* + 1. The location of the proposed excavation, filling and/or grading is not located within a 100-year floodplain, river corridor, or in an area with rare, threatened, or endangered species as identified by the Vermont Agency of Natural Resources.
		2. The proposed excavation, filling, and grading action is not located within the setbacks for the applicable zoning district.

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

## Section 302: Conditional Use Review

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

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

**B. Application Requirements**. A complete application for conditional use review shall include all the information requested on the South Hero Conditional Use Application Form, including a written description of how the proposal meets the review standards in Section 302(D), a Letter of Intent for a State Highway Access Permit from VTrans, if applicable, and the application fee.

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

**D. Review Standards.** The Development Review Board may grant conditional use approval only upon finding that the proposed development shall not result in an undue adverse effect on the standards below. In determining an undue adverse effect, the Development Review Board shall follow the process outlined in Figure 3.2, which shall be documented in the Board’s written decision.

1. **The Capacity of Existing or Planned Community Facilities**. The Development Review Board shall consider the demand for community services and facilities resulting from the proposed development and determine whether that demand will exceed the existing or planned capacity of existing facilities or services. In making such a determination, the Development Review Board will consider any South Hero capital program or budget in effect at the time of application.

2. **The Character of the Neighborhood Area or District Affected**. The Development Review Board shall consider the location, scale, type, density, and intensity of the proposed development in relation to the character of area likely to be affected by the proposed development, as defined by the purpose(s) of the zoning district(s) within which the project is located and specifically stated polices and standards of the South Hero Town Plan.

 *(a) A multi-unit dwelling project consisting of four or fewer units located in a district allowing multi-unit dwellings may not be denied solely due to an undue adverse effect on the character of the area affected.\*\**

3. **Traffic on Roads and Highways in the Vicinity**. The Development Review Board shall consider the projected impact of traffic and patterns of access resulting from the proposed development on the capacity, safety, efficiency and use of affected roads, bridges, and intersections. A traffic impact study may be required.

4. **Conformance with Applicable General Regulations, Development Standards and Specific Use Standards in Articles V, VI and VII**.

5. **Other Town Bylaws in Effect**. No development shall be approved in violation of existing bylaws and ordinances in effect.

1. **The Utilization of Renewable Energy Resources**. The Development Review Board shall consider whether the proposed development will interfere with the sustainable use of renewable energy resources, including the existing and future availability of and access to such resources on adjoining properties.

\*\*per 24 V.S.A. 4414(3)(D)