



# TOWN OF WEATHERSFIELD

LAND USE ADMINISTRATOR'S OFFICE

(802) 674-2626

P.O. BOX 550 ASCUTNEY, VT 05030

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## Planning Commission Agenda

**Martin Memorial Hall – 5259 Route 5, Ascutney, Vermont 05030**

**Monday, February 12 – 6:30 PM**

- 
1. Call to Order
  2. Agenda Review
  3. Comments from the Chair and Land Use Administrator
  4. Comment from citizens regarding items not on the agenda
  5. Approval of Meeting Minutes – January 22, 2024 & December 12, 2023
- 
6. PUD Review Discussion
  7. Dwellings over commercial/industrial business
- 
8. Discussion of items for future agendas
  9. Any other business that can be legally discussed
  10. Adjourn

The next regularly scheduled meeting of the Planning Commission will be **Monday, February 26 - 6:30 PM**, Martin Memorial Hall.

**Remote option** – Zoom link and instructions:

<https://www.weathersfieldvt.org/home/news/public-meetings-zoom>

To join any public meeting via phone, dial (929) 205-6099. When prompted, enter meeting ID 542-595-4364. You will not have a participant ID. Please press # when prompted to skip this section. The passcode for all meetings is 8021.

AGENDA ITEM

5

Planning Commission  
Martin Memorial Hall  
5259 Route 5, Ascutney VT  
Monday, January 22, 2024  
6:30 PM  
REGULAR MEETING  
Draft Minutes

**Members Present:** Joseph Bublat, Michael Todd, Hank Ainley, Howard Beach, Brian Bosenberg

**Ryan Gumbart, Land Use Administrator**

Others Present:

|                          |  |  |
|--------------------------|--|--|
| Halle Abuayyash (remote) |  |  |
|                          |  |  |
|                          |  |  |

- 1 Call to Order**  
Mr. Bublat called the meeting to order at 6:30pm.
- 2 Agenda Review**  
No changes suggested.
- 3 Comments from the Chair and Land Use Administrator**  
The Chair invited comments, Mr.Gumbart informed the Commission that Mr. DeBartolo – withdrew his application for a 2-lot subdivision.. Mr. Todd highlighted the importance of keeping accurate records for future reference. No other comments were added.
- 4 Comment from citizens regarding items not on the agenda**  
There were no comments from citizens on agenda items.
- 5 Approval of Meeting Minutes: December 11, 2023 & January 8, 2024**  
**Motion:** To approve the January 8, 2024 minutes with corrections as needed.  
**Discussion:** Mr. Bosenberg suggested adding or making reference to the Aquifer Overlay Map in the minutes.  
**Made by:** Mr. Todd **Second:** Mr. Bosenberg  
**Vote:** All in Favor  
The January 8, 2024, minutes as amended were approved unanimously.

**Motion:** To table the December 11, 2023 minutes until the next meeting.

**Made by:** Mr. Todd **Second:** Mr. Beach

**Vote:** All in Favor

The December 11, 2023, minutes were deferred due to technical issues.

**6 PUBLIC HEARING – Habitat for Humanity PUD Project:**

The Habitat for Humanity requested an extension on their hearing date to allow for more time to complete their site plans.

**Motion:** To continue the hearing to April 8, 2024 at 6:30 PM.

**Made by:** Mr. Todd **Second:** Mr. Bosenberg

**Vote:** All in Favor

**7 Planning Commission Project Review – Review table of ongoing projects**

The Land Use Administrator gave a presentation on the Planning Commission Projects. The discussion focused on various ongoing projects and town plan amendments. The commission examined updates on zoning issues and PUD reviews. Key topics included the town plan amendment energy section, where an update was anticipated, and the status of the PUD review. New items discussed were the dwellings over commercial and industrial businesses and the lots set-backs and offset strips. The energy section was awaiting a hearing date at the Select Board, and discussions about private airstrips and helipads were also mentioned, pending the town manager's return for scheduling. The commission emphasized the importance of staying up-to-date and informed on these projects for effective planning and implementation.



**8                   Zoning Bylaws Amendment – Dwellings over Commercial/Industrial Uses:**  
The discussion on the Zoning Bylaws Amendment for allowing dwellings over commercial/industrial uses focused on the practicality and regulatory aspects of such changes. The commission considered the implications of this amendment on existing zoning rules and the potential benefits and challenges it could bring. This item was in the early stages of discussion, with emphasis on understanding the broader impact and how it would fit into the existing urban landscape. The commission aimed to explore various perspectives and gather more information before moving forward with any decisions.

**9                   Zoning Bylaws Amendment - Lot setbacks in all districts**  
The board discussed the purpose of setbacks and how to apply them appropriately. The discussion continued to topics including minimum lot sizes, PUDs, and problems/solutions to ineffective zoning regulations. The board resolved that improvements to the PUD regulations and review procedures are a good starting point for allowing greater flexibility in development while maintaining the ability to protect the valuable resources described in the Town Plan.

**10                  Discussion of Items for Future Agendas**  
The commission discussed potential topics for future agendas. This included examining ways to streamline processes and improve regulations, particularly with a focus on practical and efficient town planning strategies. There was an emphasis on the importance of ongoing project review and the need to stay ahead of challenges. Mr. Bosenberg asked the board about the cell towers regulations under Wireless Communications Facilities. The board agreed it would be helpful if Brian prepared some education information and suggestions for the section.

**11                  Any other business that can be legally discussed:**  
The board discussed how they can assist Ms. Abuayyash and Mr. Gumbart in progressing these items as their workload does not allow much time for work on the bylaws. It was agreed that they will work on writing language during the meetings to help progress the changes.

**12                  Adjourn**  
**Motion:** To adjourn the meeting.  
**Made by:** Mr. Beach      **Second:** Mr. Todd  
**Vote:** All in favor

The meeting adjourned at 8:30pm.

Respectfully submitted,

The next regularly scheduled meeting of the Planning Commission will be Monday, February 12, 2024 - 6:30 PM, Martin Memorial Hall.

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WEATHERSFIELD PLANNING COMMISSION

|                                   |                           |
|-----------------------------------|---------------------------|
| Joseph Bublat, Chairperson        | Hank Ainley, Commissioner |
| Brian Bosenberg, Vice-Chairperson | Howard Beach, Clerk       |

Michael Todd, Commissioner

AGENDA ITEM

6



## **Key**

Black: Original remaining text

Red stricken: Original removed text

# **Article 5: Development Review**

## **5.1 Application Submission Requirements**

An application for a zoning permit shall be filed with the Administrative Officer on form(s) provided by the municipality. Required application fees, as set by the Legislative Body, also shall be submitted with each application.

5An applicant for PUD approval applies to the Administrative Officer, who in turn notifies the Planning Commission. The Commission has up to sixty days to hold a public hearing, and sixty after that to approve, approve with conditions, or disapprove the application based on Standards of Review in these Bylaws. Failure to act within sixty (60) days of the hearing shall be deemed approval. Prior to filing a formal application, the applicant is encouraged to meet with the Commission to discuss the project. Notice for a combined review hearing shall be made in accordance with 24 V.S.A. §4464(a)(1).

The hearing notice shall include a statement that the hearing will be a combined review of the proposed project and list each review process that will be conducted at the hearing.

As applicable, the combined review process shall be conducted in the following order:

- a) Site Plan Review
- b) Access by right-of-way
- c) Requests for Waivers
- d) Requests for Variances
- e) PUD Review
- f) Subdivision Review (preliminary and final)
- g) Conditional Use Review

All hearing and decision requirements and all deadlines applicable to each review process shall apply. Separate written decisions may be issued for each review conducted as part of the combined review, but shall be coordinated where appropriate.

### ***5.5.1 General Standards***

In addition to the standards set forth in Weathersfield's Subdivision Regulations, the following general standards must be met in order for the Planning Commission to approve a PUD application:

- a) PUD is consistent with Town Plan.
- b) All Site Plan Review requirements in Section 5.3 have been met.
- c) The PUD is an appropriate and unified treatment for the proposed development.
- d) The development is designed so as to be compatible with the character of the area.

Particular attention will focus on the aural and visual impacts. State and local standards for fire and safety regulations by local fire and police officials are in compliance.

e) Adequate water supply and sewage disposal facilities are provided.

f) The development will not place an undue burden on municipal services.

a) The density requirements do not exceed the number of units permitted if the land were subdivided in accordance with district regulations.

1.

b)

c)

|                                  | Village, Hamlet Districts  | Rural Residential Districts  | Conservation District   |
|----------------------------------|--|--|---|
| Minimum Lot Size                 | None   | None   | None  |
| # of lots allowed                | 1 unit/1 acres   | 1 unit/ 1 acre   | 1 unit/10 acres   |
| Affordable housing density bonus | 1 unit/0.3 acres   | 1 unit/ 0.75 acres   | Maximum of 5 additional units   |
| Perimeter setbacks               | Front: 40'<br>Side: 10'  | Front: 40'<br>Side:40'   | Shall not be prominently visible from abutting land and shall be screened from road.  |
| Internal setbacks                | None   | None   | None  |
| Maximum height                   | 35' (to top floor window?)   | 35'  | 35'   |
| Open Space Requirement           | Remainder to be designated as open space or to be developed for communal use for recreation, or to remain as open space. | Remainder to be designated as open space or may develop up to 2 acres for communal use for recreation. | Remainder to be conserved by deeded easement held by _____. To remain as open space only to allow for forest and agricultural uses. |

### 5.5.2 Modification of Zoning Regulations

After a duly-warned public hearing (per Section 6.3), simultaneously with subdivision approval,

and subject to the standards and conditions set forth in this section, the Planning Commission may modify the zoning district regulations for the proposed PUD as to the following requirements only:

- a) Setbacks, including provision for zero lot lines;
- b) Height, Bulk and Spacing of Buildings;
- c) Type of Building, including a mix of residential and commercial uses in one building, a variety of residential structures (one, two, and multi-family structures).
- d) Location of buildings; and
- e) Size of lots.

Any modification of the Bylaws for the proposed PUD granted by the Planning Commission shall be noted on the subdivision plat.

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## **Key**

Black: Original remaining text

~~Red stricken: Original removed text~~

Green underlined: New added text

Yellow highlighted: Changes since last revision

# Article 5: Development Review

## 5.1 Application Submission Requirements

An application for a zoning permit shall be filed with the Administrative Officer on form(s) provided by the municipality. Required application fees, as set by the Legislative Body, also shall be submitted with each application.

### 5.1.3 PUD Review Application

Applications for PUDs shall include the following, in addition to the information required for subdivisions:

- a) **Application Form:** Supplied by the Administrative Officer; signed by the owner of record and, in the case of a non-owner applicant, by the applicant;
- b) **Site Plan:** A site plan shall meet all of the requirements of Section 5.1.2(b) of these bylaws.
- c) **Project Narrative:** A description of the proposed project shall be required as part of a complete application. Also required is a narrative that is clear and succinct and includes:
  1. SUMMARY: A brief summary of the project and how it meets the PUD standards in this section;
  2. EXCEPTIONS: A statement describing all proposed modifications, changes, or supplements to requirements in the Zoning Bylaws. Any such modification approved under this section shall be specifically set forth in terms of standards and criteria for the design, bulk and spacing of buildings and the sizes of lots and open spaces which shall be required and these shall be noted or appended to the plat;
  3. MANAGEMENT: A sound proposal for the financing and membership of the management organization which will maintain and operate the property in common ownership, such as community facilities, private roads, and/or open spaces; and,
  4. PHASING PLAN: Projects that will take more than 24 months to complete must present a description and clear plan for the project's phasing, including the area, uses, and timing of each phase. In any case, the sketch plan shall show the complete project.
  5. Additional information required by the Planning Commission to determine whether the proposed mix of uses, density and scale and intensity of uses will meet the standards set forth in these Zoning Bylaws.
- d) **Application Fees:** All applicable fees must be paid as part of a complete application.
- e) PUD applications may involve single or multiple parcels and one owner or multiple owners under a common application.
- f) PUD applications are subject to approval by the Planning Commission in accordance with the requirements of Section 5.4 in these Bylaws.

## 5.45 Planned Unit Development

~~An applicant for PUD approval applies to the Administrative Officer, who in turn notifies the Planning Commission. The Commission has up to sixty days to hold a public hearing, and sixty after that to approve, approve with conditions, or disapprove the application based on Standards of Review in these Bylaws. Failure to act within sixty (60) days of the hearing shall be deemed approval. Prior to filing a formal application, the applicant is encouraged to meet with the Commission to discuss the project. Notice for a combined review hearing shall be made in accordance with 24 V.S.A. §4464(a)(1).~~

~~The hearing notice shall include a statement that the hearing will be a combined review of the proposed project and list each review process that will be conducted at the hearing.~~

~~As applicable, the combined review process shall be conducted in the following order:~~

- ~~a) Site Plan Review~~
- ~~b) Access by right-of-way~~
- ~~c) Requests for Waivers~~
- ~~d) Requests for Variances~~
- ~~e) PUD Review~~
- ~~f) Subdivision Review (preliminary and final)~~
- ~~g) Conditional Use Review~~

~~All hearing and decision requirements and all deadlines applicable to each review process shall apply. Separate written decisions may be issued for each review conducted as part of the combined review, but shall be coordinated where appropriate.~~

In accordance with the provisions set forth in Section 4417 of The Act, Planned Unit Developments (PUDs) are allowed to permit flexibility in the application of the Zoning Bylaws for the purposes of Section 4302 of The Act and in conformance with the Weathersfield Town Plan.

### 5.4.1 Purpose

- a) To allow for multiple principal uses on a single parcel of land.
- b) To encourage compact, pedestrian-oriented development and redevelopment, and to promote a mix of residential uses or nonresidential uses, or both, especially in downtowns, village centers, new town centers, and associated neighborhoods.
- c) To implement the policies of the municipal plan, such as the provision of affordable housing.
- d) To encourage any development in the countryside to be compatible with the use and character of surrounding rural lands.
- e) To provide for flexibility in site and lot layout, building design, placement and clustering of buildings, use of open areas, provision of circulation facilities, including pedestrian facilities and parking, and related site and design considerations that will best achieve the goals for the area as articulated in the municipal plan and bylaws within the particular character of the site and its surroundings.
- f) To provide for the conservation of open space features recognized as worthy of conservation in the municipal plan and bylaws, such as the preservation of agricultural land, forest land, trails, and other recreational resources, critical and sensitive natural areas, scenic resources, and protection from natural hazards.
- g) To provide for efficient use of public facilities and infrastructure.
- h) To encourage and preserve opportunities for energy-efficient development and redevelopment.

### 5.4.2 Applicability

- a) The PUD provisions may be applied to any land development in any zoning district within the Town of Weathersfield at the request of the applicant.
- b) Uses shall be limited to those permitted and conditional uses within the district in which the PUD is proposed.

### 5.4.3 PUD Review Procedures

- a) Complete applications for PUDs must include the information specified in Section 5.1.
- b) PUD applications shall be reviewed under the Subdivision Application Procedures set forth in Weathersfield's Subdivision Regulations, as most recently amended.
- c) Approval granted under this section for a PUD that involves the development of one or more uses requiring approval under conditional use review (Section 5.3) does not exempt the proposed development from both review processes, although various reviews by the ZBA for PUDs may be reviewed separately or concurrently.
- d) The order of PUD review will be:
  - 1. Planning Commission – Sketch Plan Review
    - a. Planning Commission shall determine the bylaw modifications to be used in further reviews
  - 2. Zoning Board of Adjustment – Site Plan Review, Conditional Use Review, other reviews administered by the ZBA
  - 3. Planning Commission – Preliminary Review (if required by PC)
  - 4. Planning Commission – Final Plat Review

### 5.45.41 General Standards

In addition to the standards set forth in Weathersfield's Subdivision Regulations, the following general standards must be met in order for the Planning Commission to approve a PUD application:

- a) PUD is consistent with Town Plan.
- b) All Site Plan Review requirements in Section 5.2~~3~~ have been met.
- c) The PUD is an appropriate and ~~unified-singular~~ treatment for the proposed development.
- d) The development is designed so as to be compatible with the character of the area. Particular attention will focus on the aural and visual impacts.
- ~~e)~~e) State and local standards for fire and safety regulations by local fire and police officials are in compliance.
- ~~e)~~f) Adequate water supply and sewage disposal facilities are provided.
- ~~f)~~g) The development will not place an undue burden on municipal services.

### 5.4.5 Standards for Non-residential PUDs

- a) DENSITY: The density requirements do not exceed the number of units permitted if the land were subdivided in accordance with district regulations.
  - 1. For PUDs not requiring a subdivision, the number of uses or units of the same use will be equal to the number of subdividable lots pursuant to 5.4.5(a) of these bylaws.
- b) USE: All compatible uses allowed in the sites district are allowed as part of a non-

residential PUD. The ZBA may determine if any proposed uses are not compatible. A non-residential PUD may include residential dwelling units.

- c) OPEN SPACE: At least 1 acre of open space shall be dedicated for the use of the residents, owners or employees.

#### 5.4.6 Standards for Residential PUDs

a) DENSITY: The total number of dwelling units in any Residential PUD must not exceed 125% of the number of lots into which the parcel could be legally subdivided and developed based upon minimum lot size requirements and all other applicable bylaws.

b) USE: Only residential and residential accessory uses shall be permitted within a Residential PUD.

c) DEVELOPMENT: Of the land left open within the Residential PUD for common usage or ownership, no more than 25% shall be developed for community facilities (excluding subsurface installations), access road, parking areas, or recreational structures.

d) OPEN SPACE: A minimum of 33% of the total applicable property shall be designated for open space or community facilities.

1. Open space shall be designated as private (for the benefit of the residents of the PUD), or public (for the benefit of the municipality and its citizens).

2. Land set aside as open space shall be of a size, type and location to meet its intended use.

3. Open space should be contiguous to other existing or potential open space areas.

4. Ownership of open space should be consistent with the best means of maintaining the resources on site.



|                                  | Village, Hamlet Districts  | Rural Residential Districts  | Conservation District   |
|----------------------------------|--|--|---|
| Minimum Lot Size                 | None   | None   | None  |
| # of lots allowed                | 1 unit/1 acres   | 1 unit/ 1 acre   | 1 unit/10 acres   |
| Affordable housing density bonus | 1 unit/ [redacted] acres   | 1 unit/[redacted] acres  | Maximum of [redacted] additional units  |
| Perimeter setbacks               | Front: 40'<br>Side: 10'  | Front: 40'<br>Side:40'   | Shall not be prominently visible from abutting land and shall be screened from road.  |
| Internal setbacks                | None   | None   | None  |
| Maximum height                   | 35' (to top floor window?)   | 35'  | 35'   |
| Open Space Requirement           | Remainder to be designated as open space or to be developed for communal use for recreation, or to remain as open space. | Remainder to be designated as open space or may develop up to 2 acres for communal use for recreation. | Remainder to be conserved by deeded easement held by _____. To remain as open space only to allow for forest and agricultural uses. |

**5.5.2 Modification of Zoning Regulations**

After a duly-warned public hearing (per Section 6.3), simultaneously with subdivision approval, and subject to the standards and conditions set forth in this section, the Planning Commission may modify the zoning district regulations for the proposed PUD as to the following requirements only:

- a) Setbacks, including provision for zero lot lines;
- b) Height, Bulk and Spacing of Buildings;
- c) Type of Building, including ~~a mix of residential and commercial uses in one building~~, a variety of residential structures (one, two, and multi-family structures).
- d) Location of buildings; and
- e) Size of lots.

Any modification of the Bylaws for the proposed PUD granted by the Planning Commission shall be noted on the subdivision plat.

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**Statutory Authorization:** 24 V.S.A., §4417 / **Type:** REGULATORY

**Related Topic Areas:** Capital Improvement Program; Growth Centers; Housing Regulations; Impact Fees; Land Use & Development Regulations; Open Space & Resource Protection Regulations; Public Transportation; Subdivision Regulations; Transfer of Development Rights; Zoning Regulations

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# Planned Unit Development

## Overview

Planned Unit Development (PUD) is a tool municipalities use to encourage or require flexibility, creativity, and innovation in the planning and design of development to achieve a variety of objectives. The PUD concept emerged in the 1960s as a means to accommodate the planning and development of “new communities” that included a variety of uses, densities, and building styles. Zoning at the time typically featured single uses at uniform densities, and subdivision regulations resulted in the creation of large numbers of identical lots. The variety and interest envisioned for new, planned communities did not fit well within conventional zoning and subdivision regulations.

Under the PUD concept, a municipality can provide for planned development that incorporates a variety of uses, including a mix of housing types, such as garden apartments, townhouses, and single-family homes, as well as other uses that might not



**PUDs can be crafted to encourage creative design for compact, mixed-use neighborhoods, where private homes and public amenities are part of a single master plan. Flexible standards and density bonuses are typically used to reward developers for providing public benefits.**

otherwise be allowed under zoning. PUDs can also be used to encourage or require clustered development and are increasingly used in more rural settings to protect farmland and open space.

## Application

Chapter 117 (§4417) encourages the adoption and use of PUD provisions under local zoning and subdivision regulations for a variety of purposes, for example to promote:

- compact, pedestrian-oriented, mixed-use development, especially in downtowns, villages, and new town centers;
- affordable housing;
- open space preservation and project compatibility with surrounding rural lands;

- flexibility in lot layout and site design, including the placement and design of buildings, parking and circulation, open areas, and related design considerations that will “best achieve the goals of the area as articulated in the municipal plan and bylaws” for a particular site and its surroundings;
- the efficient use of public facilities and infrastructure; and
- energy-efficient forms of development.

PUD regulations must conform to the municipal plan, and individual PUD projects must promote policies and objectives set forth in the municipal plan.

Given their broad application, the use of PUDs and associated standards vary by municipality and often

## New Communities

In the mid-twentieth century, some very large developments, with thousands of individual dwellings, were constructed in the United States. It soon became apparent that such developments required a variety of support services, including schools, public facilities, parks, commercial centers, and places of employment. The PUD concept emerged as a means of accommodating well-planned mixed-use development, without simply allowing all uses everywhere. Early PUDs were primarily residential, but the concept has matured and is now used for a wide range of development types.

for different areas within a single community. For instance, a PUD in a rural district may focus on clustered design, open space protection, and an overall low density of residential development, while a PUD in a village district may emphasize a mix of uses, a variety of housing types, pedestrian amenities, and moderate to high densities of development.

Generally speaking, there are three types of PUDs:

**Residential PUDs.** Planned residential developments, or PRDs, are no longer separately authorized under Chapter 117 but are still allowed as a type of PUD that includes primarily residential uses. In rural districts, PRDs are often used to encourage or require limited, clustered, low-density residential development, while emphasizing the protection of important natural features and resource lands identified in the municipal plan. (See topic paper, *Open Space & Resource Regulations*.) In more urban or village settings, residential PUD standards may allow a mix of housing types and promote a more pedestrian-oriented neighborhood design that incorporates moderate to high densities of development, street trees, sidewalks, and parks.

**Nonresidential PUDs.** Similarly, a municipality may identify certain limited areas or situations for PUDs that include only nonresidential uses, for example, regional commercial centers or industrial parks. In the former, PUD provisions may empha-

size compact layout and design, a pedestrian scale of development, urban streetscapes with pedestrian amenities, high-quality landscaping, and shared, unobtrusive parking areas. In the latter, PUD standards could be used to promote a more “campus” style of development with consistent design elements, landscaping, dispersed parking and loading facilities, public transit facilities, employee amenities such as recreational and day-care facilities, and buffering and screening to minimize physical and visual impacts to neighboring properties and uses.

**Mixed-use PUDs.** Perhaps the most common use of PUDs is to promote, or require, an integrated mix of residential and nonresidential uses at moderate to higher densities of development, as are found in traditional town and village centers, new town centers, and other designated growth centers.

Depending on the vision set forth in the municipal plan, the standards for mixed-use PUDs may emphasize the appropriate mix of uses, such as the siting, orientation, and design of buildings to ensure some privacy for residential uses and to create well-defined streetscapes and public spaces that incorporate pedestrian amenities, public transit facilities, and on- and off-street parking.

In some cases, municipalities have created or used PUD provisions for very specific purposes, such as Shelburne’s “Rural Mixed Use PUD,” which accommodates the unique requirements of Shelburne Farms, Stowe’s “Resort PUD” provisions for ski areas and other large resorts, and Middlebury’s use of PUD standards to manage the development of Middlebury College holdings.

Under Chapter 117, PUD regulations *must* include the following:

- *A statement of purpose*, in conformance with the purposes of the municipal plan and regulations.
- *Review process(es)*, to be used in reviewing the planned unit development, which may include

## Importance of PUD Review Standards

Many Vermont municipalities have included PUD (and/or PRD) provisions in their zoning bylaws, often with few associated standards or requirements. This leads to uncertainty on the part of developers and encourages conflict during the review process. Chapter 117 now requires clear standards that are consistent with municipal plan policies and recommendations.

conditional use review, subdivision review, or both, as specified in the regulations. The timing and sequence of applicable reviews also must be specified in the regulations.

- *Application Requirements*, including design specifications as included or referenced in the regulations.
- *Standards* for the review of proposed planned unit developments, which may vary the intensity or density of development under the regulations with respect to site location and physical characteristics; the proposed type, design, and use of lots and structures; and the amount, location, and proposed use of open space. Standards must also cover required public and nonpublic improvements and incorporate adopted impact fee ordinances by reference. The phasing of development also may be required in accordance with municipal plan policies and an adopted capital budget and program. (See related topic papers.)

PUD regulations may also include the following:

- *Modifications*, including the authorization of uses, densities, and intensities of development that are not otherwise allowed under the regulations—as long as the municipal plan includes policies that encourage mixed-use development, or development at higher overall densities than would normally be allowed, or both.
- *Open Space Standards*, including standards for the reservation or dedication of common land or other open

## PUD Options to Consider

24 V.S.A., §4417(b)

Local bylaws may include PUD provisions that:

- apply to single or multiple properties, having one or more owners;
- are limited to parcels that have a minimum area, or minimum size or number of units;
- require PUDs for all new development within specified zoning districts, or for projects of a specified type or magnitude.



space for the use or benefit of residents of the proposed development. These standards must include provisions for determining the amount and location of common land or open space and for its improvement and long-term maintenance. Open space standards may allow for the dedication and municipal acceptance of land or interests in land for public use and maintenance; or require that the applicant provide for or establish an organization or trust for the long-term maintenance of common land and open space.

One of the important features of the PUD enabling provision is that it authorizes municipalities to modify or waive zoning uses, densities, and intensities that would otherwise apply to a proposed development. Chapter 117, however, also requires PUD language to include clear standards for

PUD review. It's important that local regulations be very clear about the type and limits of modifications that can be approved; the reviewing body has discretion only within the boundaries established in the regulations, which must, in turn, be based on the municipal plan.

## Considerations

**Statutory Provisions.** PUD provisions can be used to encourage—or require—certain types of development, based on goals and objectives in the municipal plan. These can range from affordable housing to certain forms of development such as transit-oriented or traditional neighborhood design. The regulations must clearly spell out standards regarding these objectives.

As noted above, Chapter 117

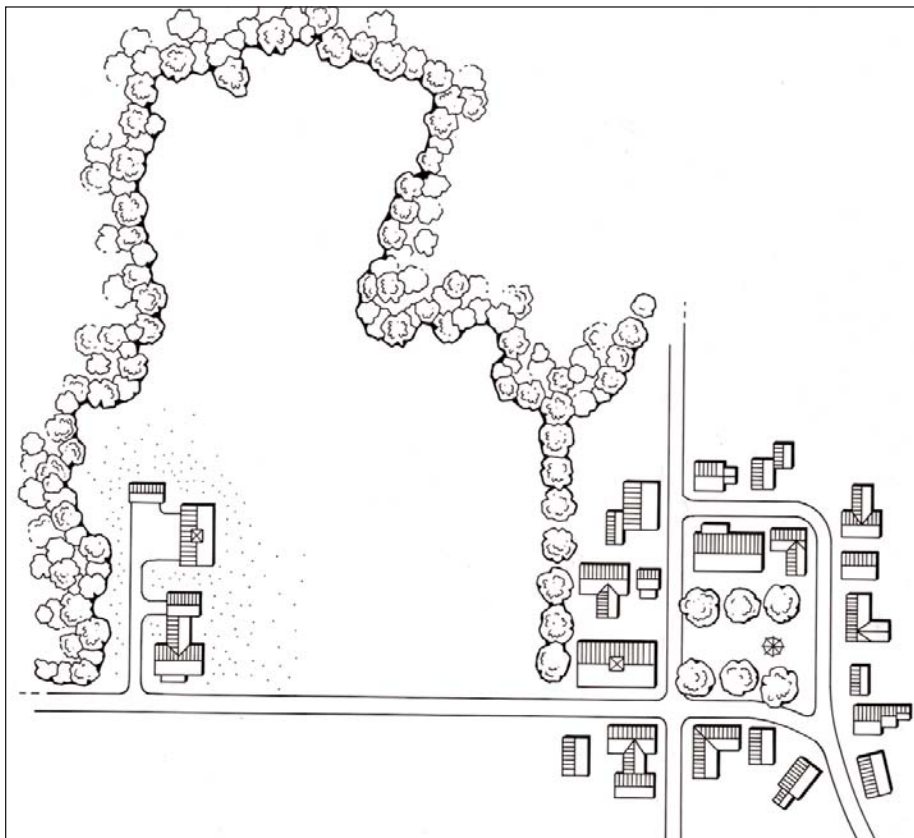
(§4417) includes a number of optional provisions that municipalities can incorporate in their PUD provisions. For instance, PUDs may be required for developments of certain size or in specified zoning districts. In addition, municipalities may craft their bylaws to allow PUDs made up of multiple properties (which may or may not be contiguous) that are held by multiple owners. South Burlington and Charlotte have used the ability to include noncontiguous properties to facilitate the transfer of development rights from a remote parcel to a more developable parcel as a part of the PUD approval process.

**Incentives.** PUD provisions are often intended to convey benefits to developers in the form of higher densities, lower development costs, and reduced infrastructure costs.

However, those benefits must be balanced by some public benefit that achieves goals or objectives set forth in the municipal plan. The regulations should make it very clear what must be provided to qualify as a PUD before benefits can be realized.

The use of density bonuses is a common feature of PUDs and can be effective in achieving affordable housing objectives; Chapter 117 once set a cap of 50 percent on affordable housing density bonuses, but under recent amendments, this statutory limit no longer applies. The regulations, however, must clarify what types of housing qualify and the connections between the amount of affordable housing provided and the amount of density bonuses to be granted. (See topic paper, *Housing Regulations*.) Density bonuses can also be used as incentives to encourage the dedication of open space or public facilities such as parks or recreation trails.

**Impacts.** PUDs often, by their nature, are larger than other developments in a community and may generate substantial demands on public facilities such as roads, schools, libraries, water and sewer systems, public safety facilities, and parks. It's



**The town of Warren adopted use and design standards for “Crossroad Hamlet” PRDs that apply to residential subdivisions in rural residential districts and are intended to maintain traditional rural settlement patterns. This illustration of a crossroad hamlet is used in the bylaw to show how development can be concentrated around a crossroads and conserve important resource lands. See topic paper, *Open Space & Resource Protection Regulations* for more information.** Illustration from the *Warren Land Use and Development Regulations*

therefore important for local PUD review to include determinations that increased demand can be satisfied by existing or planned facilities, for example, as scheduled in the community's capital improvement program. Municipalities may also include provisions to phase or limit the rate of build-out of PUDs to ensure that the capacity to provide municipal services is available when the development is occupied (see related topic papers).

Larger PUDs, particularly commercial and mixed-use PUDs, may also have substantial impacts on surrounding areas. Where PUDs are expected in or near community centers, it's important for the PUD regulations to include a brief vision or description of the type and density of development anticipated. This can then be translated into specific standards to be used by the reviewing body when approving proposed PUDs.

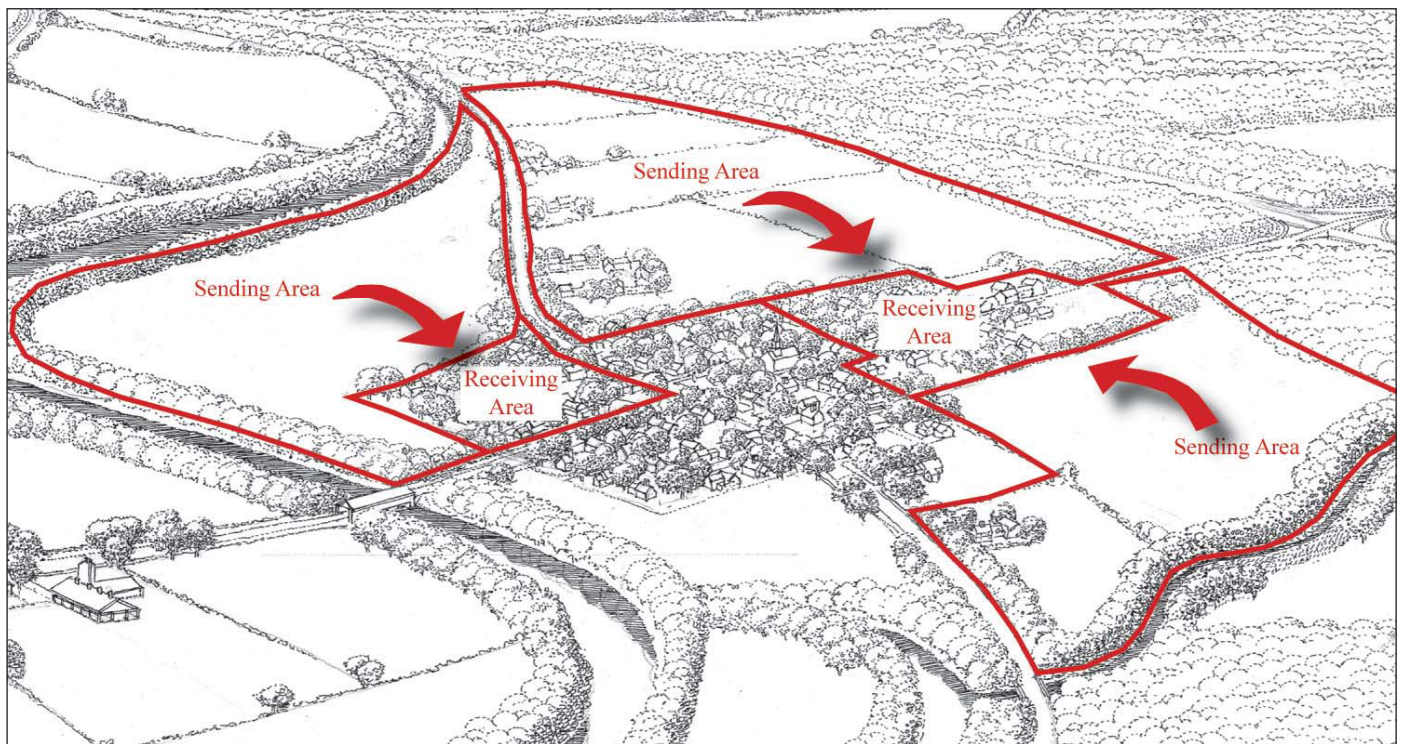
**Coordination of Review.** PUDs are often relatively complex developments that require more than one local approval. Under Chapter, 117 PUD regulations can be applied in association with subdivision or conditional use review, but depending on the types of use or location, site plan approval or even a variance may be required. As noted, under Chapter 117 (§4417), municipalities must specify in their regulations just how multiple reviews will be consolidated or sequenced to streamline the review process.

Typically, PUD review is incorporated within or conducted concurrently with subdivision review—or with conditional use review if no subdivision review is required under local regulations. Conditional use, site plan, or variance review also can be combined under final subdivision review—given similar public notice and hearing requirements—for uses

that require these approvals. If site plan, conditional use, or variance approvals cannot be granted simultaneously with PUD approval, it may make sense to require such approvals before getting too far into the details of development under advanced stages of PUD review.

Vermont communities have the ability to further a wide range of development objectives through the use of PUD regulations. PUD regulations that are carefully crafted and applied can have many benefits for both the community and local landowners and developers. The challenge is to capture this potential.

There are many examples of local PUD regulations available online. Access to municipal websites and local bylaws can be found through [www.vpic.info](http://www.vpic.info), or contact your regional planning commission for assistance.



**PUDs are normally used to shift the permitted density from one portion of a property to a smaller area to enable more efficient and concentrated development on a single parcel of land. In Vermont, PUDs can also be used to transfer density from one property to another. Such provisions, if specified in the bylaw, would allow the transfer of development rights from land the community hopes to conserve (sending areas) to land in growth centers (receiving areas), where higher-density development can be used to achieve multiple community goals.**

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road standards as determined by the Development Review Board.

- 4.4.2 The Development Review Board shall review the application and supporting information for evidence that safe and legal year-round access is assured to the lot.
- 4.4.3 In keeping with Section 5.7.1, Development Review Board approval is required before an easement or right-of-way may be used as primary access to any lot.
- 4.4.4 Except as detailed in section 4.4.5, development on a private right of way approval shall expire three (3) years after the date of issue if substantial construction has not begun at that time. A single one-year extension from the original expiration date may be granted by the Development Review Board, if the Board determines that conditions are essentially unchanged from the time of the original approval. In the case of administrative or court appeal, the one-year shall not start until the decision has become final. See Section 4.1.7 concerning renewal of Zoning Permits.
- 4.4.5 For Development undergoing subdivision review, approval for development on a private right-of-way shall be incorporated into subdivision review and shall not require separate review under section 4.4. Furthermore, development on a private right-of-way approvals incorporated into subdivision review shall not expire once an approved subdivision plat or certification by the clerk is filed, pursuant to the Planning Act.

**Section 4.5 PLANNED UNIT DEVELOPMENTS**

- 4.5.1 **Purpose:** In accordance with the Planning Act, Planned Unit Developments (PUDs) are permitted in designated zoning districts to allow for innovative and flexible design and development that will promote the most appropriate use of land, and help implement the policies of the Town Plan, in accordance with the design standards outlined elsewhere in the Zoning Regulations and Subdivision Regulations. In return for greater flexibility and density bonuses, PUD projects are expected to design a master plan for the entire property and set aside substantial greenspace (or suitable community facilities).
- 4.5.2 **Applicability:** To qualify, a PUD project shall:
  - (1) be a prescribed use within the district in which it is to be located;
  - (2) meet the purposes of Section 4.5.1 and conform with the standards set forth below; and
  - (3) conform to the definitions herein and to the requirements of the Planning Act (Section 4417).
- 4.5.3 **Review Process:** All PUDs shall be reviewed as subdivisions in accordance with the Hinesburg Subdivision Regulations.
- 4.5.4 **Coordination with Conditional Use/Site Plan Review:** When applicable (see sections 4.2 & 4.3), conditional use and/or site plan review shall occur simultaneously with the PUD review. The Development Review Board shall grant site plan and/or conditional use approval concurrently with PUD approval.
- 4.5.5 **Application Requirements:** Applications for PUDs shall be submitted in accordance with the requirements for subdivisions set forth in the Hinesburg Subdivision Regulations. Applications shall also address site plan and/or conditional use review submission requirements, in cases where site plan and/or conditional use approval is necessary. In addition to the application materials specified above, applications for PUDs must include the following:
  - (1) A statement setting forth the nature of all proposed modifications or changes of existing land use and development regulations; and
  - (2) A brief summary of the project and how it meets the standards set forth in this



section.

- (3) A master plan for the overall parcel(s) including both proposed and likely future development areas, greenspace, access and infrastructure.

4.5.6 **General Standards:** To achieve the objectives set forth in this section, the Development Review Board may modify other sections of the Zoning Regulations. Regardless of such modifications, all PUDs shall be in accordance with the following provisions:

- (1) The project shall be consistent with the Hinesburg Town Plan, and the uses of the site shall not differ from the uses allowed in the district in which the project is located.
- (2) The project shall be an efficient and unified treatment of the development possibilities of the site. The master plan shall anticipate and describe a full build out of the property.
- (3) Upon approval of the PUD by the Development Review Board, the necessary modifications of the Zoning Regulations shall be noted in the conditions of Subdivision approval and shall be noted on the approved subdivision plat recorded in the Town land records. All other provisions of the Zoning Regulations not specifically modified shall remain in force and be applicable to this project.
- (4) In the Village Growth Area zoning districts, projects are encouraged to build to the maximum allowed density by taking advantage of the substantial density bonuses described in section 2.9 & 5.21. These bonuses are available to both conventional or PUD projects, and no additional PUD-specific density bonuses shall be granted.
- (5) Outside of the Village Growth Area zoning districts, residential density bonuses of up to 25% will be granted if requested by the applicant. Unless a residential density bonus is granted, the overall density shall not exceed that which could be permitted, in the Board's judgment, if the land were subdivided or developed in conformance with the Subdivision & Zoning Regulations, and giving due consideration to site conditions limiting development.
- (6) Outside of the Village Growth Area, where a district boundary line divides a parcel, the Development Review Board may allow the development of a single PUD with a total density based on the combined allowable density of each district. Development densities within the Village Growth Area shall not be supplemented by nor transferred to portions of the same parcel in a surrounding zoning district. However, the location of greenspace and/or community facilities (per section 4.5.7) is not restricted.
- (7) Within the Village growth area, two or more parcels (contiguous or non-contiguous, and regardless of ownership) within the same zoning district may be combined for review as a PUD. The total development density of the parcels may be concentrated on specific parcels or portions thereof in order to promote the most appropriate use of the land. Such PUDs shall include an integrated master plan that includes all involved parcels.
- (8) Two or more contiguous parcels under the ownership or control of the applicant may be combined for review as a PUD. The permitted density on one parcel may be increased as long as the total density for the combined parcels, not including any density bonus granted by the Development Review Board, does not exceed that which could be permitted, in the Development Review Board's judgment, if the land were subdivided into lots in conformance with the Subdivision & Zoning regulations.
- (9) Provisions shall be made for the preservation of greenspace and/or creation of suitable community facilities as prescribed in section 4.5.7.
- (10) The minimum setback requirements for the district in which the project is located

shall apply to the periphery of the development, with the exception of front yard setback requirements, which may be modified at the discretion of the DRB.

4.5.7 **Greenspace.** Provision shall be made for the preservation of greenspace or the creation of suitable community facilities, unless the Development Review Board determines that the applicant has made other provisions along these lines through alternative mitigation measures. The location, type, size and shape of lands set aside for greenspace and/or community facilities should be sufficient to meet the intended use, and shall be approved by the Board, in accordance with the following:

- (1) Greenspace within the Agricultural, Rural Residential 1, Rural Residential 2, Shoreline, and Industrial 1 Zoning Districts shall reflect the context of the project by preserving agricultural, recreational or natural resources, or by providing pedestrian amenities, recreational or other community facilities. PUD greenspace in the Agricultural and Rural Residential 2 districts shall constitute no less than 50% of the parcel area, and no less than 25% in the Rural Residential 1, Shoreline, and Industrial 1 districts, unless the Board determines that the creation of suitable community facilities warrants a lesser area. Acceptable greenspace and community facility categories are as follows:
  - (a) Agricultural Land
  - (b) Upland forest, especially large tracts of forest contiguous to other large, undeveloped forest land
  - (c) Fragile Features (e.g., wetlands, steep slopes, floodplain, riparian areas)
  - (d) Critical wildlife habitat, including deeryards, core bear habitat and identified wildlife travel corridors
  - (e) Existing or potential trail corridors
  - (f) Gateways; areas defining contrast between the Village Growth Area and surrounding countryside
  - (g) Community facilities (e.g., water supply, community buildings, transit shelters)
  - (h) Green space & outdoor recreation (greens, playgrounds, parks, playing fields)
  - (i) Pathways (paved & unpaved), sidewalks
  - (j) Forest areas, including smaller patches of forest, that constitute significant natural communities (e.g., remnant patches of clayplain forest).
- (2) Greenspace within the non-industrial Village Growth Area Zoning Districts (i.e., VG, VG NW, VG NE, C, R1, R2) serves more limited purposes due to the Town’s desire to see higher densities and/or specialized uses in these areas. Greenspace in these districts shall reflect the context of the project primarily through providing pedestrian and recreational amenities as well as community facilities. PUD greenspace in these districts shall constitute no less than 10% of the parcel area, unless the Board determines that the creation of suitable community facilities warrants a lesser area. Acceptable greenspace and community facility categories are as follows:
  - (a) Fragile Features (e.g., wetlands, steep slopes, floodplain, riparian areas)
  - (b) Gateways; areas defining contrast between the Village Growth Area and surrounding countryside
  - (c) Public facilities (e.g., water supply, community buildings, transit shelters)
  - (d) Green space & outdoor recreation (greens, playgrounds, parks, playing fields)
  - (e) Pathways (paved & unpaved), sidewalks
- (3) Community facilities are favored over greenspace within the Industrial 2, 3, 4 districts due to the Town’s desire to see higher densities and/or specialized uses in these areas.

Community facilities in these districts shall reflect the context of the project primarily through providing public access, public roads, pedestrian and recreational amenities, or other community facilities. Appropriate facilities shall be based on the site, the surrounding area, and the development project in question. The number/amount and type of facilities shall be determined by the DRB, and shall be roughly proportional to the scale and cost of the development project - i.e., large, expensive project = greater number/amount of community facilities; small, low cost project = lesser number/amount of community facilities required. Acceptable greenspace and community facility categories are as follows:

- (a) New public roads and improvements to existing public roads, or private roads proposed to become public.
  - (b) Pathways (paved & unpaved), sidewalks, and other pedestrian infrastructure.
  - (c) Public facilities (e.g., water supply, community buildings, transit shelters, etc.).
  - (d) Green space & outdoor recreation (greens, playgrounds, parks, playing fields).
  - (e) Art installations (e.g., sculpture, fountains, murals, etc.), including those on private property that benefit the public.
- (4) Greenspace may be set aside as common land, as a separate undevelopable lot or as a portion of a single lot, outside of the development envelope, to be held in private ownership, and/or may encompass the contiguous boundaries of a specific feature located on multiple lots. The ownership of the greenspace should be consistent with the best means of maintaining the resources on the site.
- (5) Areas preserved for agricultural and forestry use should be of a size that allows for continued productive use of the land and retains their eligibility for available tax abatement programs.
- (6) Sewage disposal areas, utility and road rights-of-way or easements, access and parking areas shall not be counted as greenspace areas, except where the applicant can prove, to the satisfaction of the Development Review Board, that they will in no way disrupt or detract from the values for which the greenspace is to be protected.
- (7) The Development Review Board may require that protected greenspace be dedicated, either in fee or through a conservation easement approved by the Board, to the Town of Hinesburg (with Selectboard approval), a community association comprising all of the present and future owners of lots in the subdivision, and/or a non-profit land conservation organization. At a minimum, designated greenspace shall be indicated with appropriate notation on the final plat.

**Section 4.6 ADMINISTRATIVE REVIEW**

Minor revisions to DRB approvals for site plan and signs may be reviewed and approved by the Zoning Administrator without DRB review. Minor revisions are those that have no substantial impact under any of the standards outlined in relevant sections of the regulations. Conditions from prior approvals shall only be modified if the original rationale for the condition(s) is understood and has been adequately addressed in a manner consistent with current Town regulations. Furthermore, no revision issued via administrative review shall have the effect of substantively altering any of the findings of fact of the most recent approval.

4.6.1 Application & Classification: Submission requirements shall be the same as those outlined in the relevant section of the regulations. Classification as a minor or major (i.e., requiring DRB review) revision is at the discretion of the Zoning Administrator.

4.6.2 Notice & Posting: Public notice and posting requirements shall occur after the permit is

issued as specified for zoning permits in the Planning Act (Section 4449). In addition, written notice shall be sent to abutting landowners and the DRB within 3 days of the issuance of the permit.

- 4.6.3 Decision: The Zoning Administrator shall act within 30 days of the receipt of a complete application, either by issuing a decision or by making a referral to the DRB. The permit shall be deemed issued on the 31<sup>st</sup> day, if not acted upon. Decisions shall be sent by certified mail to the applicant and landowner. Decisions shall also be sent to anyone else who makes a specific request. Pursuant to the Planning Act (Section 4449 #3), these permits shall not take effect until the time for appeal has passed.
- 4.6.4 Appeals: Any interested person may appeal to the Development Review Board within 15 days of the date of the decision, in the same manner as other zoning permit appeals pursuant to the Planning Act (Section 4465).

**Section 4.7 WAIVERS**

- 4.7.1 The DRB may approve waivers to reduce minimum dimensional and maximum lot coverage requirements (see Table 1) for structures or portions of structures providing: disability accessibility, fire safety, and other similar requirements of law, renewable energy, energy conservation. Waiver requests shall require a formal public hearing, and be publicly noticed in the same manner as a conditional use request. Waiver requests shall be considered using the following review standards:
  - (1) The project is designed in such a way that the applicable standards are modified as little as practicable in order to serve the aforementioned purposes.
  - (2) The waiver shall not create an undue adverse impact on the use of adjoining properties or any public interest, including existing or planned community facilities.
  - (3) The waiver shall be in conformance with the Town Plan and the goals set forth in the Planning Act (Section 4302).

**Section 4.8 ADEQUATE PUBLIC FACILITIES & PHASING**

For projects undergoing site plan, conditional use, subdivision, or planned unit development review, the DRB may limit development or require phasing to assure orderly growth in coordination with the construction or implementation of related public facilities and services as outlined in the Capital Budget & Program. Project build out must take place over a sufficient period of time to allow for the provision of adequate and necessary public facilities as determined by the DRB. Consideration shall be given to public facilities and services including, but not limited to: school capacity, fire and police protection, municipal water and wastewater treatment capacity, parks and recreation, road and intersection capacity, non-vehicular access (e.g., bike/ped).

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## Article XII PLANNED UNIT DEVELOPMENTS

### 12.1

In accordance with the provisions of 24 V.S.A. 4417, Planned Unit Developments are hereby permitted in order to encourage flexibility and innovation in the design and layout of residential developments, and more efficient use of land; to facilitate the adequate and economical provisions of streets and utilities, to maximize energy conservation, and to preserve the natural and scenic qualities of the open land of the Town. Accordingly, the Development Review Board may modify the operation of these By-laws to an application for a permit for a Planned Unit Development, subject to the conditions set forth herein.

### 12.2 PUD Approval

- 12.2.1 Upon receipt of the completed Sketch Plan, the Administrative Officer shall forward the Sketch Plan to the DRB for review at their next regularly scheduled meeting. In the Sketch Plan Review the DRB shall review the Sketch Plan and accompanying information for compliance with these regulations. The developer and/or his or her authorized representative shall attend the meeting of the DRB to discuss the requirements if requested by the AO or DRB. The DRB may schedule additional meetings to continue the Sketch Plan Review.
- 12.2.2 Within forty-five (45) days of conclusion of the Sketch Plan Review hearing, the DRB shall determine, based on the information provided what details the developer will need to provide to the DRB for final review.

### 12.3 PUD Final Plan Approval Process

- 12.3.1 Within 180 days from receipt of Sketch Plan Approval the developer shall submit to the AO the following:
  - 12.3.1.1 A completed Zoning Application with fee and a survey map of the Planned Residential Development prepared and certified by a land surveyor duly licensed by the Board of Land Surveyors established under Chapter 45 of Title 26, Vermont Statutes Annotated and any additional engineering plans, or landscaping plans required by the DRB as part of the sketch plan approval process. (if the applicant is a person different from the owner, the owner of the parcel must also sign the application.)
  - 12.3.1.2 The names and addresses of all adjoining property owners and any municipalities located within 500 feet of the proposed subdivision.
  - 12.3.1.3 Any additional information requested by the AO
  - 12.3.1.4 Any additional information requested by the DRB as a result of the Preliminary Sketch Review.
  - 12.3.1.5 If the Applicant cannot complete the survey and provide the additional information requested within 180 days they Applicant may request an extension to complete the necessary work, the DRB may approve an extension for good cause.

- 12.3.2 The Administrative Officer, after receipt of the Final PUD Plans, Zoning Application, and fees, shall warn the application for the next regularly scheduled DRB Hearing date or within 45 days, whichever comes first.
- 12.3.3 The DRB shall approve, approve with conditions, or disapprove the Final PUD Plan within 45 days of the close of the Final PUD Review Hearing. The Decision shall be issued in writing.
- 12.3.4 The DRB may, as conditions to approval of an application, determine standards for the design and layout of streets, curbs, gutters, street lights, fire hydrants, shade trees, water, sewage and drainage facilities, public utilities and other necessary public improvements. Such standards shall not exceed, in the case of:

## 12.4 General Standards

- 12.4.1 A Planned Unit Development shall comply with the following standards and conditions:
  - 12.4.1.1 It will not result in undue water or air pollution. In making this determination the Development Review Board shall consider with respect to the Planned Unit Development (1) the availability and capacity of municipal sewer facilities, or the nature of the applicable soils and subsoils and their ability to support waste disposal adequately, (2) the relation of the land to the flood hazard areas, (3) protection of ground and surface water through appropriate vegetative buffers, retention structures and other techniques and devices, and (4) all applicable regulations of the Health Department and other State agencies.
  - 12.4.1.2 It will have sufficient potable water available for the reasonable foreseeable needs of the development.
  - 12.4.1.3 It will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.
  - 12.4.1.4 It will not cause unreasonable highway congestion or unsafe conditions with respect to use of existing or proposed highways.
  - 12.4.1.5 It will not cause an unreasonable burden on the ability of the Town to provide educational services and facilities.
  - 12.4.1.6 It will not cause an unreasonable burden on the ability of the Town to provide other municipal or governmental services and facilities.
  - 12.4.1.7 It will not have a material adverse effect on natural resources including streams, wetlands, scenic views, wildlife habitats, forests or farms.
  - 12.4.1.8 It will not have a material adverse effect on the scenic or natural beauty of the affected area, will be aesthetically compatible with surrounding developed properties, and will protect rare or irreplaceable natural areas and any historic sites.
  - 12.4.1.9 It will provide convenient allocation and distribution of common open space in relation to proposed development.
  - 12.4.1.10 It will provide an efficient layout and high-quality installation, construction, and maintenance of streets and public facilities.
  - 12.4.1.11 It will provide for cooperation with adjoining properties where necessary for the extension of roadway, drainage facilities, and utility lines.
  - 12.4.1.12 It will conform to the Town Plan.

## 12.5 Density Calculations

12.5.1 Maximum density for a Planned Unit Development shall not exceed the density permitted in the district in which the development is located. The permitted density for a development shall be determined as provided below:

12.5.1.1 A base maximum density shall be established by establishing the buildable area of the land to be developed (excluding areas with excessively steep slopes, excessive wetness, and within flood hazard areas), subtracting 15% for roadways, and multiplying the remaining area times the permitted density per acre for the district. For the purposes of this subsection, excessively steep slopes shall be defined as those having a slope of 1:1 or greater. Excessive wetness shall be defined as areas of standing water (e.g., ponds) and wetlands as classified in the National Wetlands Inventory.

12.5.1.2 The Development Review Board shall have the authority to permit densities greater than those allowed in Section 12.5.1.1 above according to the degree to which the development satisfies the general standards listed in Section 4.4.5 and the specific standards for a Planned Unit Development in a given district.

## 12.6 Open Space

Open space or common land shall be in a location or locations, size and configuration approved by the Development Review Board. Any open space resulting from a Planned Unit Development shall be protected by appropriate devices, legally enforceable by the Town and any affected parties, to insure its maintenance and appropriate use. Such restrictions may include, but are not limited to, one or more of land use covenants, homeowners' associations, transfer or dedication for municipal use (e.g. parkland, underground utility easements, pedestrian easements, etc.), long term lease for recreational uses or for agriculture, or other appropriate devices.

## 12.7 Miscellaneous Provisions

12.7.1 The application for a Planned Unit Development shall specify reasonable time periods within which each section of the development may be started and completed. The timetable shall be approved by the Development Review Board.

12.7.2 Each application shall be prepared in accordance with the specifications of the applicable subdivision regulations, site plan requirements (including landscaping requirements), and other such data or information as the Development Review Board may require.

12.7.3 A Planned Unit Development shall be reviewed under the standards for the district in which it is proposed.

12.7.4 An application for a Planned Unit Development shall specify all land owned or controlled by the applicant which will be included in and be made subject to any Planned Unit Development approval. Calculation of maximum allowable density and maximum allowable building coverage shall be based on the total land area specified in the Planned Unit Development and not on the individual lots, if any, within the Planned Unit Development.



## Article XIII ADMINISTRATION AND ENFORCEMENT

### 13.1 Administrative Officer; Fees

13.1.1 The Administrative Officer shall administer these bylaws pursuant to Section 4448 of the Statute. The Administrative Officer shall enforce these Regulations literally and in so doing shall inspect developments, maintain records and perform all other tasks necessary to carry out the provisions of these bylaws. Appeals from any decision or act taken by the Administrative Officer shall be made as provided for in Sub-chapter 10 of the Statute.

13.1.2 The Town of Lyndon currently operates with a Planning Commission and a Development Review Board often referred to as the Appropriate Municipal Panels (AMP). Each AMP has a distinct set of responsibilities for which it is responsible.

13.1.2.1 The primary function of the Planning Commission is to prepare and amend the municipal plan (town plan) and the zoning by-laws, and also to advise on amendments that are made by others. The Planning Commission is charged with providing long term perspective to day-to-day decision-making. The Planning Commission has a role of bringing the community together to see that the public's interest and general welfare of the community are put ahead of personal interests. In addition to drafting the municipal plan and zoning by-laws the Planning Commission also has the following powers: 1. Prepare and present a capital budget; 2. Undertake capacity studies and make recommendations on matters of land development, urban renewal, transportation, economic and social development; 3. Require information from other departments of the municipality that relates to the work of the Planning Commission; 4. Participate in the regional planning program; 5. retain staff and consultant assistance; and 6. perform such other tasks as it deems necessary or appropriate in order to fulfill the duties and obligations imposed by Chapter 117 of Title 24.

13.1.2.2 The primary function of the Development Review Board (DRB) is to perform development review. When performing development review the DRB is acting in a quasi-judicial capacity because it is applying the by-laws to a specific application, and is in effect acting like a court. The DRB is responsible for hearing all applications for development review including site plan, sub-division, variance, conditional use, administrative officer (AO) appeals, and other reviews authorized by the by-laws.

13.1.3 Fees shall be established by the Selectboard.

### 13.2 Applications for Permits

No person shall commence development without first obtaining a permit therefor pursuant to these bylaws.

Any land development not specifically authorized by, or exempt from, this bylaw is prohibited. A person who wishes to undertake development shall first apply in writing to the Zoning Administrator for a permit.

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Any land development not specifically authorized by, or exempt from, this bylaw is prohibited. A person who wishes to undertake development shall first apply in writing to the Zoning Administrator for a permit.

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## **ARTICLE 8. PLANNED UNIT DEVELOPMENT**

As amended & Proposed for Planning Commission Public Meeting on September 24<sup>th</sup>, 2012 and approved by the Select Board on October 23<sup>rd</sup>, 2012 and Effective November 13<sup>th</sup>, 2012

### **Section 8.1 Purpose**

(A) The purposes of planned unit development are to:

- (1) Increase density, reduce lot size and/or facilitate the adequate and economical provision of streets and utilities in a cost effective manner;
- (2) Cluster development to avoid the fragmentation of productive forest, farmland and wildlife habitat, conserve energy and enhance Warren's rural character as described in the Warren Town Plan;
- (3) Accommodate new development in a manner that maintains the Town's historic settlement patterns, and protects significant natural, cultural and scenic features, as described in the Warren Town Plan;
- (4) Provide opportunities for a diversity of housing types, and promote affordable housing in appropriate locations;
- (5) Allow for compact, village-scale mixed-use development within growth centers designated in the Warren Town Plan;
- (6) Encourage creative design and layout of development and an efficient use of land; and
- (7) Carry out the purposes of the Warren Town Plan, as set forth in the plan's goals and policies.

(B) To achieve the objectives set forth in this section, the Development Review Board may modify applicable area and dimensional requirements required elsewhere in these regulations simultaneously with the approval of a subdivision plan and associated plat. Such modifications shall be made in accordance with the following provisions.

### **Section 8.2 Coordination with Other Review Processes**

(A) Applications for PUDs shall be reviewed simultaneously with applications for major subdivision review in accordance with the requirements and procedures set forth in Article 6.

(B) Approval granted by the Development Review Board under this section for a PUD that involves the development of one or more conditional uses shall not exempt the proposed development from conditional use review in accordance with Article 5 unless the Board specifically grants conditional use review at the time of PUD approval. For PUD applications that are also subject to conditional use review, conditional use review may occur concurrently with final subdivision review in accordance with 6.1(D).

(C) At the time of PUD approval, the Development Review Board shall include in its decision a finding that the PUD conforms with the Warren Town Plan, and clear indication of all approved modifications of development standards, which may include conditions related to the location, scale, density, intensity and/or overall design of future development within the PUD.

### **Section 8.3 Planned Unit Developments (PUDs)**

**ARTICLE 8. PLANNED UNIT DEVELOPMENT,**

As amended & Proposed for PLANNING COMMISSION Public Meeting on September 24<sup>th</sup>, 2012 and approved by the Select Board on October 23<sup>rd</sup>, 2012 and Effective November 13<sup>th</sup>, 2012

(A) **Applicability.** Planned Unit Development (PUD) provisions may be applied to any land development in the Town of Warren at the request of the applicant. Any change to an approved PUD shall require an amendment to the prior approval in accordance with this section.

(B) **Multiple Districts, Lots and/or Owners.**

(1) Where a district boundary line divides a parcel, the development of a single PUD shall be allowed with a total density based on the combined allowable density of each district. The provisions of Section 2.2(C) of these regulations shall not be used to increase the combined development potential of parcels located in more than one zoning district.

(2) The DRB may approve PUDs involving two or more contiguous or noncontiguous parcels, whether in common or separate ownership, with the total density based on the combined allowable density of all parcels. Development may be located in accordance with the standards set forth in Section 8.5.

(3) Development shall not be relocated from land in a district with a higher maximum density to land in a district with a lower maximum density unless the DRB agrees that such a transfer is in conformance with the purposes of these regulations and the Warren Town Plan.

**Determining Density When a Single Parcel is Located in Two Zoning Districts**

Where a district boundary line divides a parcel, the development of a single PUD is allowed with a total density based on the combined allowable density of each district. For example, a 27 acre parcel in which 25 acres is located in the Forest Reserve District and 2 acres is located in the Rural Residential District has a maximum allowable density of 3 dwelling units, based upon a formula of: 25 acres = 1 dwellings (FR density) + 2 acres = 2 dwellings (RR density).

(C) **Application Requirements.** Applications for PUDs shall be submitted simultaneously with applications for major subdivision review in accordance with the requirements set forth in Article 6. In addition to the application materials specified in Table 6.2, applications for PUDs shall include the following:

(1) A statement setting forth the nature of all proposed modifications or changes of existing land use and development regulations and the standards and criteria which the applicant proposes for the development, including standards for the design, bulk and spacing of buildings and sizes of lots and open spaces; and

(2) A brief summary of the project and how it meets the standards set forth in this section.

(3) Additional information required by the Development Review Board to determine whether the proposed mix of uses, density and scale and intensity of uses will meet the standards set forth in Article 5, Article 7 and below.

(4) For projects that include affordable housing, as defined under Section 10.2, associated management plans and legal agreements that ensure the long-term affordability of such units for a minimum of 25 years or longer.

(D) **Density.** The overall density of the project shall not exceed the number of units permitted, in the Development Review Board's judgment, if the land were subdivided into lots in

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accordance with the standards for the district(s) in which the land is situated, except where specifically permitted in these regulations and as permitted below. Bonuses may be combined, but no project shall be granted more than a 100% increase in overall density.

(1) **Density Bonus for Protection of Open Space.** The DRB may approve an increase in density in accordance with the table below for PUDs in any district in exchange for the applicant setting land aside as open space.

| % Set Aside | Density Bonus |
|-------------|---------------|
| 60%         | 25%           |
| 65%         | 30%           |
| 70%         | 35%           |
| 75%         | 40%           |
| 80%         | 45%           |
| 85%         | 50%           |

(2) **Density Bonus for Affordable or Special Needs Housing.** The DRB may approve a density bonus of up to 50% for the development if the excess units are dedicated to providing housing for elderly residents, people with disabilities, and/or households with low to moderate incomes (as defined in Article 10). The units shall be dedicated to such a purpose through legally binding means for a period of not less than 25 years.

(3) **Density Bonus for Mixed-Use Village or Hamlet Development.** The DRB may approve a density bonus of up to 25% of the permitted overall density for projects that include a mix of uses and that comply with the standards set forth in subsection (E), (F) or (G).

(E) **General Standards.** In addition to the subdivision standards set forth in Article 7, PUDs shall meet the following:

(1) The PUD shall reflect an effective and unified treatment of the development possibilities of the project site, and the development plan shall make appropriate provision for preservation of primary and secondary conservation areas, as defined in Article 7.

(2) The PUD shall be consistent with the goals and policies of the Warren Town Plan and all applicable subdivision standards set forth in Article 7.

(3) The PUD shall be designed to maximize vehicular and pedestrian integration with adjacent uses and parcels. Driveway and road connections to adjacent parcels should, to the extent practical, be incorporated into the project design. Pedestrian facilities shall be laid out to serve as an interconnected network of sidewalks, pathways and trails, as appropriate to site conditions and location. Provision for safe and efficient transit access may also be required.

(4) Site design and landscaping shall be compatible with neighboring properties. In instance in which a PUD abuts a residential property, greater setback requirements for structures and parking areas and appropriate screening may be required.

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(5) A PUD may involve the creation of separate building lots, or may include a development in which multiple buildings and uses are constructed on a single parcel in common ownership.

(6) A greater concentration or intensity of development may be located within some portion(s) of the site provided there is an offset by a lesser concentration in another portion(s) or an appropriate reservation of open space on the remaining land in accordance with Sections 7.4 and 8.4.

(7) In instances in which an applicant proposes development of a portion of a larger parcel, or development of a parcel contiguous to another parcel(s) in common or affiliated ownership, a general indication of the intended use of the remaining (undeveloped) portion of the land shall be submitted in accordance with Section 7.2 (I). At a minimum, such indication shall include the information described in subsections 7.2 (H)(1) and (2).

(8) All proposals shall demonstrate the extent to which they protect and utilize renewable energy resources through such means as developing south facing slopes in lot layout and enabling solar access to all future buildings.

**(F) Rural Standards.** In addition to the general standards set forth under Subsection (C), PUDs in rural districts (Forest Reserve, Rural Residential and Meadowland Overlay) shall be designed to blend new development into the historic, agricultural and forest landscape and maintain important natural, scenic and cultural resources as described in the Warren Town Plan. All PUDs in rural districts shall protect not less than 50% of the total project area as open space. PUDs in rural districts shall be designed in accordance with the standards of subsection (1), (2) or (3) below:

(1) **Crossroad Hamlet.** Proposed PUDs may be designed in a manner that replicates a traditional crossroads hamlet, characterized by a concentration of residential buildings and one or two prominent cultural, community or civic structures, located at a road intersection, and bounded by farmland or forest. To replicate such a pattern, crossroad hamlets shall be designed to include:

(a) A contiguous grouping of dwellings, and associated accessory cultural or community buildings, and one or more common areas (e.g. village green or park), located within a compact area not to exceed 15 acres (excluding designated open space);

(b) Lots configured to front upon road(s) and/or a common green, and so that buildings are oriented toward the road, one another and/or the common green; and

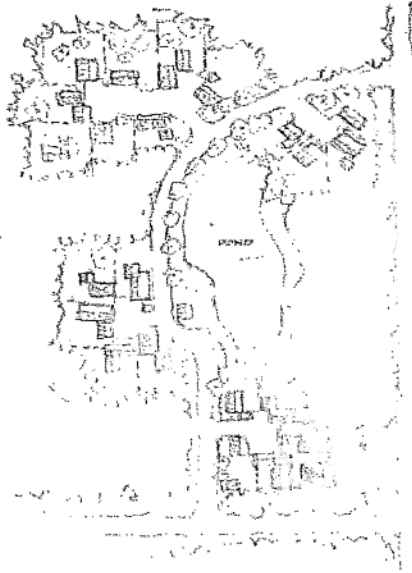
(c) A well-defined edge between the hamlet and surrounding open space.



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(2) **Farmstead Cluster.** Proposed PUDs may be designed in a manner that replicates a traditional Vermont farmstead, characterized by a variety of building scales reminiscent of traditional Vermont farmsteads, which visual character is typified by the appearance of a principal dwelling a



and a mix of agricultural buildings (e.g. barns, outbuildings) located within a compact area surrounded by open farmland. To replicate such a pattern, farmstead clusters shall be designed to include:

(a) A contiguous grouping of dwellings located within a compact area not to exceed five (5) acres (excluding open space) -the inclusion of multi-family and affordable

housing is encouraged;

(b) Buildings set near the road that relate to one another and/or a small common area;

(c) A defined edge between the cluster and surrounding open space;

(d) No fewer than three (3) nor more than nine (9) dwelling units shall be located within a single farmstead cluster; multiple farmstead clusters may be placed on a single parcel provided they are separated by adequate open space and a minimum distance of 1,200 linear feet.

A crossroads PUD, such as the one depicted in this example, allows for the concentration of development to maintain traditional development patterns while avoiding impacts on important resource lands.

(3) **Uplands Enclave.** Proposed PUDs may be designed in a manner that is characterized by concentrated, clustered lots and buildings to allow the remaining land to be used for common open space, recreation, productive farm or forest land, and/or preservation of environmentally sensitive features. Such a PUD shall consist of one or more clusters of compact development surrounded by undeveloped open space that comprises at least 50 percent of the gross parcel area. No fewer than three (3) or more than nine (9) principal buildings shall be located within a single conservation cluster. Multiple clusters may be placed on a single parcel provided they are separated by a minimum distance of twelve hundred (1,200) linear feet. At a minimum, conservation clusters shall be designed in accordance with the following:

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(a) All lots and/or development envelopes and buildings shall be grouped into one or more contiguous groups of clustered buildings, each located within a compact area not to exceed 10 acres (excluding open space, and reserved common area).

(b) There shall be a defined edge between each cluster and the surrounding open space.

(c) Buildings in each cluster shall relate to one another and/or a small common area or common structure(s). Building envelopes should be established so that buildings front upon and are oriented towards interior roads, common areas, or common buildings.

(d) Roads and driveways shall be laid out in a manner that reflects the rural character and settlement pattern of the district, which is characterized by narrow travel lanes, uncurbed streets, and trees within road rights-of-way.

(e) Adequate provision for walking paths and trails interconnecting the development's residences and other private buildings, common areas/building and open space shall be included in the design of the PUD which:

(i) Minimize site disturbance and visual impact.

(ii) Maximize protection of natural resources.

(iii) Provide for enjoyment of the surrounding natural environment.

(iv) Facilitate pedestrian access to destinations such as interconnecting public trails, school bus/transit stops, and common areas/buildings. Paths and trails should not necessarily follow roadways within the PUD.

(f) The following areas or structures may be located within designated open space areas and shall be counted toward the overall open space percentage required:

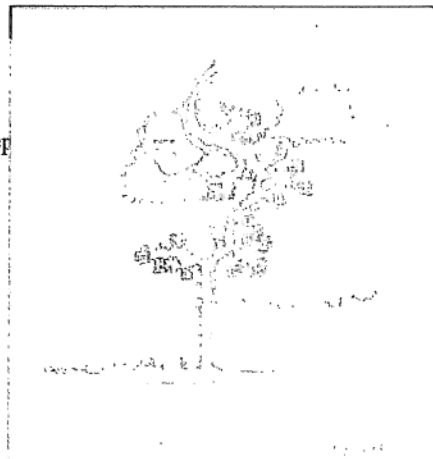
(i) Parking areas for access to and use of the open space developed at a scale limited to the potential users of the open space.

(ii) Buildings or structures that are accessory to the use of the open space.

(iii) Shared septic systems and shared potable water systems.

(g) PUDs to be located on open agricultural land should be designed to preserve working land by locating house sites along the edges of fields, pastures and woodlots. Roads, drives and property lines are encouraged to follow existing site features such as walls, fence lines and hedgerows. Homes should be located to provide an adequate buffer between agricultural and non-agricultural uses.

(h) PUDs to be located in forested areas shall be designed to maintain the





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appearance of an unbroken forested canopy and to blend new development into the landscape as viewed from off-site, to protect natural resources and wildlife habitat, and to provide for the sustainable, ongoing management of forest resources to the greatest extent feasible by:

- (i) Maintaining a forested buffer between buildings;
- (ii) Minimizing lot coverage and building footprints;
- (iii) Avoiding long driveways or large parking areas;
- (iv) Clearing only as much vegetation at the edge of the road as necessary to create a driveway entrance with adequate sight distance and proper drainage control;
- (v) Retaining existing or planting additional woody vegetation in undisturbed, naturalistic groupings, rather than singly as specimen trees, within cleared areas;
- (vi) Using native vegetation;
- (vii) Minimizing lawn area; and
- (viii) Selectively cutting small trees and the lower branches of large trees, rather than removing mature trees, to create narrow view corridors between trees and beneath tree canopies.

**(G) Village Standards.** In addition to the general standards set forth under Subsection (C), PUDs within or adjacent to existing or designated village areas shall be designed so that the layout and configuration of the lots and placement of buildings are consistent with the area's historic or planned pattern and scale of development. At a minimum, PUDs located within or adjacent to village areas shall be designed in the following manner:

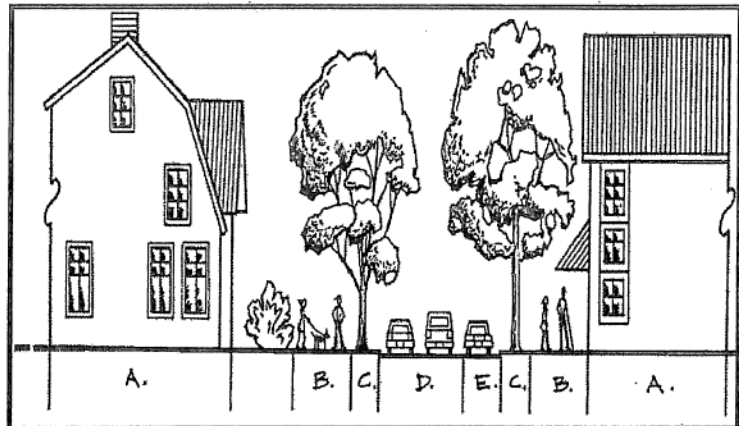
- (1) PUDs shall reinforce a compact development pattern characterized by:
  - (a) Pedestrian scale and orientation;
  - (b) Functional and visual integration with neighboring properties;
  - (c) A mix of uses;
  - (d) Well defined streetscapes and an interconnected network of streets;
  - (e) The integration of private and public space; and
  - (f) Sidewalks and pathways to facilitate pedestrian circulation.

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(2) Building envelopes should be established so that buildings front towards and relate to streets, entrance drives and public spaces (e.g. greens, parks, plazas), both functionally and visually, rather than being oriented toward parking lots. Buildings shall reflect a diversity of building scale and massing. Excessively large, monolithic buildings shall be avoided, or the scale and massing reduced through varied roof lines and interruption to the building elevation (facades) to create attached, but separate, masses.

(3) Development shall be designed with an emphasis primarily on the street sidewalk and on pedestrian access to the site and building(s), rather than on auto access and parking areas. Buildings should generally be placed close to the street and their main entrances should be oriented to the street sidewalk. There should be windows or display cases along any building facades that face to street to provide interest to the streetscape. Development shall be designed so a person can comfortably walk from one location to another in a manner that encourages strolling, window shopping and other pedestrian activities. Development shall provide visually interesting and useful details such as benches, awnings and covered walkways, textured paving, shade trees and landscaping, trash bins, ornamental light fixtures, public clock or art, etc. Site and building design elements should be dimensionally smaller than those intended to accommodate automobile traffic. Examples include ornamental lighting no higher than 12 feet; bricks, pavers, or other paving modules with small dimensions; a variety of planting and landscaping materials; awnings or covered walkways that reduce the perception of the height of walls; signage and signpost details designed for viewing from a short distance.



The elements of a streetscape include (A) buildings, which should be oriented toward the street and located to maintain consistent spacing and setbacks; (B) sidewalks; (C) planting areas for street trees; (D) the travel way of the street, which should be designed to slow traffic and maintain pedestrian safety; and (E) adequate space for on-street parking.

(4) Buildings, roads, pedestrian facilities and open space shall be configured to reinforce the visual and functional integration of existing development. Service areas, maintenance facilities and associated features that are closed to the public shall not be oriented toward existing commercial or residential structures unless facing similar features.

(5) The PUD shall be designed to establish well defined streetscapes, characterized by an interconnected network of streets with narrow travel lanes and on-street parking bounded by a combination of sidewalks, street trees and consistent, shallow building setbacks, as opposed to large-scale buildings surrounded by expansive parking areas.

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(6) Provision shall be made for year-round pedestrian circulation within the site, and for pedestrian access to adjacent properties. Pedestrian circulation should include a network of pathways and sidewalks connecting existing (or planned) land uses in and adjacent to the area.

(7) Buildings shall be clustered and integrated within a compact village pattern, present a well-defined edge between the built environment and surrounding open space, and visually enhance village entrances. Landscaping and screening should include a mix of deciduous and coniferous vegetation, should emphasize native species to the extent possible. Adequate provision for open space and common areas shall be included in the design of the PUD which:

(a) Should serve as a central organizing feature within the PUD, such as a green or park; and

(b) Shall maintain an edge between the village and surrounding countryside by protecting existing meadows and forested hillsides adjacent to the district's boundaries.

**Section 8.4 Open Space & Common Land Standards for PUDs**

(A) PUDs shall make adequate provision for the protection of open space and common land in accordance with the standards set forth in Section 7.4, and the following provisions. The location, shape, size, and character of the designated open space and common land shall be suitable for the development, considering its size, density, topography, and the number and type of units proposed. In designating open space and/or common land, applicants and the Development Review Board shall consider the site features identified in Table 8.2 in determining the appropriate features to designate as either open space or common land for the relevant zoning district(s).



AGENDA ITEM

7

## **APARTMENT OVER COMMERCIAL/INDUSTRIAL BUSINESS BYLAW REVIEW**

Below is a portion of an article from BuilderSpace.com which briefly describes mixed-use buildings.

### **Types of Mixed-use Buildings**

As stated earlier, a **mixed-use** building is a hybrid of commercial and residential development. Therefore, some tenants are business owners, while others are home dwellers; the residential area is usually more extensive than the commercial area. The residential units are generally on the upper floors to give residents peace. There are different types of mixed-use buildings; the building's design, use, and location determine the type. Below are the common types of mixed-use buildings.

#### **'Main Street' Mixed-Use Buildings**

These are two or three-story buildings where the business units are on the ground floor; the residential units occupy the upper floors. This model also provides parking for the occupants and the customers. The name 'Main Street' came about because the business units face the street so that customers can walk right in.

#### **Vertical Mixed-Use Buildings**

These developments are single buildings with many stories, with each floor having a different purpose. For instance, the ground floor could house retail shops, offices are on the first floor, and the floors above are for residential units. Most of these buildings also have a public space, such as a gym and swimming pool, where the building users can interact.

Some of the larger complexes have basements for various uses. For instance, they could provide basement parking for the occupants and the customers. You can also find entertainment and recreational places such as nightclubs, restaurants, bars, swimming pools, and gyms in the basements.

#### **Live + Work Mixed-Use Buildings**

This model houses residents living and operating small businesses in the same building. The living units are usually behind, on the sides, or above the business spaces. One of the reasons why some people love this arrangement is because they can operate their businesses till late without worrying about how they will get home. For example, a photographer may have a studio on the ground floor and live on the backside of the building or the upper floor. Such businesses can maximize their profits by giving them the opportunity to work flexible hours.

#### **Why Use of Commercial Buildings as Residences Has Increased**

More and more people have used commercial buildings as a residence in recent years, and the trend is still growing. Below are some reasons for the increase in demand for mixed-use buildings:

### **They Offer Convenience**

The location of most of these buildings is in central areas that are near:

Parks

Public transportation

Libraries

Schools

Hospitals

etc.

Some people prefer to stay in a place where they can access facilities without traveling for miles. They also like the vibrant social life such developments offer.

### **The Commute to Work Is Shorter**

Today, some people prefer to live near their workplaces to walk to work and back home. This arrangement helps them keep fit and avoid the hustle and bustle of driving or using public transport to and from work. They also keep off the stress of looking for parking slots and the cost involved.

### **There Are Savings on Transport Costs**

If a person lives in a mixed-use building and works in the same building or nearby, they can save on transport costs. In addition, they don't have to incur any travel costs to access goods and services as everything is available at their doorstep. The savings help them pay the higher rent for the mixed-use residence comfortably.

Rockingham allows this type of development for residential use without a mixed-use designation by allowing for multiple principal uses to be permitted on a single lot as a "conditional use" subject to conditional use review. See the bylaw excerpt below.

#### **2540 BUILDINGS AND USES ON LOTS**

There shall be only one principal building and one principal use on a lot unless otherwise approved under Section 1530 of this Regulation or unless approved as a conditional use by the Development Review Board.

One option for Weathersfield to allow for the desired use without negotiating a mixed-use bylaw would be to modify the existing ADU bylaw. Currently, the bylaw excludes ADUs from the Industrial district. ADUs are allowed permitted as an accessory to a single-family dwelling. Weathersfield's Accessory Dwelling Unit bylaw.

#### **4.1 Accessory Dwelling Unit**

An accessory dwelling unit shall be a permitted use in all residential districts (Village, Hamlet, Rural Residential, Rural Residential Reserve, and Conservation) and a conditional use in the Highway Commercial district. An accessory dwelling unit shall be defined as an efficiency or one bedroom apartment, located within or appurtenant (see Definitions) to an owner-occupied single family dwelling, that is clearly subordinate to a

single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all of the following:

- a) The property has sufficient wastewater capacity.
- b) The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling.
- c) Applicable setback and parking requirements specified in the bylaws are met.

State Statute regulating ADUs changed in July of 2023 following the approval of the S.100 (HOME Act). The existing bylaw is now out of date and may need amending anyway. Below is the State Statute 24VSA 4412(1)(E)&(F):

(E) Except for flood hazard and fluvial erosion area bylaws adopted pursuant to section 4424 of this title, no bylaw shall have the effect of excluding as a permitted use one accessory dwelling unit that is located within or appurtenant to a single-family dwelling on an owner-occupied lot. A bylaw shall require a single-family dwelling with an accessory dwelling unit to be subject to the same review, dimensional, or other controls as required for a single-family dwelling without an accessory dwelling unit. The criteria for conversion of an existing detached nonresidential building to habitable space for an accessory dwelling unit shall not be more restrictive than the criteria used for a single-family dwelling without an accessory dwelling unit.

(F) Nothing in subdivision (1)(E) of this section shall be construed to prohibit:

- (i) a bylaw that is less restrictive of accessory dwelling units; or
- (ii) a bylaw that regulates short-term rental units distinctly from residential rental units.