessory dwelling units for farm laborers may be permitted by the Zoning Administrator for farming operations, provided they meet the following requirements:

- a. Accessory dwellings for farm laborers must comply with the water and wastewater requirements described in Section 509.
- b. Accessory dwelling units must be smaller in size and prominence than the principal farmhouse; but are not otherwise limited in the number of bedrooms/sleep quarters or size.

- c. The accessory dwelling unit may be a single household unit, a double-household unit or may be a bunk house. The dwelling unit may be subject to the State's Fire Safety Code and the State's Housing Code.
- d. Applicable setback and parking requirements specified in the regulations are met.
- e. The accessory dwelling units may not be subdivided from the original parcel except under conformance with the subdivision regulations.

SECTION 702: EARTH RESOURCE EXTRACTION

- A. Applicability.** Earth resource extraction includes the commercial removal of natural minerals and liquids from the earth, including solids such as soil, sand and gravel and liquids such as water, except when incidental to construction of a building on the same premises. It may also include preparation activities, such as crushing and washing, customarily part of earth resource extraction activities.
- B. Review Procedure.** Earth resource extraction may be permitted as a conditional use by the Development Review Board in designated zoning districts according to Section 204. Site plan review by the Development Review Board is also required.
- C. Specific Application Requirements.** In addition to conditional use and site plan application requirements, earth resource extraction proposals shall include:
- the depth of excavation;
 - existing grade and proposed grade created by removal or addition of material;
 - proximity to roads and adjacent properties;
 - the average amount of earth resource to be extracted on a monthly or annual basis;
 - the hours of operation and seasons of use;
 - the expected duration of operation;
 - the number of truck trips per day traveling to/from the extraction site;
 - an erosion and sediment control plan to be following while the extraction operation is active; and
 - a reclamation plan that addresses grading, seeding, mulching, planting, fencing, drainage, and other measures.
- D. Specific Review Standards.** The applicant must present a plan to demonstrate that they comply with the following requirements, in addition to the conditional use and site plan review standards.
1. The applicant shall present a reclamation plan that includes removing all debris, leveling all cut slopes and soil banks and grading to an even low angle, and establishing a firm cover of grass or other vegetation sufficient to prevent erosion. A performance bond shall be secured from the applicant sufficient to ensure that, upon completion of the operation, the site will be restored for other development uses in compliance with the approved reclamation plan.

2. Earth resource extraction operations are subject to the Stormwater and Erosion Control standards in Section 606.
3. Adjoining land areas shall be protected from undue adverse impacts resulting from dust, noise, or air pollution. As such,
 - a. No power activated sorting machinery or equipment shall be located within three hundred feet of any street or other property line, and all such machinery shall be equipped with satisfactory dust control devices; and
 - b. Within the required setback areas, the natural vegetation shall be retained, and supplementary planting may be required in order to buffer impacts from the operation.
4. Suitable fencing or other appropriate safety precautions may be required around extraction sites, sedimentation ponds, and spoil or equipment storage areas.
5. Explosives may be used only per a plan approved by the Development Review Board and only after it has been demonstrated by the applicant that the use of such materials will not have an undue adverse impact on adjoining properties. The explosives plan shall include an approximate schedule, general locations and a plan for notifying adjacent landowners.

SECTION 703: FENCES

- A. Applicability.** All fences over 6 feet high are subject to this section. Fences over 6 feet high shall either be approved by the Zoning Administrator through issuance of a zoning permit or approved by the Development Review Board as part of a conditional use or site plan approval.
1. **Exemptions.** Fences whose primary purpose is agricultural in nature, stonewalls, earthen berms, hedgerows, and other vegetation do not require permits and are exempt from the standards of this section.
- B. Review Standards.** Fences over 6 feet high shall comply with the following standards.
1. **Location.** Fences shall not be located within any road or highway right-of-way and shall not present a hazard to vehicles (including interference with sight distances at intersections), cyclists, or pedestrians. This standard applies to, but is not limited to, areas on a curve or on a tangent to a curve and on a corner lot to the triangular area formed by the lot lines along highways, roads, or rights-of-way and a line connecting them at 30 feet from the intersection. Fences in river corridors, floodplains and floodways shall meet the requirements of Article IX.

2. **Setbacks.** Fences and all associated footings, etc., shall remain on the property of the applicant set back a minimum of two feet from the property line. Construction on a property line may be permitted only through joint application.
3. **Public Roadways.** Fences that face a public road or highway shall be appropriately screened with vegetation to soften the landscape, add detail and break up the façade of the fence. The screening shall not be planted in the right-of-way and shall not create a hazard for drivers.
4. **Construction Material.**
 - a. All fences shall be of durable materials and shall be maintained in good condition, using materials that appear similar to that of traditional fencing for new or replacement fencing.
 - b. No fence shall be made of reflective materials.
 - c. Fences shall not be topped with barbed wire, razor wire or similar material unless required for public safety (e.g. prisons, electrical substations, airports).
 - d. Where applicable, the more visually appealing side is required to face neighboring properties.

5. **Renewable Energy.** Fences shall not impair the use of renewable energy structures on adjacent properties.

5-6. Where applicable, the more visually appealing side is required to face neighboring properties.

SECTION 704: HOME BUSINESS

- A. **Exempt from regulation.** Home offices and work areas used by writers, editors, consultants, artists, or telecommuters located entirely within a principal dwelling or accessory structure and used only by a resident of the dwelling, without signs, public access, or outdoor storage or displays, employees, or helpers other than members of the household. These types of businesses are not visibly apparent and do not impact neighboring properties.
- B. **Applicability.** Most home-based businesses will meet the requirements for either a Home Occupation or Home Enterprise. If a home-based business does not meet the requirements of this section it may be permitted as another allowed use according to Section 204 and subject to all applicable requirements of these Regulations.
- C. **Overall Standard of Review.** Home businesses such as Home Occupations and Enterprises are businesses which are customary in residential areas; they do not have an “undue adverse effect upon the character of the residential area” in which the dwelling is located,

Commented [TN6]: Is this needed? Also, it's not necessarily true. You're regulating home enterprises below.

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and they have little to no impact on neighboring properties (**State Statute 24 VSA S 4412(4)**) (See Figure 3.2).

D. Specific Review Standards.

1. ~~1.~~ **Home Occupation.** No provision of these regulations shall infringe upon the right of any resident to have a home occupation provided the standards of this section are met. A home business that exhibits little indication that a business exists within the residential neighborhood is a home occupation. A home occupation shall not exceed 30% of the habitable floor area of the dwelling, whether located in either the dwelling or an accessory structure. Home occupations shall meet all the following standards:
 - a. There are two (2) or fewer employees or helpers other than members of the household.
 - b. The home occupation does not have posted hours of operation or generate significant additional traffic.
 - c. The home occupation has no impact on the character of the neighborhood.
 - d. The home occupation signs shall comply with the South Hero Sign Ordinance.
 - e. The home occupation shall not produce noise, smoke, vibration, dust, glare, or odors discernable on any adjoining property.
2. ~~2.~~ **Home Enterprise.** No provision of these regulations shall infringe upon the right of any resident to have a home enterprise provided the standards in this section are met. A home enterprise requires conditional use and site plan review by the Development Review Board.
 - a. **Employees.** The home enterprise shall be conducted by the residents of the premises and no more than three (3) non-resident year-round employees.
 - b. **Location.** The home occupation shall be conducted within a dwelling or within an accessory structure.
 - c. **Intensity of Use.** The home occupation use shall be clearly incidental or secondary to the use of the property for dwelling purposes and shall not change the character thereof. A home enterprise shall not use more than 50% of the habitable floor area of the dwelling unit, whether located in either the dwelling or an accessory structure.
 - d. **Exterior Storage.** Any exterior storage of materials used in the home occupation shall be screened and characteristic of a residential property. There shall be no public display of goods or wares visible from the road.
 - e. **Retail.** On-site wholesale and/or retail sales shall be limited to products produced on the premises.
 - f. **Traffic Generation.** No traffic shall be generated in substantially greater volumes than would normally be expected from a residential use in the neighborhood. This includes, but is not limited to, delivery truck traffic.
 - g. **Off-Site Impacts.** The home enterprise shall not produce noise, smoke, vibration,

dust, glare, odors, electrical interference or heat greater than what is expected in a residential neighborhood.

- h. Signage.** The home occupation shall comply with the South Hero Sign Ordinance.
- i. Parking.** Any off-site parking in excess of what is allowed for the residential use of property shall comply with requirements of Section 603.

Table 7.1: Comparison of Standards for Home Businesses

Standard	Home Occupation	Home Enterprise
Employees	2 year-round employees	No more than 3 non-resident employees.
Location	Within a structure. Either not more than 30% of principal dwelling or accessory structure	Within or outside principal dwelling or accessory structure
Intensity of Use	Incidental and accessory to principal residential use	May operate similarly to second principal use
Exterior Storage	Allowed with screening as characteristic of residential use	Allowed with screening
Retail	Only products produced onsite	Allowed
Traffic Generation	Not more than characteristic for residential use in area	Not more than characteristic for immediate neighborhood as whole
Off-Site Impacts	None	None
Parking	Restricted from setback areas.	Restricted from setback areas and shall comply with Section 603.

SECTION 705: LAKE ACCESS STRUCTURES

A. Applicability. Lake access structures include stairways or pedestrian ramps constructed to gain access to the lakeshore. Lake access structures come under the jurisdiction of these Regulations above the normal mean water level of the State (95.5 feet above sea level). Lake access structures may also be subject to the jurisdiction of the Army Corps of Engineers if located below or beyond an elevation of 98 feet above sea level or the Vermont Department of Environmental Conservation if located at or below 95.5 feet above sea level. Structures located all or partially below the 102-foot elevation contour are subject to Flood Hazard Area review in accordance with Article IX in addition to this section.

B. Review Standards. The Zoning Administrator may permit lake access structures designed and constructed to minimize visual impact according to the following standards:

1. Lake access structures are exempt from the lake setback requirement but are subject to property line setbacks for accessory structures.
2. No roofs or other permanent shelters are permitted on Lake Access Structures.

3. Landings and turnarounds shall be kept as small as possible. Top landings shall not exceed 144 square feet, and mid-landings shall not exceed 18 square feet.
4. Any lighting shall meet the standards in Section 506.
5. Design shall include means to raise all or a portion of the structure such that no part of the structure remains below the 102-foot lake level in order to minimize erosion damage and prevent hazard to navigation.

SECTION 706: MARINAS

A. Applicability. Any individuals, businesses, or associations that engage in one or more of the following items shall be considered a marina:

1. Sale or rental, or provision for association members of more than 10 (ten) moorings, slips, or docking berths, or
2. Storage, servicing, launching, fueling, cleaning, repair, or rental boats or other marine craft docked or moored on the site.

Marinas are subject to conditional use and site plan review standards, and additionally shall comply with the specific standards of this section.

B. Review Standards for Marinas. Marinas shall comply with the following standards.

1. **Shoreline Frontage.** Marinas require a minimum of 200 feet of continuous shoreline frontage.
2. **Parking, Storage and Circulation Standards.** The site plan shall indicate a plan for parking; storage of boats, dinghy, and other marina craft and marine equipment; and onsite circulation in conformance with the following standards:
 - a. **Parking.** Marinas shall comply with the off-street parking requirements of Section 507, Section 603 and this section. Parking areas shall be setback a minimum of 25 feet from all property lines and 75 feet from the Lake. Parking spaces intended for vehicles and boat trailers shall be adequately sized (approximately 10 feet by 40 feet). The Development Review Board may approve shared parking spaces for those spaces used primarily in the summer and those used for winter storage.
 - b. **Storage of Boats and Dinghies.** Boat and dinghy storage areas shall be designated on the site plan. Boat and dinghy storage areas are exempt from the 75 feet setback from the Lake but must be located higher than the base flood elevation.
 - c. **On-site Circulation.** The site plan shall indicate on-site vehicular and pedestrian circulation with adequate access provided for all site amenities, including the pump

out station, boat washing station, and fuel storage area. Drainage from the boat washing station shall be treated on site. Adequate space shall be provided for launching and servicing boats so as not to interfere with the public right-of-way.

- d. **Pedestrian Accessibility.** The site plan shall include designated pedestrian paths to and from buildings and bathroom facilities, parking areas, moorings and docking berths, and to adjacent properties. Crosswalks may be required for marinas bisected by a road or where it is appropriate to provide safe access to adjacent uses.

3. **Stormwater Management.** In addition to the standards in Section 606, if a marina will provide boat washing it must be designated to a limited area on the site plan and adequate stormwater management shall be provided to prevent run-off into the lake, per State stormwater permit requirements.

SECTION 707: PUBLIC FACILITIES

- A. In accordance with the Act [Section 4413], the following uses may be regulated, subject to site plan review and/or conditional use review only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking and loading, traffic, noise, lighting, and landscaping or screening requirements, and only to the extent that the regulations do not interfere with the intended functional use:

1. State or community owned and operated institutions and facilities;
2. Public and private schools and other educational institutions certified by the Vermont Department of Education;
3. Churches and other places of worship (see definitions), convents, and parish houses;
4. Public and private hospitals;
5. Regional solid waste facilities certified by the State [10 V.S.A. Chapter 159]; and
6. Hazardous waste management facilities for which a notice of intent to construct has been received under state law [10 V.S.A. §6606a].

SECTION 708: SEASONAL CONVERSION

- A. Seasonal dwelling units may be converted to single household year-round dwelling units subject to the issuance of a zoning permit if the Zoning Administrator determines that the conversion meets the following requirements:
 1. The property shall comply with the wastewater and potable water supply requirements in Section 509.

2. The property shall comply with the driveway standards (Section 503) and be accessible by emergency and service vehicles
3. The off-street parking requirements in Section 507 for residential dwelling units shall be met. The parking requirement may be satisfied with a deeded parking easement on an adjacent parcel.

SECTION 709: TELECOMMUNICATION FACILITIES

A. Applicability. New or expanded telecommunication facilities that **are not** subject to 30 V.S.A. §248a, including but not limited to towers and accessory structures, are subject to conditional use review and the provisions of this Section. In conformance with 24 V.S.A. §4412(9), the Development Review Board may permit new or expanded telecommunications facilities if the Development Review Board finds that the facility will impose not more than a *de minimis* impact on all applicable standards in these regulations.

1. Notwithstanding the requirements of Subsection (A), wireless telecommunications equipment subject to this section to be mounted on existing towers, utility poles, silos, steeples or other existing structures may be permitted by the Zoning Administrator without Conditional use review provided that:
 - a. No changes are made to the height or appearance of such structure except as required for mounting;
 - b. The height of the antenna as mounted does not exceed maximum district height requirements under Article V;
 - c. No panel antenna shall exceed 72 inches in height or 24 inches in width;
 - d. No dish antenna shall exceed 3 feet in diameter; and
 - e. Any accompanying equipment shall be screened from view.
2. A Certificate of Public Good from the Public Service Board under 30 V.S.A. §248a preempts these regulations and may be required for the construction or installation of telecommunications facilities that are to be interconnected with other telecommunications facilities proposed or already in existence. The Public Service Board determines jurisdiction.

B. Exemptions. The following are considered to be *de minimis* alterations and are specifically exempted from the provisions of this Section and no zoning permit shall be required:

1. Placement of an antenna used to transmit, receive, or transmit and receive communications signals on that property owner's premises if the area of the largest face of the antenna is not more than 15 square feet, and if the antenna and any mast support do not extend more than 12 feet above the roof of that portion of the building to which the mast is attached.

2. Antenna structures less than twenty (20) feet in height with a primary function to transmit or receive communication signals for commercial, industrial, municipal, county, or state purposes.
 3. Telecommunication facilities that are used exclusively for municipal radio dispatch service or emergency radio dispatch service and which do not exceed 100 feet in height.
 4. A single ground or building mounted radio or television antenna or satellite dish not exceeding 36 inches in diameter which is intended solely for residential use, and does not, as mounted, exceed 40 feet in height above the lowest grade at ground level.
 5. All citizens band radio antennae or antennae operated by a federally licensed amateur radio operator which do not exceed a height of 50 feet above the grade level, whether free standing or mounted, and which meet all setback requirements for the district in which they are located.
- C. **Supplemental Application Requirements.** In addition to the application requirements set forth in Article 3.2, applications for new towers shall also include the following:
1. A report from a qualified and licensed professional engineer which describes tower height, construction design and capacity, including cross-sections, elevations, potential mounting locations, and fall zones.
 2. Information regarding the availability of existing towers and buildings located within the service area of the proposed site, including written documentation from other facility owners within the area that no suitable sites for the proposed facility are available at existing facilities.
 3. A letter of intent committing the tower owner and his/her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.
 4. Written documentation that the proposed tower shall comply with all requirements of the Federal Communications Commission, and the Federal Aviation Administration.
 5. Any additional information needed to determine compliance with the provisions of these regulations.
- D. **Construction Standards.** Telecommunications facilities shall conform to the following construction standards:
1. The facility shall not be built on speculation. If the applicant is not a telecommunication service provider, the applicant shall provide a copy of a contract or letter of intent

showing that a telecommunication service provider is legally obligated to locate a wireless telecommunication facility on lands owned or leased by the applicant.

2. All towers, including antennae, shall be less than 200 feet in height as measured from the lowest grade at ground level to the top of the highest structure or component.
3. All telecommunication facilities shall comply with the setback provisions of the zoning districts in which facilities are located. Notwithstanding the above, in order to ensure public safety, the minimum distance of any wireless telecommunication facility to any property line, dwelling, or occupied structure shall be no less than the height of the tower, including antennas or other vertical appurtenances. This setback shall be referred to as a fall zone. In the event that an existing structure such as a barn silo, church steeple, or utility pole is proposed as a mounting for a wireless telecommunication facility, a fall zone setback may not be required.
4. The facility will not be illuminated by artificial means and will not display any lights or signs except for such lights and signs as required by Federal Aviation Administration, federal or state law, or these Regulations.
5. The Development Review Board may require the applicant to provide a bond, or other form of financial guarantee acceptable to the Development Review Board, to cover the cost of removal of the facility, should the facility be abandoned or cease to operate.
6. The applicant demonstrates that the facility will be in compliance with all FCC standards and requirements regarding radio frequency radiation. The owner of a wireless telecommunication facility shall, on a yearly basis, file a certificate to the Zoning Administrator showing that it is in compliance with all FCC standards and requirements regarding radio frequency radiation, and that adequate insurance has been obtained for the facility.
7. The facility will be properly identified with appropriate warnings indicating the presence of radio frequency radiation.
8. The proposed equipment is installed on an existing wireless telecommunication facility, unless it is demonstrated by the applicant that such co-location is not structurally or spatially possible.
9. The facility provides reasonable opportunity for the installation and operation of other telecommunications equipment (co-location).
10. Unless otherwise approved by the Development Review Board, an abandoned or unused wireless telecommunication facility shall be removed within 2 years of abandonment or cessation of use. The applicant may apply to the Development Review Board for an extension for removal. If the facility is not removed or an extension

granted within 2 years of abandonment or cessation of use, the Development Review Board may cause the facility to be removed. The costs of removal shall be assessed against the facility owner.

11. Unused portions of a wireless telecommunication facility shall be removed within 1 year of the time that such portion is no longer used. Replacement of portions of a facility previously removed shall require a new permit.

E. **Additional Conditional Use Criteria.** In addition to the conditional use standards in Section 303 and the construction standards in (F) above, the Development Review Board shall approve an application for a wireless telecommunications facility when it finds that the application does not impose more than a *de minimus* impact on the following criteria:

1. New towers shall be sited and designed to minimize their visibility. New or modified towers and antennae shall be designed to blend into the surrounding environment to the greatest extent feasible, through the use of existing vegetation, landscaping and screening, the use of compatible materials and colors, or other camouflaging techniques .
2. Access roads, and all accessory utility buildings and structures shall be designed to aesthetically blend in with the surrounding environment and meet all other minimum requirements for the district in which they are located. Ground-mounted equipment shall be screened from view. Setback, landscaping and screening requirements may be increased as appropriate based on site conditions, and to protect neighboring properties and uses. All utilities proposed to serve a telecommunications site shall be installed underground.

ARTICLE VIII: ADMINISTRATION AND ENFORCEMENT

SECTION 801: ZONING ADMINISTRATOR

- A. Appointment.** The Zoning Administrator shall be appointed for a term of three (3) years by the Selectboard in accordance with the Act (24 V.S.A. §4448).
- B. Duties.** The Zoning Administrator shall administer and enforce the Development Regulations pursuant to the Act and shall not have the power to permit land development that is not in conformance with these regulations. Said officer shall inspect developments, maintain records and perform all other necessary tasks to carry out the provisions of these regulations. In the issuance of zoning permits, the Zoning Administrator shall comply with all of the provisions of Section 4449 of the Act. Appeals from any decision or act taken by the Zoning Administrator shall be made as provided for in Section 807. In addition, the Zoning Administrator shall:
1. Prepare and provide interested persons with forms required to obtain any municipal permit or other municipal authorization required under these regulations, or any other laws and ordinances that relate to the municipal regulation of land development;
 2. Coordinate a united effort on behalf of the Town in administering its development review programs; and
 3. Inform any person applying for municipal permits or authorizations that the person also should contact the regional permit specialist employed by the Vermont Agency of Natural Resources in order to assure timely action on any related State permits that may be required.
- C. Acting Zoning Administrator.** An acting Zoning Administrator may be appointed pursuant to the Act.

SECTION 802: DEVELOPMENT REVIEW BOARD

- A. Appointment:** The Development Review Board shall consist of not less than five (5) or more than nine (9) members appointed by the Selectboard who shall act on all matters within its jurisdiction under these regulations in the manner prescribed in the Act. Vacancies shall be filled by the Select Board for unexpired terms and upon the expiration of terms, unless otherwise provided for in accordance with the Act (24 V.S.A. §4460). A member of the Development Review Board may be removed for cause by the Selectboard upon written charges and after a public hearing.
- B. Alternates.** The Selectboard may annually, or as needed, appoint up to two alternates who may temporarily serve as Development Review Board members in the event of a recusal or absence of one or more members.

- C. Rules.** The Development Review Board shall adopt Rules of Procedure and Rules of Ethics in accordance with the Act § 4461.
- D. Duties.** The Development Review Board shall have all the powers and duties as set forth in the Act to administer the provisions of these regulations, including but not limited to the power to hear and act upon:
1. Appeals of any decision, act or failure to act by the Zoning Administrator;
 2. Applications for conditional use review;
 3. Requests for waiver;
 4. Requests for variance;
 5. Applications for telecommunications facilities;
 6. Applications for rights-of-way or easements to serve as access for development lacking frontage;
 7. Applications for site plan review;
 8. Applications for subdivision review;
 9. Applications for any other review or approval as required by these regulations or the Act.

SECTION 803: PLANNING COMMISSION

- A. Appointment.** A Planning Commission shall be appointed by the Selectboard unless otherwise provided for in accordance with the Act (24 V.S.A. §4321-§4323). A Planning Commission shall have not less than three nor more than nine voting members. The number of members shall be determined by the Selectboard. A majority of members shall be residents of the municipality. Members shall have terms of office of three (3) years, and vacancies shall be filled by the Selectboard for unexpired terms and upon the expiration of terms, unless otherwise provided for in accordance with the Act (24 V.S.A. §4323). Members may be removed for cause at any time by a unanimous vote of the Selectboard upon written charges being filed, and after a public hearing is held.
- B. Duties.** In accordance with the Act (24 V.S.A. Sections §4323, §4325), the Planning Commission is enabled with the following powers and duties pertaining to the amendment and administration of these regulations:

1. Prepare a plan and amendments thereof for consideration by the Selectboard and to review any amendments thereof initiated by others as set forth in subchapter 5 of the Act;
2. Prepare and present to the Selectboard proposed bylaws and make recommendations to the Selectboard on proposed amendments to such bylaws as set forth in subchapter 6 of the Act;
3. Undertake capacity studies and make recommendations on matters of land development, transportation, economic and social development, beautification and design improvements, historic and scenic preservation, the conservation of energy and the development of renewable energy resources and wetland protection;
4. Prepare and present to the Selectboard recommended building, plumbing, fire, electrical, housing, and related codes and enforcement procedures, and construction specifications for streets and related public improvements;
5. Prepare and present a recommended capital budget and program for a period of five years, as set forth in 24 V.S.A. §4440 of this title, for action by the Selectboard, as set forth under 24 V.S.A. §4443 of this title;
6. Hold public meetings;
7. Require from other departments and agencies of the municipality such available information as relates to the work of the planning commission;
8. In the performance of its functions, enter upon land to make examinations and surveys;
9. Participate in a regional planning program in coordination with the Selectboard;
10. Retain staff and consultant assistance in carrying out its duties and powers in coordination with the Selectboard;
11. Undertake comprehensive planning, including related preliminary planning and engineering studies;
- [12.](#) Perform such other acts or functions as it may deem necessary or appropriate to fulfill the duties and obligations imposed by, and the intent and purposes of 24 V.S.A. Chapter 117.

SECTION 804: ZONING PERMIT ISSUANCE AND PUBLIC NOTICE

A. Issuance of Permits. Zoning permits shall be issued in accordance with the following:

1. The Zoning Administrator shall not issue a zoning permit unless an application, fee and any prior approvals required by these regulations have been received. If the proposed land development or land use requires Development Review Board or Selectboard approval, the zoning permit application shall be deemed incomplete until such time as the applicable body conducts its review and renders a decision.
2. All zoning permits shall be issued in conformance with Section 301 and all other applicable sections of these regulations.
3. No construction may be initiated under a zoning permit unless and until a State Water/Wastewater Permit has been issued by the State Agency of Natural Resources. If a Water/Wastewater Permit is not required, according to the Agency of Natural Resources, written proof of such shall be provided to the Zoning Administrator by the property owner/applicant.
4. Within thirty (30) days of the submission of a completed application and fee, the Zoning Administrator shall either issue or deny the zoning permit, or refer the application to the Development Review Board in accordance with the Act (24 V.S.A. §4449). If the permit is denied, the Zoning Administrator shall notify the applicant in writing, stating the reason(s) for denial, and the procedure for appeal. If the Zoning Administrator fails to act with regard to a complete application for a permit within 30 days, whether by issuing a decision or by making a referral to the appropriate municipal panel, a permit shall be deemed issued on the 31st day.

B. Notice of Permit and Appeals. Pursuant to the Act (24 V.S.A. §4449), each zoning permit issued shall contain a statement of the period of time within which an appeal may be taken. Each permit notice is required to be posted, on a form prescribed by the municipality, within view of the public right-of-way most nearly adjacent to the subject property as well as in at least one additional public place in the municipality, and shall remain posted until the time for filing an appeal has passed.

C. Administrative Requirements. The following requirements shall be met upon the issuance of a zoning permit.

1. In accordance with the Act (24 V.S.A. §4449(a)), when an application for a zoning permit seeking approval of a structure is submitted, the Zoning Administrator shall provide the applicant with a copy of the applicable building energy standards under 30 V.S.A. §51 (residential building energy standards) and 30 V.S.A. §53 (commercial building energy standards). However, the Zoning Administrator need not provide a copy of the standards if the structure is a sign or a fence or the application certifies that the

structure will not be heated or cooled. In addition, the Zoning Administrator may provide a copy of the Vermont Residential Building Energy Code Book published by the Department of Public Service, or a link to the digital version of the Code book, in lieu of the full text of the residential building energy standards.

2. The Zoning Administrator, within three (3) days of the date of issuance of a zoning permit, shall deliver a copy of the zoning permit to the Listers and shall post a copy of the permit in the municipal offices and other designated public place within the municipality; and the applicant shall immediately post notice on the form prescribed by the municipality within view of the public right-of-way most nearly adjacent to the subject development within view of the public ROW for a period of 15 days.

D. Effective Date. No zoning permit issued pursuant to 24 V.S.A. §4449 shall take effect until the time for appeal in 24 V.S.A. §4465(a) has passed (15 days), or in the event that a notice of appeal is properly filed, such permit shall not take effect until final adjudication of said appeal.

E. Effect of Approval. If the zoning permit is approved, all activities authorized by issuance shall be completed within two years of its date of issue, or the zoning permit shall expire and a new application to complete any activities shall be required. The Zoning Administrator, upon written request prior to the expiration date, may extend the zoning permit and associated approvals for a period not to exceed one year, provided there are no changes to the permitted development.

F. Certificate of Occupancy. A certificate of occupancy is required prior to the use or occupancy of any land development for which a zoning permit has been issued after the effective date of these regulations.

1. Upon receipt of an application for a certificate of occupancy, the Zoning Administrator shall inspect the premises to ensure that all work has been completed in conformance with all permit requirements, including all applicable conditions of the Development Review Board and other local permits (ex. "access permits"). A certificate of occupancy shall be issued by the Zoning Administrator upon their determination that the structure has been developed in accordance with the requirements and conditions of the zoning permit, these regulations, and all other applicable municipal regulations and ordinances. If the Zoning Administrator fails to either grant or deny the certificate of occupancy within thirty (30) days of the submission of an application, the certificate of occupancy shall be deemed to be issued.
2. For land development subject to any other municipal permits and/or a State wastewater permit, no certificate of occupancy shall be issued until all certifications documenting compliance with such permits have been completed.

3. If the applicant has determined that a certificate as explained in 30 V.S.A. §51 or 30 V.S.A. §53 (residential building energy standards or commercial building energy standards) is required for any land development, such certificate shall be completed and signed as a condition precedent to the issuance of a certificate of occupancy.
4. If an applicant has applied for a certificate of occupancy for the installation of a new mobile home or manufactured home, the applicant shall provide the Zoning Administrator with a copy of a completed HUD Form 309 (as required in 24 C.F.R. 3285 and 3286) before the Certificate of Occupancy is issued.

SECTION 805: PUBLIC HEARING AND NOTICE REQUIREMENTS FOR DEVELOPMENT REVIEW BOARD APPLICATIONS

A. Public Hearings and Notice. All public hearings required under these regulations shall be warned in accordance with the Act (24 V.S.A 4418 and 4464). Warnings shall include a description of the proposed project and shall be accompanied by information that clearly explains where additional information may be obtained and that participation in the public hearing is a prerequisite to the right to make any subsequent appeal. Public notice shall be given within 15 days prior to the date of the public hearing by the following methods:

1. The publication of the date, place and purpose of such a hearing in a newspaper of general circulation in the Town;
2. The posting of such notice in three or more public places within the municipality;
3. The posting of such notice within view from the public right-of-way most nearly adjacent to the subject property; and on the subject property itself within view of the private road;
4. Written notification to the applicant and to owners of all properties adjoining the subject property, without regard to any public right-of-way, which shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained and that participation in the local proceeding is a prerequisite to the right to appeal.

The Zoning Administrator shall be responsible for notification of adjoining property owners and posting notice in a local newspaper, and three (3) public places in South Hero. The applicant shall be responsible for posting the notice within view from the public right-of-way nearest to the property for which the application is being made, and shall take all reasonable efforts to assure that the notice remains posted for the required duration.

B. Combined Review. In accordance with 24 V.S.A. §4462, in cases where development proposals require more than one type of development review, the Development Review Board may warn and hold a combined hearing for the purpose of reviewing and acting on

the proposal. The Zoning Administrator shall identify proposed projects appropriate for combined review and assist applicants in preparing and submitting coordinated applications to facilitate the combined review.

Notice for a combined review hearing shall be made in accordance with 24 V.S.A. §4464. The hearing notice shall include a statement that the hearing will be a combined review of the proposed project and list each of the review processes that will be conducted at the hearing.

As applicable, the combined review process shall be conducted in the following order:

1. Access by right-of-way; ~~then~~

2. Requests for waivers;

3. Requests for variances;

4. Conditional use; ~~then~~

5. Site Plan review; ~~then~~

6. Subdivision; ~~then~~

7. Planned unit development; ~~then~~

~~1-8.~~ Any other reviews required by these regulations

All hearing and decision requirements and deadlines applicable to each review process shall apply. A single written decision shall be issued for each combined reviews conducted as part of the combined review, but shall be coordinated where applicable.

- C. Interested Persons.** In any public hearing, or continuation thereof, there shall be an opportunity for each person wishing to achieve status as an interested person to demonstrate that the criteria set forth below are met. The Development Review Board, as appropriate, shall keep a record of the name, address, and participation of each of these persons. An interested person is defined in 24 VSA 4465(b).

Participation, by an interested person, in a local regulatory proceeding shall consist of offering, through oral or written testimony, evidence, or a statement of concern related to the subject of the proceeding.

- D. Continued Hearings.** The Development Review Board may continue a hearing on any application or appeal pending the submission of additional information. Any hearing that is continued shall be continued to a specific date and time as required by the Act.

SECTION 806: DECISIONS

- A. Decision.** The Development Review Board shall render its decision, which shall include written findings of fact, conclusions of law and any conditions, within forty-five (45) days after completing the hearing and shall within that period send a copy of the decision to the applicant/appellant (by certified mail) and to all Interested Persons at the hearing. A copy of the decision shall be filed with the Zoning Administrator and the Town Clerk. If the Development Review Board does not render its decision within forty-five (45) days, the result shall be deemed approved.

B. Expiration.

1. **Development Review Applications.** If an applicant does not obtain a zoning permit for proposed land development approved by the Development Review Board within five years (5) from the date of approval the approval shall expire. This provision shall not apply to subdivision approvals.
2. **Subdivision.** All subdivision approvals shall expire per the standards in Section 406.

SECTION 807: APPEALS

- A. Appeal of Zoning Administrator's Decision.** An interested person may appeal any decision or act taken by the Zoning Administrator by filing a written notice of appeal with the Secretary of the Development Review Board, or the Town Clerk if no such secretary has been elected, within fifteen (15) days of the date of such decision or act. An appeal submitted by the appellant shall include:

- the name and address of the appellant;
- a brief description of the property with respect to which the appeal is being made;
- a reference to the regulatory provisions applicable to the appeal;
- the relief requested by the appellant; and
- the alleged grounds why such relief is believed proper under the circumstances.

The Development Review Board shall hold a public hearing within 60 days of the filing of the notice of appeal according to §4466 of the Act. The public notice and decision requirements according to Section 805 and 806 shall apply.

- B. Appeal of Development Review Board Decision.** An interested person who has participated in a municipal regulatory proceeding may appeal a decision rendered in or as a result of that proceeding of the Board within 30 days of such decision to the Environmental Court according to §4471 of the Act.

- C. Successive Applications.** The Development Review Board may reject an appeal without a hearing and render a decision and findings of fact within ten (10) days of the date of the filing of a notice of appeal, if the Development Review Board considers the facts or issues raised by the appellant to be substantially or materially the same as those decided in a previous appeal by said appellant. Such decision shall be rendered according to Section 806 and shall constitute a decision for the purpose of appeal to the Vermont Environmental Court.

SECTION 808: VIOLATIONS AND ENFORCEMENT

- A. Violations.** The commencement or continuation of any land development, subdivision or use which is not in conformance with the provisions of these regulations shall constitute a violation. All violations will be pursued in accordance with the Act (§ 4451 and § 4452) and/or as a civil matter enforced in accordance with the provisions 24 VSA 1974(a) at the discretion of the Zoning Administrator. Each day that a violation continues shall constitute a separate offense.
- B. Notice of Violation.** Pursuant to the Act [§ 4451], no action may be brought under this Section unless the alleged offender has had at least 7 days' notice by certified mail that a violation exists. The warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the 7 day period, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the 7 day period. Action may be brought without notice and opportunity to cure if the alleged offender repeats the violation of the bylaw after the 7 day notice period and within the next succeeding 12 months. Violations shall be recorded in the land records.
- C. Enforcement.** In accordance with the Act [§§ 4451, 4452], the Zoning Administrator shall institute in the name of the municipality any appropriate action, injunction or other proceeding to enforce the provisions of these regulations.
1. **Pursuant to the Act (Environmental Division).** The Zoning Administrator may pursue any appropriate action, injunction or other proceeding to enforce the provisions of these regulations through the Environmental Division of Vermont Superior Court. All fines imposed and collected for violations shall be paid over to the municipality.
 2. **Civil Enforcement Pursuant to 24 VSA §1974(a).** The Zoning Administrator may pursue enforcement action through the Judicial Bureau. Penalties shall be imposed for violations of any provision of these regulations in accordance with 24 VSA 1974(a) and the schedule below:
 - a. A civil penalty of \$50 may be imposed for the initial violation of these regulations. The penalty for the second offense shall be \$100, and the penalty for each subsequent offense shall be \$200.

- b. A waiver fee may be collected, in lieu of a civil penalty, for any person who declines to contest a municipal complaint and pays the following waiver amounts for each violation. The waiver fee shall be set at \$25 for the first offense, \$50 for the second offense, and \$100 for each subsequent offense.

3. **Enforcement Limitations.**

- a. The municipality shall observe any limitations on enforcement proceedings relating to municipal permits and approvals as set forth in the Act [§ 4454]. An action, injunction or other enforcement proceeding relating to any municipal land use permit may be instituted within 15 years of the date the alleged violation first occurred, and not thereafter. The burden of proving the date the alleged violation first occurred shall be on the person against whom the enforcement action is instituted.
- b. No action, injunction or enforcement proceeding may be instituted to enforce an alleged violation of a municipal land use permit which received final approval from the applicable board, commissioner, or officer of the municipality after July 1, 1998, unless the municipal land use permit or a notice of the permit was recorded in the land records of the municipality as required by the Act [§ 4449].
- c. Nothing in this Section shall prevent any action, injunction or other enforcement proceeding by a municipality under any other authority it may have, including, but not limited to, a municipality's authority under Title 18 relating to the abatement or removal of a public health risk or hazard.

D. –Complaints. A complaint must be filed with the Zoning Administrator when a violation of the regulations occurs or is allowed to have occurred. Complaints must be in writing and state fully the causes and basis for the alleged violation. The Zoning Administrator shall properly record such a complaint, immediately investigate, and take action as appropriate in accordance with these regulations.

ARTICLE IX: FLOOD HAZARD AREA AND RIVER CORRIDOR REGULATIONS

SECTION 901: STATUTORY AUTHORIZATION AND EFFECT

- A.** In accordance with 10 V.S.A. Chapter 32, and 24 V.S.A. Chapter 117 §4424, §4411 §4414, and 24 VSA Chapter 59, there is hereby established a bylaw for areas at risk of flood and erosion damage in the Town of South Hero, Vermont.

SECTION 902: STATEMENT OF PURPOSE

- A.** It is the purpose of this article to:

1. Avoid and minimize the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding related inundation and erosion;
2. Ensure that the selection, design, creation, and use of development in flood hazard areas, as defined in this article, is reasonably safe and accomplished in a manner that is consistent with public well-being, does not impair stream equilibrium, flood plain services, or the stream corridor;
3. Manage all flood hazard areas designated pursuant to 10 V.S.A. §753, the municipal hazard mitigation plan; and make the Town of South Hero, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available.

SECTION 903: LAND TO WHICH THESE STANDARDS APPLY

- A.** These standards shall apply to development in River Corridors and the Special Flood Hazard Area in the Town of South Hero. The flood hazard area regulations herein are the minimum standards that must be met before meeting the additional standards applicable in the underlying zoning district. Flood hazard areas include:

1. The River Corridors, as published by the Vermont Agency of Natural Resources including the Statewide River Corridors and refinements to that data based on field- based assessments, which are hereby adopted by reference. Where River Corridors are not mapped, the standards in Section 905 shall apply to all rivers and streams included in the Vermont Hydrography Dataset (VHD) as follows:

Table 9.1 River Corridor Standards	
Drainage Area	Area To Which Standards Apply
Greater Than 2 Square Miles	As mapped by ANR
Between 2 Square Miles and .5 Square Miles	50 feet from top of bank or top of slope
Less Than .5 Square Miles	No standard

2. The Special Flood Hazard Areas in and on the most current flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), and National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. §753, which are hereby adopted by reference and declared to be part of these regulations.

B. Base Flood Elevations & Floodway Limits:

1. Where available, base flood elevations and floodway limits (or data from which a community can designate regulatory floodway limits) provided by the National Flood Insurance Program and in the Flood Insurance Study and accompanying maps shall be used to administer and enforce these regulations.
2. In Special Flood Hazard Areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, it shall be the responsibility of the applicant to develop the base flood elevation at the site using data provided by FEMA or available from State or other Federal agencies.

C. Interpretation. The information presented on any maps, or contained in any studies, adopted by reference, is presumed accurate.

1. If uncertainty exists with respect to the boundaries of the Special Flood Hazard Area or the floodway, the location of the boundary shall be determined by the Zoning Administrator (ZA). If the applicant disagrees with the determination made by the ZA, a Letter of Map Amendment from FEMA shall constitute proof.
2. If uncertainty exists with respect to the boundaries of the River Corridor, the location of the boundary shall be determined by the ZA. If the applicant disagrees with the determination made by the ZA, a letter of determination from the Vermont Agency of Natural Resources shall constitute proof.

D. Precedence of Bylaw. The provisions of these flood hazard bylaws shall not in any way impair or remove the necessity of compliance with any other local, state, or federal laws or regulations. Where this flood hazard regulation imposes a greater restriction the provisions here shall take precedence.

E. Warning and Disclaimer of Liability. This article does not imply that land outside of the areas of Special Flood Hazard Area, River Corridor, or land use permitted within Flood Hazard Overlay District will be free from flooding or flood damages. These standards shall not create liability on the part of the Town of South Hero or any town official or employee thereof for any flood damages that result from reliance on the standards of this article or any administrative decision lawfully made hereunder.

SECTION 904: DEVELOPMENT REVIEW IN FLOOD HAZARD AREAS

A. Zoning Permit. A zoning permit is required from the Zoning Administrator for development in Flood Hazard Overlay District. Development that requires conditional use review or a variance from the Development Review Board (DRB) under this article must have such approvals prior to the issuance of a zoning permit by the Zoning Administrator. Any zoning permit issued will require that all other necessary permits from State or Federal Agencies have been received before work may begin.

B. Permitted Development. The following development is permitted and requires only a zoning permit from the Zoning Administrator provided that the development standards in Section 905 are met:

1. Special Flood Hazard Area (excluding Floodway):
 - a. Non-substantial improvements to existing structures
 - b. Accessory structures
 - c. Development related to on-site septic or water supply systems
 - d. Building utilities
 - e. At-grade parking for existing structures
 - f. Recreational vehicles
 - g. Lake access structures
 - h. Retaining wall/Floodwalls
 - i. New or replacement fuel storage tanks for existing structures
 - j. Grading, excavation; or the creation of a pond
2. Floodway and River Corridor
 - a. Recreational vehicles

C. Conditional Use Review. Conditional use review by the Development Review Board is required prior to the issuance of a zoning permit by the Zoning Administrator for the following development:

1. Special Flood Hazard Area (excluding Floodway):
 - a. Substantial improvement, ~~-elevation, -relocation, -or -flood- proofing -of -existing~~ structures
 - b. Improvements to existing roads
 - c. Bridges, ~~-culverts, -channel- management- activities, -or- public- projects -which -are~~ functionally dependent on ~~st~~stream access or stream crossing
 - d. Public utilities
2. Floodway
 - a. All improvements to existing structures in the floodway

3. River Corridor

- a. Improvements to existing principal structures in the River Corridors that do not expand the footprint of the existing structure more than 500 square feet
- b. Accessory structures in the River Corridors, of 500 square feet or less, that represent a minimal investment
- c. Building utilities
- d. At-grade parking for existing buildings in the River Corridors

D. Prohibited Development. The following development is prohibited:

1. Special Flood Hazard Area:

- a. New residential or non-residential structures (including the placement of manufactured homes)
- b. Storage or junk yards
- c. New fill except as necessary to elevate structures above the base flood elevation
- d. Critical facilities
- e. All development not exempted, permitted, or conditionally permitted

2. Floodway:

- a. New residential or non-residential structures (including the placement of manufactured homes)
- b. Storage or junk yards
- c. New fill except as necessary to elevate structures above the base flood elevation
- d. Accessory structures
- e. Critical facilities
- f. All development not exempted, permitted, or conditionally permitted

3. River Corridor

- a. New residential or non-residential principal structures (including the placement of manufactured homes)
- b. Storage or junk yards
- c. New fill (except where the River Corridor and Special Flood Area overlap in which case new fill can be used to elevate structures above the base flood elevation)
- d. Critical facilities
- e. All development not exempted, permitted, or conditionally permitted

E. Exempted Development. The following development is exempt from regulation under this article:

- 1. The removal of a building or other structure in whole or in part.
- 2. Maintenance of existing roads and storm water drainage.

3. Silvicultural (forestry) activities conducted in accordance with the Vermont Department of Forests and Parks Acceptable Management Practices.
4. Agricultural activities conducted in accordance with the Vermont Department of Agriculture's Required Agricultural Practices (RAP). Prior to the construction of farm structures the farmer shall follow the procedures outline in Section 301(E).

SECTION 905: FLOOD HAZARD AREA DEVELOPMENT STANDARDS

A. Special Flood Hazard Area:

1. All Development shall be:
 - a. Reasonably safe from flooding;
 - b. Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure during the occurrence of the base flood;
 - c. Constructed with materials resistant to flood damage;
 - d. Constructed by methods and practices that minimize flood damage; and
 - e. Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - f. Adequately drained to reduce exposure to flood hazards;
 - g. Located so as to minimize conflict with changes in channel location over time and the need to intervene with such changes; and,
 - h. Required to locate any fuel storage tanks (as needed to serve an existing building in the Special Flood Hazard Zone) a minimum of two feet above the base flood elevation and be securely anchored to prevent flotation; or storage tanks may be placed underground, if securely anchored as certified by a qualified professional.
2. In Zones AE, AH, and A1-A30 where floodways and/or base flood elevations have not been determined, development shall not be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated encroachment, will not increase the water surface elevation of the base flood more than one foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a registered professional engineer.
3. Structures to be substantially improved in Zones A, A1-30, AE, and AH shall be located such that the lowest floor is at least two feet above base flood elevation, this must be documented, in as-built condition, with a FEMA Elevation Certificate.
4. Non-residential Development:
 - a. Shall meet the standards in Section 904(A)(3); or,

- b. Shall have the lowest floor, including basement, elevated to or above the base flood elevation or together with attendant utility and sanitary facilities be designed so that two feet above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A permit for a building proposed to be floodproofed shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.
- 5. Fully enclosed areas below grade on all sides (including below grade crawlspaces and basements) are prohibited.
- 6. Fully enclosed areas that are above grade, below the lowest floor, and below base flood elevation, shall:
 - a. Be used solely for parking of vehicles, building access, or storage and such condition shall clearly be state on any permits; and
 - b. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs shall be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- 7. Recreational Vehicles shall be fully licensed and ready for highway use.
- 8. A small accessory structure of 500 square feet or less, that represents a minimal investment, need not be elevated to the base flood elevation provided the structure is placed on the building site so as to offer the minimum resistance to the flow of floodwaters and shall meet the criteria in Section 905(A)(6).
- 9. Water Supply Systems: New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- 10. Sanitary Sewage Systems: New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- 11. On-Site Waste Disposal Systems: On-site wastewater disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

12. Watercourse Carrying Capacity: The flood carrying capacity within any altered or relocated portion of a watercourse shall be maintained and any alteration or relocation shall not result in any decrease of stream stability.
13. Bridges and culverts, which by their nature must be placed in or over the stream, must have a stream alteration permit from the Agency of Natural Resources where applicable.
14. Subdivisions and planned unit developments shall be accessible by dry land access outside the Special Flood Hazard Area.
15. Existing buildings, including manufactured homes, to be substantially improved in Zone AO shall have the lowest floor, including basement, elevated above the highest adjacent grade, at least as high as the depth number specified on the community's Flood Insurance Rate Map (FIRM), or at least two feet above grade if no depth number is specified.

B. Floodway Areas:

1. Encroachments or development above grade and less than one foot above the base flood elevation are prohibited unless hydrologic and hydraulic analyses are performed in accordance with standard engineering practice, by a licensed professional engineer, certifying that the proposed development will:
 - a. Not result in any increase in flood levels (0.00 feet) during the occurrence of the base flood;
 - b. Not increase any risk to surrounding properties, facilities, or structures from erosion or flooding;
 - c. Meet all standards in Section 905(A).
2. Public utilities may be placed underground, and the analyses may be waived, where a licensed professional engineer certifies that there will be no change in grade and the utilities will be adequately protected from scour.

C. River Corridors:

1. Improvements to existing structures, and any associated fill as needed to comply with elevation requirements outlined in Section 905(A), shall not decrease the distance between the existing principal building and the top of bank;
2. Accessory structures may be located within 50 feet of the existing principal building provided that the location does not decrease the distance between the existing principal structure and the top of bank;

3. Development shall not increase the susceptibility of the development, or other properties, to potential fluvial erosion damage.;
4. Development shall not increase the potential of materials being swept onto other properties, or into the stream or river, and shall not increase the potential of causing damage to other properties from fluvial erosion;
5. Development shall not cause an undue burden on public services and facilities including roads, bridges, culverts, and emergency service providers during and after fluvial erosion events;
6. Bridge and culvert projects shall have a Stream Alteration Permit; and
7. Channel management activities must be authorized by the Agency of Natural Resources.

SECTION 906: STANDARDS FOR REVIEW OF NON-CONFORMING STRUCTURES.

The Development Review Board may approve the repair, relocation, replacement, or enlargement of a non-conforming structure within a Flood Hazard Overlay District, subject to compliance with applicable federal and state laws and regulations, compliance with Section 505, and provided that the following criteria are met:

- A. The proposed development is in compliance with all the Development Standards in Section 905 of this bylaw;
- B. A non-conforming structure that is substantially damaged or destroyed may be reconstructed only in circumstances when the structure cannot be relocated to a less hazardous location on the lot. The lowest floor of the reconstructed structure shall be rebuilt to two feet or more above the base flood elevation, and the structure shall otherwise comply with all requirements of the National Flood Insurance Program;
- C. Non-conforming structures and non-conforming uses shall be considered abandoned where such structures or uses are discontinued for more than two years; and
- D. An individual manufactured home lot in an existing manufactured home park that is vacated shall not be considered a discontinuance or abandonment of non-conformity. Replacement manufactured homes shall be placed so as to meet the development standards in this bylaw.

SECTION 907: VARIANCES TO THE DEVELOPMENT STANDARDS.

Variances shall be granted by the Development Review Board only in accordance with the criteria for granting variances found in 44 CFR, Section 60.6, of the National Flood Insurance Program regulations and Section 305.

- A. A variance for development within the River Corridors may be allowed if, based on a review by Vermont Agency of Natural Resources, it is determined that the proposed development will not obstruct the establishment and maintenance of fluvial geomorphic equilibrium for the watercourse.
- B. Any variance issued in the Special Flood Hazard Area (including Floodway) shall not increase flood heights, increase susceptibility to flooding or erosion, additional threats to public safety or infrastructure (including emergency services during flood events), or result in extraordinary public expense. All decisions granting a variance shall be accompanied with a letter from the Zoning Administrator informing the applicant in writing that the issuance of a variance to construct a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as \$25 for every \$100 of coverage. Such notification shall be maintained with a record of all variance actions.

SECTION 908: APPLICATION REQUIREMENTS

- A. **Application Submission Requirements.** Applications for development in Flood Hazard Overlay District shall include:
 - 1. Where applicable, a site plan that depicts the proposed development, all water bodies, Special Flood Hazard Areas, Floodways, River Corridors, the shortest horizontal distance from the proposed development to the top of bank of any stream, any existing and proposed drainage, any proposed fill, and pre and post development grades, the elevation of the proposed lowest floor (as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps), and any other information required by the Development Review Board to ensure compliance with Section 905 and any other applicable sections of these regulations.
 - 2. A Vermont Agency of Natural Resources Project Review Sheet for the proposal. The Project Review Sheet shall identify all State and Federal agencies from which permit approval is required for the proposal, and shall be filed as a required attachment to the municipal zoning permit application. The identified permits, or letters indicating that such permits are not required, shall be submitted to the Zoning Administrator and shall be attached to the zoning permit before work can begin.
- B. **Referrals.**
 - 1. Upon receipt of a complete application for a substantial improvement or new construction, the Zoning Administrator shall submit a copy of the application to the Vermont Agency of Natural Resources for comment in accordance with 24 VSA §4424(D). A zoning application shall not be considered complete, and may only be issued by the Zoning Administrator, following receipt of comments from the Agency, or 30 days has elapsed since the application was submitted, whichever is sooner.

2. If the applicant is seeking a permit for the alteration or relocation of a watercourse, copies of the application shall also be submitted to the adjacent communities, the Stream Alteration Engineer at the Vermont Agency of Natural Resources, and the Army Corps of Engineers. Copies of such notice shall be provided to the State National Flood Insurance Program (NFIP) Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation. A permit may be issued only following receipt of comments from the Vermont Agency of Natural Resources, or the expiration of 30 days from the date the application was mailed to the Vermont Agency of Natural Resources, whichever is sooner. The Development Review Board should consider comments from the NFIP Coordinator at Vermont Agency of Natural Resources.

C. Decisions

1. Decisions of the Development Review Board and Zoning Administrator shall be issued in compliance with Section 806.

D. Records

1. The Zoning Administrator shall maintain a record of all development located within the Flood Hazard Overlay District:
 - a. All permits issued for development in the Flood Hazard Overlay District;
 - b. An Elevation Certificate with the as-built elevation (consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the community) of the lowest floor, including basement, of all new, substantially improved, or floodproofed buildings (not including accessory buildings) in the Special Flood Hazard Area;
 - c. All floodproofing and other certifications required under this regulation; and,
 - d. All decisions of the Zoning Development Review Board (including variances and violations) and all supporting findings of fact, conclusions and conditions.

SECTION 909: CERTIFICATE OF OCCUPANCY

- A. All development subject to review under this article shall also be subject to the requirements in Section 301.

SECTION 910: VIOLATION OF FLOOD HAZARD AREA REGULATIONS

- A. This article shall be enforced under the requirements of Section 808. A copy of the notice of any violation shall be mailed the State NFIP Coordinator.
- B. If all appeals have been resolved, but a violation remains, the Zoning Administrator shall submit a declaration to the Administrator of the NFIP requesting a denial of flood insurance per Section 1316 of the National Flood insurance Act of 1968, as amended.

SECTION 911: HAZARD AREA DEFINITIONS

Definitions in this section apply only to the Flood Hazard Overlay District.

ACCESSORY STRUCTURE: Means a structure which is: 1) detached from and clearly incidental and subordinate to the principal use of or structure on a lot, 2) located on the same lot as the principal structure or use, and 3) clearly and customarily related to the principal structure or use. For residential uses these include, but may not be limited to garages, garden and tool sheds, and playhouses.

AREA OF SPECIAL FLOOD HAZARD: Special flood hazard area.

BASE FLOOD: The flood having a one percent chance of being equaled or exceeded in any given year (commonly referred to as the 100-year flood).

BASE FLOOD ELEVATION (BFE): The height of the base flood, usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or average depth of the base flood, usually in feet, above the ground surface.

BASEMENT: Any area of the building having its floor elevation below ground level on all sides. A “walk-out” basement whose floor is at ground level on at least one side of the house, usually with a door on that side is not considered a “basement” for the purpose of the flood hazard regulations.

BUFFER: An undisturbed area consisting of trees, shrubs, ground cover plants, duff layer, and generally uneven ground surface that extends a specified distance horizontally across the surface of the land from the mean water level of an adjacent lake or from the top of the bank of an adjacent river or stream.

CHANNEL: An area that contains continuously or periodic flowing water that is confined by banks and a streambed.

CHANNEL WIDTH (or bankfull width): The width of a stream channel when flowing at a bankfull discharge. The bankfull discharge is the flow of water that first overtops the natural banks. This flow occurs, on average, about once every 1 to 2 years.

COMMON PLAN OF DEVELOPMENT: Where a structure will be refurbished over a period of time. Such work might be planned unit by unit.

CRITICAL FACILITIES: Include police stations, fire and rescue facilities, hospitals, shelters, schools, nursing homes, water supply and waste treatment facilities, and other structures the community identifies as essential to the health and welfare of the population and that are especially important following a disaster. For example, the type and location of a business may

raise its status to a Critical Facility, such as a grocery or gas station that survive a flood and now are the only points for food and gas.

DEVELOPMENT: Any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

ELEVATION CERTIFICATE: An administrative tool of the NFIP which is to be used to provide elevation information necessary to ensure compliance with community floodplain management ordinances, to determine the proper insurance premium rate, or support a request for a Letter of Map Amendment (LOMA) or a Letter of Map Amendment based on fill (LOMR-F).

FILL: Any placed material that changes the natural grade, increases the elevation, or diminishes the flood storage capacity at the site.

FLOOD: (a) A general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

FLOOD INSURANCE RATE MAP (FIRM): An official map of a community, on which the Federal Insurance Administrator has delineated both the Special Flood Hazard Areas and the risk premium zones applicable to the community. In some communities the hazard boundaries are available in paper, pdf, or Geographic Information System formats as a Digital Flood Insurance Rate Map (DFIRM).

FLOOD INSURANCE STUDY: An examination, evaluation and determination of flood hazards and, if appropriate, the corresponding water surface elevations or an examination, evaluation and determination of mudslide (i.e., mudflow) and /or flood related erosion hazards.

FLOODPLAIN OR FLOOD-PRONE AREA: Any land area susceptible to being inundated by water from any source (see definition of “flood”).

FLOODPROOFING: Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point. Please note that where the Special Flood Hazard Areas have established base flood elevations, the extent of FEMA floodways may be shown on a separate series of panels.

FLOODWAY, REGULATORY IN THE TOWN OF SOUTH HERO: The regulatory floodway in of the Town of South Hero is the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.

FLUVIAL EROSION: Erosion caused by streams and rivers. Fluvial erosion can be catastrophic when a flood event causes a rapid adjustment of the stream channel size and/or location.

FUNCTIONALLY DEPENDENT USE: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

HISTORIC STRUCTURE: Any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) by an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

LETTER OF MAP AMENDMENT (LOMA): A letter issued by the Federal Emergency Management Agency officially removing a structure or lot from the flood hazard zone based on information provided by a certified engineer or surveyor. This is used where structures or lots are located above the base flood elevation and have been inadvertently included in the mapped Special Flood Hazard Area.

LOWEST FLOOR: The lowest floor of the lowest enclosed area, including basement, except an unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

MANUFACTURED HOME: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when

attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

NEW CONSTRUCTION: Structures for which the start of construction commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. For the purposes of determining insurance rates, “new construction” means structures, including manufactured homes, for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

NON-CONFORMING STRUCTURE: A structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the Zoning Administrator. Structures that were in violation of the flood hazard regulations at the time of their creation, and remain so, remain violations and are shall not be considered non-conforming structures.

NON-CONFORMING USE: Use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the Zoning Administrator.

NON-CONFORMITY: Means a non-conforming use, structure, lot, or parcel.

NON-RESIDENTIAL: Includes, but is not limited to: small business concerns, churches, schools, nursing homes, farm buildings (including grain bins and silos), pool houses, clubhouses, recreational buildings, government buildings, mercantile structures, agricultural and industrial structures, and warehouses.

NONSUBSTANTIAL IMPROVEMENT: Any repairs, reconstruction, or improvement of a structure (other than customary maintenance), the cost of which is less than fifty (50) percent of the market value of the existing structure.

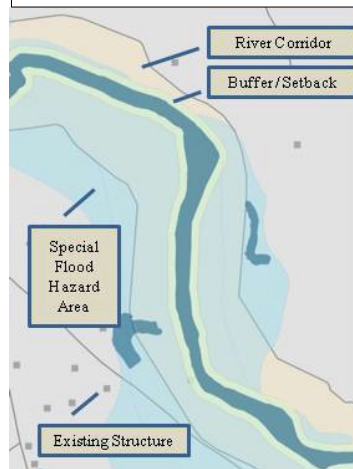
RECREATIONAL VEHICLE: A vehicle which is: (a) Built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) Designed to be self-propelled or permanently towable by a light duty truck; and (d) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

RIVER CORRIDOR: The land area adjacent to a river that is required to accommodate the dimensions, slope, planform, and buffer of the naturally stable channel and that is necessary for the natural maintenance or natural restoration of a dynamic equilibrium condition, as that term is defined in 10 V.S.A. §1422, and for minimization of fluvial erosion hazards, as delineated by the Agency in accordance with the ANR River Corridor Protection Guide.

SPECIAL FLOOD HAZARD AREA: The floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. For purposes of these regulations, the term “area of special flood hazard” is synonymous in meaning with the phrase “special flood hazard area”. This area is usually labeled Zone A, AO, AH, AE, or A1-30 in the most current flood insurance studies and on the maps published by the Federal Emergency Management Agency. Maps of this area are available for viewing in the town office or online from the FEMA Map Service Center: msc.fema.gov. Base flood elevations have not been determined in Zone A where the flood risk has been mapped by approximate methods. Base flood elevations are shown at selected intervals on maps of Special Flood Hazard Areas that are determined by detailed methods. Please note, where floodways have been determined they may be shown on separate map panels from the Flood Insurance Rate Maps.

START OF CONSTRUCTION: Includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, regardless whether that alteration affects the external dimensions of the building.

Figure 9.1 – Flood Hazard Areas



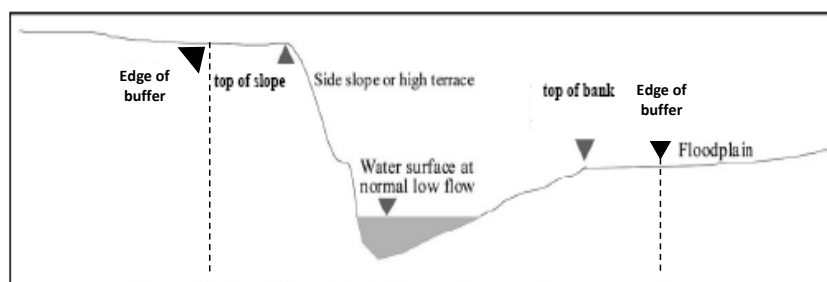
STRUCTURE: A walled and roofed building, as well as a manufactured home, and any related built systems, including a gas or liquid storage tanks.

SUBSTANTIAL DAMAGE: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged conditions would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT: Any reconstruction, rehabilitation, addition, or other improvement of a structure after the date of adoption of these regulations, the cost of which, over three years, or over a the period of a common plan of development, cumulatively equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

Figure 9.2

Finding Top of Slope and Top of Bank for Measuring Buffer Setbacks



TOP OF BANK: The vertical point along a stream bank where an abrupt change in slope is evident. For streams in wider valleys it is the point where the stream is generally able to overflow the banks and enter the floodplain. For steep and narrow valleys, it will generally be the same as the top of slope.

VIOLATION: The failure of a structure or other development to be fully compliant with these regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided.

ARTICLE X: GENERAL DEFINITIONS

ACT: The Vermont Municipal and Regional Planning and Development Act. Title 24, Chapter 117, Vermont Statutes Annotated.

ABANDONED USE: A non-residential use that has been discontinued for a period of two or more years.

AFFORDABLE HOUSING: Housing specifically designed and established to meet the needs of households at or below the median income for the Metropolitan Statistical Area (MSA), at costs (excluding utilities) which do not exceed thirty (30) percent of the gross household income. Affordable units may include rental or owner-occupied dwelling units intended for long-term affordability through limited equity housing cooperatives, perpetually restricted housing (e.g., housing or community land trust projects), federal and state affordable or subsidized housing programs, or other appropriate legal mechanisms.

AGRICULTURE OR FARMING: The cultivation of land or other uses of land for production of food, fiber, horticultural, silvicultural, orchard, maple syrup, Christmas trees, forest products, or forest crops; the raising, boarding, training of equines, and the raising of livestock; or any combination of the foregoing activities. Farming also includes the storage, preparation, retail sale, and transportation of agricultural or forest commodities accessory to the cultivation or use of such land.

AGRICULTURAL OR FARM USE, COMMERCIAL: Agricultural or farming use functioning in a commercial manner, but without an income test or requirement. Such uses may be small scale, but still must be commercial in nature – i.e., not to include purely residential accessory uses like a household garden, a few chickens and a chicken coop, a two-sheep “farm”, etc. For additional options and flexibility for innovative uses in combination with agriculture, see Agricultural Accessory Use and Integrated Agriculture definitions and allowances. Note – Pursuant to the Planning Act and VSA Title 10 Section 6001 #22, Required Agricultural Practices and certain farm structures are exempt from local zoning.

AGRICULTURAL OR FARM USE, ACCESSORY: Customary on-farm accessory uses that are *directly related and subordinate to the commercial agricultural operations*. Such activities need not be subordinate to the agricultural operation in terms of revenue² but shall be subordinate in terms of overall land use (e.g., land area, structures utilized). Including, but not limited to: corn maze, petting zoo, farm tours, classes, scientific research, trails for non-motorized recreation, composting, u-pick operations, product tasting, retail sales of products produced on the farm (including products that are produced and then processed on the farm), retail sales of agricultural products not produced on the farm as long as such sales are clearly subordinate (in volume and revenue) to retail sales of on-farm products.

AGRICULTURAL OR FARM USE, AUXILIARY: Commercial agricultural activities located on the same property as a commercial agricultural operation that *may not be directly related to the*

agricultural use. Such activities need not be subordinate to the agricultural operation in terms of revenue but shall be subordinate in terms of overall land use (e.g., land area, structures utilized). Activities must fall within one or more of the following categories:

- a. On-site processing, storage, sampling and tasting of crops or farm products not principally produced on the farm.
- b. Retail sales of crops or farm products not principally produced on the farm.
- c. Retail sales of non-farm products related to the farm and/or what is produced on the farm. Such retail sales of non-farm products must be clearly subordinate to the farming operation and/or other integrated uses.
- d. Education, cultural, recreation programming – e.g., classes, day camp, etc.
- e. Event hosting, as long as such events are clearly subordinate to the farming operation – e.g., wedding venue, dinner/dance venue, theater production, etc.

AGRICULTURAL PRACTICES, REQUIRED (RAPs): The Required Agricultural Practices are rules adopted by the Agency of Agriculture pursuant to Act 64 of the 2015 Vermont Legislature. The RAPs are farm and land management practices that will control and reduce agricultural nonpoint source pollution and subsequent nutrient losses from farm fields and production areas to surface and ground waters of the State or across property boundaries. The RAPs also establish minimum construction and siting requirements for farm structures in floodplains, floodways, river corridors, and flood hazard areas.

AVERAGE NATURAL GRADE: The average of the highest and lowest pre-construction elevation of the land adjacent to a structure or building. See Figure 2.1.

BED AND BREAKFAST: A single-household dwelling designed to room and board persons on a nightly, weekly or seasonal basis in addition to the principal occupants who shall reside on premise. Central dining and food preparation facilities may be provided sufficient to serve registered guests; cooking facilities shall not be provided in individual guest rooms. See Table 2.1 for review requirements based on the number of guests that can be accommodated.

BOUNDARY LINE ADJUSTMENT: The adjustment or change in property lines between legally created lots. See Section 403.

BUILDING: See definition of “structure.”

BUILDING ENVELOPE: A specific area delineated on a lot within which all structures shall be located, and outside of which no structures shall be located.

CAMPING FACILITY: A parcel of land upon which three or more campsites/lots are located for occupancy by a camper, travel trailer, recreational vehicle (RV), or similar motor home which is mounted on wheels, a truck or camper body (not including mobile homes), and tents, as temporary living quarters for recreation, education or vacation purposes.

CERTIFICATE OF OCCUPANCY: A document required before the occupancy or use of any structure or land development for which a zoning permit has been issued.

CHILD CARE HOME: A business providing child care service within the provider's place of residence to not more than 10 children on a regular or continual basis for a fee. Child Care Homes serving 6 or fewer children do not require a zoning permit.

CHILD CARE FACILITY: Any establishment, whether providing services in-home or in a separate non-residential facility, providing childcare service on a regular or continual basis for a fee and which does not meet the definition of a Childcare Home.

COMMERCIAL AGRICULTURAL OPERATION: See Agricultural or Farm Use, Commercial.

CONDITIONAL USE: A use that may be allowed in a zoning district subject to conditions imposed by the Development Review Board per Section 302.

CONGREGATE HOUSING: A form of housing which provides individual dwelling units, which may or may not contain cooking facilities and which also provides common facilities for use by all residents.

DENSITY: The number of dwelling units per unit of land.

DRIVEWAY: An access serving two (2) or three (3) uses, dwelling units, or parcels.

DWELLING UNIT, ACCESSORY: See Section 701.

DWELLING, MULTI-HOUSEHOLD: A residential building on a single lot containing three or more dwelling units.

DWELLING, SEASONAL: A dwelling unit which is allowed to be occupied only on a part time, seasonal basis for no more than six (6) months per year.

DWELLING, SINGLE HOUSEHOLD: A building containing one dwelling unit and that is not attached to any other principal dwelling by any means.

DWELLING, TWO HOUSEHOLD: A building on a single lot containing two dwelling units.

DWELLING UNIT: A building or self-contained part thereof, designed, occupied, or intended for occupancy by a household as a separate living quarter, complete with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of the household.

EARTH RESOURCE EXTRACTION: Any land alteration or excavation which involves the moving or extraction of sand, gravel, topsoil, loam, sod, landfill, or similar substance for commercial purposes, except when incidental to or in connection with the construction of a building. Mining is considered earth resource extraction. Common agricultural tillage, ground care, gardening, and excavation in cemeteries are not included in this definition and shall be exempt from these regulations.

EXCAVATION: Any breaking of ground and extraction or movement of earth or rock, or any alteration of existing drainage patterns that substantially affects adjacent properties. Common agricultural tillage, ground care, gardening, and excavation in cemeteries are not included in this definition and shall be exempt from these regulations.

FENCE: A constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas. See Section 703.

FINAL SUBDIVISION PLAN and/or PLAT: The final drawings on which the subdivision is presented to the Commission for approval and which, if approved, shall be filed for record with the Town Clerk.

FOOTPRINT: The area that falls directly beneath and shares the same perimeter as a structure, including the dripline.

FRONTAGE: The distance of the portion of a lot line abutting a public or private road right-of-way.

FRONTAGE, LAKE: Distance of the portion of the lot line abutting Lake Champlain at the mean water line (95.5 ft. elevation).

GAS/SERVICE STATION: Any building, land area or other premises or portion thereof used or intended to be used for the retail dispensing or sales of fossil fuels, and including as an accessory use the sale or installation of lubricants, tires, batteries, and similar accessories.

GREEN SPACE: Undeveloped area on a lot containing vegetative screening, landscaping, grass or other vegetative cover versus some man-made covering (buildings, asphalt, cement, etc.).

GROUP HOME OR RESIDENTIAL CARE HOME: A residential facility operated under State licensing or registration, serving not more than eight persons who have a handicap or disability as defined in 9 VSA 4501.

HABITABLE FLOOR AREA: A space inside a dwelling unit intended to be used for living, sleeping, bathing/toiletry, eating or cooking. Unfinished basements and unfinished attics will not be counted toward the total habitable floor area if they are unused or used only for storage.

HEIGHT: See Section 206(B).

HOME BUSINESS: See Section 704.

HOME ENTERPRISE: See Section 704.

HOME OCCUPATION: See Section 704.

HOUSEHOLD: One or more persons occupying a single dwelling unit, but not including individuals or groups occupying rooming and boarding houses, clubs, lodging establishments and Bed & Breakfasts.

INDUSTRIAL: An industrial use shall include, but not be limited to, manufacturing and associated activities.

LAKE ACCESS STRUCTURE: Lake access structures include stairways or pedestrian ramps constructed to gain access to the lakeshore.

LAND DEVELOPMENT: Means the division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining, excavation or landfill, and any change in the use of any building or other structure, or land, or extension of use of land.

LANDSCAPING: Installation of lawns, trees, plants, and other natural materials, such as rock and wood chips, and decorative features.

LODGING ESTABLISHMENTS: A building or group of associated buildings containing bedrooms and other facilities for occupancy and use by transients on a short term basis (generally less than one month average), and having a management entity operating the building(s). Included in this definition are inns, hotels, motels, tourist courts, cabins, motor lodges, and youth camps.

LOT: An area of land established by plat subdivision, or as otherwise permitted by law, to be separately owned, used, developed or built upon.

LOT AREA: The total area within the boundary lines of a lot, excluding any street right-of-way.

LOT DEPTH: The distance between the midpoints of straight lines connecting the foremost points of the side boundary lines in front and the rearmost points of the side boundary lines in the rear.

LOT WIDTH: The distance between straight lines connecting front and rear boundary lines at each side of the lot, measured across the rear of the required front yard.

MARINA: See Section 706.A.

MEAN LAKE LEVEL: For Lake Champlain, the mean lake level is 95.5 feet above sea level, as established by the Vermont Agency of Natural Resources.

MINOR SUBDIVISION: Any subdivision containing less than four lots, including all lots created from a single existing lot within the past 10 years, and which does not require or involve the installation of new public road(s).

MOBILE HOME PARK: A parcel of land under single or common ownership or control, which is used (or is to be used) to accommodate more than two (2) mobile homes. See also the State of Vermont definition [10 V.S.A. §6201].

MONUMENT: A surveying reference point marked by a permanently fixed marker. A boundary survey monument is fixed permanently in land and referred to in a legal description or map identifying the land.

MOTOR VEHICLE REPAIR: An establishment providing servicing or repair of automobiles, trucks, farm and construction equipment, or other motorized vehicles, including body shops, vehicle repair shops, and mobile home and camping vehicle service establishments.

MOTOR VEHICLE SALES: The use of a structure or land for the display and sale of new or used automobiles, trucks, farm and construction equipment, or other motorized vehicles. This includes an vehicle preparation or repair work conducted as an accessory use.

NON-CONFORMING STRUCTURE: A structure or part thereof not in compliance with the minimum requirements of these regulations, including but not limited to dimensions, height, area, density, or off-street parking or loading requirements, where such structure conformed to all applicable laws, ordinances, and regulations prior to the enactment of these regulations (see Section 505).

NON-CONFORMING USE: A use of land that does not conform to the present regulations, but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present regulations. Uses that were improperly authorized by the Zoning Administrator are considered a non-conforming use.

OPEN AIR MARKET: An outdoor market for the retail sale of new or used merchandise, produce or other farm products, whether operated by a single vendor or composed of stalls, stands or spaces rented or otherwise provided to vendors.

OPEN SPACE: Land that is Private Open Space; Common Open Space; or Public Open Space. The undeveloped portion of any development parcel(s) which is not occupied by structures, streets, rights of way, driveways, parking spaces or commercial recreation facilities and which is set aside, dedicated, or designated for the perpetual use and enjoyment of owners and occupants of land adjoining or neighboring such open space for recreational, agricultural, forestry or conservation uses.

OPEN SPACE, PRIVATE: Land within or related to a development that is privately owned but deed restricted to be: (a) free of structures and impervious coverage, and (b) used only for agricultural or forestry, recreation, or left to its natural state.

OPEN SPACE, COMMON: Land within or related to a development, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents or employees of the development, and which is deed restricted in perpetuity to be used only for agricultural, forestry, or recreation, or left to its natural state.

OPEN SPACE, PUBLIC: Open space owned in fee by Town, a public agency, land trust, or nonprofit organization, and maintained for the use and enjoyment of the general public, habitat preservation, agriculture, or preservation of other public goods such as landscape or scenic vista preservation.

OVERLAY DISTRICT: A zoning district that encompasses one or more underlying zones and that imposes additional requirements above that required by the underlying zone.

PARCEL: A contiguous tract of land owned and recorded as the property of the same persons or controlled by a single entity.

PLACES OF WORSHIP: A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. Includes church, synagogue, temple, mosque, or other such place for worship and religious activities.

PLANNED UNIT DEVELOPMENT: A proposal to the Development Review Board for a unique and innovative residential, commercial, industrial, or mixed use project to provide a different mixture, density and arrangement of uses other than that which is normally permissible under these regulations, in accordance Section 304.

PRE-EXISTING SMALL LOT: Any lot in existence on the effective date of these regulations that is not conforming to the applicable district requirements with respect to minimum lot size and frontage.

PROFESSIONAL SERVICES: Including but not limited to financial institutions, consulting firms, real estate or insurance agencies, doctors, lawyers, architects, accountants, travel agencies, and establishments providing similar services.,

PUBLIC OR SEMI-PUBLIC FACILITIES: A building or other facility owned, leased, held, used, and/or controlled exclusively for public or semi-public purposes by a municipality, state or federal government, regulated utility or railroad. Such facilities included, but are not limited to municipal buildings and garages, water and wastewater facilities, and educational facilities; this definition includes uses in Section 4413(a) of the Act.

QUALIFIED PERSON: One who is certified by the State of Vermont or otherwise qualified to conduct an independent technical review or provide testimony as appropriate and requested.

RECREATION: Recreation includes but is not limited to trails, athletic fields, and outdoor seasonal skating rinks; except for such facilities which are accessory to an approved educational facility or residential use.

RECREATION, PUBLIC: Includes all recreational uses financially supported or developed by the Town or School District that provide recreational opportunities to Town residents and visitors.

RENEWABLE ENERGY RESOURCES: Energy available for collection or conversion from direct sunlight, wind, running water, organically derived fuels, including wood and agricultural sources, waste heat, and geothermal sources.

RESTAURANTS: Premises where food and drink are prepared or catered and served for retail sale. This definition includes, but is not limited to, cafes, taverns, bars and food trucks.

RETAIL ESTABLISHMENT: Establishments engaged in selling goods or merchandise to the general public and customary auxiliary uses and services incidental to the sale of such goods. Retail sales may include but are not limited to: department stores, art galleries, grocery stores, drug stores, stationary stores, and antique shops.

ROAD: A vehicular way which affords the means of access to 4 or more uses, dwelling units, or parcels, which is constructed within the boundaries of an officially deeded or dedicated private right-of-way or an officially deeded or dedicated and accepted public right-of-way.

SETBACK: The distance along a horizontal plane perpendicular to the nearest property line, edge of right-of-way, and/or mean lake level, as applicable.. Setbacks shall be unobstructed from the ground to the sky. If there is an eave overhang, the setback distance shall be measured to the dripline at the base of the structure. See Figure 2.2.

SKETCH PLAN: A sketch of the proposed subdivision, the purpose of which is to ensure that a major subdivision proposal meets the objectives and requirements of these regulations.

STORAGE FACILITIES: A structure or structures used primarily for the storage of goods and materials and available to the general public for a fee.

STRUCTURAL ALTERATION: Any change in the dimensions or configurations of the roof and/or exterior walls of a structure.

STRUCTURE: Anything constructed or erected, the use of which requires location on the ground or attachment to something located on the ground. Examples of structures include, but are not limited to, buildings and foundations.

STRUCTURE, ACCESSORY: A detached structure, the use of which is subordinate to the principal use or structure and located on the same lot. Examples of such a structure include, but are not limited to, detached garage, workshop, tool shed, or greenhouse, which does not meet any other definitions herein.

STRUCTURE, FARM: A building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, as “farming” is defined in subdivision 6001(22) of Title 10, but excludes a dwelling for human habitation. This definition shall follow the definition provided by Title 10 Section 6001 (22) and/or the Secretary of Agriculture, Food and Markets or the Commissioner of Forests, Parks and Recreation.

STRUCTURE, INCIDENTAL: An accessory structure that is no larger than 100 sq. ft., no taller than 10 feet, and is not permanently-attached to the ground. An incidental structure must meet all three requirements or will otherwise be regulated as an accessory structure.

STRUCTURE, MIXED USE: A building containing a variety of uses allowed as permitted or conditional uses in the district where the building is located.

STRUCTURE, PRINCIPAL: A structure, or a group of pre-existing structures, in or on which is conducted the principal use(s) of the lot.

SUBDIVIDER: Any person, firm, corporation, partnership, or association who shall propose to create a subdivision.

SUBDIVISION: Any land, vacant or improved, which is divided or proposed to be divided into two or more lots, plats, sites, or other divisions of land.

SUBDIVISION, MAJOR: Any residential subdivision containing four or more lots, including all lots created from a single parcel within the past 10 years; any subdivision requiring installation of new public road(s).

SUBDIVISION, MINOR: Any subdivision containing less than four lots, including all lots created from a single existing lot within the past 10 years, and which does not require or involve the installation of new public road(s).

SUBDIVISION AMENDMENT: Any change in a recorded subdivision plat, if such change affects any street layout on such plat, or area reserved thereon for public use, or any lot line, or if the change affects any map or plan legally recorded prior to the adoption of any subdivision regulation by the Town of South Hero.

SURVEY PLAT: A map surveyed to scale on Mylar by a licensed land surveyor for filing in the Town's land records. It shall clearly depict one or more parcels, tracts or subdivisions of land, showing, but not limited to, boundaries, corners, markers, monuments, easements and other rights. Survey plats shall be prepared according to Section 404 and 27 V.S.A .Section 17.

TELECOMMUNICATIONS FACILITY: A tower or other support structure, including antennae, that will extend 20 or more feet vertically, and related equipment, and base structures to be used primarily for communication or broadcast purposes to transmit or receive communication or broadcast signals.

TELECOMMUNICATIONS PROVIDER: An entity licensed by the FCC to provide telecommunications services to individuals or institutions.

TOWN PLAN: The town plan of the Town of South Hero.

TRAIL: A path used for hiking, walking, bicycling, cross-country skiing, snowmobiling, all-terrain vehicle riding, horseback riding or other similar activities.

UNDUE ADVERSE EFFECT: See Figure 3.2.

USE: The specific purpose for which land or a building is arranged, designed, intended or occupied.

USE, ACCESSORY: A use that is incidental and subordinate to a permitted principal use located on the same lot.

USE, PRINCIPAL: A use directly involved with the permitted primary purpose of ownership of a particular lot.