

Montpelier Planning Commission
November 16, 2004
City Council Chambers, City Hall

Subject to Review and Approval

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

Call to Order

The meeting was called to order by Mr. Borgendale at about 7:05 p.m.

Comments from the Chair

Mr. Borgendale explained that the focus of the meeting was to allow the Planning Commission and the community to learn more about the SmartCode. He gave an overview of the history of the Sabin's Pasture zoning petition, the Planning Commission's overlay recommendation, the interim zoning, the Commission's work on the Master Plan, changes to state law Chapter 117, and the Council zoning subcommittee initiative. The purpose of this meeting is to learn enough about the SmartCode to make decisions. There will be a series of meetings with opportunities for public input. There is a public hearing scheduled for December 1, 2004 and a second hearing tentatively scheduled for January 10, 2005. In addition, the Planning Commission will have working meetings on December 3, December 6 and December 10 and there will be regular Planning Commission meeting on December 13.

Mr. Borgendale summarized the ground rules for the meeting:

- Two minutes in which to ask a question
- Limit of one question with a brief follow up
- State name and residency

Introductory Comments

Ms. Facciolo described the work of the zoning subcommittee. She said they put together a request for proposals for zoning using the traditional neighborhood design concepts. The committee found the DPZ code to be clear and easy to use. The committee held 15 meetings that were open to the public. The draft that has been produced is a product of the committee's work with the SmartCode and the public comment received.

Mr. Borgendale noted that the Planning Commission is working on a Master Plan update. The zoning that is adopted for Sabin's Pasture will serve as a foundation for the work on the zoning throughout the community.

Presentation on SmartCode

Mike Watkins of the planning and design firm of Duany Plater-Zyberk provided a presentation regarding SmartCode. He said that, in many towns, the zoning rules would prevent development of traditional neighborhoods like Montpelier. He described the differences between conventional neighborhoods and traditional neighborhoods. Some of the attributes of traditional neighborhood designs were described as follows:

- Pedestrian friendliness
- Safe roadways so that children could play in the street
- Office space integrated into the City
- Retail uses integrated with residential areas

- Mixed housing types
- Quality open space
- Private space
- Pedestrian accessibility
- Provisions for affordable housing

Mr. Watkins said that SmartCode was written as a zoning ordinance that was 80% complete and could be tailored to fit particular locations. He described the general attributes of the range of zones and how the code worked.

Questions from Planning Commission

Mr. Borgendale opened the meeting up to questions from the Planning Commission.

Ms. Power noted that Montpelier has hilly terrain and asked how the requirement for parking in the rear of residential lots could be addressed. Mr. Watkins said that SmartCode is intended to be calibrated locally and adjustments might have to be made for topography. The intention is to prevent front yards from becoming parking lots. The code allows for exceptions where appropriate.

Ms. Grodinsky asked what tools other than T-1 zoning have been applied with SmartCode for preservation. Mr. Watkins said that transferrable development rights could be used.

Mr. Sedano asked Mr. Watkins to talk about development bonuses as incentives for affordable housing. Mr. Watkins said that, in his work, he has avoided concentrating the location of affordable housing. He said that SmartCode makes it possible to mix the housing and to allow accessory units on existing residential properties.

Mr. McCormack asked how the SmartCode makes sense in terms of characteristics of Montpelier such as the decline in population. He added that he has issues with the high level of control of details in the code. Mr. Watkins said that he has worked with towns that are not growing and that they viewed this as an opportunity to get the code in place in anticipation of future growth. He also suggested that the Planning Commission could remove the non-significant details of the code that do not affect the quality of life.

Ms. Facciolo asked for a description of the differences between the SmartCode and the more typical ordinances like Montpelier's existing zoning. She also asked how the SmartCode ideas could affect neighboring towns. Mr. Watkins said that most codes in the country are use-based. SmartCode produces more diverse and complex mixes of uses. It employs the concept of environmentally based transects to relate details of zones to the goals for the zones. Planning is best done on a regional level but only occurs at that level if there are political desires for that. Growth will occur around the perimeter of the city if Montpelier does not accommodate growth. He suggested that the City attempt to accommodate growth within its boundaries and work with the surrounding municipalities to further address the issues.

Ms. Campbell asked what sort of considerations were made in applying T-1 zoning. Mr. Watkins said that the T-1 zone does not allow for development. Considerations could include slope, wetlands, view sheds and other factors. The lands to be placed in the T-1 zone should be identified with good reason. The classification should be environmentally or physically justified. Ms. Campbell asked if the sending/receiving concept could be used on the same property. Mr. Watkins said that it could.

Mr. Borgendale said that he was struck with the predominance given to the sector plans and community plan in the code. He asked at what scale that the community plan would be applied. Mr. Watkins said that he thought there needed to be two levels of plans. One should include the entire City and, within that community plans should apply to large (40 acres or more) tracts of undeveloped land. The large tracts would be identified in the city wide plan as a hamlet or neighborhood and the developer would then develop the details of the community plan within the SmartCode parameters.

Mr. Borgendale asked whether DPZ had any experience in accomplishing infill in existing neighborhoods using these rules. Mr. Watkins said that it is difficult because of the multiple property owners. Each neighborhood is unique and he has usually worked in design workshops with the neighborhood residents.

Mr. McCormack noted that the T-4 zone is proposed to cover 60% of the city. That means there will be a lot of infill. Mr. Watkins said that he was not in a position to say whether the zone is appropriate for that much of the city. The committee has edited the code and that he was not familiar with all of those details.

Ms. Facciolo asked for more information on the hamlet and neighborhood concepts. Mr. Watkins said that a hamlet is a small crossroad community that exists in isolation. A village is a minimum of 40 acres and that a neighborhood is the same size, but embedded in the town. The idea of the density charts is to allow for a wide range of densities.

Ms. Power asked Mr. Watkins what type of experience he had with infill in existing suburban locations. Mr. Watkins said there was a lot of theoretical support for infill, but it becomes politically tough when vacant lots between houses begin to be developed. Some neighborhoods may recognize the value in higher densities, but that the decision should be made collectively.

Ms. Capels noted for the audience that the draft document includes many of the diagrams shown in the presentation. She asked how an area designated for a hamlet or neighborhood would be represented on a map. Mr. Watkins said that the citywide plan would identify all of those areas, but that the detailed design would be done by the owner or developer. Ms. Capels asked how the percentages apply to a situation where more than one property form the neighborhood. Mr. Watkins said that the minimum land requirement should be established first. Land owners could join together to create a parcel meeting the minimum.

Ms. Campbell asked what would be a reason to choose T-1 zoning over a conservation overlay. Mr. Watkins said that SmartCode uses the T-1 zoning to accomplish preservation of open space. Ms. Power asked whether a neighborhood plan could specify the area that would be left as open space. Mr. Watkins said that you could specify where to preserve.

Mr. Borgendale asked whether the boundaries of the neighborhood would be defined by ownership patterns. Mr. Watkins said you could identify adjacent properties collectively as neighborhoods. Ms. Power asked whether a plan for one parcel could use all of the density for the parcels forming the neighborhood. Mr. Watkins said that, if a parcel was individually large enough to qualify as a neighborhood, it could go forward as an individual neighborhood and meet the percentages on the property.

Questions from Public

Dale Robertson of Montpelier asked whether SmartCode has been implemented in any New England communities. Mr. Watkins said that it is fairly new, but has been used in Onondaga, New York.

Ken Jones of Montpelier asked how well retail stores do in mixed use areas and whether there actually is a reduction in vehicle use. Mr. Watkins said that commercial uses do well in the Disney "Celebration" development. In his SmartCoded neighborhood in Kentlands, Maryland, commercial space has done so well that demand for commercial space is very high. It is unquestionable that the neighborhoods capture vehicle trips, but there will still be use of vehicles for commuting.

Fred Connor of Montpelier asked Mr. Watkins whether he supports fair market compensation for lands that are "taken" in T-1 preservation zones. Mr. Watkins said that he would leave the question of takings to the attorneys.

Mr. England asked whether there have been instances where land owners are not compensated for T-1 zoned land. Mr. Watkins said that he could try to provide a list of towns that have used that zoning.

Rachel Castle of Montpelier asked whether the City should be designating properties as neighborhoods or whether specific zones should be mapped for vacant properties. Mr. Watkins said that the specific drawing with lines is not what the SmartCode model intended. It was reasonable to allow developers flexibility to develop within the designated neighborhood parameters. Ms. Castle asked how the existing zoning has been accounted for in applying the traditional neighborhood design. Mr. Watkins said that his firm is typically called in to reconfigure the distribution of development within a zone without changing the development rights. He said that density bonuses are often used to create incentives, but that he was not saying that density was never reduced.

Aaron Brondike of Montpelier asked how incentives could be created for owners to sell land to land trusts for conservation. Geoff Beyer expanded on the question by explaining that the sale of the development value or tax breaks have been used to conserve land. Mr. Watkins said that the compensation could occur at the point that the zoning is changed. He said that there could be density bonuses or monetary compensation.

Allen Goldman of Montpelier said that he was a large land donor. If his property was taken by being placed in a T-1 zone, he would have nothing to give. He asked whether there had to be sending and receiving areas associated with T-1 zoning. Mr. Watkins said that SmartCode has to be calibrated for local situations. Zoning needs to achieve the local goals. Development rights could be increased in some areas provided that the development rights are purchased from sending areas. Mr. Goldman asked which area should be identified first. Mr. Watkins said the most responsible method would be to identify both sending and receiving areas simultaneously.

Gordon Hall of Montpelier asked whether development can be concentrated on one part of a property in order to preserve other parts of the property so that density did not have to be sent to other properties. Mr. Watkins said that it can be done that way.

Ms. Capels asked whether SmartCode specified TDRs to be voluntary or mandatory. Mr. Watkins said that, in most locations, it has been entirely optional. Where it was mandatory, there was still an opportunity for development using underlying zoning.

An unidentified member of the public asked whether Mr. Watkins was saying that SmartCode is usually optional. Mr. Watkins said that it was usually optional and used incentives to avoid extensive meetings to discuss landowner rights. The individual asked whether the SmartCode process uses community plans, including open space mapping, first and then proceeds to mapping. Mr. Watkins said that most communities want some form of zoning categories in place before doing the mapping. The text can be adopted first. He said that the community plan is the mapping.

Mary Hooper of Montpelier asked whether the 40-acre threshold for a hamlet applies to the entire parcel or only to the development area. Mr. Watkins said that it would apply to the entire land area including open space.

Mr. Goldman asked if there could be a T-1 designation with no receiving location on the site. He asked how land owners have been compensated. Mr. Watkins said that the sending and receiving area should be designated at the same time, but banking of development rights could be used to preserve land now with the development rights to be sold in the future. Mr. Goldman asked whether SmartCode contains incentives for land to remain agricultural. Mr. Watkins said that the model does not but that concept could be worked in by the community. Mr. Borgendale noted that the code provides for reserve tiers that might be designated for agriculture. Mr. Watkins said that agriculture is not typically found in cities. He said that the reserves generally apply to regional plans.

Aaron Brondike asked what the SmartCode looks like in a hilly area. Mr. Watkins said that the definitions of slopes need to be established in the code and the standards would be adjusted as needed. The code can be written to accomplish the objectives that the City desires for the hilly areas.

Beverly Pembroke of Montpelier showed a copy of a map and asked whether Mr. Watkins has said that SmartCode would not have produced the lines on the map. Mr. Watkins said that the SmartCode model would have identified the area as a hamlet or neighborhood which would have triggered various ranges of percentages of three zones. He said that the owner or developer would then draw up a plan for approval within those percentages.

Geoff Beyer said that SmartCode seems to provide more than one way to produce a result. He asked whether T-2 or T-3 zoning could be combined with conservation overlays to specify the area that is preferred for conservation. Mr. Watkins said that Montpelier is a beautiful place. It is reasonable to permit growth when the tradeoff is a place of high value. He said that it is conceivable to use overlays without conflicting with SmartCode.

Chris Smart of Montpelier posed a situation where a designated hamlet contains two properties, neither of which met the minimum area requirement. He asked what each owner could do individually. Mr. Watkins said that he would have to give thought to that question. Mr. Smart asked what the neighborhood designation refers to. Mr. Watkins said that the SmartCode really should say "village/neighborhood" since they are really the same. Mr. Smart asked for Mr. Watkins to explain his advice that the Montpelier code require specific commercial uses it prefers rather than using incentives. Mr. Watkins said that he would suggest the City require some number of mixed use buildings even if the nonresidential space remained initially vacant or was initially used as a convertible residential space.

Alan Goldman asked how one story houses and mobile homes fit into the SmartCode. Mr. Watkins said that the intention is to build in a broad range of housing types on small lots within an area. He said that nothing precludes a design where all of the needs are provided on the ground floor with guest rooms on the second floor. He said that the intent is that infill units will be consistent with the characteristics of other units on the street. He said that, if mobile homes are to be used, they could be put behind the existing units.

Christine Zachai of Montpelier asked for a description of how tax advantages could be applied to T-1 zoning. Mr. Watkins said that the intention of T-1 zoning is to preserve the open spaces. That must be accomplished within Vermont law. He offered to provide a list of towns that use the T-1 zoning. Ms. Zachai asked for examples of how to determine that it is physically justifiable to place a parcel into conservation zoning. Mr. Watkins said that he was referring to factors such as land form or wetlands as opposed to political considerations.

An unidentified member of the public asked how many municipalities have adopted SmartCode and how much time was spent in those communities in changing the code. Mr. Watkins said that he would provide a list of the municipalities.

Ms. Capels asked how the consistency of a proposed housing type with the neighborhood would be administratively determined. Mr. Watkins said the process would be similar to current processes in place. Columbus Ohio turned SmartCode into a series of checklists.

Ken Matzner of Montpelier asked whether clustering options are inherent in SmartCode. Mr. Watkins said that his example was an area with 6 units per acre as an underlying density. SmartCode allowed for clustering up to a higher density to achieve a certain result.

Ken Jones asked whether SmartCode contained any provisions that would allow for development without increasing the tax burden on the city. Mr. Watkins said that the code is too new to provide a track record. Mr. Borgendale said that the City is in the process of having a study done on the fiscal impacts of development.

Ms. Power asked for a description of the T-2 zone. Mr. Watkins said that the T-2 zone is a way to preserve some degree of open space while allowing some changes to the environment. He said it is a transition from preservation to more urban zones.

Mr. McCormack asked whether SmartCode depends on TDR use and how TDRs work in other locations. Mr. Watkins said that SmartCode does not depend on TDRs but it is one of the incentives that can be used.

Adjournment

Mr. Borgendale closed the meeting and thanked Mr. Watkins. Ms. Power made a motion to adjourn the meeting at 11:10 p.m. Ms. Grodinsky seconded the motion. The motion was approved unanimously.

The meeting was reconvened at 11:13 p.m. by Mr. Borgendale. Ms. Power made a motion to purchase the SmartCode license. Ms. Facciolo seconded the motion.

Mr. McCormack said that he has concerns about the code. He did not want to do anything to say that the Planning Commission wants to move forward using it. Ms. Campbell said that the Commission would not be obliged to use the code, but that it needs to purchase it in order to continue to work with it. Mr. Borgendale noted that it would be a waste of money if the Commission did not intend to use the code. Ms. Power said that the Commission did decide at its last meeting to proceed using a SmartCode type of zoning.

The motion was approved with a vote of 6-1, with Mr. McCormack opposed.

Mayor Hooper suggested that the Commission might want to think about how it wants to use Mr. Watkins and how that might affect the desire to purchase the license. Mr. Borgendale said that the Commission is indicating an interest in continuing to work with a SmartCode type model. Mr. Sedano said that the Planning Commission has also indicated that it desires a continuing contract with DPZ on an as-needed basis.

Ms. Power made a motion to adjourn the meeting at 11:25 p.m. 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