

Andrew Chalnack
670 Nowland Farm Rd
South Burlington, VT 05403

October 20, 2021

VIA ELECTRONIC MAIL

South Burlington Planning Commission
City of South Burlington
575 Dorset Street
South Burlington, VT 05403

Re: Public Hearing on amendments to the City's Land Development Regulations

Dear Commissioners:

I applaud the planning commission for all the hard work over three years on the proposed regulations. I know that this process has been deliberate and careful as I witnessed first-hand many of the deliberations.

But, some of the decisions that have been made just seem unreasonable and not justified.

South Burlington residents petitioned for IZ out of a concern that the LDRs do not sufficiently protect South Burlington's precious natural resources. I don't believe there is a need to repeat here at length the reasons why saving our remaining open spaces is so critical, but we know that meadows, forests and fields sequester carbon, provide a buffer against flooding, filter pollutants before they can enter Lake Champlain, provide habitat for pollinators, insects and wildlife, filter our air and nourish our souls. With the climate changing, the need for these environmental services will only grow.¹

How much of South Burlington's remaining natural resources should be protected, and how much should be developed? What is the right balance? It's pretty clear we have already consumed most of South Burlington's natural resources, and "balance" was likely achieved some time ago.

¹ The 2014 Chittenden County Regional Planning Commission Climate Action Guide sets as a priority strategy for Chittenden County to: "Maintain vegetative landscapes to support carbon sequestration. Maintaining vegetated landscapes – forests, wetlands, agricultural lands and urban trees and vegetation – is important for continued carbon sequestration. Vegetated landscapes also help with climate adaptation by absorbing precipitation, reducing stormwater runoff, maintaining natural habitats and reducing the urban heat island effect."

With the 9500 existing homes, commercial and municipal infrastructure, around 75 percent of the agricultural soils that at one time existed in South Burlington have already been paved over with highways, airport runways, parking lots, buildings, lawns, sports fields, solar farms, or fragmented into tiny parcels. On top of this, there are at least (even with IZ, and according to City staff) **an additional 1331 new additional homes already in the pipeline** (see attached map at Attachment A provided by Planning and Zoning). Over-development has left every watershed in South Burlington impaired.

I am not blind to the need for housing. We need places for people to live. Most caring people support programs intended to provide affordable housing for those in need and South Burlington should be proud that it presently has over 800 “income-restricted” homes (including rentals). We should also acknowledge, that – based on the assessed values shown on the 2021 Grand List - **64% all housing units in South Burlington have an assessed value of less than \$300,000**, and only 3% have an assessed value of more than \$600,000. South Burlington certainly seems to be doing its fair share in providing housing at lower price points.

Responsible development which protects the environment and ensures a high quality of life for existing residents are not at odds, but housing in the rural spaces is not affordable to those in need, while in-fill and re-development provide win-win opportunities for all residents. There are creative opportunities to re-purpose large scale commercial areas that are no longer functioning as intended. This does not destroy the environment, and it can accommodate truly affordable housing because of its access to public transit and community services.

So, how should the regulations be changed? In sum:

- Eliminate the minimum density requirement for Conservation PUDs
- Revert to habitat block mappings identified by Arrowwood for 2 critical areas
- Do not prohibit landowners from conserving portions of their land
- Require a Conservation PUD along with re-zoning of the Hill Farm
- Require commercial buildings to install solar PV systems on the solar-ready zones

Explanation of these points are below.

1. Eliminate the Minimum Density Requirement for Conservation PUDs

The draft regulations require that the buildable portion of a Conservation PUD development contain a minimum of 4 units/acre. So, a landowner who owns a large parcel in the SEQ would **NOT BE PERMITTED** to conserve the parcel along with building a handful of homes for his/her children or for sale.²

² There is a small “2 acre carveout” which permits this to some extent, but the carveout is so small it will likely have only very limited utility

The stated reason for this minimum density is to provide developers certainty in the face of potential community opposition. But, as staff relayed the concerns of landowners it seemed the sentiment was the exact opposite. Landowners want to conserve their land, but also carveout some lots for their families or for sale. I have not spoken to a single land-owning neighbor that favors the minimum density requirement. Those who spoke at the planning commission meetings were opposed.

A minimum density requirement in a conservation area in the rural parts of the City is just inconsistent with protection of natural resources, and there was no good stated reason for such a heavy-handed regulatory scheme that would likely be opposed by the vast majority of landowners.

At 4 units/acre the neighborhoods would also be completely out of character with the rest of the SEQ. I note, for instance, that the sketch plan submitted by the Long family (which is on hold) contemplates 49 homes on 17.4 acres, which is a density of slightly less than 3 units per acre. The sketch plan application notes that “the maximum density formula allows as many as sixty-nine (17.4 x 4 = 69) units on the developable acreage, but sixty-nine units would be too crowded for our vision of the neighborhood.”

2. Revert to Habitat Block Mappings Identified by Arrowwood for 2 Critical Areas

Arrowwood mapped the forested habitat blocks in the City. Arrowwood defined a habitat block for this purpose as “contiguous forested and adjacent unmanaged shrubby areas of old field, young forest, and unmanaged wetland.” In reviews that were undertaken in September and October of 2020, the planning commission decided to eliminate some portions of these habitat blocks. Two of the revisions (circled in red on Attachment B) seem particularly inappropriate:

- 1720/1730 Spear Street: There is a fairly substantial forested area at 1720/1730 Speat Street that was removed from habitat block protection. This forest is part of the Great Swamp habitat, which was found by Arrowwood to be part of the most important habitat block in the City of South Burlington. I also understand from neighbors that this area is frequented by coyotes and bobcats. Has the planning commission walked this area to see what would be sacrificed if this area were paved over? It breaks my heart to think we would consciously elect to sacrifice more of the few remaining really important natural areas in South Burlington
- Wheeler Nature Park/Hill Farm Area: – a shrub area adjacent to the forest was removed because there seemed to not be trees under the area removed and staff suggested to “tilt the balance” to a future neighborhood. But, Arrowwood included these shrub areas in the habitat blocks on the basis that “early and mid-successional old-fields ... are known to contribute, and are probably critical, to South Burlington’s current wildlife diversity.” This shrub area today also forms part of the protected area that surrounds the Wheeler Nature Park and should be conserved.

3. Do not Prohibit Landowners from Conserving Portions of their Land

The regulations seem to place severe restrictions on the right of certain landowners to conserve portions of their land. The sub-division regulations seem to require that most any subdivision of a parcel over 4 acres be a PUD of some sort and Section 15.C.05 requires, for instance, that a Conservation PUD can only be elected in certain zoning districts if more than 50% of the parcel contains specified resources. Among other things, farmland and grasslands are not specified resources.

So – as I understand it - a landowner that owns mostly farmland outside of certain specified zoning districts and that wants to effect most any type of sub-division would be required to develop the non-conserved portion as a “traditional neighborhood” PUD, which requires a minimum of 65% of the land be residential development with a minimum density of 4 units/buildable acre.

Thus, the landowner could generally not conserve the vast bulk of the farmland coupled with the sale of a handful of lots.

This seems a bizarre result and an incredibly heavy-handed approach to land regulation. It is inconsistent with the Comprehensive Plan which in multiple places stresses the importance of conserving farmland (and grasslands). For instance, Objective 30 requires a proactive “plan for a network of interconnected and contiguous open spaces to conserve and accommodate ecological resources, active and passive recreation land, civic spaces, scenic views and vistas, forests and **productive farmland and primary agricultural soils**” and Objective 36 requires the conservation of “**productive farmland and primary agricultural soils** within the City.”

Prohibiting conservation of farmland and other open space is also flatly inconsistent with the Interim Zoning bylaws which specifically direct further conservation of the City’s remaining large farms and parcels in the Institutional & Agricultural District:

“Our community values a balance among our natural, open spaces and our developed, residential and commercial, spaces so that the flora and fauna coexist alongside human dwellings, schools, industries and services. All of these spaces will sustain our economic viability going forward. Together these spaces provide, for the benefit of our residents and visitors, clean, fresh air to breathe, clean water to drink and swim in, recreational opportunities, homes, jobs, and valuable industries and services. As more homes are built in South Burlington, we must examine carefully the intensity and nature of development and its potential impacts on the balance that we seek to maintain. Based on previous studies, the City needs to review developable lands outside of the Transit Overlay District and certain business park areas, **including undeveloped open spaces, forest blocks and working landscapes such as the City’s remaining large farms and parcels in the Institutional & Agricultural District.**”

I confess that the regulations are so confusing that I may not be articulating the restrictions perfectly accurately. The bottom line – though – is that **all landowners should have the maximum opportunity to conserve open space and farmland**. To not even provide a landowner **an option** to meet the objectives of the Comprehensive Plan and IZ seems perverse. Any landowner should have the option to conserve all or some of his or her land without having to jump through additional hoops or construct homes he or she does not want.

4. Require a Conservation PUD along with Re-Zoning of the Hill Farm

The draft regulations re-zone the Hill Farm from Industrial & Open Space (which allows for only limited development) to Residential 7 – Neighborhood Commercial. The stated reason for this re-zoning is that “the 2016 Comprehensive Plan re-designated this area from planned industrial use (and planned park in the southwest corner of the area) to a planned transition of planned very low density / principally conservation on the western portion of the property to mixed density and mixed uses to the east.”

Frankly, this is not apparent to me from my review of the Comprehensive Plan. The Plan does have a “future land use” map which is arguably consistent with the stated reason, but it also has a map which **clearly** designates the property as farmland that should be conserved with only limited encroachment. Coupled with the objectives in the Comprehensive Plan around the conservation of farmlands, the overwhelming sense from the Plan is that the parcel should be conserved, rather than developed. The regulations seem to dismiss the portions of the Plan which call for conservation of this parcel. Why not accommodate both objectives by requiring a Conservation PUD in connection with the re-zoning? (Or – at the least- ensure that all of the habitat block identified by Arrowwood on this parcel is protected.)

5. Require Commercial Buildings to Install Solar PV Systems on the Solar-Ready Zones

I am pleased that the draft regulations would require commercial buildings to be solar ready. I note that the South Burlington Energy Committee (the “SBEC”) requested that, in addition, commercial buildings with solar-ready zones be then required to install solar photovoltaic systems (“Solar PV”). I anticipate that the SBEC will comment on this proposal.

In my personal capacity, I do think the issues raised by the public when the SBEC presented on this topic last January can be fairly easily addressed with a provision like the below, and I would urge the planning commission to include a Solar PV requirement similar to the below in the regulations:

“Any building required to establish a “solar-ready zone” shall be required to install a solar photovoltaic (“Solar PV”) system designed to reasonably maximize (assuming the use of standard solar panels) the Solar PV potential of the solar-ready zone, provided that:

- (a) *The requirement set forth herein shall be reduced to the extent the interconnection with the relevant utility cannot accommodate a Solar PV system of the size otherwise required, or the Solar PV system otherwise required would be anticipated to generate in its first year of operation more kilowatt hours (kWh) than the “Expected Building Usage”.*
- a. *The number of kWh that a solar photovoltaic system is anticipated to generate shall be determined based on the site conditions by applying the “PVWatts calculator” published by the National Renewable Energy Laboratory (NREL) (or an equivalent or successor calculator).*
 - b. *The “Expected Building Usage” shall be a reasonable estimate of the number of kWhs that the building is expected to consume during its first full year of typical operation.*
- (b) *The requirement set forth herein shall be eliminated if the largest system that could reasonably be installed on the solar-ready zone would be anticipated to generate less than [3000] kWh of electricity in the first year of operation (using the methodology set forth above).³*

The City has the power now to protect this one special corner of the earth. I so hope that the City does not miss this opportunity.

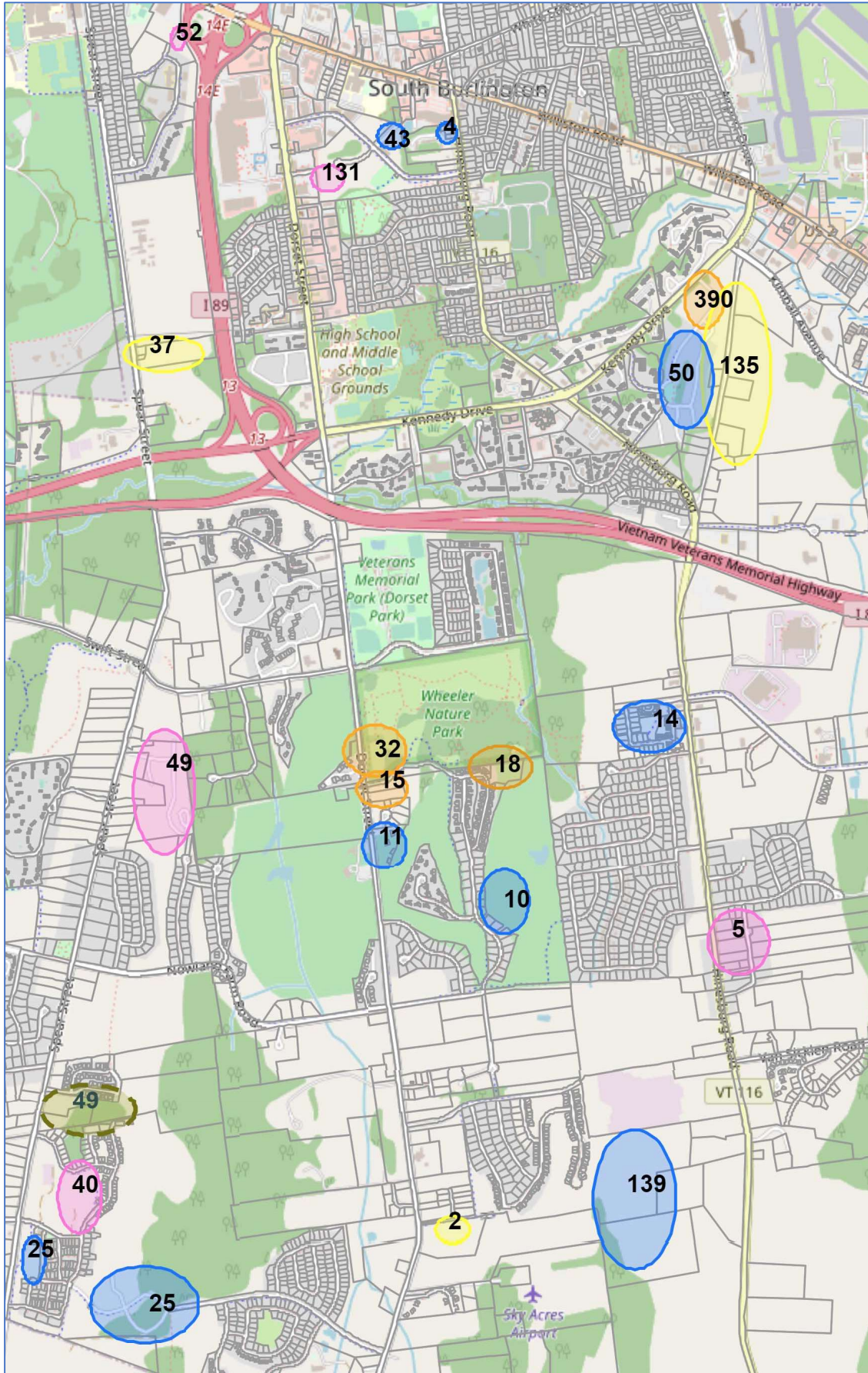
Respectfully submitted,

Andrew Chalnick

Andrew Chalnick

³ Note that 3000 kWh would typically be generated by about 10 panels.

Attachment A - Homes in the Pipeline



Attachment B – Habitat Block Revisions

