

Montpelier Planning Commission
November 12, 2004
Memorial Room, City Hall

Subject to Review and Approval

Present: David Borgendale, Chair; Carolyn Grodinsky, Vice Chair; Anne Campbell; Richard Sedano; Irene Facciolo; Marjorie Power
Staff: Valerie Capels, Planning & Community Development Director

Call to Order

The meeting was called to order at 4:10 p.m. by Mr. Borgendale.

Review of Agenda

Mr. Borgendale reviewed the agenda. Ms. Power said that she did not feel that the Planning Commission needs to review the legal issues at this time.

Review and Action on Draft Zoning Amendment Report

Ms. Power said that she sent an e-mail to the Commission members describing a suggested “decision tree.” Mr. Borgendale said the current item of discussion is on the report. He said that the e-mail was more related to the next agenda item. Ms. Power said that the Commission had just received the report and still needs to read it. Mr. Borgendale said that the report has to be approved today in order to be sent out to meet the time frame for the hearing scheduled for December 1.

Mr. Sedano made a motion that the Planning Commission accept the report as the staff report providing an evaluation of the zoning committee’s work as evaluated against the City Master Plan. Ms. Facciolo seconded the motion. Ms. Campbell said that she understood the motion to say that the document stands as a staff report on the zoning subcommittee’s work and the Planning Commission’s concern will be where it moves the planning from that point forward. Ms. Capels said that if the Planning Commission needs more time it could reschedule the hearing.

Fred Connor, a Montpelier resident, said that he understood from a discussion with the Planning staff that the public notice says that the report is the Planning Commission report that state law requires the Commission to prepare. He was told by the staff that there are two reports – the staff report and the state report. He asked which one the Commission had before it. Ms. Capels explained that the staff typically puts information together for the Planning Commission’s review. The Planning Commission then would edit, modify, or adjust the draft. The staff would then follow through on those changes and produce a report that is the Commission’s own. Mr. Connor said that he was told that there were two separate reports - a staff report and a Planning Commission report that would be given to the Council. Ms. Capels said she was sorry, but that was not correct. [Staff note: Mr. Connor may have been referring to the memo that staff is now in the process of preparing with comments on the proposed zoning.]

Mr. Borgendale said that the Commission’s responsibility is to prepare or direct the staff to prepare the report and then approve it. He understood Mr. Sedano’s motion to say that the Planning Commission accepts the report, but not approve it. Mr. Sedano said that he was not sure of the exact legal words, but his intention was that the Commission take the action necessary to meet the notice requirements. Mr. Borgendale said that he did not want to take an action saying that the Commission has approved the report because the Commission members had not yet read the report. Ms. Campbell suggested that, instead of further discussion, the Commission take the time to read the report. Ms. Capels said that due

to computer and network problems earlier in the day, some parts were still works in progress. The report includes a number of goals and action statements from the existing Master Plan that relate to this proposal. Mr. Sedano noted that the goal statements that the staff previously provided to the Commission are contained in the document, so the Commission had actually seen parts of the report before. The Commissioners read the report.

Ms. Campbell said that there was nothing in the report that would affect the Commission's planning or that the Commission could not subsequently amend at it goes forward. Chris Smart said that there were a few blanks in the report for which he made notes that cited the relevant sections and provided them to the Commission.

Mr. Borgendale said that he did not think that the report addresses any of the three issues that the Planning Commission needs to address. He said that the zoning must conform with or further the goals and policies of the municipal plan including the effect on the goal of safe and affordable housing. He said that he would not vote to adopt the report as a Planning Commission document.

Mr. Connor asked whether all of the Commission members received a copy of the letter that he sent. Mr. Borgendale said that they did. Mr. Connor said that he understood that the Planning Commission had received the Smartcode for the first time tonight. Ms. Power said that was incorrect. Mr. Borgendale said that the Commission was not accepting public comment at that time.

Ms. Campbell said that she would like to call the question. Ms. Power asked whether the motion was to be amended to reflect the materials that were just received from Mr. Smart. Mr. Sedano restated that the motion was to accept the staff report of the comparison of the zoning committee's proposal to the City's Master Plan as an acceptable comparison for the purpose of providing notice for the December 1 public meeting. He said that he was paraphrasing because he could not remember the exact wording of his initial motion. Mr. Connor asked for the motion to be repeated because he could not hear it. Ms. Capels said that the motion was that the Planning Commission accept the staff report as the comparison of the Master Plan with the proposed zoning amendment in accordance with the statutory requirements.

Mr. Borgendale called the vote. Ms. Grodinsky said that she was abstaining because she was still reading. Mr. Borgendale said that in that case the motion would pass. Ms. Capels said that she believed that it would require four votes in favor to pass. Ms. Power said that a majority of the Commission was required to pass the motion. Mr. Borgendale agreed that, to pass, the motion would require a majority of the full Planning Commission, not just a majority of those present.

Ms. Power made a motion that the Planning Commission adopt the draft report prepared by the staff as required by statute prior to the public hearing with the addition of the materials for those portions of the report that have not yet been completed; those materials being related to the subsections in section 6.2 which cross reference the relevant paragraphs in the Smartcode proposal. Ms. Campbell seconded the motion. Mr. Sedano said that he would like to know if it is necessary to read the specific changes that the motion contemplates. Ms. Power said that her opinion was that it was unnecessary. She said that the Commission would be authorizing the staff to add them to the report that will be adopted as the Planning Commission report and will be sent out to all those who are required to receive notice.

Mr. Borgendale said that he wanted to clarify whether the motion is to adopt the report. Ms. Power said that it was. She said that the Commission has the draft report and that she wanted to approve it as the

Planning Commission report so that it could be sent out in conjunction with the materials that must be provided with respect to the December 1 meeting. Mr. Borgendale asked whether Ms. Power intended to say that the Planning Commission agrees with the findings expressed in the report. Ms. Power said that she did.

Ms. Capels suggested that, if the Planning Commission is inclined to vote affirmatively on the motion it might add "subject to the Planning Commission's final review of the final draft by e-mail later tonight or tomorrow morning." She said that would allow her to send it out by e-mail so that the Commission would have another chance to look at the entire document, respond by e-mail and have those responses become part of the record. Ms. Power said that she would add that language to the motion if it increases the comfort level of the Commissioners. Ms. Capels said that the document would be updated and e-mailed that night so that it could be mailed by noon the next day.

Mr. Borgendale asked Ms. Power whether her intent was that the Planning Commission would not take the report up again later because it expresses the Commission's opinions on compliance with the Master Plan and the requirement of assessing impacts on affordable housing and land use planning. Ms. Power said that, if the Commission is to have the hearing on the scheduled date, although she voted against it, the Commission needs to authorize the report and have it available by the next day at noon. Ms. Campbell said that she did not understand the legal technicalities, but she understood the intent which is why she asked the question earlier about the Commission's ability to address inconsistencies or necessary revisions in its work with the subcommittee plan. She said that the fact that the Commission is at liberty to do that addresses any possible discrepancy.

Mr. Borgendale said that his question was whether the motion is saying that the Commission agrees with the conclusions in the report enough that we, as the Planning Commission, will adopt them as our own. Ms. Power said that, yes, the motion is that this report will be the report required to address the first public hearing. Mr. Borgendale said that he did not believe that this report adequately addressed any of the issues that state law requires the Planning Commission to address. He said that it is an embarrassment to the Planning Commission to approve a document that the members have had no time to look at and to put that out as the Commission's opinions when the Commission does not know whether it expresses them or not.

Ms. Grodinsky asked for the time frame to update the report and for the Commission to read the updated report. Ms. Capels said that she would need to make further adjustments with the input provided, e-mail the report out and get e-mailed responses by 11:30 the next day in order to mail the report by noon. Mr. Sedano said that the Commission needs to make a decision on whether Ms. Capels's technical adjustments would be sufficient and whether the Commission was satisfied with the substance of the report. Mr. Borgendale said that he was not at all satisfied with the substance of the report. He said that the Commission should spend a lot of time on this issue because it is the means of addressing all of the public policy issues. He said that the Commission had not yet done that and, yet, it was talking about adopting a report in order to meet what he considered to be an arbitrary deadline.

Ms. Power said that the Commission had now read the report. She said that the Commission needs to determine whether it thinks the proposal meets the Master Plan. She said that, for those who think it is consistent with the Master Plan, the report is sufficient to address the issues. She added that, for those who disagree with the substance of the report, there is a different issue, but the report addresses the

issues that it needs to. Ms. Campbell made a motion to call the question. Mr. Borgendale asked for a vote. The motion carried 4-1-1, with Mr. Borgendale voting against and Ms. Grodinsky abstaining.

Mr. Connor said that he wanted to report that, at 4:20, the Commission suspended all public discourse on the matter. Mr. Borgendale said the Commission will be holding public hearings starting on December 1 where the public will have ample opportunity to comment on the report and the zoning proposal. Mr. Connor asked whether the minutes would reflect that Mr. Smart was given the opportunity to pass notes to the staff, but he was not. Mr. Connor also asked when the notice of this meeting was posted. Ms. Capels said that notice of the meeting was posted to the Web site earlier in the week, was publicly announced at the City Council meeting, and the agenda was posted on the bulletin board that morning. Mr. Connor noted that the posting on the bulletin board occurred less than 24 hours in advance of the meeting. He asked whether the bulletin board served as legal notice. Mr. Borgendale said that the Commission will have to look into that. He said that the Commission had work to do to prepare for the meeting on Tuesday. The meeting will be with Mike Watkins, who is coming up to educate the Planning Commission and the public about the SmartCode and how it works. If and when the Planning Commission has received answers to its questions, the meeting will be opened for some questions from the public. Mr. Borgendale said that the public should be asking questions, not voicing objections. He noted that the meeting will be televised.

Ms. Campbell said that all of the Commission's meetings are posted well in advance on the Web site. She said that the Web address was noted in a flyer that was available at the meeting. Ms. Power said that there seems to be some confusion about the difference between a public meeting and a public hearing. She said that all of the Commission meetings are open to the public as required by the open public meeting law and the Commission very much likes for the public to come and be informed about what the Commission does. At public hearings, the Commission takes input from the public on whatever the topic. The meetings and the hearings are not the same things. The present meeting was a working meeting of the Commission and the members were glad that the public is present, but it was a meeting in which the Planning Commission had to move forward on its duties.

Ms. Power said that the Commission had made the decision to issue the report that says that the draft zoning, if adopted, would meet the provisions of the Master Plan. She said that does not say that the zoning is necessarily what the Commission wants to see or do. She said that her e-mail had proposed a decision tree and that she would like to suggest that the Commission consider a threshold question to determine whether it wants to go ahead with the Smartcode type of zoning.

Ms. Power made a motion that the Planning Commission adopt the SmartCode type of zoning as the model from which it will work. Ms. Facciolo seconded the motion. Ms. Campbell said her understanding was that it was not necessary to adopt the SmartCode type zoning city wide in order for the City to move ahead on Sabin's Pasture. It seemed that the first decision the Commission needed to make was whether it wants to move forward on that piece as developed by the zoning subcommittee. Ms. Power said that she would accept that as a friendly amendment if the seconder agreed. Ms. Facciolo said that she would agree for discussion purposes.

Ms. Power clarified the motion to say that the Planning Commission would move forward in zoning Sabin's Pasture on the basis of a SmartCode type of model. Ms. Campbell said that her friendly amendment was to enable the Commission to move ahead on this. She said that the Commission will

make any necessary changes after considering the input from the December 1 hearing. Ms. Power said that her motion was to make the Smartcode model the basis of the Planning Commission's work.

Ms. Grodinsky said that all the motion seems to be stating is that this is a starting place. Mr. Sedano said he went back and read the executive summary of the Smartcode which seems to integrate all of the matters that the Commission has been discussing. With that understanding, he would support the motion. Ms. Capels said that the Commissioners might feel more comfortable in taking up the motion after receiving information at the November 16 meeting and possibly after the December 1 hearing. Mr. Sedano said that had been his thought, but when he looked at the executive summary he concluded that the SmartCode is trying to accomplish the same things as the Planning Commission. He was happy to say this is tentative. His mind is open on all of this and the discussion with Mr. Watkins and the public input will inform how he would eventually vote, but that he would support the current motion. Ms. Power said that she felt that the Commission needed to get through what seemed to be some Commissioners' objections to the approach. Mr. Borgendale said that he understood the motion to deal with the general type of model rather than the SmartCode specifically. Ms. Power said that the motion did not address the draft either. She said that she used the words "Smartcode type" because the Commission may deviate from DPZ's parameters.

Mr. Borgendale called the vote on the motion. The motion was approved.

Preparation for Tuesday's Zoning Workshop

Mr. Borgendale said it was his understanding that the Commission was looking for general information on the approach used in the SmartCode. Ms. Power said that the purpose of the meeting is also to allow the public to get an overview of the concepts, but the Commission members may also have some questions that were less general. Ms. Campbell suggested that the Commissioners e-mail their questions rather than go through them all in the time remaining. Mr. Borgendale said that would be possible.

Mr. Sedano suggested that the Commission spend the remaining time addressing some of the big picture issues. He would like to talk to Mr. Watkins about how a planning commission could go about forecasting what traffic in a SmartCoded neighborhood would look like. He would also like to get a sense of how to think about the adequacy of parking in such neighborhoods. He was concerned about whether density bonuses do enough for low and moderate income housing. Ms. Campbell said that she was most interested in the T-1 zoning. Mr. Borgendale said that there is a great deal of material in the original template regarding community planning. He was interested in how that would apply to the Montpelier community because it seems to go to the heart of the Planning Commission's responsibilities. Ms. Power said that she had questions on how to incorporate incentives with an inclusionary zoning requirement.

Ms. Campbell suggested that the Commission begin to work on a timeline for work on the zoning subcommittee proposal. Ms. Capels said that the Commission will be meeting on November 29. Ms. Campbell said that she thought that the Commission needed another working meeting before December 1. She made a motion that the Commission set up an additional meeting. Mr. Borgendale said that he agreed that a meeting would be helpful, if it could be scheduled.

Mr. Connor asked when the public will be permitted to comment at these meetings. Mr. Borgendale said that, unless a meeting is noticed as a public hearing, the public input would be limited to a small period of time set aside for comment on items that are not on the agenda. Another member of the public asked what the Commission's expectation would be regarding the ability of the public to ask questions at the meeting on November 16. Mr. Borgendale said that priority would be given to the Planning Commission getting answers to its questions. He said that, if there is time, the Commission could allow the public to

ask questions while emphasizing that the meeting is intended to primarily educate the Planning Commission and the public.

Mr. Sedano noted that he appreciated seeing Mr. Connor's letter. He added that if anyone wished to send a letter, the Commission would appreciate receiving their thoughts in writing.

Ms. Capels suggested meeting at 5:00 on November 15. She said that she would have to see if space was available. Several members of the Commission said that would work for them.

Adjournment

Ms. Power made a motion to adjourn the meeting. Ms. Campbell seconded the motion. The motion was approved unanimously. The meeting was adjourned at 5:05 p.m.

Respectfully submitted,

Valerie Capels

These minutes are subject to approval by the Planning Commission. Changes, if any, will be recorded in the minutes of the meeting at which they were acted upon.

Transcribed by Kathleen Swigon