



REGULATORY

16. Clustering and Planned Unit Development

Overview

Conventional zoning typically doesn't allow for much flexibility in site planning and subdivision design. As a result, minimum zoning district lot size and frontage requirements generally govern the pattern of subdivision and development, with little consideration given to site conditions or natural resource protection. Planned unit development (PUD) provisions in local bylaws offer the needed flexibility, by allowing for modifications of underlying zoning district requirements (though modifications are subject to limits or conditions specified under the regulations). This flexibility makes it possible to achieve better, more creative designs than would be possible under a strict application of the zoning requirements. PUD standards commonly apply to larger, planned development – for example, master planned industrial parks, college campuses and traditional neighborhood or transit-oriented mixed use developments.

In more rural settings, PUDs have been effectively adapted and used to promote open space and resource conservation. Common modifications to underlying zoning in this context include smaller building lots, and reduced road frontage and setback distances. This creates more concentrated, clustered development and conserves open space – for farming, forestry, wildlife habitat, or to protect other resource values. This type of PUD is often referred to as an “open space” or “conservation” PUD and will often include the following:

- **Clustering** involves concentrating development on smaller lots that are smaller than typical – or otherwise allowed – in the district, encompassing a portion of the parcel that excludes important resource areas. This can help reduce the encroachment of lots, roads and other infrastructure into forest blocks or habitat areas, which can then be retained as open, undeveloped land. Conserving open space, while also ensuring that privacy can be maintained within clustered subdivisions, can be achieved with creative subdivision design. On its own, clustering does not increase the overall density of development on the parcel; however density bonuses are often provided as an incentive for good design that also protects a significant amount of open space.

- **Conservation subdivision design** is similar to clustering, but follows a specific design process to determine where building lots should go. A key part of this process is to first identify natural resources to be protected (as defined in the regulations), and to include these in open space or conserved parcels that will not be developed. Then, building lots are sited and clustered, along with roads and supporting infrastructure, outside of conserved areas. This approach allows building parcels to be selected with sensitivity to important natural resources, without a reduction in the number of units that a landowner could develop under conventional zoning. (For more on conservation subdivision design, see *Chapter 15, Subdivision Regulations*.)

Using PUDs to Protect Forest Resources

Statute allows municipalities to require planned unit development in certain districts (for example, for all subdivisions or developments in a forest or conservation zoning district) or for development over a certain scale (for example, one that involves more than 10 or 20 acres of land, or 5 to 10 new parcels). The standards of a PUD – including minimum open space, lot configuration, siting and access requirements – can protect the integrity of large forest blocks and wildlife habitat when residential development is allowed in these areas. PUD provisions are popular in Vermont for this reason: they allow the landowner to develop a portion of the land, often at the same overall density allowed in the underlying zoning district, but the open space or conservation standards also conserve land and important resources.

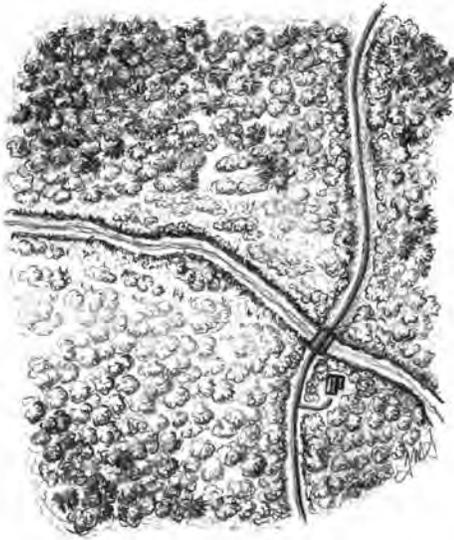
PUDs are not only useful for large developments. In a district with a relatively large lot area requirement (e.g. 25 acres), a PUD can allow for the creation of two or three relatively small (e.g. one acre) lots, thereby keeping the bulk of the pre-development parcel in common ownership for resource management. Likewise, PUD provisions may allow modification of other dimensional standards, such as large frontage requirements, in order to concentrate development within a minor portion of the property.

Good PUD design is essential for keeping forest blocks

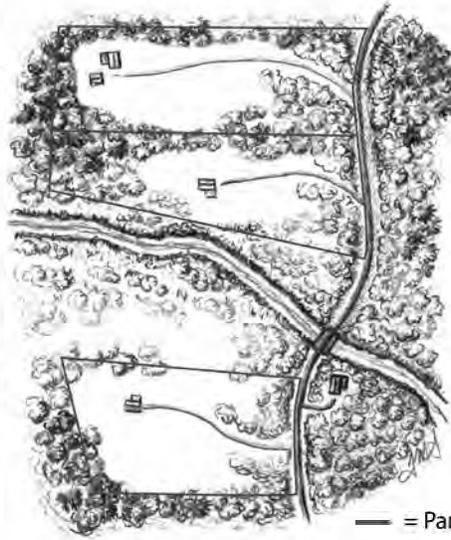


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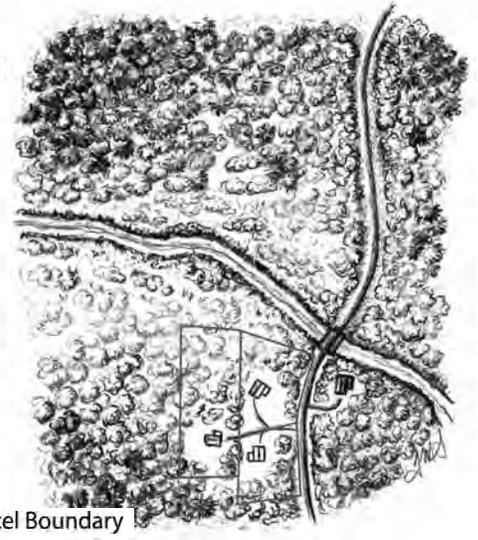
Clustered Development



Parcel before development.



Parcel developed with conventional road frontages and setbacks results in "spaghetti lots" that reduce forest cover.



Parcel with clustered development, minimizing forest fragmentation while preserving privacy and the functionality of remaining forestland.

— = Parcel Boundary

intact. Many PUDs have successfully preserved open space that is visually appealing, but in a configuration that has limited usefulness for forestry, farming, or wildlife habitat. The result? "Cluster sprawl." When done well, however, PUDs can be configured to retain large, contiguous forested areas for timber and wildlife management and outdoor recreation. For example, open space standards could require that retained forest parcels be large enough to enroll in the state's Current Use Program (25 acres or more), and be accessible for forest management. There could also be a provision – enacted through the layout of the subdivided lots, and the placement of houses – to leave log landing areas available in locations where they will have minimal impact on future residential development.

"Open space" or "conservation" PUD provisions typically:

- **Authorize density bonuses as an incentive** for the use of PUDs to conserve open space, or to encourage open space protection above what is minimally required under the regulations. For example, if a developer promises to set aside a certain percentage of forestland on a parcel to be subdivided then, with clustering, he or she may be able to build more housing units than the zoning regulations would otherwise allow. Significant density bonuses may be necessary to encourage PUDs if they aren't required under the bylaws, especially in zoning districts with modest or high development density standards.

- **Encourage (or require) the protection of a minimum amount of open space** (e.g. 50% or more of the total acreage) for purposes identified in the regulations.

- **Include related provisions** for the long-term protection and management of designated open space in relation to its intended use.

- **Require additional development review** that addresses any requested modifications of the regulations, and associated PUD standards for siting, layout and open space protection.

What is Open Space?

"Open space" is more than just sweeping vistas. It is a term used to describe land that is not occupied by structures, buildings, roads rights-of-way, and parking lots, and which has been designated, either through an easement or permit restriction, to remain undeveloped. Open space may include farm fields, parks, and blocks of forest.

Statutory Authority

24 V.S.A. §4417

The Vermont Planning and Development Act allows (but does not require) municipalities to adopt zoning bylaws

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More Information

Land Use Planning and Implementation Manual, Topic Papers 2, *Planned Unit Development*, 18, *Open Space & Resource Protection Programs*, 19, *Open Space & Resource Protection Regulations* and 30, *Zoning Regulations*.
<http://vpic.info/ImplementationManual.html>

that include PUD provisions, which “permit flexibility in the application of land development regulations,” as discussed above (24 V.S.A. §4417(a)). The statute lists a number of purposes that can be achieved under planned unit development. Among them is “the conservation of open space features recognized as worthy of conservation in the municipal plan and bylaws, such as the preservation of agricultural land, forestland, trails, and other recreational resources, critical and sensitive natural areas, scenic resources, and protection from natural hazards” (24 V.S.A. §4417(a) (5)). PUD provisions under the regulations must include provisions for “the amount, location and proposed use of open space (24 V.S.A. §4417(b)(4)(C)).” PUDs may involve single or multiple properties and landowners. With regard to open space, they may also include:

- **Standards for the reservation or dedication of open space and common land** for the use or benefit of residents within the development;
- **Provisions for the local acceptance of land or interests in land** that are dedicated by the developer for public use;
- **Requirements that the applicant establish an organization or trust** for the ownership and long-term stewardship of commonly held open land.

Implementation

Municipal Plan

Articulate municipal plan goals and objectives related to natural resource protection. Start by making sure that the municipal plan clearly states what the community wishes to achieve with regard to resource protection. Plan goals and objectives can then be used to guide the construction of your PUD standards. If the plan does not adequately address community objectives, it’s best to start by updating the municipal plan, since zoning and subdivision bylaws – and specifically planned unit developments – must conform to the municipal plan.

Consider using resource maps or supporting resource conservation or open space plans. Identifying and mapping contiguous or linked open space and resource conservation areas across the landscape, without regard to property

boundaries – can show the location and extent of large, connected blocks of forestland, wildlife habitat and travel corridors. These maps can provide the big picture guidance needed to maintain and set aside contiguous, undeveloped resource areas (as land continues to be subdivided and developed) and avoid “cluster sprawl.” This mapping and analysis can be included in the update of the municipal plan, but can also be addressed in a more detailed, supporting “open space” or “forest resource” plan for the community. (See *Chapter 4, Conservation Planning*.)

Identify planned unit development as an implementation strategy. PUDs – or clustering to conserve resources and preserve open space – should be identified in the plan’s implementation section as a recommended resource protection strategy. This way, it can be considered in future zoning and subdivision bylaw updates.

Zoning Bylaw

Draft a purpose statement. PUDs must include a statement of purpose – a short paragraph that reflects how the PUD conforms to the municipal plan. An “Open Space PUD” purpose statement should address objectives specific to forestry, conservation, wildlife, and other resources or values identified in the plan for protection. The objectives a community wishes to achieve through planned unit development provisions in the regulations – for example to preserve large blocks of forestland, and the ecological and economic values of working forests – should be articulated here.

Decide whether open space or conservation PUDs will be required or optional. Zoning bylaws often identify several types of planned unit development, and differentiate which types are allowed within each zoning district. For open space PUDs, it’s important to consider whether they should be allowed or required for:

- **Use in certain zoning districts** – for example, in a forest or conservation district where open space protection is a clearly identified community priority, but residential development is also allowed; or for
- **Subdivisions that involve large tracts of undeveloped land** (e.g. 20 or more acres) especially in relation to underlying district lot size requirements.

If planned unit development is required, the developer must address and meet related PUD standards for clustering and open space retention. If mandatory planned unit development is not a good fit in your community, strong incentives (such as density bonuses) should be considered to promote creative planned unit developments wherever appropriate – especially to combat more conventional “cookie-cutter” subdivision and site designs.

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Articulate the standards and techniques to be used to achieve the purpose of the district. PUD standards should be consistent with and build upon existing review standards. They should also be based on and conform to related objectives found in the municipal plan and supporting open space or resource conservation plans. It's important to note that PUD provisions – including modifications to underlying zoning district requirements – are designed to be applied in association with conditional use review (e.g. for single lot, mixed use development) or, more commonly for open space and forest protection, with subdivision review (the creation of new lots).

PUD provisions typically mandate or provide guidance on the type, amount and configuration of land to be retained as open space, and how new building lots or sites should be laid out and clustered to maximize open land, to protect resources identified on the site, and to limit the extent of supporting development roads and infrastructure. Specific requirements – for example the minimum amount of open land to be conserved – should be clearly stated in the regulations (as “shalls”) but, in order to allow for flexibility and creativity, some guiding “mays” could also be appropriate – especially for incentives such as density bonuses for protections that go beyond minimum requirements, or for the dedication of private land for ownership or use.

Other considerations include allowing for multi-parcel PUDs (especially useful to protect contiguous open land), varying the allowed density or intensity of use within a PUD, allowing additional uses only within a PUD (as another potential incentive), and associated legal documentation regarding the ownership and long-term management of commonly held land and resources. Given the range of options and possibilities, it's often helpful to review several examples, and get some professional assistance in drafting specific PUD standards.

Since PUDs are reviewed in association with subdivision or conditional use review, it is not necessary to specify a separate review process for planned unit development. It is important to identify the type of review – whether conditional use or subdivision – and the application information necessary to make findings under PUD standards. This generally involves additional application materials and design considerations – for example, identifying designated open space prior to delineating building lot lines and road rights-of-way. PUD application requirements and review processes should not be significantly more onerous than standard application and

review requirements – especially if PUDs are optional, rather than required. It's especially important to build community and landowner support for creative development design in order to avoid unnecessary or redundant reviews.

Things to Consider

Be aware of smart growth in inappropriate places. A PUD can help minimize the impact of development through careful design that places development in the areas where it will have the lowest impact on natural resources. However, even when development is clustered, the location of the PUD itself is an important consideration – a clustered PUD five miles outside of town in the middle of a forest block may not be a good project. If planned unit development is considered outside of the larger “landscape” context of resource conservation and open space protection, it will not adequately address the adverse effects of incremental development. PUDs should be allowed close to existing development; they are not necessarily appropriate in more remote and high elevation zoning districts with limited access and development potential. Another important thing to remember about PUDs is that although they should be complementary to zoning, PUD provisions alone are no substitute for solid underlying zoning district regulations that are crafted to fit the context and purpose of that district. They are also not a substitute for other resource-specific protection standards included in the regulations.

Maintain connections. As discussed above, it's important to consider the location of both building lots and designated open space in relation to contiguous areas on adjoining properties. This helps to ensure that important connections to both the built and natural environment are maintained across political boundaries and property lines.

Designate conserved open space within a planned unit development in a way that supports its intended purpose and use. “Open space” can mean many things – from large, undeveloped tracts of forestland to shared greens or yard areas. In PUD standards it is necessary to define open space in terms of the specific resources that must be identified and conserved by the applicant, and, depending on the resources, to offer some flexibility on how these areas are delineated and linked. For example, the amount of land needed to conserve a threatened plant community may be much different than the amount needed to maintain forestland enrollment in local or state tax stabilization programs.

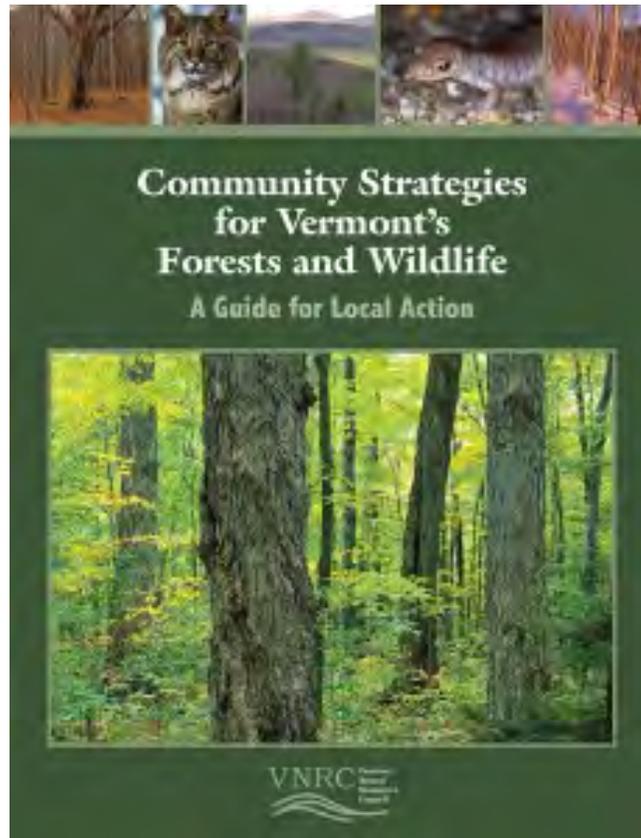


Smart Growth Vermont/VNRC



This chapter is part of a larger publication called ***Community Strategies for Vermont's Forests and Wildlife: A Guide for Local Action***. You can download the entire publication or individual chapters (including the endnotes, resources, and credits page) for FREE at:

www.vnrc.org/programs/forests-wildlife/guide/



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