

## South Hero Development Regulations Update: Issues and Actions Matrix 3/2016

#	Issue or Opportunity	Potential Solution/Action	
<b>Overall Comments</b>			
1	Language that allows for standardless discretion is not easy to interpret, administer or follow and is open to litigation.	Where appropriate eliminate any/all use of the word 'may' and replace with 'shall' or 'will'. If standard includes a "when feasible" clause, provide options for what that means.	X
2	Development standards for village and hamlet areas do not clearly prescribe design and form consistent with the traditional character and vision for the village centers.	Consider the extent to which the development regulations should incorporate form based code in terms of process, format, type of building design standards and type of building form standards.	X
3	The vision for the village centers and hamlet areas is not sufficient to serve as a basis for new regulations.	Through documenting existing character and engaging the community, further refine and add specificity to the vision for villages and hamlet areas in town.	X
<b>Article 1</b>			
Summary Table	Flood Hazard Area is reviewed by ZBA, except for subdivisions.	Fix error.	
Summary Table	Information on Boundary Lot Adjustments is missing.	Add BLA information.	
<b>Article 2 Zoning Districts and District Regulations</b>			
Section 203 Zoning District Purposes	Consider whether making the Conservation District an overlay district would be beneficial.	If overlay district is desired, update map and associated tables and language.	O
Section 203 Zoning District Purposes	The town's villages and hamlet areas have the same zoning designation as the rural areas of town which lack effective and appropriate commercial development review standards for building form and siting.	<ul style="list-style-type: none"> <li>Define village zoning districts for SH Village and Keeler Bay.</li> <li>Consider whether the town's hamlet areas should have a unique designation or an additional layer of regulation with an overlay.</li> </ul>	X

Section 203 Zoning District Purposes	Revisit purpose of the Rural Residential District. Does it reflect the types of rural commercial development allowed?	Discuss potential revisions to the Rural Residential District purpose. Consider the Town Plan goals and policies.	O
Section 203 Zoning District Purposes	Revisit the purpose and effectiveness of the Conservation District.	Discuss and either confirm that its effectiveness and purpose or revise. There was a comment that it should become an overlay district.	O
Section 203 Zoning District Purposes	The Shoreland Protection Act is not referenced.	Add reference to the Shoreland Protection Act.	
Section 204/Table 2.1 Dimensional Standards	There are no dimensional standards specific to village and hamlet scale development.	Develop dimensional standards for new village districts, and potentially for hamlet areas.	X
Section 204/Table 2.1 Dimensional Standards	Discuss development pattern in non-village areas of town. Is it consistent with the character they envision and the town plan? Would separating lot size from density achieve better results?	Discuss.	O
Section 204/Table 2.1 Dimensional Standards	Unclear on how to calculate minimum lot depth where there are uneven frontage distances, specifically in the Shoreland District.	Define process for determining minimum lot depth.	
Section 204/Table 2.1 Dimensional Standards	Should interim zoning provision requiring a maximum square footage for commercial development be codified?	Discuss and potentially add maximum square footage with provision for measuring square footage (i.e. is basement included in measurement?).	X
Section 204 Measuring Setbacks	It is unclear whether building features such as eaves and troughs should be excluded from setback calculation.	Discuss and clarify whether building features such as eaves and troughs should be included when measuring setbacks.	
Section 205/Table 2.2 Allowed Uses	Allowed use categories (especially commercial uses) are not effectively categorized. Allowed uses could be better organized.	Review allowed uses (with focus on commercial uses) and revise use categories to be most appropriate to the level and detail of development	X

Section 205/Table 2.2 Allowed Uses	There are no allowed uses specific to village and hamlet areas.	standards and zoning districts. Group allowed uses in chart by type. Develop allowed uses for new village districts and potentially for hamlet areas.	X
Section 205/Table 2.2 Allowed Uses	Listing commercial as a use category is not effective and can be confusing.	Revise commercial use categories and make sure all are defined.	
Section 205/Table 2.2 Allowed Uses	The bylaws do not have provision for temporary or intermittent uses, such as bakes sales, flea markets, yard sales, food trucks, vehicle sales and fundraisers.	Discuss how to appropriately address temporary and intermittent uses and revise regulations accordingly.	
<b>Article 3 Permit Review Procedures</b>			
Article 3 in whole	Overview of zoning permit process would be helpful.	Add flow chart How to Get a Zoning Permit At a Glance.	
Section 301 (A) Zoning Permits and Procedure	Permit is never issued by PC or ZBA.	Discuss process of issuing a zoning permit versus development review decision and update language.	
Section 301 Zoning Permits and Procedure	Statutory definition of land development can be confusing, it can be helpful to list specific types of land development that require a zoning permit.	List specific types of land development that requires a zoning permit.	X
Section 301 Zoning Permits and Procedure	There are no zoning permit exemptions.	Clearly identify local and state exemptions.	X
Section 301 Zoning Permits and Procedure	Does not address Residential Building Energy Standards (RBES) and Commercial Building Energy Standards (CBES) requirements per Title 24, Chapter 117 Section 4449.	Update the Zoning Permit and CO process to reflect Section 4449 of the Act.	
Section 301 Zoning Permits and Procedure	Consider whether it is appropriate (legally and locally) to add an additional required posting for land development applications in front of the	If additional posting is desired, update language to reflect this.	

	subject property adjacent to the immediate access way, i.e. private road or driveway.		
Section 301(E) Posting Requirements	Posting requirements are confusing.	Clarify posting requirements and ensure they are consistent with State statute.	
Section 303(E) Change of Use	Process for changing from one conditional use to another may not be clear enough.	Discuss and review potential amendments for clarity. Move location under applicability section of 303.	
Section 304 Creation of Conditional Uses	This Section does not fit here and should be relocated.	Relocate to Section 205.	
Section 305 Site Plan Review	The site plan review standards lack specificity for commercial development and village or hamlet character/scale development.	Develop site plan review standards for commercial development with specific standards for village and hamlet character/scale development.	
Section 305(A) Site Plan Application	Does not address VTRANS 1111 Permit.	Update Section to conform to Section 4416 of the Act relating to the VTRANS 1111 Permit.	
Section 305(A) Site Plan Application	Review the appropriateness of the site plan submission requirements in terms of paper size and preparation.	Make amendments to text to reflect discussion. On suggestion is that 11x17 copies should be modified to be legible and acceptable by the ZA.	
Section 305(A) Site Plan Application	Site plan application requirements could be better organized. Site plan application does not require existing and proposed utilities.	Organize/format application requirements to be more user friendly. Add requirement for site plan application to show existing and proposed utilities.	
Section 305(F) Site Plan Application	Consider whether application materials can legally be waived and ensure there is no standardless discretion.	Address site plan application waiver after consideration of legality and standardless discretion.	
Section 307 Wastewater	Make sure this process is understood.	Review requirements for wastewater and potable water supply and confirm language is appropriate.	○
Section 308 Cert. of Occ.	Process for obtaining/issuing a CO is confusing.	Review existing language and update to provide clarity.	○

#### Article 4 General Regulations

Section 403 Restoration	Does the time limit for reconstruction before a zoning permit is required make sense?	Discuss.	
Section 404 Nonconformities	Review overall process to make sure all understand it and that it is effective. There seems to be confusion overall, but Section 404(B)(2) was specifically noted.	Discuss and make any necessary edits.	O
Section 404(A)(2) Nonconformities	It is not clear what type of engineering report is required for adding a basement in the Lake Setback.	Define appropriate engineering report. One suggestion is to require the study be completed by a Geotechnical Engineer which shall conclude that the addition of a basement will not affect the structural integrity of the Lake Set Back.	
Section 404(B)	Does town really want to allow expansions of nonconforming uses and changing from one nonconforming use to another?	Discuss.	
Figure 4.1 Nonconformities	The diagram on increasing the degree of nonconformity could be made clearer.	Replace with better, clearer diagram.	
Section 405 Principal Structures Per Lot	Consider this Section in light of new commercial development and village development review standards.	Discuss potential revisions based on new standards. Relocate Section to Article 2.	

#### Article 5 Development Standards

Section 502 (A-D) Roads	Review and discuss in relation to new village districts. Language could be updated and more specific.	Update language with more specificity in relation to new village districts.	
Section 502(H) Roads	Consultation of emergency departments is only optional.	Consider require written statement from local emergency departments relating to safe access.	
Section 502(J) Roads	Sight distances standards are not easily administered.	Revise sight distance standards to align with those in VAOT Design Standards.	
Section 502(M) Roads	Consider relation between Town Road Ordinance and this section.	Review and discuss, consider potential amendments to correlate both sets of standards.	

Section 502(N) Roads	The Town lacks standards for sidewalks and curbs.	Recommend course of action to develop and adopt standards for sidewalks, greenstrips and curbs. Consider in relation to new village districts.	
Section 503 Outdoor Lighting	This Section allows for standardless discretion and the intent is vague.	Discuss intent and clarify. Provide standards for when lighting will be required. Consider effectiveness of design standard and potentially update.	
Section 504 Site Preservation and Landscaping	Specific landscaping standards are not sufficient for commercial development and village scale development. Section 504(A) is vague/unclear. Whole section should be modernized. Consider making erosion control distinct section.	Modernize landscaping section and add specific standards for commercial and village scale development. Update erosion control standards and make distinct section.	X
Section 505 Storm Drainage	Modernize stormwater management standards. Incorporate low impact development standards.	Discuss and review updated language.	X
Section 506 Utilities	This Section does not clarify whether buried utilities will be required for replacement structures.	Clarify that above ground utilities associated with replacement structures will be treated as nonconformities and may be replaced so long as they do not increase the degree of nonconformance.	
Section 507(B) Parking	The parking performance standards allow for the Board to use standardless discretion in determining whether to apply the standards; it is not clear for which development or situations these standards would be mandatory. Consider this Section relative new village districts.	Make standards mandatory by replacing 'may' with 'shall' and make sure the 'except' or 'unless' provisions are clear. Make amendments relative to parking lot location, design, landscaping and shared parking in new village districts.	X
Section 507(B) Parking	Make section more specific; 'sufficient maneuverability' is not clear.	507(B) Consider providing specific standards for parking lot aisle widths and definitions for back to back and double stacked spaces.	
Section 508 Signs	Consider whether zoning or an ordinance is the most effective tool for regulating signs.	Potentially delete Section 508 relating to the regulation of signs leaving sign regulation to be	O

		covered by the Town's ordinance (so grandfathered signs can be enforced).
Section 508 Signs	If signs will continue to be regulated through zoning, review standards to ensure they achieve desired results, especially in relation to new village districts. Organization of section could be improved.	Discuss and update language based on review. Clarify regulation of temporary signs. Make lighting standards mandatory. Reorganize for ease of use.
<b>Article 6 Specific Use Standards</b>		
Section 601 Pre-Existing Small Lots	Location incorrect.	Move to Article 5.
Section 602 Home Occupations	Could be reorganized for clarity.	Discuss and review organizational edits.
Section 602 Home Occupations	Minor (in reference to home occupations occupying a minor portion of a dwelling) has no definition.	Define minor. Consider any relevant case law in definition.
Section 603(B) Accessory Dwellings	Where does a 'tiny house' fit? Can it be considered an accessory dwelling, a recreational vehicle, a primary dwelling?	Discuss.
Section 604 and 605 Group Homes and Childcare	Since these are only referencing statutory limitations and there are no specific standards, these sections can be addressed in Table 2.2 and definitions.	Delete these sections and update Table 2.2 and definitions.
Section 606 Agriculture, Forestry and Dwellings for Farm Labor	The Required Agricultural Practices have replaced the Accepted Agricultural Practices and there is increased local regulation.	Update based on RAPs.
Section 608	Since these are only referencing statutory limitations and there are no specific standards,	Delete this Section and add to new state exemptions section in Article 3.

Transmission and Generating Facilities	these sections can be addressed in state exemptions under Article 3.		
Section 609 Lake Access Structures	Consider this section in relation to Flood Hazard Regulations and Shoreline Protection Act. Consider whether constructing lake access structures entirely above 106 feet above sea level is too stringent.	Discuss and consider amendments. There have been several variances granted for lake access structures built below 106'.	O
Section 609 Lake Access Structures	There is some ambiguous language in this section.	Provide clarification on 'use of environmentally friendly materials is encouraged', and standards relating to lighting.	
Section 611 Incidental Structures	This section should be addressed under local exemptions.	Move to local exemptions under Article 3.	
Section 611 Incidental Structures	Section 611 has errors. Should read 100 sq.ft. or less in size and 35 foot setback should be from private ROW too.	Fix errors.	
Section 612 Planned Unit Developments	Review in light of new village districts.	Discuss and consider relative amendments.	
Section 612 Planned Unit Developments	Since there is no minimum open space requirement, is the town satisfied with the open space approved under these regulations?	Discuss.	
Section 614 Fences	Review standards to ensure achieving desired results and consider in relation to new village district. Consider establishing a maximum height for fences.	Discuss and review draft language.	
Section 614 Fences	Poor formatting/organization does not highlight key information	Break of Section into subheadings, including applicability. Make sure exempt fences are noted in overall exemptions section.	

Section 615  
Extraction of Sand  
and Gravel

Modernize review standards. Consider state jurisdiction over explosives.

Discuss and review updated language.

### Article 7 Subdivision Regulations

Article 7 in whole

Evaluate whether the subdivision process is working effectively and efficiently.

Consider amendments to process based on evaluation. One suggestion is whether preliminary plat review is necessary if no new streets are proposed. Another comment suggests that the board should be able to decide to combine preliminary and final plat review at its discretion. Another comment relates to the awkwardness of issuing a full written decision following preliminary plat review.

O

Section 701(C)

Language is unclear and statute reference is incorrect, it should be Title 24 V.S.A Section 4418.

Clarify language and fix reference error.

Section 701(E)(2)  
Boundary Lot  
Adjustments

If the intent is that boundary lot adjustments do not require a zoning permit or PC review, it should be made clearer.

Confirm intent and consider amendments that clarify the intent.

Section 704(D)  
Preliminary Plat  
Review

There is concern about requiring phasing.

Review the enabling language for phasing and consider if, when and how to require it.

Section 704(E)  
Preliminary Plat  
Review

Section 704(E) contradicts Section 704 A.

Clarify effect of preliminary subdivision approval.

Section 705(B)  
Final Plat Review  
Table 7.1

Consider whether the final plat application requirements are too stringent.

Discuss and simplify list at a minimum.

Applications  
Requirements

Should 11x17 reductions be required?

Discuss options.

Section 7.10 Filing Final Plat	Consider whether it is appropriate/useful to add image of signature block required on subdivision plat	Discuss.	
Section 711 Revising Subdivision	The process for revising a subdivision plat is not clear.	Discuss process and consider amendments to make Section clear.	
	Consider whether Transfer of Development Rights (TRD) would help to implement the goals in the SH Town Plan and intent of the SH Development Regulations.	If TND would like to be pursued and time and resources allow, review draft language.	
<b>Article 8 Administration and Enforcement</b>			
Section 808 Violations and Enforcement	Simply referring to statute for procedure on violations and enforcement of the regulations is not ideal.	Expand this Section with an explanation of what constitutes a violation, the process for enforcing violations and what the penalties are as enabled in statute. Consider adding option of enforcement through judicial bureau.	
<b>Article 9 Flood Hazard Regulations</b>			
Article 9/Regulations in whole	It would be helpful to include the sea level measurement whenever Flood Hazard Area or Floodway is referred to.	Make this revision throughout document.	
Article 9 in whole	Discuss relationship with Shoreland Protection Act.	Discuss to make sure all understand relationship.	
Article 9 in whole	Review for conformance with NFIP and incorporate River Corridor Protection Standards	Review language.	X
Section 902(B) Flood Hazard Permits	Section 902 (B) It is not clear what requires a permit in the Flood Hazard Overlay District.	Clarify what requires a permit in the Flood Hazard Overlay District.	X
<b>Article 10 Definitions</b>			
Article 10 in whole	Incorporate additional definitions.	Incorporate additional definitions.	X
	Land Development: Not that clear when using it to determine what requires a permit.	Consider options for how to refine this definition within the parameters of it being a statutory definition.	

Reserved strips not defined (from Section 502(E)).	Define reserved strips.
Boundary lot adjustment is not defined.	Define BLA.
Deferred lot is not defined.	Define deferred lot.
Replacement dwelling is not defined	Define replacement dwelling.
Some uses listed in Table 2.2 are not defined.	Define all uses in Table 2.2.
Abandoned use is not defined.	Define abandoned use.
Condition use is not defined.	Define conditional use.
Accessory dwelling not defined.	Define accessory dwelling.
Lake access structure definition is not found easily because it is alphabetized under structure.	Move location of lake access structure definition to be alphabetized under lake.
Bedroom is not defined.	Define bedroom.
Seasonal dwelling definition not clear.	Discuss definition of seasonal dwelling related to continual 180 days use and update definition.
It is confusing that flood hazard area is categorized as special flood hazard area in definitions.	Update text of zoning regulations in Article 2 so flood hazard area is referred to as special flood hazard area to comply with the NFIP.
Building/structure footprint is not defined.	Define building/structure footprint.
Hammerhead is not defined.	Define hammerhead.
Renewable energy is not defined.	Define renewable energy.
Setback is not defined.	Define setback.
Seasonal use is not defined in relation to recreational vehicles.	Discuss and define.
Use is not defined.	Define Use.
Structural alteration is not defined in relation to land development.	Define structural alteration.
Minor road is not defined.	Define minor road.
Density is not defined.	Define density.