

Montpelier Planning Commission
November 15, 2004
City Council Chambers, 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 5:15 by Mr. Borgendale.

Comments from the Chair

Mr. Borgendale said that the meeting would be a working meeting of the Planning Commission. He said that he would allow brief public comment when there was not an open motion under discussion.

Review of Agenda

Ms. Grodinsky suggested that the discussion of the SmartCode presentation be moved up on the agenda to be the first item taken up.

Ratification of Report on Proposed Zoning Amendment

Ms. Capels said that this is an opportunity for the Planning Commission to ratify the draft Planning Commission Report if it wished to do so. She said that the report reflected the recent changes in response to the Commissioners' comments. Ms. Campbell made a motion to ratify the report as amended. Ms. Facciolo seconded the motion. The motion was approved with 5 votes in favor, with Mr. Borgendale abstaining.

Preparation for SmartCode Presentation and Workshop

Ms. Grodinsky suggested that the Commission start off the workshop by explaining the process and reviewing the whole history of the Sabin's Pasture zoning issues. The consultant could then explain the rationale behind the neighborhood design concept. Mr. Borgendale suggested that the explanations take up no more than ten minutes and then Mr. Watkins would speak. The Commission would then move into its questions. Ms. Facciolo said it would be important to make it clear that Mr. Watkins will not be addressing the specifics of Montpelier's draft zoning.

Ms. Power said that she would like to hear Mr. Watkins' thoughts on the relationship of the terrain to the design standards. Mr. Sedano said that, when Mr. Watkins did not know the answer to questions specific to Montpelier, he may be tempted to bring up examples of other places that he is familiar with. He was concerned that Mr. Watkins might get himself into trouble by using examples that the Commission would not find appropriate. Mr. Borgendale said the Commission should ask Mr. Watkins to explain why places used as examples are similar to Montpelier.

Mr. Borgendale said he was thinking he would go around the table to give each Commissioner the opportunity to ask question. Once the Commission is finished, he will open the meeting up to questions from the public. Mr. Sedano said he would like to have Mr. Watkins stay as long as it takes to complete the meeting. Commissioners agreed that the length of questions should be limited to two minutes. Mr. Borgendale said that, if they went beyond two minutes, the questions would become speeches.

Workplan for Council Committee's Proposed Zoning Amendment

Mr. Borgendale said that he would like to work out a time table for the zoning work and conflicts with the Master Plan schedule could be addressed at a later date.

Ms. Campbell suggested starting with Ms. Power's proposal from the last meeting. Mr. Borgendale said that his sense was that there are two issues before the Commission. The first was the modification and adoption of the zoning document and the second was the adoption of the map. Ms. Power said she thought that rather than dealing with every item, the Commission members could individually identify the issues that must be dealt with. Ms. Campbell said she understood Ms. Power to be saying that the Commissioners will individually go through the proposal and identify those items that need to be reworked and then come together as a group to discuss those items. Ms. Power added that some items to be addressed may be the result of public input. Ms. Campbell said that she was assuming that the Commission would go back over the work that had been done after receiving the public input.

Mr. Borgendale said that the Commission has payed less attention to the part of the draft that addresses procedural issues. He said that a very cursory review on his part showed that the procedures seem to be oriented to the new code. He said that the Commission will need to come to some conclusion regarding whether there will be two sets of procedures applying to different parts of the city. Ms. Power said that there was no point worrying about procedures until there is agreement on the zoning. The Commission should work on the substance of the zoning first and then deal with integrating the procedures with the current code. Nancy Wasserman said that she thought that the Commission needed a legal opinion regarding having two sets of procedural rules and suggested that the Commission get the opinion sooner rather than later. Chris Smart suggested that the Commission ignore the procedural parts and work on the substance of the proposal. He did not know the answer on the dual procedural rules and that there may not be case law on the issue. He suggested that the Planning Commission might enact the substantive pieces by reference and temporarily take out the other pieces. Mr. Borgendale agreed that the initial focus should be on the substantive matters.

Mr. Sedano said that the Commission has already heard public comments suggesting that the proposal may have to go beyond the T-1 and T-4 zones. He wanted to be sure that the Planning Commission listens to the public and evaluates the comments thoroughly. Ms. Power said the Commission needed to first decide on the appropriate density for the T-4 zone and then could think about whether there needs to be another zone. Ms. Campbell said she read the Housing Task Force comments and believed that they could probably be addressed in the T-4 zoning. Ms. Facciolo said that she hoped that Mr. Watkins would go through the concepts so the Commission and others understand the meaning of the zoning designations.

Mr. Sedano reviewed the old work schedule which called for the following:

- December 13 - meeting with Mr. Watkins to make changes to the proposal in response to the public hearing
- December 31 - Revised draft from Mr. Watkins to the Planning Commission
- Mid-January - first Council hearing
- February 2 or before - second Council hearing
- Council Meeting
- Town Meeting Day or before - completion

Ms. Campbell said that the Commission could develop a timeline by working back from December 13. She suggested that the Commission schedule working meetings after the public hearing. Mr. Borgendale

said it would be helpful to have a summary of the public comments at the work session. Ms. Power said Commissioners could take notes at the hearing and work from them and from memory. Ms. Campbell suggested an additional meeting on December 3 at 3:00 or on December 8. Ms. Capels said she could not attend on the 8th. Mr. Borgendale asked how December 6 would work. Mr. Sedano and Ms. Campbell said that they could not attend on that date. Ms. Facciolo said that the 6th would work at 5:00.

Mr. Borgendale confirmed that the meetings were scheduled for December 3 at 3:00 and December 6 at 5:00. Ms. Campbell asked that another meeting be set up in case it is needed. She suggested December 10 at 4:00. Mr. Borgendale said that the available Commissioners could pencil it in.

Ms. Capels said that she had a brief conversation with the City Attorney in which he indicated that he would be available to meet with the Planning Commission on December 13. Mr. Borgendale said that the meeting with the City Attorney should be scheduled for that date. Mr. Sedano asked how the meeting on December 13 would be organized. Mr. Borgendale said that, in this process, the Commission needs to redline the existing draft and identify any changes that need to be voted upon.

Mr. Sedano said he found that the Commission has not done enough work to track how the current proposal affects the existing ordinances. The Commission voted at the last meeting to move ahead using SmartCode-type zoning. He thought that was the right decision in order to begin the work effort, but also thought that the Commission should take one more look back to make sure that it chooses wisely in deciding to part from modifying the existing ordinance. Ms. Power agreed. She said that the Commission determined SmartCode to be a promising road, but if it does not enable the Commission to produce an appropriate result for rezoning Sabin's Pasture, the Commission may revisit the question.

Mr. Borgendale said that the Commission might need to talk about some kind of language that links the proposal to the zoning bylaws. There will also need to be some statement of precedence to address potential conflicts.

Mr. Sedano asked what the agenda will be for the November 29 meeting. Mr. Borgendale said that he would like to devote that meeting to discussing Master Plan issues. Ms. Grodinsky said the Commission needs to decide what part of the draft proposal will be the focus on December 3. Ms. Facciolo suggested that the Commission begin by going through the charts.

Mr. Sedano asked whether Mr. Borgendale envisioned a role for the Planning Commission on Sabin's Pasture after December 13. Mr. Borgendale said that he felt that the Commission would vote on December 13 on what to forward to the Council. He wanted to assume that the schedule would be met.

Ms. Campbell said that she was wondering if a Council member could shed any light on what the Commission should be thinking about with regard to the purchase of the license on SmartCode. Chris Smart said the Council wants to come back to ask the Planning Commission if the City should purchase the license. Mr. Watkins could continue on a per diem basis and the City could try to negotiate the license cost as part of the fees that are already committed. If the license is not acquired, the Planning Commission would need to scrap the work that the committee has done so far. Mr. Borgendale said that the Commission will be meeting with Mr. Watkins tomorrow and that he did not think that a decision had to be made tonight. Mr. Smart suggested that the Planning Commission take a vote at the end of the meeting with Mr. Watkins.

Ms. Capels asked if the Planning Commission was intending to have a second public hearing on the revised draft. She believed that statements were made to suggest that there would be another hearing. She did not know if it would be possible to have a new draft fully incorporating all of the changes by December 13. Mr. Sedano said that the Commission's decision to use the November 16 meeting for questions substituted for the public hearing. Ms. Power said that another public hearing would give the Commission an opportunity to address any arguments that the public notice for the December 1 hearing was inadequate. Ms. Capels noted that there have already been complaints that there has not been adequate opportunity for public comment.

Mr. Borgendale said that any second hearing should be scheduled so that the Commission has time to react to the public comment received at the first hearing and to produce a new draft to be issued with the warning for the second hearing. Mr. Sedano agreed. Having two hearings would show that there is an iterative process and the Planning Commission is responsive to public dialogue. That means the second hearing would occur after the new year. Ms. Power asked when the Commission would need to have the proposal to the Council to allow the Council to meet its notice requirements. Ms. Capels said that, if the Planning Commission had a hearing on or around January 10 and finalized the proposal that week, the Council could have its hearings throughout February.

Ms. Power said she preferred to have another public hearing with full notices. Mr. Sedano said that he thought that the Commission should do that if it wants to be beyond reproach. Using January 10 as the hearing date, there would be a week after the December 13 meeting to finalize changes. Mr. Borgendale said that he liked the idea of a second hearing, which could be warned with the final draft and the redline version. Ms. Power agreed provided that all of the notifications were done in order to remove any ability to obstruct the process based on perceived structural inadequacies.

Ms. Capels said that the Planning Commission preliminary report will need to be revised to coincide with a revised draft proposal. The Planning Commission members should take what was started, revise it, and make it its own. The report has to go out with the warning. Mr. Borgendale agreed and said the Commission will vote on the revised draft on December 13. Ms. Capels noted that the Commissioners will need to be working on changes to the report for the December 13 meeting.

Adjournment

Mr. Sedano made a motion to adjourn the meeting. Ms. Campbell seconded the motion. The motion was approved unanimously.

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