

Montpelier Planning Commission
December 3, 2004
Memorial Room, City Hall

Subject to Review and Approval

Present: David Borgendale, 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 3:15 p.m.

Comments from the Chair

Mr. Borgendale thanked the Commission members and the City Council for giving the public ample opportunity to speak at the public hearing. He also thanked the public officials who attended for speaking in a respectful manner. Ms. Campbell thanked Mr. Borgendale for a job well done.

Agenda

Mr. Borgendale said that the agenda would be to continue work on the zoning and the Master Plan update. Ms. Capels said that there were copies of Ms. Grodinsky's comments and of written public comments to be passed around.

Zoning

Mr. Borgendale proposed an outline of six items to be addressed: 1. Consider whether an amendment to the 2000 Master Plan is necessary; 2. Consider whether the T-1 zone as proposed accomplishes and permits the planned/desired uses; 3. Consider whether DPZ zones other than T-1 and T-4 need to be defined for this area; 4. Consider what parts of the committee's draft cannot be appropriately included in a partial amendment to the current bylaws; 5. Conduct a detailed examination of the provisions for the specific zones in the committee's draft and decide what to keep and what to change; and 6. Determine what parts of the draft pose legal issues that need to be resolved and eliminate those that pose legal problems. Ms. Power said she thought the list was backwards. The Commission needs to get on with substantive work now. The Commission should be making some decisions regarding the T-4 zone, then look at the T-1 zone and determine if other zones are needed to complete the Sabin's Pasture zoning. Mr. Borgendale said he reviewed the workplan that the Commission members had agreed upon. They had agreed to address land use but still have not done so. The Commission should address public policy and land use before implementation details since those are the issues that the public has raised concerns about. Ms. Power said there seemed to be consensus that there is a development potential for the property and that the zoning should be mostly residential with some mixed use to support the residential development. It is not clear that a generalized land use problem exists. Ms. Campbell said she thought that Mr. Borgendale and Ms. Power were really saying the same thing. She heard them to say that there are specific pieces of the current Master Plan that must be attended to.

Mr. Borgendale said the Master Plan does not support a conservation district. The map of future land use on page 77 shows most of the area that is now proposed to be conserved as residential. If conservation zoning is assigned to that area, the land use plan must be amended as required by Chapter 117. He added that the open space network map and the map of sensitive environmental areas do not include the Sabin's Pasture parcel. Ms. Power noted that the Master Plan assigns an institutional designation to the part of the property where affordable housing is now proposed. The general business area does not match the rest of the current proposal. The map is really a zoning map rather than a land use map. Mr. Borgendale said that

if the Commission is going to propose something that is inconsistent with the map, the map must be changed. Ms. Capels suggested that this be included in their discussion with Steve Stitzel. Mr. Borgendale, Ms. Campbell and Ms. Power agreed. Ms. Power said that she would like to see the next land use map look less like a zoning map.

Mr. Borgendale said he was having difficulty with the T-1 concept because the whole effort has been too focused on what the City does not want on the parcel. The Planning Commission needs to decide what it believes the parcel should be. Ms. Power said that is why the Commission needs to focus on T-4 zoning, in order to decide what to allow. She noted that the zoning line on the parcel is not the Planning Commission's line. Mr. Borgendale asked how those issues can be addressed if the Commission focuses on the details of T-4 without addressing land use issues. Ms. Campbell said that addressing those questions will move the Commission further along than having general, theoretical discussions.

Ms. Power asked how the Commission could draw a line delineating the zoning districts if it does not know what the districts will be. Mr. Borgendale asked how the Commission could define districts without any idea of how it wants the land to be used. Ms. Campbell said the Commission has heard a great deal about housing. There does not seem to be disagreement about putting housing on the lower portion of the parcel. She suggested starting there.

Ms. Facciolo said she understood that the Commission intended to discuss section 6 today. Ms. Capels asked whether the Planning Commission is moving ahead based on the current schedule, which calls for a draft to be ready by December 13. Ms. Campbell said the Commission could proceed based on the current schedule, get the public input on the draft and then decide if the schedule should be changed. Mr. Sedano said his opinion is that the Commission is doing its best to meet the current schedule and could make a decision after the December 13 meeting. Mr. McCormack said he is in the same position. He believed the Commission members all agree that the present zoning needs to be changed. They need to iron out the details and then decide what to do with the draft. His current opinion is that the proposal would be a step backward.

Ms. Facciolo made a motion to begin working on section 6. Mr. Borgendale said that they could start on the standards and tables. Ms. Capels said she did not feel prepared to discuss specific standards. She is in the process of developing information of the existing conditions in our neighborhoods for the Commission to work with. Ms. Facciolo said that page 54 of Chris Smart's document shows what exists in the town based on a look at about 300 properties in the town. Mr. Borgendale asked who made the assessment because he was not sure of its accuracy. Ms. Facciolo said that she did not know.

Mr. Borgendale said that the Commission could start with section 6.1.2. The section on the transect system says that 30%-40% of the land in villages is supposed to be T-4. Ms. Campbell said she did not think the concentric transects would work with Montpelier's topography. Mr. McCormack said that the transect creates suburban sprawl zoning unless there were to be no other zones. Ms. Facciolo said that the committee decided the zoning would not change some of the suburban neighborhoods. Ms. Power said that infill could be allowed in those neighborhoods. Mr. McCormack said he would like to allow for higher density in some of the lower density areas and that he has considered having only one zone for the entire city. Ms. Power said that the existing development in Montpelier is like the transect. The Commission needs to decide on the parameters for the zones. He was objecting to the transition of density across the zones which is the same as suburban sprawl. Ms. Campbell said she understood Mr. McCormack to be proposing that the entire city should be zoned as T-4. Mr. McCormack said he would like to see that, but

with a higher density for the T-4 zone. Ms. Campbell said she understood Mr. McCormack's point, but did not think that the other Commissioners agreed. Mr. McCormack said he did not think that the issue has been fully addressed.

Ms. Campbell made a motion that the Commission retain the notion of Montpelier being organized around a more dense center with, multiple, less dense zones around the center. Ms. Facciolo seconded the motion with the proposed amendment that the other zones be discussed at a later time. Ms. Campbell agreed to the change. Ms. Power said that the idea of transects could be made acceptable to Mr. McCormack if there were provisions allowing infill development in the zones. She would support the motion on that basis. Mr. McCormack said that he understood that the idea had been to have the T-4 zone cover most of the city. He thought that Chris Smart proposed that 60% of the city would be in the T-4 zone. Ms. Facciolo said that was Mr. Smart's goal, but it was not resolved by the sub-committee. Mr. Borgendale said that the current draft specifies that 30%-40% of the city should be T-4. Ms. Power said that those types of provisions did not need to be in the Sabin's Pasture proposal. Mr. McCormack reminded the Commission that the rules would set the upper limits for density, but would not require that everyone develop at those densities.

Mr. Borgendale asked for a vote on the motion. The motion was approved 6-1 with Mr. McCormack opposed.

Ms. Facciolo said that she would agree with Mr. McCormack about changing the percentages. Ms. Power said that the Commission should not be dealing with the global amounts for the whole city at this time, but should be addressing Sabin's Pasture. The Commission should develop a community plan and determine how to define a new neighborhood. She said that it is clear that the T-4 zone must be addressed. Mr. Borgendale said that the transects are an expression of the community's land use plan. There is no way to apply the percentages to a particular parcel. Ms. Facciolo said that the percentages are not applicable to Sabin's Pasture since the Commission has not proposed to use that method in zoning the parcel. Mr. Borgendale said that, in that case, the whole page should be stricken.

Mr. Borgendale recognized Mr. Connor. Mr. McCormack said that the Planning Commission has limited time to make decisions and that there are specific times to hear from the public and this was not one of those times. Mr. Borgendale said he would accept comments that were brief and to the point. Mr. Connor said that the public is entitled to make statements at any public meeting. The Commission has inherited the document from the City Council. The document turns the Master Plan on its head. The SmartCode is an optional overlay code and is not intended to be a city wide process.

Mr. Borgendale asked to move on to the frontage standards in section 6.2. Ms. Facciolo said Mr. Smart commented that the subcommittee recommended deleting the references to the gallery because that condition does not exist in the city. Mr. Borgendale said he thought that the Capitol Theater was an example of a gallery. Ms. Power said that would be a marquis which should be specifically dealt with. Mr. McCormack made a motion that section 6.2.1 be removed. Mr. Borgendale asked if there was a second. There was none.

Mr. Sedano said the proposal requires that a porch be within conversational distance of the sidewalk. He thought that the proposal would avoid such details. Ms. Facciolo said the section says "should" rather than "shall." This was part of the administrative code section. Ms. Campbell asked if the review of the Development Review Board would be required for the items that say "should." Ms. Capels said she did not see section 6.2 as containing DRB-related standards. The section appears to be more descriptive. Mr.

Borgendale said that he had an issue with the sentence saying that porches shall be no less than 8' wide. Ms. Campbell proposed striking it. Mr. McCormack said he would like to see all requirements for porches struck. He asked if this was the place to do that. Ms. Capels said that specific building standards appear elsewhere.

Mr. Borgendale moved on the section 6.3 which contained the height standards. Height is described as the vertical extent measured by the number of floors including the inhabited attic. Mr. Sedano said the word inhabited will raise issues with cape style houses. Mr. Borgendale expressed concern about prohibiting one-story homes. The Commission needs to think long and hard about that. The question perhaps is inhabited versus inhabitable. Ms. Campbell said the issue could be addressed by modifying the standard to allow for a 1 ½ story cape. Ms. Capels noted that the provision contained the by-right standard and that a one-story house could be allowed as a conditional use. Mr. Borgendale said he believed the intent of the provision was to prohibit small ranch-type houses. The question is whether the Planning Commission wants to do that. Ms. Facciolo said there is a chart in the SmartCode on building height standards. The committee had talked about a minimum height in addition to a maximum height. The Commission needs to decide what it wants to do regarding a minimum. Mr. McCormack said he agreed with Mr. Borgendale, but would not want to see a maximum height limit either.

Ms. Campbell asked how these standards would relate to the need to raise the first floor of buildings above the flood plain. Ms. Capels said that the flood plain standards addressing buildings in the flood plain would remain unchanged. Ms. Facciolo suggested adding a footnote saying that the building elevation or height is measured from the allowable building elevation.

Ms. Campbell proposed that the Commission approve a maximum height and set a minimum height at 1 ½ stories by right with a one story minimum allowable through conditional use or a variance. Mr. Borgendale asked if the Commission was in agreement on the three story maximum. Mr. McCormack said that he would like to see four stories. Ms. Campbell said that a four story building really changes the look of a neighborhood, but that she recognized the need for housing. She would support three stories by right with an additional story being conditionally permitted. Mr. McCormack said that the density question really relates to this issue. He said that it may be appropriate to address the density question first. Mr. Borgendale suggested that the Commission make a decision on this question with the understanding that it could reconsider this issue if needed.

Ms. Power made a motion that the maximum height be set at four stories in the T-4b zone with the restriction that only one four-story building may be allowed in each neighborhood plan. Mr. McCormack said that, in terms of street scape, it might be better to allow an entire street to go to four stories. Ms. Facciolo said the T-4 zoning on Sabin's Pasture was created with consideration of the contiguous neighborhood. Ms. Power said that the slope on Sabin's Pasture might make the height of the structures less obvious. Some of the design requirements could be applied to the more dense development and there could be some kind of density bonus for structures that are designed to disguise density and be less intrusive. The issue is not necessarily how many units are allowed, but how the development fits into the context of the neighborhood. Mr. Borgendale agreed that context is important. He did some research and found standards that used concepts like allowing development closer to ridge lines if it was designed to be less obtrusive.

Ms. Facciolo pointed out that a four-story maximum is really a five-story building. She did not think that there is a building that tall in the city. Mr. Sedano noted that the Pavilion building is that high.

Mr. Borgendale asked whether everyone wanted a three-story maximum height by right. There was general agreement with the exception of Mr. McCormack. Ms. Power withdrew her motion. Mr. Borgendale asked whether the Commission wanted to see a minimum in the T-4 zone. Ms. Power said she did not want a minimum for residential development, but would want to see one for commercial development. Ms. Facciolo said the current proposal only permits commercial uses in the first floor of multi-story buildings. Mr. Borgendale said the Commission will need to look into the trailer question raised by Mr. Connor.

Mr. Borgendale said the Commission needs to address the height of back buildings. Ms. Power said she is less comfortable with the outbuilding requirements. She is willing to restrict those buildings to a height that is less than the house, but she noted that there are three story carriage houses in town. Ms. Campbell suggested that the standard require that the maximum height of the outbuilding may not exceed the height of the principal building. Mr. Borgendale said he wanted to be sure that the terms are clearly understood. An outbuilding is an ancillary building while a back building connects the principal building to the outbuilding.

Ms. Facciolo said she did not think that the buildings should be allowed to be as high as the principal building. That could result in a four-story building in the back yard which could affect neighbors. Ms. Power suggested the height be conditional. Mr. Borgendale said the current proposal allows a two-story maximum. Mr. Sedano said that provision could allow the outbuilding to exceed the height of the principal structure.

Ms. Power said the standard needs to specify where the height is measured. Ms. Campbell suggested the standard allow for a two-story maximum height, not to exceed the height of the principal building. Ms. Power suggested adding the phrase "as measured at the front of the principal building." Mr. Borgendale asked whether there was agreement that the standard would allow a maximum of two stories, but the elevation may not exceed the elevation of the principal building as measured from the frontage of the principal building. There were no objections.

Mr. Borgendale said the next section addressed the intensity of use. Ms. Power said the terms "group home" and "group house" must be clarified. Mr. McCormack said the Commission needs to consider parking when addressing intensity of use. Ms. Facciolo said the chart in section 6.6 contains parking standards. Mr. Borgendale asked if the standards referred to off street parking or on street parking. Ms. Facciolo responded that she believed it was all off-street parking. Mr. Borgendale expressed concern with that requirement. He said that snow removal can be managed while providing for on-street parking. Mr. McCormack asked if the section could be flagged so that he could look into the issue. Ms. Facciolo agreed that it would be very important to address the issue.

Ms. Facciolo asked what other members thought of the 1,000 foot separation between group homes. Ms. Campbell said she would be concerned that the group homes would be concentrated into a ghetto-like situation if the separation distance was reduced. Mr. Borgendale noted that the questions on this section relate to the limitations created by parking requirements.

Mr. Borgendale said the actual T-4 limitations are listed in section 611.2.c and d where it specifies the number of units per lot by right and the number of units per lot with bonuses. Ms. Facciolo said it depends on how the term "unit" is defined. Mr. Borgendale said he had noted that a definition of "unit" is needed. He had an issue with defining density as the number of units per lot rather than per acre since the lot size will vary. The section seemed to be trying to limit buildings to contain no more than four units. Ms. Facciolo said the committee was trying to consider how the neighbors would feel about such a building being built next to them. Mr. Borgendale said the restriction of four units by right could be accepted, but the

maximum of five units with an exception is too low. Ms. Power said a three-story building could contain six units not including the attic space, but the standard would not permit it. She said that the terms “apartment house” and “apartment building” could be used to address the neighborhood concerns. Mr. McCormack said that, in the context of this code which has all of the design restrictions, these limitations may not be needed. He asked why it would matter in the same building. Ms. Power said the design of the building will also affect the neighbors’ acceptance of the building. Ms. Facciolo said it is a matter of scale. There would be more activity and traffic issues with the concentration of residents. Mr. Borgendale said that is a consequence of density, not the number of units in a building. Mr. McCormack asked if Ms. Facciolo could look into the question with Mike Watkins. Ms. Power said that was a good idea, but that apartment buildings could be made to be a conditional use. Mr. McCormack said he liked the fact that they are allowed by right. Ms. Power said that, right now, they are not permitted. They could be made acceptable as conditional uses with design considerations to make them more compatible.

Mr. Borgendale noted that the number of units allowed per acre and the number of units allowed per lot are not consistent. Ms. Facciolo said the restriction is measured within a neighborhood based on a circle with a one acre radius. The Commission will need to define how to address units that are partly within the circle. Mr. Borgendale said that the standards could say that any building that has any point within the circle gets counted. Ms. Facciolo said, in that case, she would want to see the density limit increased because development that has no effect on the lot in question could be counted. Ms. Power noted that a property owner’s ability to develop will depend on how much the neighbors have developed. Mr. McCormack noted that was another reason to increase density.

Other Business

Ms. Campbell said a valid point made at the public hearing was that if zoning lines are to be drawn across a landowner’s property, they should be invited to the table to discuss the line. She is proposing that the Commission invite the owners of such property to a meeting so that the Commission can hear about their plans and opinions. Mr. McCormack said that any such meeting should be duly noticed as a public meeting. Ms. Campbell said the meeting has to be warned, so the Commission should be thinking about the first week of January. Mr. Borgendale said he acknowledged the idea and that the Commission will need to take it up at a later date. Commissioners need to discuss the upcoming meeting with Steve Stitzel. He has received a number of e-mails from lawyers asking whether they can participate. He asked them to give the Commission written questions that they suggest that the Commission ask. He wanted to open the meeting to public questions, but wanted to avoid debates. Mr. McCormack suggested that there be a specific time for questions to avoid a free-for-all.

Fred Connor said that the general opinion of the public is that these changes are as significant as the Master Plan changes. The Commission should publish notices and updates similar to what it would do for the Master Plan.

Adjournment

Mr. Sedano made a motion that the meeting be adjourned. 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

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