REGULAR MEETING & PUBLIC HEARING AGENDA
Wednesday, July 18, 2018, 6:00 pm
CCRPC Offices; 110 W. Canal St; Suite 201
Winooski, VT 05404

AGENDA

CONSENT AGENDA – NONE

DELIBERATIVE AGENDA

1. Call to Order
2. Changes to the Agenda (Action: 1 min.)
3. Public Comment Period on Items NOT on the Agenda

4. Approve Minutes of June 20, 2018 Annual Meeting* (Action: 1 min.)

5. FY19-22 Transportation Improvement Program (TIP)* (MPO business)
   a. Presentation & Public Hearing (Action & Discussion: 20 min.)
   b. Approval of the TIP* (Action: 2 min.)
   c. Certification of the Planning Process* (Action: 1 min.)

6. FY19 Schedule of Meetings* (Action: 2 min.)

7. Solicitation and Appointment of Members to serve on FY19 Committee* (Chair Action: 5 min.)

8. Guidelines and Standards for Reviewing Act 250 and Section 248 Applications* (Action: 10 min.)

9. Guidelines and Standards for Confirmation of Municipal Planning Processes and Approval of Municipal Plans* (Discussion: 20 min.)

10. Chair/Executive Director’s Updates (Information; 15 min.)
    a. Department of Public Service Public Hearing on CCRPC’s Request for a Determination of Energy Compliance with 24 VSA §4352 - August 6th at CCRPC offices at 6pm
    b. Act 250 public outreach meeting - September 10th at Elks Club, North Ave., Burlington. See CCRPC’s Permit Reform Policy*

11. Committee/Liaison Activities & Reports * (Information; 1 min.)
    a. Planning Advisory Committee (minutes June 13, 2018)*

12. Adjournment

*Attachment

In accordance with provisions of the Americans with Disabilities Act (ADA) of 1990, the CCRPC will ensure public meeting sites are accessible to all people. Requests for free interpretive or translation services, assistive devices, or other requested accommodations, should be made to Emma Vaughn, CCRPC Title VI Coordinator, at 802-846-4490 ext. *21 or evaughn@ccrpcvt.org, no later than 3 business days prior to the meeting for which services are requested.
**Upcoming Meetings** - *Unless otherwise noted, all meetings are held at our offices:*

- Transportation Advisory Committee - Tuesday, August 7, 2018; 9:00 a.m.
- Clean Water Advisory Committee - Tuesday, August 7, 2018; 11:00 a.m.
- Executive Committee – **NO MEETING IN AUGUST**
- CCRPC Board - **NO MEETING IN AUGUST**
- Transportation Advisory Committee – Tuesday, September 4, 2018, 9:00 a.m.
- Clean Water Advisory Committee – Tuesday, September 4, 2018, 11:00 a.m.
- MS4 Sub-committee – Tuesday, September 4, 2018, noon
- Executive Committee – Wednesday, September 5, 2018 5:45 p.m.
- CCRPC Board Meeting – Wednesday, September 19, 2018 – 6:00 p.m.

**Tentative future Board agenda items:**

<table>
<thead>
<tr>
<th>Date</th>
<th>Agenda Items</th>
</tr>
</thead>
<tbody>
<tr>
<td>September 19, 2018</td>
<td><strong>MPO Training Session in advance of Meeting</strong>&lt;br&gt;National Highway System Update – Action&lt;br&gt;Guidelines and Standards for Confirmation of Municipal Planning Processes and Approval of Municipal Plans Review – Action&lt;br&gt;Vermont Climate Action Pledge - Action&lt;br&gt;Transportation Survey Results – Discussion&lt;br&gt;Transportation Performance Measures – Discussion&lt;br&gt;Winooski Basin Plan - Discussion</td>
</tr>
<tr>
<td>October 18, 2018</td>
<td><strong>MPO Training Session in advance of Meeting</strong>&lt;br&gt;FY20 Municipal Dues - Action&lt;br&gt;Winooski Basin Plan - Action&lt;br&gt;Transportation Performance Measures - Action&lt;br&gt;greenride bikeshare Update - Discussion</td>
</tr>
<tr>
<td>November 28, 2018</td>
<td><strong>MPO Training Session in advance of Meeting</strong>&lt;br&gt;FY18 Audit – Action&lt;br&gt;VTrans Project Selection &amp; Prioritization Process</td>
</tr>
</tbody>
</table>
The business meeting was preceded by a social hour with members of GBIC, legislators, municipal managers and others. At 6 p.m. there was a short program presenting GBIC awards and acknowledging CCRPC staff and board member service.

1. The business meeting of the CCRPC was opened at 6:43 p.m. by the Chair, Chris Roy. DAN KERIN MADE A MOTION, SECONDED BY SHARON MURRAY, TO ADOPT THE 2018 ECOS PLAN, INCLUDING THE REGIONAL PLAN AND THE COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGY. MOTION CARRIED UNANIMOUSLY. See vote below for the Metropolitan Transportation Plan component of the ECOS Plan.

The meeting then moved outdoors to continue the agenda.

2. Changes to the Agenda. There were none.

3. a. Approval of Metropolitan Transportation Plan (MTP) CATHERINE MCMAINS MADE A MOTION, SECONDED BY DAN KERIN, TO APPROVE THE METROPOLITAN TRANSPORTATION PLAN (MTP) ELEMENT OF THE ECOS REGIONAL PLAN. MPO VOTE:

<table>
<thead>
<tr>
<th>Location</th>
<th>Vote</th>
<th>Location</th>
<th>Vote</th>
<th>Location</th>
<th>Vote</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bolton</td>
<td>Yes</td>
<td>Burlington</td>
<td>Yes (4)</td>
<td>Charlotte</td>
<td>Absent</td>
</tr>
<tr>
<td>Colchester</td>
<td>Absent</td>
<td>Essex</td>
<td>Yes</td>
<td>Essex Jct</td>
<td>Yes</td>
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<tr>
<td>Hinesburg</td>
<td>Absent</td>
<td>Huntington</td>
<td>Yes</td>
<td>Jericho</td>
<td>Yes</td>
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<tr>
<td>Milton</td>
<td>Absent</td>
<td>Richmond</td>
<td>Absent</td>
<td>St. George</td>
<td>Absent</td>
</tr>
</tbody>
</table>

Staff:
- Charlie Baker, Executive Director
- Regina Mahony, Planning Program Mgr.
- Forest Cohen, Sr. Business Manager
- Dan Albrecht: Senior Planner
- Jason Charest, Trans Planning Engineer
- Bryan Davis, Sr. Trans. Planner
- Marshall Distel, Transportation Planner
- Chris Dubin, Transportation Planner
- Bernie Ferenc, Trans. Business Manager
- Christine Forde, Sr. Trans. Planner
- Melanie Needle, Sr. Planner
- Emily Nosse-Leirer, Planner
- Emma Vaughn, Communication Manager
Shelburne: Yes  So. Burlington: Absent  Underhill: Yes  
Westford: Vacant  Williston: Yes  Winooski: Yes  
VTrans: Yes  

MOTION CARRIED WITH 14 OF 24 VOTES AND TEN OF EIGHTEEN MUNICIPALITIES VOTING IN FAVOR.

4. **Board and Staff Recognition/Resolutions.** The following board members were recognized for their service: Jim Donovan (10 years); Andrea Morgante (20 years); Mike O’Brien (20 years). The following staff members were recognized for their service, and associated resolutions were approved: Charlie Baker (10 years); Forest Cohen (10 years); Dan Albrecht (15 years); Christine Forde (20 years); and Peter Keating (30 years).

5. **Public Comment Period for items Not on the agenda.** There were none.

6. **Approve minutes of May 16, 2018 Meeting.** CATHERINE MCMAINS MADE A MOTION, SECONDED BY SHARON MURRAY, TO APPROVE THE MINUTES OF MAY 16, 2018 WITH CORRECTIONS, IF ANY. It was noted that the motion to approve the FY19 UPWP did not show the seconder. (Bernie reviewed her notes and John Zicconi had seconded the approval motion.). MOTION CARRIED TO APPROVE THE MINUTES AS CORRECTED, WITH GARRET MOTT ABSTAINING.

7. **Warn Public Hearing for the FY19-22 Transportation Improvement Program (TIP).** JEFF CARR MADE A MOTION TO WARN A PUBLIC HEARING FOR THE FY19-22 T.I.P. FOR THE JULY 18, 2018 MEETING AT 6:00 P.M. DAN KERIN SECONDED AND THE MOTION CARRIED UNANIMOUSLY.

8. **Election of Officers and Executive Committee for FY19.** JEFF CARR MADE A MOTION, SECONDED BY DAN KERIN, TO APPROVE THE SLATE OF OFFICERS RECOMMENDED BY THE BOARD DEVELOPMENT COMMITTEE: CHRIS ROY, CHAIR; MIKE O’BRIEN, VICE-CHAIR; JOHN ZICCONI, SECRETARY-TREASURER; BARBARA ELLIOTT, AT LARGE FOR COMMUNITIES <5,000; CATHERINE MCMAINS AT LARGE FOR COMMUNITIES >5,000; AND ANDY MONTROLL AS IMMEDIATE PAST CHAIR. Andy asked for nominations from the floor. There were none. MOTION CARRIED UNANIMOUSLY TO ELECT THE SLATE AS PRESENTED.

9. **Chair/Executive Director’s Report.** There were none.

10. **Committee/Liaison Activities & Reports.** Minutes were included in the packet.

11. **Adjournment.** DAN KERIN MADE A MOTION, SECONDED BY GARRET MOTT, TO ADJOURN THE MEETING AT 6:55 P.M. MOTION CARRIED UNANIMOUSLY.

Respectfully submitted,

Bernadette Ferenc
Federal regulations require the Chittenden County Regional Planning Commission (CCRPC), as the designated Metropolitan Planning Organization (MPO) for Chittenden County, to develop and maintain a Transportation Improvement Program (TIP). The TIP contains funding information for transportation projects proposed to spend federal transportation funds in Chittenden County. Projects must be listed in the TIP to spend federal transportation funds. The TIP includes all modes of transportation including highways, bicycle and pedestrian facilities and transit.

The TIP covers a four-year period and it must be fiscally-constrained. It is typically updated every year with the assistance of the Transportation Advisory Committee (TAC), the Vermont Agency of Transportation (VTrans), Green Mountain Transit (GMT) and Burlington International Airport.

The TIP lists federal funding amounts in the federal fiscal year when they are expected to be needed. It should be noted that the TIP is a planning and not a budget document. The TIP represents the intent to construct or implement a specific project and the anticipated flow of federal funds. Funds correspond to the following project development phases:

- Scoping – a process that develops safe and effective alternatives based on documented rational that meet the stated purpose and need while minimizing environmental impacts
- Preliminary Engineering – detailed design of the preferred alternative
- Right-of-Way - process of determining if land rights are needed for construction and negotiation of appropriate compensation
- Construction

The Draft Fiscal Year 2019–2022 TIP is available on CCRPC’s website [http://www.ccrpcvt.org/our-work/our-plans/transportation-improvement-program/](http://www.ccrpcvt.org/our-work/our-plans/transportation-improvement-program/). Please contact Christine if you wish to receive a paper copy.

**TAC Recommendation:**
Recommend that the Board approve the FY2019-2022 TIP.

**Staff Recommendation:**
Recommend that Board approve the FY2019–2022 TIP.

**For more information contact:**
Christine Forde
846-4490 ext. *13 or cforde@ccrpcvt.org
Transportation Planning Process Certification

**Background:** Concurrent with the submittal of the proposed Transportation Improvement Program to Federal Highway Administration and Federal Transit Administration the CCRPC must certify that the metropolitan transportation planning process is being carried out in accordance with all federal requirements. The certification, which is attached to this item, lists the federal requirements CCRPC must follow.

To the right of each item in the certification is a brief explanation of the content of that item.

Also attached to this item as Table 1 is a more detailed summary of each legal citation listed in the certification.

**Staff Recommendation:** That the CCRPC Board authorizes the chair to sign the certification of the planning process and forward it to the Secretary of Transportation with the adopted FY19-22 TIP.

For more information contact: Christine Forde 846-4490, ext. *13 or cforde@ccrpcvt.org

**Attachments:**

- Certification document
- Table 1: Federal Regulations that MPOs Must comply with in the Planning Process
In accordance with 23 CFR 450.336, the Vermont Agency of Transportation and the Chittenden County Regional Planning Commission, the designated MPO for the Burlington urbanized area, hereby certify that the transportation planning process is addressing the major issues in the metropolitan planning area and is being conducted in accordance with all applicable requirements including:

1. The metropolitan planning requirements identified in 23 U.S.C. 134 and 49 U.S.C. 5303;

2. Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d-1) and 49 C.F.R. Part 21;

3. 49 U.S.C. 5332, prohibiting discrimination on the basis of race, color, creed, national origin, sex, or age in employment or business opportunity;

4. Section 1101(b) of the FAST Act (Public Law 114-357) and 49 C.F.R. Part 26 regarding the involvement of disadvantaged business enterprises in USDOT funded projects;

5. 23 C.F.R. Part 230 regarding the implementation of an equal employment opportunity program on Federal and Federal-aid highway construction contracts;

6. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and the regulations found in “Transportation for Individuals with Disabilities” (49 C.F.R. Parts 27, 37, and 38).

7. The Older Americans Act, as amended (42 U.S.C. 6101), prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance;

8. Section 324 of 23 U.S.C. regarding the prohibition of discrimination on the basis of gender; and

**Table 1**

**Transportation Planning Process Certification:**
Federal Regulations that MPOs Must Comply With in the Planning Processes

**Code of Federal Regulations**

<table>
<thead>
<tr>
<th>Code Reference</th>
<th>Section Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>23 C.F.R. 450.336</td>
<td>Self-certification and Federal certifications</td>
</tr>
<tr>
<td>49 C.F.R. Part 21</td>
<td>Nondiscrimination in Federally-Assisted Programs of the Department of Transportation Effectuation of Title VI of the Civil Rights Act of 1964</td>
</tr>
<tr>
<td>49 C.F.R. Part 26</td>
<td>Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs</td>
</tr>
<tr>
<td>49 C.F.R. Part 27</td>
<td>Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance</td>
</tr>
<tr>
<td>49 C.F.R. Part 37</td>
<td>Transportation Services for Individuals with Disabilities</td>
</tr>
<tr>
<td>49 C.F.R. Part 38</td>
<td>Americans with Disabilities Act Accessibility Specifications for Transit Vehicles</td>
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</tbody>
</table>

**FAST Act**

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
</tr>
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<tbody>
<tr>
<td>Section 1101(b) of FAST Act (Public Law 114-357)</td>
<td>Authorization of Appropriations - Disadvantaged Business Enterprise</td>
</tr>
</tbody>
</table>

Establishes guidelines for a portion of expenditures under the FAST Act to be directed to small business concerns owned and controlled by socially and economically disadvantaged individuals.
Table 1 cont.

**Transportation Planning Process Certification:**
Federal Regulations that MPOs Must Comply With in the Planning Processes

<table>
<thead>
<tr>
<th>United States Code</th>
<th>Metropolitan Planning</th>
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<tbody>
<tr>
<td>23 U.S.C. 134</td>
<td>Metropolitan Planning</td>
</tr>
<tr>
<td></td>
<td>It is in the national interest to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and between states and urbanized areas, while minimizing transportation-related fuel consumption and air pollution through metropolitan and statewide transportation planning processes.</td>
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<tr>
<td></td>
<td>This section includes the following:</td>
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<tr>
<td></td>
<td>• General requirements</td>
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<td></td>
<td>• Designation of Metropolitan Planning Organizations</td>
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<td></td>
<td>• Metropolitan Planning Area boundaries</td>
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<td></td>
<td>• MPO consultation in plan and TIP coordination</td>
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<tr>
<td></td>
<td>• Scope of planning process</td>
</tr>
<tr>
<td></td>
<td>• Development of Long-Range Transportation Plan</td>
</tr>
<tr>
<td></td>
<td>• Metropolitan Transportation Improvement Program</td>
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<td></td>
<td>• Report on performance-based planning processes</td>
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<td></td>
<td>• Funding</td>
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</table>

| 23 U.S.C. 324      | Prohibition of Discrimination on the Basis of Sex |
|                    | No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under this title or carried on under this title. |

| 29 U.S.C. 794      | Nondiscrimination Under Federal Grants and Programs |
|                    | No otherwise qualified individual with a disability in the United States, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service. |

| 42 U.S.C. 6101     | Age Discrimination in Federally Assisted Programs |
|                    | It is the purpose of this chapter to prohibit discrimination on the basis of age in programs and activities receiving Federal financial assistance. |

| 42 U.S.C. 2000d-1  | Civil Rights - Federally Assisted Programs |
|                    | Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than of insurance or guaranty, is authorized and directed to effectuate the provisions of section 2000d of this title. (See below) |

Sec. 2000d: No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
Table 1 cont.
Transportation Planning Process Certification:
Federal Regulations that MPOs Must Comply With in the Planning Processes

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>42 U.S.C. 12101 et seq</td>
<td>Equal Opportunity for Individuals with Disabilities</td>
</tr>
<tr>
<td></td>
<td>To provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.</td>
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<tr>
<td></td>
<td>To provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities.</td>
</tr>
<tr>
<td></td>
<td>To ensure that the Federal Government plays a central role in enforcing the standards established in this chapter on behalf of individuals with disabilities.</td>
</tr>
<tr>
<td></td>
<td>To invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.</td>
</tr>
<tr>
<td>49 U.S.C. 5303</td>
<td>Metropolitan Planning</td>
</tr>
<tr>
<td></td>
<td>Defines the Metropolitan Planning process, including the following:</td>
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<tr>
<td></td>
<td>▪ General requirements</td>
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<td></td>
<td>▪ Designating Metropolitan Planning Organizations</td>
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<td></td>
<td>▪ Metropolitan Planning Area Boundaries</td>
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<td></td>
<td>▪ MPO Consultation in Plan and TIP Coordination</td>
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<td></td>
<td>▪ Scope of the planning process</td>
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<td></td>
<td>▪ Developing Long-Range Transportation Plans</td>
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<td></td>
<td>▪ Metropolitan TIP</td>
</tr>
<tr>
<td></td>
<td>▪ Report on Performance-based Planning Processes</td>
</tr>
<tr>
<td>49 U.S.C. 5332</td>
<td>Nondiscrimination</td>
</tr>
<tr>
<td></td>
<td>A person may not be excluded from participating in, denied a benefit of, or discriminated against under a project, program, or activity receiving financial assistance under this chapter because of race, color, creed, national origin, sex, or age.</td>
</tr>
</tbody>
</table>
**Chittenden County Regional Planning Commission**  
**July 18, 2017**  
**Agenda Item 6: Action Item**  
**FY2019 Schedule of Meetings**

**Issues:** Vermont’s Open Meeting Law requires that public bodies clearly designate the time and place of all regular meetings. Below is the proposed meeting schedule for both the Executive Committee and the CCRPC Commission for the 2019 fiscal year beginning July 2018. Please mark your calendars.

<table>
<thead>
<tr>
<th>EXECUTIVE COMMITTEE</th>
<th>COMMISSION MEETINGS</th>
</tr>
</thead>
<tbody>
<tr>
<td>First Wednesday of the Month</td>
<td>Third Wednesday of the Month</td>
</tr>
<tr>
<td>5:45 p.m. – 7:00 p.m.</td>
<td>6:00 p.m. – 8:00 p.m.</td>
</tr>
<tr>
<td>July 18, 2018 (Prior to board meeting)</td>
<td>July 18, 2018</td>
</tr>
<tr>
<td>NO AUGUST MEETING</td>
<td>NO AUGUST MEETING</td>
</tr>
<tr>
<td>September 5, 2018 (Joint w/ Finance. Comm.)</td>
<td>September 19, 2018</td>
</tr>
<tr>
<td>October 3, 2018</td>
<td>October 17, 2018</td>
</tr>
<tr>
<td>November 7, 2018 (Joint w/ Finance Comm.)</td>
<td>November 28, 2018 (Nov. 21 is day before Thanksgiving)</td>
</tr>
<tr>
<td>December 5, 2018</td>
<td>Legislative breakfast date TBD</td>
</tr>
<tr>
<td>January 2, 2019</td>
<td>January 16, 2019</td>
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<tr>
<td>February 6, 2019</td>
<td>February 20, 2019</td>
</tr>
<tr>
<td>March 6, 2019</td>
<td>March 20, 2019</td>
</tr>
<tr>
<td>April 3, 2019</td>
<td>April 17, 2019</td>
</tr>
<tr>
<td>May 1, 2019</td>
<td>May 15, 2019</td>
</tr>
<tr>
<td>June 5, 2019</td>
<td>June 19, 2019 (ANNUAL MEETING)</td>
</tr>
</tbody>
</table>

The Transportation Advisory Committee (TAC) meets the first Tuesday of each month at 9:00 a.m. (except on Town Meeting Day, when they meet on the 1st Wednesday.)

The Clean Water Advisory Committee (CWAC) meets the first Tuesday of each month at 11:00 a.m. (except on Town Meeting Day, when they meet on the 1st Wednesday.)

The Finance Committee meets the 4th Wednesday of each month at 5:45 p.m. as needed.

The Planning Advisory Committee (PAC) generally meets bi-monthly on the 2nd Wednesday of the month from 2:30-4:30 p.m.

**Staff Recommendation:** That the Executive Committee recommend approval of the FY2019 Meeting Schedule to the Commission.

**Exec. Comm. Recommendation:** That the Commission approve the FY2019 Meeting Schedule.

**For more information contact:** Bernie Ferenc  
846-4490 ext. *10 or bferenc@ccrpcvt.org
Chittenden County Regional Planning Commission

July 18, 2018

Agenda Item 7: Chair Action Item

FY2019 Committee Appointments

From the Bylaws: Article VII.B. “The Chair shall ... with concurrence of the Chittenden County Regional Planning Commission, establish and appoint committees and their members.” Article XI: “All Chittenden County Regional Planning Commission Board members are encouraged to participate in a minimum of at least one standing committee. The Chair may appoint ad hoc committees for a specific purpose with the approval of the Chittenden County Regional Planning Commission. Committees should include subject matter experts as needed to provide advice to the Chittenden County Regional Planning Commission Board.”

**Finance Committee** (Secretary/Treasurer, Vice Chair and 1 other board member): John Zicconi, Shelburne (Chair); Mike O’Brien, Winooski, Jeff Carr, Essex

**Board Development Committee** (past Chair and up to 4 other board members): Andy Montroll, Burlington (Chair); Dan Kerin, Essex Junction; Catherine McMains, Jericho; Jeff Carr, Essex;

___________________

**Unified Planning Work Program Committee** (3-5 board members): Michael O’Brien, Winooski (Chair); John Zicconi, Shelburne; Michael Bissonette, Hinesburg; Jeff Bartley, Colchester; and Sharon Murray, Bolton.

**Transportation Advisory Committee** (1 board member): Barbara Elliott, Huntington

**Planning Advisory Committee** (1 board member): Joss Besse, Bolton

**Long Range Planning Committee** (3-6 board members, one of them to be Chair of the LRPC): Justin Dextradeur, Socio-Econ (Chair); Andrea Morgante, Hinesburg; Jim Donovan, Charlotte; Bard Hill, Richmond; ______________

**Clean Water Advisory Committee**: (1 board member) Don Meals, Conservation/Environment

**ad hoc Brownfields Advisory Committee**: Curt Carter, GBIC (Chair); Jacqua Boure, AALV; Eric Howe, LCBP; Marcel Beaudin; Dr. Pablo Bose, UVM; Justin Dextradeur, Socio/Econ/Housing

**ad hoc All Hazards Mitigation Plan Update Committee**: Chris Shaw, So. Burlington.

**VAPDA representative**: Andy Montroll, Burlington; __________________________ (Alt.)

For questions, contact Charlie Baker, 846-4490 ext. *23 or cbaker@ccrpcvt.org
Chittenden County Regional Planning Commission
July 18, 2018
Agenda Item 8: Act 250/Section 248 Review Guidelines

Issues: The adoption of the 2018 ECOS Plan will necessitate changes in our review guidelines for Act 250 and Section 248 applications. These changes will provide guidance for CCRPC to review applications in light of adding “known constraints” and “possible constraints” to the ECOS Plan.

The proposed changes differentiate between CCRPC’s review of Act 250 applications and Section 248 applications.

1. Act 250 review will remain largely unchanged. During Act 250 review, the known and possible constraints listed in the ECOS Plan are reviewed by municipalities and state agencies. CCRPC will defer to the relevant municipality or state agency with jurisdiction over the constraint, rather than submit separate comments on constraints. CCRPC will continue to focus review on land use and transportation.

2. During Section 248 review, some, but not all, known and possible constraints listed in the ECOS Plan are reviewed by municipalities and state agencies. CCRPC will defer to state agencies to review constraints within their jurisdiction, but will review and provide comments on local constraints when municipal plans do not have substantial deference. This review will take the form of submitting comments on advance notices and may include commenting on applications during hearings, intervening in hearings or requesting hearings on applications.

Under Section 248, applicants must distribute an “advance notice” at least 45 days before an application is submitted. CCRPC must submit any comments on the advance notice within 40 days of receiving it. Commenting gives CCRPC a chance to raise potential issues before the application is submitted to the Public Utilities Commission.

This draft of the review guidelines incorporates comments and suggestions from your meeting on May 16, 2018 and the Planning Advisory Committee meeting on July 11, 2018.

PAC Recommendation: On July 11, 2018, the PAC made a recommendation to the Executive Committee and Board to adopt the Act 250/Section 248 Review Guidelines with the addition of their edits.

Staff Recommendation: Staff is recommending that the board to adopt the Act 250/Section 248 Review Guidelines as included in this packet.

Staff Contact: Contact Emily Nosse-Leirer and Regina Mahony with any questions: enosse-leirer@ccrpcvt.org or rmahony@ccrpcvt.org, 846-4490 ext. *15 or *28.
Chittenden County Regional Planning Commission  
July 18, 2018  
Agenda Item 8: Act 250/Section 248 Review Guidelines

Issues: The adoption of the 2018 ECOS Plan will necessitate changes in our review guidelines for Act 250 and Section 248 applications. These changes will provide guidance for CCRPC to review applications in light of adding “known constraints” and “possible constraints” to the ECOS Plan. The proposed changes differentiate between CCRPC’s review of Act 250 applications and Section 248 applications.

1. Act 250 review will remain largely unchanged. During Act 250 review, the known and possible constraints listed in the ECOS Plan are reviewed by municipalities and state agencies. CCRPC will defer to the relevant municipality or state agency with jurisdiction over the constraint, rather than submit separate comments on constraints. CCRPC will continue to focus review on land use and transportation.

2. During Section 248 review, some, but not all, known and possible constraints listed in the ECOS Plan are reviewed by municipalities and state agencies. CCRPC will defer to state agencies to review constraints within their jurisdiction, but will review and provide comments on local constraints when municipal plans do not have substantial deference. This review will take the form of submitting comments on advance notices and may include commenting on applications during hearings, intervening in hearings or requesting hearings on applications.

Under Section 248, applicants must distribute an “advance notice” at least 45 days before an application is submitted. CCRPC must submit any comments on the advance notice within 40 days of receiving it. Commenting gives CCRPC a chance to raise potential issues before the application is submitted to the Public Utilities Commission.

This draft of the review guidelines incorporates comments and suggestions from your meeting on May 16, 2018 and the Planning Advisory Committee meeting on July 11, 2018.

**PAC Recommendation:** On July 11, 2018, the PAC made a recommendation to the Executive Committee and Board to adopt the Act 250/Section 248 Review Guidelines with the addition of their edits.

**Staff Recommendation:** Staff is recommending that the board to adopt the Act 250/Section 248 Review Guidelines as included in this packet.

**Staff Contact:** Contact Emily Nosse-Leirer and Regina Mahony with any questions: enosse-leirer@ccrpcvt.org or rmahony@ccrpcvt.org, 846-4490 ext. *15 or *28.
INTRODUCTION

History of Act 250

Vermont experienced new growth in the 1960’s, which brought many important planning issues to the forefront. This period of new growth was characterized by the following:

- Completion of Interstate Highway 89 and the southern Vermont section of Interstate Highway 91;
- IBM locating a primary facility in Essex Junction; and
- A growing tourist industry.

Vermonters are sensitive to the link between the natural and human environments. Many people were concerned that this link was threatened and, in the absence of a mechanism to protect or strengthen this relationship, development was proceeding apace. The steadfastness of concerned Vermont natives began to gain recognition with the State government in the late 1960’s.

Prior to Act 250, there were no State-level environmental regulations or land use controls in Vermont. In 1970, Vermont enacted the Land Use and Development Law (commonly known as Act 250). That law created nine District Commissions and an Environmental Board tasked to review development applications based on 10 criteria specified in Act 250.

Why Does CCRPC Review Act 250 Applications?

CCRPC reviews Act 250 development applications as part of an effective regional planning process for the betterment of Chittenden County. Each of Vermont’s eleven Regional Planning Commissions is a party by right which may appear and participate in the Act 250 proceeding of a proposed development whose site is located either in or on the boundaries with a municipality that is a member of that Regional Planning Commission [“Act 250 Environmental Board Rule 14(A)(3)”]. In addition, pursuant to 24 V.S.A. § 4345a(13) all RPCs “shall appear before district environmental commissions to aid them in making a determination as to the conformance of developments and subdivisions with the criteria of 10 V.S.A. § 6086.”

As Amended on July X, 2018
CCRPC REVIEW PROCESS

In General

The CCRPC’s Executive Committee (“EC”) and designated CCRPC staff are responsible for the review of *Act 250* applications.

CCRPC staff shall initially review each application before the District 4 Environmental Commission (with specific attention given to those applications going to a hearing) for the purpose of identifying for the EC:

1. whether the proposed project is or is not in conformance with the provisions of the current *Chittenden County ECOS Plan*-(hereafter referred to as the Regional Plan), with specific attention given to the Planning Areas section of the Regional Plan; and

2. whether the proposed project fails to comply with one or more of the 10 Act 250 criteria, 10 V.S.A. §§ 6086 (a) (1) through (10), with specific attention paid to the criteria dealing with transportation and/or traffic and the other criteria within CCRPC’s expertise based on approved technical reports and/or in-house technical expertise or expert opinion of individuals consulted by in-house staff; and

3. whether the proposed project avoids known development constraints or minimizes impacts to possible development constraints identified in the Regional Plan. The constraints are identified in the current Regional Plan and are based on statewide or local policies that are currently adopted or in effect. Because these constraints are protected at the state and local level already, CCRPC will defer to the relevant municipality or state agency with jurisdiction over the constraint. More detailed descriptions of each constraint are available in Appendix A: Local Constraint Language. This appendix will guide CCRPC in providing comments and participating in hearings before the District Environmental Commission.

CCRPC Actions

The EC may take action on an application only if there is an affirmative vote by the majority of those present. In the absence of such an affirmative vote, the EC and Executive Director will jointly bring the matter forward to the full CCRPC Board for action. To the best of our ability we will take action within a posted meeting – however, if participation is required before a meeting of either the EC or the full CCRPC Board can be held Staff will send the letter to Act 250 only if no objections have been heard from the Executive Committee. Formal review and action will be taken on the letter at the first available meeting following submittal of the letter.

CCRPC staff shall review all applications as required by 24 V.S.A. § 4345a(13) (with specific attention given to those applications going to a hearing) and will recommend one or more of the following actions to the EC:

**Letters:** The EC may submit one or more letters to the District Environmental Commission or Environmental Division of Vermont Superior Court to represent the position of CCRPC that accomplish one or more of the following purposes:

- Request clarification of specific matters in the application,
- Indicate if the proposed development is in conformance with the current Regional Plan, or
The Full CCRPC Board may submit one or more letters to the District Environmental Commission or Environmental Division of Vermont Superior Court to represent the position of CCRPC that accomplish one or more of the following purposes:

- Indicate if the proposed development is not in conformance with the current Regional Plan, or
- Indicate if the proposed development does not comply with one or more of the ten Act 250 criteria, or
- Request a hearing.

**Hearings:** If the EC determines it is beneficial for CCRPC to actively participate in a District Environmental Commission hearing, the EC will designate the Executive Director, CCRPC staff, or an EC member to attend and represent CCRPC at the District Environmental Commission hearing.

**Pre-Submission and Post-Submission Discussions**

In order to improve the likelihood that a project will be consistent with the Regional Plan, CCRPC staff will inquire about upcoming projects during discussions with member municipalities, primarily through discussion with planning and zoning staff at Planning Advisory Committee (PAC) meetings. Staff will inquire if any new projects currently under municipal planning and zoning review appear likely to have an Act 250 hearing, discussion with the Planning and/or Zoning staff of its member municipalities at the Planning Advisory Committee (PAC) meetings on at least a quarterly basis and inquire if any new projects currently under municipal planning and zoning review appear likely to have an Act 250 hearing. When CCRPC staff learns of such a project, CCRPC staff shall request a meeting with municipal staff and the project applicant, so that any regional issues, concerns or potential impacts may be identified and addressed at the earliest stages. These discussions are intended to provide information and not formulate CCRPC’s position on specific applications.

**Appeals**

The Environmental Division of Vermont Superior Court is responsible for reviewing appeals of District Environmental Commission rulings. Before CCRPC may be a party in an appeal of a District Environmental Commission decision to the Environmental Division of Vermont Superior Court (either to contest a District Environmental Commission decision or to support a District Environmental Commission decision that is contested by others), the Commission must approve such action, following recommendations made by the Executive Committee. Before CCRPC may be a party in an appeal of an Environmental Division of Vermont Superior Court decision to the Vermont Supreme Court (either to contest an Environmental Court decision or to support an Environmental Court decision that is contested by others), the Commission must approve such action, following recommendations made by the Executive Committee.
CCRPC Participation in the Section 248 Process

INTRODUCTION

The Vermont Public Service Board Utilities Commission (“PSBPUC”) is a State quasi-judicial board with jurisdiction over public utilities, cable television, water utilities, electric utilities, water carriers, gas utilities, telephone utilities, and resellers of telephone services, as described in 30 V.S.A. § 203. An entity that proposes to construct certain types of new/renovated gas or electric facilities must obtain a Certificate of Public Good from the PSBPUC pursuant to 30 V.S.A. § 248. The PSBPUC may not issue a Certificate of Public Good unless it finds (among other conditions) that the “…facility will not unduly interfere with the orderly development of the region with due consideration having been given to the recommendations of the municipal and regional planning commissions.” 30 V.S.A. § 248(b)(1). In addition, 24 V.S.A. § 4345a(14) requires regional planning commissions to “appear before the public service board to aid the board in making determinations under 30 V.S.A. § 248.”

The Regional Plan is written to meet the requirements for the Department of Public Service to grant a Determination of Energy Compliance. The Regional Plan received a Determination of Energy Compliance from the Public Service Department on August X, 2018. This means that A Determination of Energy Compliance means that the PUC should give the plan “substantial deference” during PUC proceedings under 30 V.S.A. §248. “Substantial deference” means that a land conservation measure or specific policy shall be applied in accordance with its terms unless there is a clear and convincing demonstration that other factors affecting the general good of the State outweigh the application of the measure or policy. The known and possible development constraints and suitability policies identified in the Regional Plan will receive substantial deference in PUC proceedings.

More detailed descriptions of each development constraint are available in Appendix A: Local Development Constraint Language. This appendix will guide CCRPC in providing comments and participating in hearings before the PUC.

CCRPC REVIEW PROCESS

CCRPC shall review all advance notices and petitions for Certificates of Public Good, with specific attention given to energy generation and transmission facilities and projects going to a hearing.

Criteria for CCRPC Review

In reviewing advance notices and petitions for Certificates of Public Good, CCRPC will focus its review on:

1. Compliance or non-compliance of the petition or plan for the proposed facility with the provisions of the current Regional Plan, with specific attention given to the Planning Areas section of the Regional Plan; or

2. Whether the proposed facility will or will not unduly interfere with the orderly development of the region. While the statute does not provide specific criteria for review (such as the 10 Act 250 criteria), CCRPC will review the petition with specific attention paid to transportation and/or traffic, the suitability policies identified in the Regional Plan, and the

As Amended on July X, 2018
other criteria within CCRPC’s expertise based on approved technical reports and/or on in-house technical expertise or expert opinion of individuals consulted by in-house staff; and.

3. Whether the proposed facilities avoid known development constraints or minimize impacts to possible development constraints identified in the Regional Plan. The constraints are identified in the current Regional Plan and are based on statewide or local policies that are currently adopted or in effect. When constraints are already protected at the state level or in a municipality with a plan that has received a Determination of Energy Compliance, CCRPC will defer to the relevant municipal or state agency review of the constraint. When a constraint is protected at the municipal level in a municipality with a plan that has not received a Determination of Energy Compliance, in consultation with the municipality, CCRPC will review whether known constraints are being avoided and whether impacts to possible constraints are being minimized.

During review, CCRPC may also ask for clarification of specific matters in the petition or plan for the proposed facility.

CCRPC RECOMMENDATIONS TO THE PUC DURING THE 45-DAY NOTICE PERIOD

At least 45 days before filing a Section 248 petition with the Commission, an applicant must provide advance notice of the proposed project to the municipal and regional planning commissions and the municipal legislative bodies in the town where the project will be located.

A regional planning commission must make any recommendation to the PUC and to the petitioner within 40 days of the submittal of the advance notice. CCRPC will make such recommendations after staff review and Executive Committee approval. Staff will communicate with municipal staff in developing the draft recommendation. Although § 248 is silent with respect to the nature of a regional planning commission’s recommendations, CCRPC’s policy is that any recommendations made by CCRPC will be expressed in a letter that provides the PUC and the petitioner with information about CCRPC’s preliminary determination on the review criteria identified above, along with requests for any additional information needed to make that determination. Following the comment letter, CCRPC may correspond further with the applicant and host municipality during the advance notice period to address concerns before the petition for a Certificate of Public Good is filed.

CCRPC PARTICIPATION AFTER A PETITION FOR A CERTIFICATE OF PUBLIC GOOD IS FILED

When a Petition for a CPG is filed, CCRPC staff will review the Petition in light of any comments submitted during the advance notice period and recommend action by the Executive Committee. CCRPC may:

1. Hold a CCRPC hearing
2. Submit comments during a PUC hearing
3. Intervene in a PUC hearing and becoming a party to the case
4. Request a hearing.
During any step, CCRPC may request that the Department of Public Service exercise its authority to retain experts and other personnel to review the proposed facility.

**CCRPC Hearing**

Although 30 V.S.A. § 248(f) specifically authorizes regional planning commissions to hold a public hearing on the plan for the proposed facility that is the subject of a §248 petition, it does not specify any additional details on the nature or requirements of such a hearing. It is CCRPC’s policy to limit the hearing to requesting more information or presenting of evidence regarding the review criteria identified above. CCRPC shall attempt to hold its public hearing at locations and times that are convenient to members of the public who are most likely to be interested in the outcome of the petition.

**Submitting Comments during a PUC Hearing**

When notified of a hearing before the PUC, CCRPC staff will make a recommendation to the Executive Committee (EC) regarding the petition, with a particular emphasis on any issues raised during the advance notice period. If all issues have been adequately addressed, CCRPC will submit comments stating that and will not participate further.

**Intervening in PUC Hearings**

When notified of a hearing before the PUC, CCRPC’s Executive Committee (EC) and staff will review the petition, with a particular emphasis on any issues raised during the advance notice period. If issues raised in the advance notice period have not been addressed, CCRPC’s EC and staff will work with the affected municipality to determine whether further participation is needed.

CCRPC may intervene in a PUC hearing. The EC has the authority to decide that it is beneficial for CCRPC to intervene in a PUC hearing, or the EC may decide to bring the decision to the full CCRPC Board. If the CCRPC Board agrees to intervene, it shall designate a representative to attend and represent CCRPC at the Public Service Board Utilities Commission hearing.

To participate in a PUC hearing beyond providing comments on the petition (as noted above), CCRPC must be granted “intervenor status” by the PSB. Although 30 V.S.A. § 248 does not automatically recognize that regional planning commissions are parties in PSB hearings, the current practice of the PSB is to allow entities that receive copies of the application according to 30 V.S.A. § 248(4)(C) an opportunity to submit a request to be named as a party when they file a Notice of Appearance. If CCRPC deems that it is necessary to participate in hearings governed by 30 V.S.A. § 248, it shall accompany its Notice of Appearance submission with a letter requesting Intervenor Status. If this request is denied and CCRPC continues to deem it necessary to participate, CCRPC may submit a Motion to Intervene.

CCRPC’s participation in a PUC hearing will be limited to the review criteria identified above.

**Requesting a PUC Hearing**

When notified that a petition has been submitted to the PUC, CCRPC will review the petition in consultation with the affected municipality, with a particular emphasis on any issues raised during the advance notice period. If the issues raised have not been addressed and a hearing has not been scheduled, CCRPC is able to request a hearing. The EC has the authority to decide that it is
beneficial for CCRPC to request a PUC hearing, or the EC may decide to bring the decision to the full CCRPC Board. If the CCRPC Board agrees to intervene, it shall designate a representative to attend and represent CCRPC at the Public Service Board Utilities Commission hearing.

**DETERMINING PREFERRED SITES FOR SOLAR GENERATION FACILITIES**

Vermont’s net metering rules (5.100 Rule Pertaining to Construction and Operation of Net-Metering Systems) allows Regional Planning Commissions and municipalities to identify preferred sites for net metering projects by identifying a preferred site in a joint letter of support from the municipal legislative body and the municipal and regional planning commission. Upon request, CCRPC’s Executive Committee and staff will review the site’s consistency with the review criteria identified above. CCRPC will participate in a joint letter if the criteria are met.

[NOTE: this process may change based on legislative changes in the 2018 session.]

**CCRPC Policies Related to Both Act 250 and Section 248 Participation**

**ACT 250/SECTION 248 MONTHLY REPORTS**

The EC shall use its monthly draft minutes to the full Commission to provide information pertaining to Act 250 and Section 248 applications in which a letter and/or testimony was submitted. In addition, the letters will be presented to the full Commission in the monthly meeting packets. For each application the EC minutes shall identify:

1) the project name, location, and a brief description,  
2) note any hearing dates on the project, and  
3) any actions the EC decided to exercise.

**CONFLICT OF INTEREST**

Real or apparent conflicts of interest will be guided by *CCRPC Bylaws, Article XII Resolving Conflicting Interests*. 
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<tr>
<th>Municipality</th>
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<tr>
<td>Bolton</td>
<td>1. Wetland Buffers 2. Very Steep Slopes (25% or more) 3. Surface Water Buffers</td>
<td>1. BLUDR Section 3.17(C)(3) All structures and other impervious surfaces shall be set back at least 50 feet from... wetlands identified on Vermont Significant Wetland Inventory (VSWI) maps or through field investigation, as measured from a delineated boundary. 2. BLUDR Section 3.16(B): All development is specifically prohibited on very steep slopes in excess of 25% except for the following which may be allowed by the Development Review Board subject to conditional use review and the requirements of Subsection (A): ski lifts and ski trails associated with an approved alpine or Nordic ski facility, hiking and rock climbing trails, development on pre-existing lots legally in existence as of the effective date of these regulations for which the Board determines that there is no portion of the lot on which the slope does not exceed 25% and, as such, that the total prohibition of development on slopes in excess of 25% would unduly preclude reasonable use of the lot. 3. BLUDR Section 3.17(B)(3) and (C)(1): All structures and impervious surfaces, except for allowed encroachments under Subsection (D) below, shall be set back at least...200 feet from Goose Pond, Preston Pond and Upper Preston Pond, as measured from the annual mean high water mark.In addition, all structures and other impervious surfaces shall be set back at least 50 feet from... the shorelines of all other naturally occurring lakes and ponds with a surface area greater than one (1) acre, as measured from the mean water line.</td>
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<td>Colchester</td>
<td>1. Steep Slopes 20% or greater 2.Water Protection Overlay District (Wetlands and Surface Waters Only)</td>
<td>1. Setback from Slopes. The minimum setback from a slope exceeding 45 degrees (See Appendix B) shall be fifty (50) feet (Colchester Zoning, Article 2). 2. It is the purpose of this Section to provide for the protection and improvement of the surface waters and wetland within the Town of Colchester. These regulations and standards are intended to lead to the establishment and protection of natural areas along the Town’s surface waters and wetlands to provide improved protection for water quality and the provision of open space areas and wildlife habitat. It is the further purpose of this Section to provide for the retention of preexisting residential neighborhoods located along surface waters and streams in a manner consistent with the resource protection goals of this Section and the Municipal Plan. For the FEH portion of this district, permitted uses are those uses which are permitted in the underlying zoning district. <strong>For wetlands and surface waters, encroachment is allowed only for very specific uses recreation, access, stormwater management, or agriculture.</strong></td>
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<td>Essex</td>
<td>1. Steep Slopes 20 Percent or Higher</td>
<td>1. Town Plan Page 63: Development shall be designed to prevent the destruction of important natural resources, including wetlands, floodplains, unique geological features, primary agricultural soils, and slopes exceeding 15 percent; and Zoning Regulations 5.6.B.2: Development shall be prohibited on slopes of 20 percent and steeper due to the likelihood of environmental damage.</td>
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<td>Hinesburg</td>
<td>1. Steep Slopes (25% or greater)</td>
<td>1. Hinesburg Zoning 5.26.2(1): Building sites and related development areas... shall avoid primary resource areas... including steep slopes of 25% or greater.</td>
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| Jericho     | 1. Well Protection Area Overlay District  
2. Natural Areas and Natural Communities  
3. Primary Conservation Areas                                                            | 1. Only the following uses are permitted within 200 feet surrounding the water supply wells service the Jericho Village Water District, the Foothills water supply, the Jericho East water supply, and the Underhill-Jericho Water District, the Jericho Heights water supply, and any other public water supply: Wildlife management, Passive recreation, Proper operation and maintenance of existing dams, splash boards, and other water control, supply and conservation devices, Maintenance and repair of any existing structure, Agriculture and forestry provided that fertilizers, herbicides, pesticides and other leachable materials are neither applied nor stored outdoors. (No conditional uses) [Land Use Regulations 6.6.2]  
2. Natural Resources Overly District: The purpose of the Natural Resources Overlay District is: to preserve wildlife habitat such as deeryards; to conserve and protect identified natural areas and natural communities such as significant habitat for flora and fauna; and to preserve identified scenic resources such as ridgelines. Only wildlife management, passive recreation, selective timber cutting and agriculture not involving structures is allowed in the natural areas and natural communities. Areas delineated as “natural areas and natural communities” shall consist of areas designated by the Vermont Natural Heritage Program and indicated on the map titled “Biological Natural Areas of Chittenden County” dated January, 1991 which are hereby incorporated by reference and made a part of this section (Land Use Regulations 6.7)  
3. Tiered Conservation Priorities, as shown on Map 9 of the Town Plan, depicts all the conservation priorities identified in Jericho in three tiers of priority. Primary Conservation Areas are the most sensitive places: the rare natural communities, rare species, vernal pools, riparian areas, river corridors, and wetlands. These areas occupy a small percentage of the town and should not be developed. (pg. 38)                                                                                                                                                                          |
<p>| Richmond    | 1. Slopes 35% or greater                                                              | 1. The following areas of a lot shall be deemed incapable of supporting any Land Development:...b) Slopes equal to or greater than 35% (Richmond Zoning Regulations, Section 2.5.2)                                                                                                                                                                                                 |</p>
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<td>South Burlington</td>
<td>1. Wetland Buffers</td>
<td>2. All wetland areas within the City of South Burlington, whether identified on the map entitled “Wetlands Map” as set forth in Section 3.02 of these regulations or as identified through field delineation, <strong>and a buffer area fifty (50) feet horizontal distance surrounding the boundary of any such wetland</strong>, shall be subject to the provisions of this section... (1) Consistent with the purposes of this Section, encroachment into wetlands and buffer areas is generally discouraged. (2) Encroachment into Class II wetlands is permitted by the City only in conjunction with issuance of a Conditional Use Determination (CUD) by the Vermont Department of Environmental Conservation and positive findings by the DRB pursuant to the criteria in (3) below. (3) Encroachment into Class II wetland buffers, Class III wetlands and Class III wetland buffers, may be permitted by the DRB upon finding that the proposed project’s overall development, erosion control, stormwater treatment system, provisions for stream buffering, and landscaping plan achieve the following standards for wetland protection: (a) The encroachment(s) will not adversely affect the ability of the property to carry or store flood waters adequately; (b) The encroachment(s) will not adversely affect the ability of the proposed stormwater treatment system to reduce sedimentation according to state standards; (c) The impact of the encroachment(s) on the specific wetland functions and values identified in the field delineation and wetland report is minimized and/or offset by appropriate landscaping, stormwater treatment, stream buffering, and/or other mitigation measures.(South Burlington Land Development Regulations Sections 12.02: Wetland Protection Standards and Review Procedures)</td>
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<td>Underhill</td>
<td>1. Land above 1,500 feet in elevation</td>
<td>1. All structures, with the exception of telecommunications and ancillary facilities are prohibited in this district over 1,500 feet in elevation above mean sea level (Included in Underhill Land Use Regulations Table 2.4, Table 2.5, Table 2.6, Table 2.7)</td>
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| Westford     | 1. Steep Slopes 25% or greater  
2. Deer Wintering Areas  
3. Ledge Outcroppings  
4. Flood Hazard Overlay District  
5. Water Resources Overlay | 1. Development must not occur on areas containing steep slopes (Westford Land Use Development Regulations Section 3210.A)  
2. Development must not disturb areas with significant natural resources (as defined in these regulations [Chapter 510]). If the property to be developed includes rare, threatened, or endangered species or significant natural communities (see Town Plan Map 3), the applicant must submit a natural resource inventory prepared by a qualified professional as part of the application, and must implement appropriate conservation design approaches to protect the identified natural resources on the property (Westford Land Use Development Regulations Section 3210.E)  
3. The excavation of more than 200 square feet of ledge outcropping is prohibited. The maximum allowed area of disturbance will be cumulatively calculated for a lot prior to subdivision and/or after the date these regulations were first adopted, February 10, 2011, whichever comes first (WLUDR Section 3210.D)  
4. The following land uses and development are prohibited within this overlay district: (1) New structures; (2) Outdoor storage, sales or display areas; (3) Junkyards; (4) Storage tanks; (5) Fill for purposes other than to elevate existing structures; (6) Grading, excavating or creating a pond; (7) Critical facilities; (8) A use that is not allowed within the underlying zoning district; and (9) All uses not listed as exempt (Section 283), permitted (Section 285) or conditional (Section 286) (WLUDR Section 284.A)  
5. Very limited allowed uses, listed in WLUDR Section 273. |
| Williston    | 1. Watershed Protection buffers  
2. Primary Viewshed Areas  
3. Slopes 30% or greater | 1. Watershed protection buffers shall remain undeveloped, except as provided here: Development within watershed protection buffers shall be limited to utility and road crossings; trails and trail crossings, with minor related facilities like signs and benches; and runoff and erosion control measures (Williston Unified Development Bylaw 29.9.6.3).  
2. Site work, structures, and/or impervious surfaces shall not encroach upon the designated Scenic Viewshed except: All lands that are included in Williston’s designated growth center, and all minor improvements to residential property listed in Chapter 20. (Williston Unified Development Bylaw 27.9.4)  
3. Development is prohibited (except where a variance can be justified) on slopes of 30% or more (Williston Unified Development Bylaw 29.5.1.1) |
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| **Bolton**   | 1. Conservation District  
2. Forest District  
3. Steep Slopes (15-25%)  
4. Town-Owned Land  
5. Flood Hazard Overlay II | 1. BLUDR Table 2.7(A): The Conservation District includes all land above 2,500 feet in elevation, the town’s permanently conserved lands, including town and state owned parks, forests and conservation land, and existing private in-holdings on Honey Hollow Road. Conditional Uses: Alpine Ski Facility, Primitive Campground, Nordic Ski Facility, Public Facility, Recreation/Outdoor, Telecommunications Tower.  
2. BLUDR Table 2.6(A): The purpose of this district is to protect Bolton’s more remote and inaccessible forested upland areas from fragmentation, development, and undue environmental disturbance, while allowing for the continuation of traditional uses such as forestry, outdoor recreation and compatible low density residential development  
3 BLUDR Section 3.16(A): Development on steep slopes equal to or in excess of 15%, or which results in such slopes, shall be subject to conditional use review under Section 5.4 and [provisions including stormwater management, erosion control and design intended to minimize visual impacts from public vantage points].  
4. Selectboard Authority  
5. BLUDR Table 2.8 states that the only new construction allowed in the FHO II district is an accessory structure to an existing use |
| **Burlington** | 1. Historic Districts and Historic Neighborhoods (Eligible for Listing)  
2. Mixed Use, Institutional Core Campus and Enterprise Zoning Districts  
3. Designated Downtown and Neighborhood Development Area  
4. View Corridors  
5. Official Map Features  
7. City-owned parks and | 1. Burlington’s Standards for Historic Buildings and Sites state that new additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale, and proportion, and massing to protect the integrity of the property and its environment. (5.4.8)  
2. Development Ordinance Section 4.4.1 and 4.5.2: Development [in the Downtown Mixed Use Districts and institutional Core Campus Overlay] is intended to be intense with high lot coverage and large tall buildings placed close together. Development in the Enterprise District is intended to ensure that sufficient land area is appropriately designated within the city to provide an adequate and diversified economic base that will facilitate high-density job creation and retention (4.4.3)  
3. Designated Downtown and Neighborhood Development Area are intended to be the center of Burlington’s economic and commercial development  
4. Development Ord. section 4.4.1 states that building heights and forms shall respect the principal view corridors, defined as the rights-of-way of Pearl, Cherry, College, and Main Streets, and preserve or enhance views to the lake and mountains.  
5, 6 & 7. City Council authority |
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| Charlotte    | 1. Shoreland Setback and Buffer Area Surface Waters, Wetlands, and Buffer areas  
2. Flood Hazard Areas  
3. Special Natural Areas  
4. Wildlife habitat  
5. Conserved Land  
6. Historic Districts, Site, and Structures  
7. Slopes greater than 15%  
8. Land in Active Agriculture  
9. Water Supply Protection Areas  
10. Scenic Views  
11. Significant Wildlife Habitat | 1-4: Zoning Regulation page 65 states Land development in Charlotte is evaluated and sited so as to avoid and / or minimize impacts to the following AHPV as identified in Charlotte's Town Plan and Land Use Regulations: flood hazard areas, Surface waters, wetlands and associated setback and buffer areas, Shoreland setback and buffer areas, special natural areas, Wildlife habitat (as identified in Charlotte Town Plan or as field delineated)  
5-11: Zoning Regulation page 65 states Land development in Charlotte is evaluated and sited so as to avoid and / or minimize impacts to the following AHPV as identified in Charlotte's Town Plan and Land Use Regulations: Historic districts, sites and structures (as listed in Vermont State Historic Register); Steep slopes (equal to or in excess of 15%),Land in active agricultural use |
| Colchester   | 1. Shoreland Setback and buffer area  
2. Shore Land Overlay District*  
3. Water Protection Overlay District (EXCEPT for wetlands and surface waters)* | 1. Zoning Regulation To preserve the natural growth and cover of the shorelines, to preserve water quality, to prevent pollution, to regulate development and appearance of the shorelines, to prevent erosion, to prevent nuisance, and to preserve the property rights of the shoreline property owners. Permitted uses are those uses which are permitted in the underlying zoning district.  
2. It is the purpose of this Section to provide for the protection and improvement of the surface waters and wetland within the Town of Colchester. These regulations and standards are intended to lead to the establishment and protection of natural areas along the Town’s surface waters and wetlands to provide improved protection for water quality and the provision of open space areas and wildlife habitat. It is the further purpose of this Section to provide for the retention of preexisting residential neighborhoods located along surface waters and streams in a manner consistent with the resource protection goals of this Section and the Municipal Plan. For the FEH portion of this district, permitted uses are those uses which are permitted in the underlying zoning district. |
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<th>Municipality</th>
<th>Possible Constraints</th>
<th>Supporting Regulation</th>
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</table>
| Essex        | 1. Scenic Resources Protection Overlay District  
2. Resource Protection District Industrial  
3. Steep Slopes 15-20%  
4. Core Habitat  
5. Habitat Blocks | 1. Essex Zoning Table 2.20.A: The purpose of this overlay district is to avert or minimize the adverse impacts of development on identified scenic resources, viewsheds and roadscape corridors in the Town of Essex through appropriate site planning and design practices. The standards are intended to provide flexibility so that proposed development can be designed to fit the particular characteristics of the site on which it is located.  
2. Essex Zoning Table 2.14: The objective of the RPD-I and the related O1 District parcel is to protect such natural attributes for public enjoyment, and, to carry out development activities in harmony with the natural surroundings. Of the 751.7 acres in this district, 60 percent has been formally designated for recreation/conservation use (including all of the related O1 District acreage) and the remaining 40 percent for permitted uses as set forth in (B) below that satisfy all other district requirements.  
3.Zoning Regulations 5.6.B.2: Development is discouraged on slopes of 15 percent or steeper due to the likelihood of erosion and stormwater runoff problems.  
4 and 5. Town Plan Policy 3(S).4 (p. 63): “Critical wildlife habitat, including but not limited to deer wintering areas, rare and/or endangered species habitat, local fisheries, and identified travel corridors, shall be protected from inappropriate development and land management activities.”  
Town Plan p. 63: “By recognizing its natural features – topography, slopes, geology, soils, water resources, agricultural and forest lands – a town can protect those resources and ensure a high quality of life for its residents.”  
Town Plan p. 72, Forest Lands: “Essex's forests provide large habitat blocks for animals and offer economic potential through timber harvests. Forest trails open to hiking, mountain biking, horseback riding, cross-country skiing and snowmobiling improve quality of life and can support a recreation-based sector of the economy. Nearly 13,000 acres in Essex are forested, yet forest fragmentation from development is a major problem in Vermont, including Essex. The largest forests in Essex stretch north from the northeastern and northwestern parts of town into Colchester, Milton, Westford, and Underhill. The largely unbroken woodland area as prime habitat, the Vermont Agency of Natural Resources scores both forests as 9 out of 10.” |
| Hinesburg    | 1. Moderately Steep Slopes (15-25%)  
2. Core Wildlife Habitat  
3. Village Growth Area  
4. Industrial zoning districts | 1 and 2. Hinesburg Zoning 5.26.2(1): Building sites and related development areas...shall minimize impact on secondary resource areas...including slopes between 25-25% and core wildlife habitat.  
3. Hinesburg Zoning, Section 3.1: Village Growth Area Purpose. Development densities should be maximized to the extent practical in order to better realize Hinesburg’s overall “smart growth” strategy.  
4. Hinesburg Zoning, Sections 3.11-3.14: Industrial Districts 1-4 are intended for industrial uses |
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<tr>
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</thead>
</table>
| Jericho      | 1. Secondary Conservation Areas  
2. Village Centers | 1. Tiered Conservation Priorities, as shown on Map 9 of the Town Plan, depicts all the conservation priorities identified in Jericho in three tiers of priority. Secondary Conservation Areas are also very sensitive but some activities can occur within them without compromising their integrity. These include wildlife road crossings, a larger area surrounding vernal pools, significant (but not rare) natural communities, and ledge and cliff habitat that may be important for wildlife. In general, these places should be evaluated carefully when development is proposed within them for potential conflicts with the natural resource values. (Town Plan Pg. 38)  
2. The purpose of the Village Center District is to encourage the concentration of people and community-focused activities in traditional centers (Land Use Regulations 3.2.7) |
| Milton       | 1. Town Forest and Municipal Natural and Rec Areas with Management Plans  
2. Habitat Blocks 8-10  
3. Encumbered Open Space | 1. Selectboard Authority  
2. Town Plan Goal 8.1: Continue protection of existing natural resources identified in this chapter. [Including critical habitat]  
3. OPEN SPACE Requirements for developments with ten (10) or more multi-family residential units. The proposal shall provide for the preservation and maintenance of OPEN SPACE which is designed to be an integral part of the whole development. The size, shape and locations of OPEN SPACE shall be approved by the Development Review Board. The OPEN SPACE shall be protected by appropriate legal devices to ensure the continued USE of such lands for the purpose of AGRICULTURE, FORESTRY, recreation or conservation. Such mechanisms include dedication of development rights, conservation easements, homeowners associations, restrictive covenants, conveyance to land trusts, or other appropriate grants or restrictions approved by the Development Review Board. Permitted future USES and maintenance of the OPEN SPACE shall be specifically identified as part of the approval of development with ten (10) or more multifamily units. (Milton Land Use Regulations Section 804.6) |
| Shelburne    | 1. Significant View Areas  
2. Archeologically Sensitive Areas  
3. Lakeshore Overlay District | 1. Direct development in a manner to minimize undue adverse impacts on the Town’s scenic beauty, open lands, shorelines, and ridgelines with particular attention paid to roadside views or views from Lake Champlain. Identification of such resources can be aided by the maps listed in Objective 1 (Town Plan pg. 30)  
2. Would be based on review by the Department of Historic Preservation and mapping completed by town that is not publically accessible.  
3. The purpose of this district is to preserve vegetation and natural cover of the shore adjacent to Lake Champlain in order to preserve views both from and of the lake, the preservation of water quality and prevention of pollution, the recognition of the extreme vulnerability of lakeshore properties to erosion and other nuisances, and the avoidance of problems resulting from over intensive exploitation of the lakeshore. Uses are permitted according to underlying district (Shelburne Zoning Regulations Article XVII: Lakeshore Overlay District) |
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| South Burlington  | 1. Source Protection Area Zone 1*  
2. Habitat Blocks and Riparian Connectivity 4. Slopes 20% or greater  
5. SEQ Natural Resource Protection Area | 1 & 2. The 2016 Comprehensive Plan includes a section on energy siting (page 3-41) states “South Burlington recognizes that there may at times be competing goals. While the City supports the harnessing of renewable energy, particularly in the case of solar arrays, it must consider the impacts of such structures on open spaces and wildlife corridors. As such, this plan shall strive to provide guidance as to where the siting of renewable energy facilities should be avoided in favor of certain conservation areas:  
• All Primary Conservation Areas identified per the map included in the 2014 South Burlington Open Spaces Report (SPA-Zone I is indicated on the Primary Conservation Areas map)  
• Uncommon Species and Habitat Blocks identified per the Secondary Conservation Maps included in the 2014 South Burlington Open Spaces Report.”  
3. The presence of important ecological resources, as well as steep slopes, shallow soils, and extensive bedrock outcroppings should be incorporated into all types of planning for development and conservation (Town Plan, 2-105).  
4. Any lot that lies entirely within a SEQ-NRP sub-district is subject to the following supplemental regulations: (1) Such lot shall be conveyed to the City of South Burlington as dedicated open space or to a qualified land trust and shall not be developed with a residence, or (2) Such lot may be developed with a residence or residences pursuant to a conservation plan approved by the Development Review Board. See 9.12(B) below.  
(3) Such lot may be developed with uses other than residences, as listed in Table C-1, subject to the Development Review Board’s approval of a conservation plan that balances development or land utilization and conservation. Such lot may also include the following additional development/activities: (a) Driveways, roads, underground utility services, or other appurtenant improvements to serve approved development or uses. Utility service components, such as transformers and amplifiers, may be installed at ground level where such accords with standard industry practices. (b) Landscaping, regrading, or other similar activities necessary to the creation of a buildable lot. (South Burlington Land Development Regulations, Section 9.12)
## Act 250 and Section 248 Review Policies

### Appendix A - Possible Constraints

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<tr>
<th>Municipality</th>
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<tr>
<td><strong>Underhill</strong></td>
<td>1. Steep slopes (15-25%)&lt;br&gt;2. Mt. Mansfield Scenic Preservation District&lt;br&gt;3. Wetlands and associated buffers&lt;br&gt;4. Surface Waters and buffers&lt;br&gt;5. Steep Slopes (&gt;25%)</td>
<td>1. The purpose of this section is to regulate land subdivision and development to minimize site disturbance and construction on steep slopes (15% to 25%), and to avoid site disturbance on very steep slopes (&gt;25%) (Underhill Land Use Regulations Section 3.18)&lt;br&gt;2. Mt. Mansfield Scenic Preservation and Soil and Water Conservation Districts. Site layout and design, to the extent physically feasible, shall avoid adverse impacts to natural and scenic resources and environmentally sensitive areas within these districts, including those resources listed under Subsection B.1. The applicant should consider, and the DRB may require one or more mitigation measures listed under Subsection B.1 as necessary to minimize adverse impacts to identified resources in the vicinity of the proposed development. (Underhill Land Use Regulations Section 5.3.B.2.c).&lt;br&gt;3 &amp; 4. All structures and impervious surfaces, except for allowed encroachments under Subsection E below, shall be set back at least: 1. 100 feet from the Beaver Brook, Settlement Brook, Crane Brook, the Creek, Roaring Brook, Seymour River, Harvey Brook, Stevensville Brook, Mill Brook, Clay Brook, and Brown’s River, as measured horizontally from the top of the bank, or 50 feet if measured from top of slope. 2. 100 feet from all Class I wetlands and 50 feet from Class II wetlands as measured horizontally from a delineated wetland boundary identified initially from Vermont Significant Wetland Inventory (VSWI) maps, and through site documentation if required by the Zoning Administrator or the Development Review Board. 3. In addition, all structures and other impervious surfaces shall be set back at least 25 feet from: a. other naturally occurring streams and rivers (as measured horizontally from the top of the bank, or channel centerline where no bank is discernable), as identified on USGS topographic maps, Vermont Base Mapping Program orthophotos, or through site investigation; b. Class III wetlands identified from Vermont Significant Wetland Inventory (VSWI) maps or through site investigation, as measured horizontally from a delineated wetland boundary (Underhill Land Use Regulations Section 3.19)&lt;br&gt;4. Zoning Regulations - to avoid site disturbance on very steep slopes (&gt;25%), Exemption Utilities, including telecommunications facilities, power generation facilities, and transmission lines regulated by the Vermont Public Service Board. (pgs. 53-54)</td>
</tr>
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<td><strong>Williston</strong></td>
<td>1. Conservation Areas/Natural Communities*&lt;br&gt;2. Steep slopes over 15%</td>
<td>1. 27.4.4 Avoid Undue Adverse Impact. Alternative site designs may be required, alternative locations for the development may be required, and the minimum amount of land required to be set aside as open space may be increased, if necessary to avoid undue adverse impacts to Conservation Areas. (Williston Unified Development Bylaw 27.4.4) There are seven distinct Conservation Areas in Williston: 1) significant wildlife habitat areas; 2) areas containing uncommon, rare, threatened, or endangered species; 3) unique natural communities; 4) farmlands of local importance; 5) scenic viewsheds; 6) special flood hazard areas (see WDB Chapter 28), and 7) streams, wetlands, lakes, and ponds (see WDB Chapter 29) (Williston Unified Development Bylaw 27.1.1)&lt;br&gt;2. Development should be directed away from slopes. This bylaw calls for reduced densities on slopes over 15% (see Chapter 19 and the various zoning districts). (Williston Unified Development Bylaw 29.5.1.1)</td>
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Chittenden County Regional Planning Commission  
July 18, 2018

Agenda Item 9: Amendments to the “Guidelines and Standards for Confirmation of Municipal Planning Processes and Approval of Municipal Plans”

Issues:

CCRPC is seeking “Determination of Energy Compliance” from the Vermont Department of Public Service (DPS) on the 2018 ECOS Plan. DPS will hold a hearing on the plan on August 6, 2018 and decide whether to grant the Determination. After the 2018 ECOS Plan gains a Determination, CCRPC will be able to review municipal plans and grant affirmative Determinations of Energy Compliance to municipal plans.

The proposed amendments to the “Guidelines and Standards for Confirmation of Municipal Planning Processes and Approval of Municipal Plans” discuss the additional steps that a municipality and CCRPC must take for CCRPC to grant an affirmative determination for a plan. These guidelines reflect edits from the Executive Committee (May 2) and the Planning Advisory Committee (May 11).

The additional steps can be summarized as follows:

1. Municipalities write an enhanced energy plan or energy chapter that meets the Vermont Department of Public Service Energy Planning Standards for Municipal Plans (http://publicservice.vermont.gov/sites/dps/files/documents/Pubs_Plans_Reports/Act_174/Municipal%20Determination%20Standards_Final.pdf),
2. Municipalities request that CCRPC issue an affirmative determination,
3. CCRPC holds a public hearing and reviews the plan against the Energy Planning Standards, and
4. CCRPC makes a determination. An affirmative determination remains in effect until the plan expires. A municipality can edit the plan to address a negative determination and have it reviewed again.

Some housekeeping edits are also suggested at this time:

1. Clarify the difference between plan amendments and plan re-adoptions (page 2),
2. Clarify the need for updated data during the plan re-adoption process (page 4 of Appendix A), and
3. Remind CCRPC staff to distribute initial reviews of municipal plans to the CCRPC Board representatives for surrounding municipalities (page 5).

Staff Recommendation: No action needed at this time, but comments are appreciated.

Staff Contact: Contact Emily Nosse-Leirer and Regina Mahony with any questions: enosse-leirer@ccrpcvt.org or rmahony@ccrpcvt.org, 846-4490 ext. *15 or *28.
Chittenden County Regional Planning Commission
July 18, 2018

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Introduction

A municipality adopts a plan in order to define the kind of community that it desires to be. The approval of a municipal plan by the Regional Planning Commission supports this vision. In Vermont, a municipality is under no obligation to

- adopt a plan,
- have its plan be approved by a Regional Planning Commission, or
- have its municipal planning process be confirmed by a Regional Planning Commission.

However, a municipality that elects to have its planning process be confirmed obtains these benefits (24 VSA 4350(e)):

- Eligibility to charge impact fees, to apply for municipal planning grants, and to participate in State Designation Programs;
- Immunity from review by the Department of Housing and Community Affairs of the municipality’s plan for compliance with affordable housing criteria established under 24 VSA §4351; and
- State agency plans adopted under 3 VSA Chapter 67 must be compatible with the municipality’s approved plan.

A municipality may write an enhanced energy plan to make progress towards Vermont’s energy goals. A municipality is under no obligation to adopt an enhanced energy plan, as defined by 24 VSA §4352. However, a municipality that receives a Determination of Energy Compliance is gains benefits, as described in 30 VSA §248 (b)(1)(C).

“With respect to an in-state electric generation facility, the Commission shall give substantial deference to the land conservation measures and specific policies contained in a duly adopted regional and municipal plan that has received an affirmative determination of energy compliance under 24 V.S.A. § 4352. In this subdivision (C), "substantial deference" means that a land conservation measure or specific policy shall be applied in accordance with its terms unless there is a clear and convincing demonstration that other factors affecting the general good of the State outweigh the application of the measure or policy. The term shall not include consideration of whether the determination of energy compliance should or should not have been affirmative under 24 V.S.A. § 4352.”

Role of the Regional Planning Commission

Vermont law [24 VSA §4350(a)] requires each Regional Planning Commission to review the planning process of each of its member municipalities at least twice during an eight-year period (or more frequently at the request of a municipality). This “Guidelines” document identifies the procedures and standards that the Chittenden County Regional Planning Commission (CCRPC) will use for approving the plans and confirming the planning processes of CCRPC’s member municipalities.

Section 4350(a) establishes that CCRPC must confirm a municipal planning process that meets all of the following criteria:

1) The municipality is engaged in a continuing planning process that, within a reasonable time, will result in a plan that is consistent with the goals of Chapter 117 [see 24 VSA 4302];
2) The municipality is engaged in a process to implement its municipal plan, consistent with the program for implementation required under 24 VSA §4382; and
3) The municipality is maintaining its efforts to provide local funds for municipal and regional planning.

Section 4350(b) additionally requires that a municipality must have its plan be approved by the Regional Planning Commission in order to obtain or retain confirmation of its planning process. CCRPC shall approve a municipal plan if CCRPC finds that the plan meets all of these criteria:

1) The municipal plan is consistent with the goals established in 24 VSA §4302 [CCRPC may consider if a municipality has a valid explanation for why its plan does not advance a State goal];
2) The municipal plan is compatible with CCRPC’s current Regional Plan;
3) The municipal plan is compatible with the approved plans of other municipalities in the region; and
4) The municipal plan contains all the elements required by state law in 24 VSA §4382(a). At the time of the adoption of these guidelines, there are 12 required elements. However, the number of required elements may change based on future legislation.

24 VSA §4352 (b)-(c) states that a municipality that wishes to seek a Determination of Energy Compliance submits its plan to the Regional Planning Commission, if the regional plan has an affirmative determination of energy compliance. CCRPC’s regional energy plan received this determination on August X, 2018. CCRPC shall issue an affirmative Determination of Energy Compliance if the plan:

1) is consistent with the regional plan,
2) includes an energy element,
3) is consistent with Vermont’s energy goals and policies:
   a. greenhouse gas reduction goals, 25 by 25 goal for renewable energy and Vermont’s building efficiency goals,
   b. State energy policy,
   c. the distributed renewable generation and energy transformation categories of resources to meet the requirements of the Renewable Energy Standard, and
4) meets the standards for issuing a determination of energy compliance included in the State energy plans, as described by the Vermont Department of Public Service in their Energy Planning Standards for Municipal Plans.

The Department of Public Service standards described in Part 4 have been written to ensure that compliance with those standards demonstrates that a municipal plan has met requirements 1-3 above.

Definitions

For the purposes of administering this policy, the following terms shall have the following meanings:

**Adopted Plan:** A municipal plan that
1) has been legally adopted by the local legislative body or voters, having followed the procedures of 24 VSA 4385,
2) includes the required elements set out in 24 VSA §4382, and
3) is consistent with the goals set out in 24 VSA §4302.

**Amended Plan:** A municipal plan that has been previously adopted and approved may be amended to change a limited portion of the plan. CCRPC has reviewed the plan to ensure that the section(s) continue to meet the required elements and goals related to the amended section(s), and consistency with the Regional Plan. An amended plan does not necessarily incorporate changes made to planning requirements since its adoption and approval, and the expiration date of the plan does not change based on the amendment.

**Approved Plan:** An adopted plan that has been approved by CCRPC because CCRPC has found that the plan meets all of the requirements of 24 VSA §4350 (b) [the four criteria listed at the end of the preceding section of these “Guidelines”].

As Amended on July X, 2018
CCRPC: Chittenden County Regional Planning Commission.

Compatible with: A plan is compatible with a second plan when the first plan
1) will not significantly reduce the desired effect of the implementation of the second plan or
2) includes a statement that identifies
   a) the ways that the first plan will significantly reduce the desired effect of the second plan,
   b) an explanation of why any incompatible portion of the first plan is essential to the desired effect of the plan as a whole,
   c) an explanation of why there is no reasonable alternative way to achieve the desired effect of the plan, and
   d) an explanation of how the first plan has been structured to mitigate its detrimental effects on the implementation of the second plan.

Consistent with: A plan is consistent with the goals of 24 VSA §4302 if
1) the plan is making substantial progress toward attainment of those goals, or
2) the planning body determines that a particular goal is not relevant or attainable (subject to review), in which case the planning body shall identify the goal in the plan and describe the situation, explain why the goal is not relevant or attainable, and indicate what measures should be taken to mitigate any adverse effects of not making substantial progress toward that goal.

Confirmed Planning Process: A municipal planning process that has been confirmed by CCRPC because CCRPC has found that the planning process meets the requirements of 24 VSA §4350 (a).

Municipality: A town, city, incorporated village, or unorganized town or gore. An incorporated village shall be deemed to be within the jurisdiction of a town, except to the extent that a village adopts its own plan and one or more bylaws either before, concurrently with, or subsequent to such action by the town.

Program: A schedule of sequenced actions that identifies information such as who is to undertake each action, anticipated costs, possible financing, and expected or desired outcomes.

Readoption: In accordance with 24 VSA §4385 and §4387 an expired plan or plan that is about to expire may be readopted. A readopted plan is one that is brought into full compliance with statute.

Guidelines for Evaluating the Municipal Plans
Appendix A includes the goals as specified in 24 VSA §4302 with which the municipal plans must be consistent, and the elements as specified in 24 VSA §4382(a) which must be contained within the municipal plans. There are many ways to satisfy each goal and element and a municipality should tailor the approaches it uses to local considerations. CCRPC encourages each municipality to confer with CCRPC staff early in the planning process to review how the municipality proposes to meet the goals and elements as well as to request assistance from CCRPC in developing its plan.

Confirmation of a Municipal Planning Process & Approving Readoption of a Municipal Plan
Materials to Submit:
A municipality requesting CCRPC to confirm its municipal planning process and to approve the municipal plan needs to provide the following materials to CCRPC:

- A letter signed by the appropriate municipal authority requesting CCRPC to consider confirmation of its planning process and approval of its plan (a sample letter is available from CCRPC staff);
- A summary of the municipality’s funding over the prior five years dedicated to municipal and regional planning purposes;
- A concise summary, in the format provided in Appendix A (CCRPC will make Appendix A available electronically), referencing the locations of statements within the municipal plan relating to how the plan:
  - Is consistent with the goals of 24 VSA §4302,
  - Is compatible with the most recent version of the Chittenden County Regional Plan,
  - Is compatible with the approved plans of adjacent municipalities (including those outside of Chittenden County),
  - Contains the required elements of 24 VSA §4382(a); and
- Documentation of the municipality’s process to implement the adopted plan, as described in 24 VSA §4350(c). Documentation can take two forms:
  - If the previously adopted plan includes an implementation table or spreadsheet, add a column indicating what progress has been made on actions from the previous plan (for example, “completed in 2017,” “ongoing,” or “no progress.”).
  - If the previously adopted plan does not include an implementation table or spreadsheet, fill out the Municipal Plan Implementation Assessment provided in Appendix B (CCRPC will make Appendix B available electronically).
  - Examples of implementation tables will be provided by CCRPC upon request.

- One pdf version of the plan (including maps) submitted for approval.

A municipality requesting a Determination of Energy Compliance - must submit

- A summary of how the plan meets the Energy Planning Standards for Municipal Plans. A checklist containing the standards can be downloaded from the Department of Public Service Website: http://publicservice.vermont.gov/content/act-174-recommendations-and-determination-standards

CCRPC Review Process for Confirming a Municipality’s Planning Process & Approving a Municipal Plan

The general process is as follows:

The plan is in effect for 8 years after it is adopted by the municipality.

An amendment can occur anytime but does not change the expiration date of a plan

Implementation of the Municipal Plan

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<th>Year 1 – Year 5</th>
<th>Year 6</th>
<th>Year 7</th>
<th>Year 8</th>
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<tr>
<td>18-24 months before plan expiration: Initial plan review, first consultation</td>
<td>Approx. 6 months before plan expiration: PAC Review, second consultation</td>
<td>Around the time of plan adoption: Formal plan review hearing, approval of plan, confirmation of planning process</td>
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1. **Initial Staff Review** – Staff will initiate informal plan reviews approximately 18-24 months prior to the expiration of each municipal plan. Staff will share these reviews with Municipal Staff, Municipal Planning Commissions and the PAC. This review shall also function as one of the two required consultations within an 8-year period (§4350(a)), and will include a review of progress made on the existing plan’s implementation program. **When initial reviews are completed, CCRPC staff will provide the reviews to the CCRPC Board representatives and alternates from the municipality being reviewed, as well as its adjoining municipalities. This will ensure that municipalities are aware that their neighbors are beginning a plan update and provide an opportunity for neighboring municipalities to become involved early in the process.**

The municipality may also request staff and/or PAC review of their draft Plan at any point in the Plan development process prior to the formal review described below. This allows the municipality to gain detailed feedback and suggestions from staff and the PAC while there is still time to incorporate it.

CCRPC receives 30-day Planning Commission public hearing notice for Town Plan amendments. If not concurrent with the municipal request for approval as described in Step 2 below, CCRPC staff will review the draft plan and provide an informal Staff recommendation to both the Planning Advisory Committee (PAC) and the municipal Planning Commission in time for their public hearing. The CCRPC Board will be cc’d on the informal Staff recommendation.

2. **Planning Advisory Committee Review of Draft Plan** – In accordance with 24 VSA §4385(c) the municipal request for approval from the RPC may be before or after adoption of the plan by the municipality, at the option of the municipality. However, CCRPC would prefer if the formal request is made 120 days before the current municipal plan expires to aid with CCRPC review scheduling. Upon receipt of the formal review request, Staff will review the plan.

Staff will schedule the formal plan review for the next available PAC meeting (and hold the required public hearing at this meeting if there is adequate time to warn the hearing). The CCRPC Commissioner and Alternate Commissioner from the municipality and Commissioners/Alternate Commissioners from the municipality’s neighboring municipalities will be invited to participate in this formal PAC Review.

The PAC will provide its written recommendation to CCRPC and the municipality. If the PAC recommends that the plan not be approved because of deficiencies, the municipality may address that recommendation at the full CCRPC Board or agree to rectify the deficiencies and resubmit its plan for PAC review. The PAC review will serve as the second of the two consultations required every eight years by 24 VSA §4350(a).

3. **CCRPC Review and Action** CCRPC will hold a public hearing (if not held under Step 2) and consider the recommendation of the PAC at a regularly scheduled meeting. Scheduling of this meeting will occur in consultation with the municipality. The municipality may attend the CCRPC meeting and voice its positions related to the PAC’s recommendation.

   a. The CCRPC may approve or not approve the municipal plan. CCRPC must approve or disapprove a municipal plan or amendment within two months of CCRPC’s receipt of the plan following a final hearing held by the municipality to adopt the municipal plan pursuant to 24 VSA 4385.

   b. Pursuant to 24 VSA 4350 (f) CCRPC’s decisions to confirm a municipal planning process and to approve a municipal plan must be made by a majority vote of the Commissioners representing municipalities in accordance with CCRPC’s bylaws.

If CCRPC disapproves a plan or plan amendment, it must state its reasons in writing and, if appropriate, suggest modifications that would be acceptable to CCRPC. If the municipality requests approval of a resubmitted plan with
modifications, CCRPC must give its approval or disapproval within 45 days. The municipality may appeal the decision in accordance with 24 VSA 4476.

The CCRPC forwards a copy of its resolution of approval to the Department of Economic, Housing and Community Development and the municipal clerk.

Expiration - The CCRPC’s approval of the plan will remain in effect until the plan expires, which will occur eight years after the plan is adopted by the municipality.

CCRPC Review Process for Granting an Affirmative Determination of Energy Compliance

1) Once a readopted or amended municipal plan with an enhanced energy element has been adopted, a municipality shall request CCRPC to issue a Determination of Energy Compliance. The municipality shall submit a summary of how the plan meets the Energy Planning Standards for Municipal Plans in the form of the Department of Public Service’s checklist, which can be downloaded from the Department of Public Service Website: http://publicservice.vermont.gov/content/act-174-recommendations-and-determination-standards

2) Staff will review the plan against the Energy Planning Standards for Municipal Plans and make a recommendation to the PAC.

   a. If a municipality is seeking a Determination of Energy Compliance at the same time as it is seeking CCRPC approval of the plan and confirmation of the planning process, compliance with the Energy Planning Standards will be reviewed during the PAC review as described in Step 2, and the public hearing will be held following the public hearing on the full plan. If the energy element of the plan meets the requirements of 24 VSA §4348a(a)(3) but does not meet the more stringent Energy Planning Standards, the PAC may recommend approval and confirmation of the plan, but not recommend granting an affirmative Determination of Energy Compliance.

   b. A municipality may seek a Determination of Energy Compliance based on plan amendments without readopting its plan. If a previously approved plan with a confirmed planning process has been amended to meet the Energy Planning Standards but has not otherwise been changed to meet any revisions to planning statute, the PAC will review the energy section(s) of the plan. The CCRPC may grant an affirmative Determination of Energy Compliance to the amended plan without re-approving the plan or confirming the planning process. This will grant the municipality the benefits of having an enhanced energy plan, but will not change the expiration date of the plan.

2) CCRPC will hold a public hearing (if not held during PAC review) and consider the recommendation of the PAC at a regularly scheduled meeting. Scheduling of this meeting will occur in consultation with the municipality. The municipality may attend the CCRPC meeting and voice its positions related to the PAC’s recommendation. If the municipality is seeking confirmation and approval of the plan at the same time, CCRPC will review both issues during the same meeting.

   a. Per 24 VSA §4352, the CCRPC may grant an affirmative determination of energy compliance. CCRPC must grant or not grant an affirmative determination of energy compliance within two months of CCRPC’s
receipt of the adopted plan pursuant to 24 VSA 4385. Pursuant to 24 VSA 4350 (f), CCRPC’s decisions to
grant an affirmative Determination of Energy Compliance must be made by a majority vote of the
Commissioners representing municipalities in accordance with CCRPC’s bylaws.

If CCRPC does not grant an affirmative determination of energy compliance, it must state its reasons in writing and, if
appropriate, suggest modifications that would be acceptable to CCRPC. If the municipality requests approval of a
resubmitted plan with modifications, CCRPC must give its approval or disapproval within 45 days.

The CCRPC forwards a copy of its resolution of approval to the Department of Public Service and the Municipal Clerk.

Expiration - The CCRPC’s determination of energy compliance will remain in effect until the plan expires, which will
occur eight years after the plan is adopted by the municipality.

Amending an Un-Expired Plan

With the clarification in Act 90 that an amendment to a plan does not affect or extend the plan’s expiration date (24
VSA §4385(d)), CCRPC has a simplified review process for plan amendments. Upon request, CCRPC will review plan
amendments to ensure that the amendment would not alter or risk the municipality’s standing plan approval and
confirmation status.

Materials to Submit

A municipality requesting CCRPC to review an amendment to a municipal plan needs to provide the following
materials to CCRPC:

◆ A letter from the municipality requesting CCRPC to review its plan amendment and briefly describing the
amendment and the reason for amending (a sample letter is available from CCRPC staff);
◆ An electronic copy of the amended section/chapter in its entirety with the changes clearly indicated. It is
not necessary to send a copy of the full plan.

CCRPC Review Process for Reviewing an Amended Municipal Plan

1. The municipality will contact CCRPC staff to inform staff of the intent to amend an unexpired plan that has
been previously approved and for which the planning process has been confirmed.

2. Upon receipt of the amendment review request, Staff will review the amended section(s) of the plan to
determine whether the section(s) continue to meet the required elements and goals related to the
amended section(s), and consistency with the Regional Plan.

a. If staff determines that the proposed amendments do not need to be formally reviewed by the PAC
and the CCRPC, following staff review, staff will provide a letter stating that the plan amendment does
or does not impact the municipality’s standing plan approval and planning process confirmation; or
not. If not, Staff will provide recommendations to address the issues of concern. Staff will distribute
the proposed amendments and the letter to the PAC for information.

b. If staff are concerned that the amendments may impact the municipality’s standing plan approval and
planning process confirmation, or have any other concerns, Staff will ask the PAC to review the
amendment.

c. If the municipality would prefer formal CCRPC approval of the plan amendment, CCRPC will conduct a
formal review upon request and follow the full process for readoption of a plan described above.

3. The CCRPC will forward a copy of this letter to the Department of Economic, Housing and Community
Development, the PAC, and the municipal clerk.
Appendix A – Municipal Plan Review Tool
Chittenden County Regional Planning Commission
Guidelines and Standards for Confirmation of Municipal Planning Processes and Approval of Municipal Plans

This form addresses the statutory requirements of the State of Vermont for town plans, as cited in the Vermont Municipal and Regional Planning and Development Act, Title 24 V.S.A Chapter 117 (the Act). It includes the 12 required elements found in § 4382 of the Act; the four planning process goals found in § 4302(b), the 14 specific goals found in § 4302(c); and the standard of review found in § 4302(f), which covers consistency with goals and compatibility standards.

During the Regional approval and confirmation process, specified in § 4350 of the Act, the regional planning commission is required to assess town plans and the process whereby they are developed according to the criteria of the Act. Sections of relevant statute are quoted at each question.

**Required Elements § 4382**

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**State Planning Goals § 4302**

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TOWN PLAN REQUIRED ELEMENTS

Title 24 Chapter 117: Municipal and Regional Planning and Development

24 V.S.A. § 4382. The plan for a municipality
(a) A plan for a municipality may be consistent with the goals established in section 4302 of this title and compatible with approved plans of other municipalities in the region and with the regional plan and shall include the following:

(1) A statement of objectives, policies and programs of the municipality to guide the future growth and development of land, public services and facilities, and to protect the environment.

Comments:

(2) A land use plan, consisting of a map and statement of present and prospective land uses, that indicates those areas proposed for forests, recreation, agriculture (using the agricultural lands identification process established in 6 V.S.A. § 8), residence, commerce, industry, public and semi-public uses and open spaces, areas reserved reserved for flood plain, and areas identified by the State, the regional planning commission, or the municipality that require special consideration for aquifer protection; for wetland protection, for the maintenance of forest blocks, wildlife habitat, and habitat connectors; or for other conservation purposes; sets forth the present and prospective location, amount, intensity and character of such land uses and the appropriate timing or sequence of land development activities in relation to the provision of necessary community facilities and service; identifies those areas, if any, proposed for designation under chapter 76A of this title, together with, for each area proposed for designation, an explanation of how the designation would further the plan's goals and the goals of § 4302 of this title, and how the area meets the requirements for the type of designation to be sought; and indicates those areas that are important as forest blocks and habitat connectors and plans for land development in those areas to minimize forest fragmentation and promote the health, viability, and ecological function of forests.

Comments:

(3) A transportation plan, consisting of a map and statement of present and prospective transportation and circulation facilities showing existing and proposed highways and streets by type and character of improvement, and where pertinent, parking facilities, transit routes, terminals, bicycle paths and trails, scenic roads, airports, railroads and port facilities, and other similar facilities or uses, with indications of priority of need;

Comments:

MAPS
- Present Land Use Plan
- Prospective Land Use Plan

MAP
- Transportation
(4) A utility and facility plan, consisting of a map and statement of present and prospective community facilities and public utilities showing existing and proposed educational, recreational and other public sites, buildings and facilities, including hospitals, libraries, power generating plants and transmission lines, water supply, sewage disposal, refuse disposal, storm drainage and other similar facilities and activities, and recommendations to meet future needs for community facilities and services, with indications of priority of need, costs and method of financing;

Comments:

Choose an item.
Pages:

(5) A statement of policies on the preservation of rare and irreplaceable natural areas, scenic and historic features and resources;

Comments:

Choose an item.
Pages:

(6) An educational facilities plan consisting of a map and statement of present and projected uses and the local public school system;

Comments:

Choose an item.
Pages:

(7) A recommended program for the implementation of the objectives of the development plan;

Comments:

Choose an item.
Pages:

(8) A statement indicating how the plan relates to development trends and plans of adjacent municipalities, areas and the region developed under this title;

Comments:

Choose an item.
Pages:

(9) An energy plan, including an analysis of energy resources, needs, scarcities, costs and problems within the municipality, a statement of policy on the conservation of energy, including programs, such as thermal integrity standards for buildings, to implement that policy, a statement of policy on the development of renewable energy resources, a statement of policy on patterns and densities of land use likely to result in conservation of energy;

Comments:

Choose an item.
Pages:
(10) A housing element that shall include a recommended program for addressing low and moderate income persons' housing needs as identified by the regional planning commission pursuant to subdivision 4348a(a)(9) of this title. The program should account for permitted accessory dwelling units, as defined in subdivision 4412(1)(E) of this title, which provide affordable housing.

Comments:

(11) An economic development element that describes present economic conditions and the location, type, and scale of desired economic development, and identifies policies, projects, and programs necessary to foster economic growth.

Comments:

(12)(A) A flood resilience plan that:
   (i) identifies flood hazard and fluvial erosion hazard areas, based on river corridor maps provided by the Secretary of Natural Resources pursuant to 10 V.S.A. § 1428(a) or maps recommended by the Secretary, and designates those areas to be protected, including floodplains, river corridors, land adjacent to streams, wetlands, and upland forests, to reduce the risk of flood damage to infrastructure and improved property; and
   (ii) recommends policies and strategies to protect the areas identified and designated under subdivision (12)(A)(i) of this subsection and to mitigate risks to public safety, critical infrastructure, historic structures, and municipal investments.

   (B) A flood resilience plan may reference an existing local hazard mitigation plan approved under 44 C.F.R. § 201.6.

Comments:

§4382(c) Data:

Where appropriate, and to further the purposes of subsection 4302(b) of this title, a municipal plan shall be based upon inventories, studies, and analyses of current trends and shall consider the probable social and economic consequences of the proposed plan. Such studies may consider or contain, but not be limited to:

   (1) population characteristics and distribution, including income and employment;
   (2) the existing and projected housing needs by amount, type, and location for all economic groups within the municipality and the region;
   (3) existing and estimated patterns and rates of growth in the various land use classifications, and desired patterns and rates of growth in terms of the community's ability to finance and provide public facilities and services.

Comments:
GOALS AND STANDARDS OF REVIEW

GOALS

24 VSA § 4302

(a) General purposes . . .

(b) It is also the intent of the legislature that municipalities, regional planning commissions and state agencies shall engage in a continuing planning process that will further the following goals:

(1) To establish a coordinated, comprehensive planning process and policy framework to guide decisions by municipalities, regional planning commissions, and state agencies.

(2) To encourage citizen participation at all levels of the planning process, and to assure that decisions shall be made at the most local level possible commensurate with their impact.

(3) To consider the use of resources and the consequences of growth and development for the region and the state, as well as the community in which it takes place.

(4) To encourage and assist municipalities to work creatively together to develop and implement plans.

(c) In addition, this chapter shall be used to further the following specific goals:

Goal 1:
To plan development so as to maintain the historic settlement pattern of compact village and urban centers separated by rural countryside.

(A) Intensive residential development should be encouraged primarily in areas related to community centers, and strip development along highways should be discouraged.

(B) Economic growth should be encouraged in locally designated growth areas, or employed to revitalize existing village and urban centers, or both.

(C) Public investments, including construction or expansion of infrastructure, should reinforce the general character and planned growth patterns of the area.

How has the Town Plan addressed this goal:

If the goal is not relevant or attainable, how does the plan address why:

Goal 2:
To provide a strong and diverse economy that provides satisfying and rewarding job opportunities and that maintains high environmental standards, and to expand economic opportunities in areas with high unemployment or low per capita incomes.

How has the Town Plan addressed this goal:

If the goal is not relevant or attainable, how does the plan address why:
Goal 3:
To broaden access to educational and vocational training opportunities sufficient to ensure the full realization of the abilities of all Vermonters.

How has the Town Plan addressed this goal:

If the goal is not relevant or attainable, how does the plan address why:

Goal 4:
To provide for safe, convenient, economic and energy efficient transportation systems that respect the integrity of the natural environment, including public transit options and paths for pedestrians and bicyclers.

(A) Highways, air, rail and other means of transportation should be mutually supportive, balanced and integrated.

How has the Town Plan addressed this goal:

If the goal is not relevant or attainable, how does the plan address why:

Goal 5:
To identify, protect and preserve important natural and historic features of the Vermont landscape including:

(A) significant natural and fragile areas;

(B) outstanding water resources, including lakes, rivers, aquifers, shorelands and wetlands;

(C) significant scenic roads, waterways and views;

(D) important historic structures, sites, or districts, archaeological sites and archaeologically sensitive areas

How has the Town Plan addressed this goal:

If the goal is not relevant or attainable, how does the plan address why:
Goal 6:
To maintain and improve the quality of air, water, wildlife, forests and other land resources.

How has the Town Plan addressed this goal:

If the goal is not relevant or attainable, how does the plan address why:

Goal 7:
To encourage the efficient use of energy and the development of renewable energy resources.

How has the Town Plan addressed this goal:

If the goal is not relevant or attainable, how does the plan address why:

Goal 8:
To maintain and enhance recreational opportunities for Vermont residents and visitors.

(A) Growth should not significantly diminish the value and availability of outdoor recreational activities.

(B) Public access to noncommercial outdoor recreational opportunities, such as lakes and hiking trails, should be identified, provided, and protected wherever appropriate.

How has the Town Plan addressed this goal:

If the goal is not relevant or attainable, how does the plan address why:

Goal 9:
To encourage and strengthen agricultural and forest industries.

(A) Strategies to protect long-term viability of agricultural and forestlands should be encouraged and should include maintaining low overall density.

(B) The manufacture and marketing of value added agricultural and forest products should be encouraged.

(C) The use of locally-grown food products should be encouraged.

(D) Sound forest and agricultural management practices should be encouraged.

(E) Public investment should be planned so as to minimize development pressure on agricultural and forest land.

How has the Town Plan addressed this goal:

If the goal is not relevant or attainable, how does the plan address why:
Goal 10:
To provide for the wise and efficient use of Vermont’s natural resources and to facilitate the appropriate extraction of earth resources and the proper restoration and preservation of the aesthetic qualities of the area.

How has the Town Plan addressed this goal:

If the goal is not relevant or attainable, how does the plan address why:

Goal 11:
To ensure the availability of safe and affordable housing for all Vermonters.

(A) Housing should be encouraged to meet the needs of a diversity of social and income groups in each Vermont community, particularly for those citizens of low and moderate income.

(B) New and rehabilitated housing should be safe, sanitary, located conveniently to employment and commercial centers, and coordinated with the provision of necessary public facilities and utilities.

(C) Sites for multi-family and manufactured housing should readily available in locations similar to those generally used for single-family conventional dwellings.

(D) Accessory apartments within or attached to single family residences which provide affordable housing in close proximity to cost-effective care and supervision for relatives or disabled or elderly persons should be allowed.

How has the Town Plan addressed this goal:

If the goal is not relevant or attainable, how does the plan address why:

Goal 12:
To plan for, finance and provide an efficient system of public facilities and services to meet future needs.

(A) Public facilities and services should include fire and police protection, emergency medical services, schools, water supply and sewage and solid waste disposal.

(B) The rate of growth should not exceed the ability of the community and the area to provide facilities and services.

How has the Town Plan addressed this goal:

If the goal is not relevant or attainable, how does the plan address why:

Goal 13:
To ensure the availability of safe and affordable child care and to integrate child care issues into the planning process, including child care financing, infrastructure, business assistance for child care providers, and child care work force development.

How has the Town Plan addressed this goal:
If the goal is not relevant or attainable, how does the plan address why:

**Goal 14:**
To encourage flood resilient communities.
(A) New development in identified flood hazard, fluvial erosion, and river corridor protection areas should be avoided. If new development is to be built in such areas, it should not exacerbate flooding and fluvial erosion.
(B) The protection and restoration of floodplains and upland forested areas that attenuate and moderate flooding and fluvial erosion should be encouraged.
(C) Flood emergency preparedness and response planning should be encouraged.

How has the Town Plan addressed this goal:

If the goal is not relevant or attainable, how does the plan address why:
STANDARD OF REVIEW

24 V.S.A. § 4302(f)

(1) As used in this chapter, "consistent with the goals" requires substantial progress toward attainment of the goals established in this section, unless the planning body determines that a particular goal is not relevant or attainable. If such a determination is made, the planning body shall identify the goal in the plan and describe the situation, explain why the goal is not relevant or attainable, and indicate what measures should be taken to mitigate any adverse effects of not making substantial progress toward that goal. The determination of relevance or attainability shall be subject to review as part of a consistency determination under this chapter.

(2) As used in this chapter, for one plan to be "compatible with" another, the plan in question, as implemented, will not significantly reduce the desired effect of the implementation of the other plan. If a plan, as implemented, will significantly reduce the desired effect of the other plan, the plan may be considered compatible if it includes the following:

(A) a statement that identifies the ways that it will significantly reduce the desired effect of the other plan;

(B) an explanation of why any incompatible portion of the plan in question is essential to the desired effect of the plan as a whole;

(C) an explanation of why, with respect to any incompatible portion of the plan in question, there is no reasonable alternative way to achieve the desired effect of the plan, and

(D) an explanation of how any incompatible portion of the plan in question has been structured to mitigate its detrimental effects on the implementation of the other plan.

Details of CCRPC’s review process can be found in “Chittenden County Regional Planning Commission Guidelines and Standards for Confirmation of Municipal Planning Processes and Approval of Municipal Plans,” as adopted October 19, 2016.
Recommendations for Improving Vermont’s Permitting System
Approved - November 19, 2014

There continue to be opportunities to improve the permitting system in Vermont. In identifying these opportunities, we have grouped them into three categories of focus: smart growth improvements, economic development improvements, and process improvements. The following reflect statements of principles and ideas and not specific legislative proposals including all of the details necessary for statutory change.

Smart Growth recommendations:

1. In general, the state permit process should encourage development in appropriately planned places and discourage development outside of those areas. If this recommendation would result in a more efficient and timely process in designated growth areas, it may be appropriate to develop more stringent standards and thresholds for development review in rural areas.

2. Continue to encourage infill development over sprawl pattern.

3. To encourage infill and redevelopment, consider expanding opportunities for delegation of Act 250 review to municipalities that have strong municipal bylaws and enforcement in state designated areas (downtown, neighborhood, new town center, growth center). Evaluate which criteria are better handled at the municipal level. If Act 250 exemptions or limitations are approved in these designated locations, those properties with previous Act 250 permits should be granted the same benefit.

4. Revise Energy code requirement in Act 250 Criterion 9f – The current requirement to conceptually model building design to document energy code compliance 10% better than code does not make sense. It is selectively targeting only the projects that go through Act 250 and creating a disincentive for going through Act 250 in smart growth locations.

5. When Act 250 evaluates traffic impacts, clarify how credit should be given for pre-existing development so as to encourage redevelopment.

6. Prime Agricultural soils on-site mitigation should not be required in areas targeted for development in municipal and regional plans.

Community and Economic Development -

1. Target Infrastructure Planning Funds – Increase ANR funding and give priority to municipalities planning for water, wastewater, storm water, and other infrastructure to support designation/efficient land use/compact development.

2. Target, promote and install water/wastewater systems in villages/downtowns/growth centers and enterprise zones.

3. Authorize the opportunity for additional TIF districts.

4. Re-affirm support for local infrastructure financing in designated areas consistent with municipal and regional plans.

5. Create a new designation for Enterprise Zone.
   a. Zones must be clearly identified in the adopted regional and municipal plans. With RDC, confirm that the site is needed for high wage, value-added employment. Consider having Downtown Board approve designation.
   b. Expand the VEDA managed revolving loan fund for the creation or improvement of industrial parks in Enterprise Zones to include municipalities and private companies as eligible entities.

6. Have VEDA provide financing up to 50% of site planning, acquisition, and infrastructure costs for employment in any state designation. The State can either fund projects using grants, loans (to be recovered from initial lot sales) or a combination of both.

7. Authorize municipalities to put local options tax into place by a municipal vote only.
8. Expand the capacity of the bond bank to issue revenue bonds (not just general obligation) in revenue bond districts. Reduce interest rate for projects in state designations from the bond bank. Like VEDA, provide 1% loans to be paid back with additional property taxes in the designated area until the loan is paid off; plus one additional year of the property tax revenue to mitigate risk in the pool.

9. Expand the State Treasurer’s municipal equipment loan fund for more eligible uses related to municipal infrastructure.

Permitting Process recommendations:

1. Electronic submissions –
   a. Revise state statute to allow for electronic signatures and electronic file submission to be the official record.
   b. Use technology to create a common application form with basic applicant and project information for use in all applications and link databases so that all permits/applications are accessible through one portal. This should include state agency (ANR, VTrans) and Act 250 applications.

2. Review times –
   a. Consider a reasonable and timely deadline for review of applications. For major projects, consider a 15 day completeness review with a 30 to 60 day compliance review by state agencies except for Act 250. Applicants need clear guidelines as to what constitutes a complete and compliant application.
   b. Improve the system to complete the reviews in the timeframes by increasing the use of certifications and 3rd party reviews.

3. Appeals-related -
   a. There should be an option of an appeal at the administrative level first within agencies to resolve issues of consistency of review.
   b. Given the numerous permits required to develop, when one permit is appealed that should by law pause the clock on other permits.
   c. Work towards allowing an “on the record review” process at the state and District Environmental Commission levels at the choice and expense of the applicant. Then the Environmental Court can decide an appeal based on evidence developed before these review boards instead of having an entirely new trial.

4. Vesting –
   a. Clarify statute for determining at which point an applicant is vested with regards to basic zoning (use and density) compliance prior to obtaining other local and state technical permits.

5. Master Planning –
   a. Master plan permitting should rely more on conceptual plans and capacity analysis as opposed to engineer sealed plans with more detail. Master plan permit approval should include conditions of obtaining the other more detailed permits (stormwater, wastewater, etc.).

6. Integrating Municipal and State Permitting –
   a. Provide a mechanism for municipalities to issue Wastewater System and Potable Water Supply Permits for connections to their municipal water and wastewater facilities without having to take responsibility for private water and on-site septic system permits as well.
   b. If Act 250 is not engaged, municipal DRB approval should include conditions that any state permits required by a project review sheet be obtained prior to construction.

7. Municipal permitting
   a. Modernize the notice requirements.
      i. Revise the certified mail requirement to allow for other options.
      ii. Develop consistent municipal notification requirements for site plan and conditional use review.
DATE: Wednesday, June 13, 2018
TIME: 2:30 p.m. to 4:00 p.m.
PLACE: CCRPC Offices, 110 West Canal Street, Suite 202, Winooski, VT

Members Present:
- Michael Burris, Milton
- Victor Sinadinoski, Milton
- Ken Belliveau, Williston
- Matt Boulanger, Williston
- Jessica Draper, Richmond
- Paul Conner, South Burlington
- Joss Besse, Bolton
- Dean Pierce, Shelburne
- Dana Hanley, Essex

Darren Schibler, Essex
Sarah Hadd, Colchester (here at 2:45pm)
Zach Maia, Colchester Intern
Jessie Baker, Winooski
David White, Burlington
Staff:
- Regina Mahony, Planning Program Manager
- Emily Nosse-Leirer, Planner

1. Welcome and Introductions
Joss Besse called the meeting to order at 2:35 p.m.

2. Approval of May 9, 2018 Minutes
Ken Belliveau made a motion, seconded by Victor Sinadinoski, to approve the May 9, 2018 minutes, with an amendment to correct the spelling of Darren Schibler’s name. No further discussion. MOTION PASSED. Dean Pierce abstained.

3. Implementing Form Based Codes
Regina Mahony stated as part of our Sharing Skill Sets agenda item your fellow planners will give a quick overview of their experiences thus far with form based codes including what’s worked well, what has been a challenge, and any observations in comparison to traditional zoning. We have form based codes in Burlington, South Burlington, Winooski, Colchester, Shelburne, Jericho and Westford (close to it).

We’ve printed out a comparison chart between Winooski’s, Burlington’s and South Burlington’s codes (attached); as well as some sections from each of them. South Burlington, Burlington, and Winooski will give a quick overview; and Colchester and Shelburne as well.

South Burlington – melded a number of various zoning districts together to create the form based code district. Only one building was conforming after adoption. The little things have really helped – much simpler list of uses and simple parking standards has proven useful for property owners and staff. So far they’ve fully approved two brand new buildings (both by same architect) on Market Street and by Staples. Currently reviewing a third building; and a smaller project. Process didn’t feel faster for the applicant the first time, because there was a big learning curve. Staff now has more answers so it seems to be going faster. Margins of things have become more important than before (for example, measuring window from the outside or the inside) which rarely came up at the DRB under the traditional zoning. There are very specific open space rules, and applicants have typically left the open space to the end of the design process, but that is proving challenging. It needs to be thought through up front to ensure you meet the code. Applicants have gotten 97% of the way there and it is difficult to know if the code should be adjusted, or if applicants can make it. For now, the PC wants to keep the bar where it is, to push applicants to meet the code in full before they consider changing anything.

Burlington – Adopted last Fall, though the basic elements were adopted in an earlier amendment that guided City Place development. Since the code has been adopted haven’t had any other big buildings except for some amendments. Approvals are administrative, except there are thresholds that kick the review to the DRB, such as over 65’ in height goes to DRB for any change in mass. Applicants having the hardest time with the code are struggling.
with the things that aren’t discretionary. They don’t want to be in a box, but that is the idea. Have had some head
scratching moments, that will likely result in some tweaks in the future. Currently, they are looking at expanding the
area subject to form based code for an additional 18 properties around the current transition zone (the FBC is now in
the City Center and transition zone). They have asked applicants to prove that they meet the standards which has
aided the review process.

Winooski – It was adopted in 2016 on the Gateways (Mallets Bay Ave, Main St/Route 7 and East Allen/Route 15),
one property deep with residential neighborhoods on the back side. It was intended to focus development on the
gateways, and protect those residential neighborhoods. Two projects are fully built and occupied; one more is fully
approved; and 6 more are underway in permitting. Pretty big impact, quickly. The administrative approval process
has worked well for relationship building between the development community and the staff leadership team. The
leadership team in the City does the review from a City service perspective. What hasn’t worked well: 1. While this
was anticipated, there are utility conflicts with buildings right to the sidewalks and overhead lines (the silver lining is
a $23 bond passed to revitalize the Main St. streetscape); 2. DRB and public have felt very out of the loop (so
working on the communication pieces with the rest of the community); and 3. neither the energy efficiency or
affordable housing bonus has been utilized. The City Council is really looking to make the affordable housing
component more workable.

Shelburne – the form based code is an optional overlay. There is still a fair amount of consideration of use. It
addresses non-conformities but since its optional there really isn’t a non-conforming trigger. The FBC gets you more
density so there is an incentive to use it. The district goes from the bridge on the LaPlatte all the way north to the So.
Burlington line. One applicant has opted to use the code, and while it wasn’t easy they knew they’d get more out of it
at the end and that they would get an approval at the end. However, there were some challenges over a road that is
included on the Regulating Plan approved as part of the form based code. So the project was ultimately pulled. Took
months and months and months to get the code through the PC, and the SLB adopted it in one night. They do have a
second set of amendments that they’d like to make; however they are now focused on the Town Plan. The code does
default to underlying zoning for some standards like signs, and parking (though the FBC does allow you to reduce
parking). Approval is by the DRB and you do have to convince the Board that it will work, so it is still fairly
discretionary.

Colchester – Severance Corners had several large subdivisions approved but the development of them slowed during
the recession. The Town took that time to re-look at the area, and adopted the Form Based Code as a result. However,
most of the developments have been building out under their original subdivision permits. They’ve only seen one
building approved under the FBC. They worked out some non-conformities, and provided some incentives in the
FBC that they are hoping developers will want to take advantage of. So far developers have not wanted to embrace it.
The older subdivisions are expiring soon. They have no transects, but they have A, B and C streets. Approval is by
the DRB with discretion to some extent. A lot of the standards are under the public works standards. They have open
space standards, but not required set asides. No density (one thing they are hoping the developers take advantage of).
Table of uses is broad and pretty wide open, including some industry. There is no maximum or minimum for
parking; instead they regulate the form of it (for example, required landscape islands, and break up the lots behind the
buildings to discourage massive surface parking lots).

Questions –
Did you start out wanting to do a FBC and end up with a hybrid? South Burlington – in some ways have a very
classic code because other parts of the zoning still come into account. Burlington - don’t know what a pure FBC is.
Burlington’s been trying to do something like this since 1973. They’ve known that design is really important, but the
regulations have gotten so subjective over the years. So they decided to try another approach that was more
prescriptive and less subjective. We never called it a “form based code” just as we never would have called our other
zoning “Euclidean zoning”. We simply framed it as making some changes that would be more prescriptive.
Shelburne – a key player on Planning Commission was under the mindset of old is bad, new is good and we need to
call it something very different, so they used the term.

The discussion continued regarding ‘form based codes’ in their pure form and the need to stick to all of the
component pieces and intentions. The reality for those that have included form based code elements in their
regulations is that they’ve established regulations that are intended to improve the process and outcomes. The exact components vary and none of them are ‘pure’. Regarding amending these codes in the future, the hope is that we are building local expertise.

How is the design community reacting to this? South Burlington - People that are used to the previous regulations had a challenge with it. While a firm that never worked with us before got it 97% off the bat. Some see it as constraining, while others view it as open. Burlington – Have a similar experience; and some designers like it because it helps them hold the line on a good design. South Burlington – We are wondering if the inability to reach the the last 3% of compliance is a problem with the code, or a leap that the applicants can meet. The challenge in meeting the last 3% does vary, though the open space requirement seems to be consistent as it hasn’t been thought through early enough in the process.

Regina Mahony will email the comparison chart out to the PAC. If those with a form based code could fill it in for their municipality that would be greatly appreciated.

4. Richmond Plan Review

Emily Nosse-Leirer provided an overview of the staff comments on the draft Richmond Town Plan, including where Richmond is in the process. There have been a number of significant changes since the last time the PAC reviewed the Plan including a full and thorough land use chapter. Staff is asking for additional detail on the compatibility with adjacent municipal plans and the regional plan to meet the statutory requirements. There is also a minor suggestion to clarify the terms river corridor and river corridor protection area. Emily Nosse-Leirer indicated that while CCRPC can’t provide a formal recommendation on the energy determination because CCRPC does not yet have it’s own determination, Staff did review the draft Plan for the necessary content and called for one edit to meet the standard which is to clarify the reference to the maps. There is also a question regarding the reference to trails in the list of possible constraints.

Jess Draper provided some additional information. The Planning Commission’s public hearing that took place after the last PAC review was three hours long and not very positive. The Planning Commission heard that the energy section was not robust enough, there was not enough protection of natural resources, and it was not Richmond enough. The Plan has been heavily revised since then to address these concerns, and they have had informal outreach since then.

Joss Besse asked Jess if she thinks they can add more on the compatibility piece. Jess Draper indicated that they probably can, however when she brought the comment to the Planning Commission last time they didn’t address it. Paul Conner recalled that there was a suggestion to more closely link between the agricultural land use section and the natural resource review section; and asked if this was done. Jess Draper stated that they did address this, and it was actually through the energy planning work and identification of constraints. Jess Draper anticipates that there may still be a contingent that is unhappy with the Plan and they may take up their concerns with the Selectboard.

Dean Pierce made a motion, seconded by Ken Belliveau, that the PAC finds that the draft 2018 Richmond Town Plan, as submitted meets all other statutory requirements for CCRPC approval with the exception of describing adjacent municipalities plans and regional plan compatibility; otherwise, the PAC finds the municipality's planning process meets all statutory requirements for CCRPC confirmation.

Upon notification that the Plan has been adopted by the municipality, CCRPC staff will review the plan, and any information relevant to the confirmation process, including confirmation that the compatibility statement has been changed. If staff determines that changes are substantive, those changes will be forwarded to the PAC for review. Otherwise the PAC recommends that the Plan, and the municipal planning process, should be forwarded to the CCRPC Board for approval.

No further discussion. MOTION PASSED.

5. Regional Act 250/Section 248 Projects on the Horizon
South Burlington: There is a sub-station pre-application by the airport that will go to the PUC. There is a project in front of the Holiday Inn in the FBC that is subject to Act 250. Eventually a large residential neighborhood (160 housing units at Nolan Farm and Dorset) will go to Act 250.

Richmond: Nothing

Williston: Northridge residential subdivision Phase I (22 units) by Black Rock will go to Act 250 soon. State police barracks are potentially moving; they are meeting with Staff to discuss. A membership type store is potentially coming in.

Milton: There is a proposal for a warehouse and retail store at the Charlebois property. 252 Middle Road - solar project, 45 day notice already submitted. Update – There has been a successful mediation on the sand pit project with the Winterlane neighbors.

Burlington: UVM Arena

Colchester: They have 4 solar farm applications (2 are the Towns). The street addresses they are using are not official. 92 room hotel on Water Tower Circle.

Shelburne: pretty quiet on 248. Act 250: Snyder golf course housing development – sketch approval and partial preliminary approval from the Town so far. Water is an issue.

Essex: Nothing new since last meeting. Solar project moving forward.

Bolton: Nothing.

6. Other Business
   a. ECOS Plan to be adopted next week on June 20th. We will send it to DPS for Determination of Energy Compliance. They have 60 days to review and act on our request.
   b. The VLCT Municipal Assistance Center recently developed a model highway access policy and drainage management best practice standards. You can find them here: https://www.vlct.org/resource/highway-access-drainage-management-standards.
   c. The Form-Based Codes Institute (FBCI) did not respond to the PAC’s questions about their class offerings. Regina Mahony assumes they got enough interest from other locations. Regina Mahony will provide the dates and locations of these classes when they are announced.
   d. The next Housing Convening will probably take place at the end of August or October. Likely on the topic of Housing Trust Funds.

7. Adjourn
   The meeting adjourned at 4:02 p.m.

Respectfully submitted, Regina Mahony
### Form Based Codes Comparison

<table>
<thead>
<tr>
<th>Structure &amp; Admin:</th>
<th>Winooski</th>
<th>Burlington</th>
<th>South Burlington</th>
<th>Your Town!</th>
</tr>
</thead>
<tbody>
<tr>
<td>Organizing Format</td>
<td>Transect Zone</td>
<td>Transect Zone</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Optional or Required</td>
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<tr>
<td>Review Type - Small projects</td>
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</tr>
<tr>
<td>Review Type - Large Projects</td>
<td>Administrative</td>
<td>Administrative &amp; DRB depending on height</td>
<td>Administrative</td>
<td></td>
</tr>
<tr>
<td>Does the Code allow for staff or DRB discretion?</td>
<td>Yes within limits: &quot;Administrative Adjustment Standards&quot;</td>
<td>Fixed criteria for administrative; some discretion for DRB</td>
<td>None except DRB for doorway spacing</td>
<td></td>
</tr>
</tbody>
</table>

### Features:

| Street Types | no | no | Yes |
| Building Types | no | yes | No |
| Frontage Types | yes | yes | No |
| Open Space Standards | yes (urban space) | yes (Civic) | Yes |
| Design Standards | yes | yes | No |
| Others? | Affordable Housing Bonus | Green & High Performance Buildings for larger buildings | Stretch Energy Code (Citywide) |
| Others? | Energy Efficiency Bonus | Inclusionary Zoning over 5 units | Inclusionary Zoning |

### Functional Elements

| T-Zones Included | no | T5 & T6 | T3, T4, T5 |
| Density | Detached building form allows for a max 3 units, otherwise none | No Min or Max in T4 + T5, minimum of 4 du/a in T3 |
| Table of Uses | 3 uses: residential, commerce and civic use | Limited table of Prohibited Uses |
| Parking | min, no max | min for new office and residential, max for all | Small min for non-res; max for res |
| Nonconformities | yes, some minor amendments can be made on existing lots without bringing it up to the FBC standard | yes | Custom |
| Special Circumstances | Civic uses not subject to building form or architectural standards | Civic Buildings and Spaces | Public Buildings, Drive-throughs, etc. |