

Montpelier Planning Commission
March 14, 2005
City Council Chambers, City Hall

Subject to Review and Approval

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

Call to Order

The meeting was called to order by Ms. Power.

Minutes

MOTION: Mr. Borgendale made a motion that the minutes of the February 28, 2005 Planning Commission meeting be approved, seconded by Ms. Grodinsky. Mr. Borgendale said that clarification was needed in the second sentence in the second paragraph of the discussion on the Smart Growth Collaborative on page 5 of 6. The sentence read “He asked what the product would be.” Mr. Borgendale said that it was not clear who the question was intended to be attributed to, but said that he believed that Mr. Sedano had asked the question. Ms. Campbell said that the seventh sentence in the same paragraph should be revised to say “She would be interested to learn about the facilitation skills prior to arranging the meeting.” Ms. Campbell said that the first sentence in the last paragraph under the section labeled “Other” should refer to the Conservation Commission rather than the Conservation Committee.

The Planning Commission voted 5-0 to approve the minutes with those changes.

Comments from the Chair

Ms. Power had no comments.

Public Appearances

There were no public appearances.

Conservation Commission Subcommittee Presentation on Conservation Overlays

Ms. Power welcomed Geoff Beyer and Ken Matzner. Mr. Beyer referred to a written summary that had been provided to the Planning Commission. He said the work was the Conservation Commission’s response to the Master Plan initiative for maximizing the economic benefit of development but also preserving open space. Some other municipalities have used conservation overlays to accomplish that goal. Overlays are lines drawn to delineate areas that are sensitive due to natural resources or other community interests. The conservation overlays allow for a layer of regulation that could provide for more careful review or for provisions to enhance the protection of the sensitive areas. The overlay can also be a mechanism to get a land trust involved in the protection of a controversial property because the community has designated the area as important. A conservation overlay could function like the existing Design Control District and it would be drawn as part of the Master Plan process.

Mr. Matzner described various ways that other communities have used this method to protect resources including the following:

- Setting a certain percentage that could be developed on any parcel.
- Requiring that certain public benefits be provided in conjunction with developing a parcel. These could be benefits such as public access to green space or affordable housing.

- Assigning a rating to each parcel based on the natural resource values before development and then require that a certain percentage of the resource value rating be preserved after development.
- A highly detailed prescriptive approach like the one that is used in Hinesburg.
- Requiring clustering in a dense pattern to preserve open space.
- Requiring that an ecologist or landscape architect assist in the design of the project.

Mr. Matzner said that one third of the open space in Montpelier has been inventoried. The inventories need to be completed in order to allow for the identification of resources on the parcels.

Ms. Grodinsky noted that natural resources are regional. She asked what the Central Vermont Regional Planning Commission's role might be and whether any other communities in the area have used these ideas. Mr. Matzner said that most of the surrounding communities are small and are not yet in positions to consider these approaches. Ms. Grodinsky asked how landowners have been compensated when these mechanisms have been put in place. Mr. Beyer said that there is a range from looking to land trusts to providing fair market compensation to using regulations to require that certain areas be conserved. Mr. Matzner added that incentives could also be used. He described the following types of incentives:

- Density bonuses (some communities have allowed bonuses of as high as 60%)
- Allowing for more dense clustering
- Allowing for replacement of resource values through purchase and protection of another property
- Use of good designs will make development more attractive and increase sale prices

Mr. Beyer noted that the successful use of density bonuses would require that base densities be set low enough to make the bonuses attractive. Mr. Matzner said that the subcommittee has developed rough drafts for four different possible codes, but does not want to go further with the drafts until the Planning Commission's input is provided. He had a handout describing the four different possibilities for the overlays. Ms. Grodinsky asked whether the committee had a recommendation on the best option. Mr. Matzner said the Conservation Commission members have some preferences, but was interested in hearing the Planning Commission's reactions. Mr. Beyer said he thought there is a general feeling on the Conservation Commission that relying on any one tool would be less beneficial than the use of a combination of tools. One tool, used in Falmouth, Maine, is an open space impact analysis. In this method, a property would be evaluated before development to assign a resource value. The method would provide incentives or set requirements so that development would be designed to retain a certain percentage of the resource value. Ms. Power asked Ms. Capels to obtain a copy of that method for the Planning Commission. Ms. Campbell said that the approach had advantages over the T1 zoning because much of the community's decision making is done ahead of time and the developer knows what must be done.

Ms. Facciolo asked Mr. Beyer to explain why he saw an advantage in taking conservation out of zoning and why the conservation overlay is not a zone. Mr. Beyer said that the conservation overlay would follow the natural resource such as a ridge line or wildlife corridor rather than a zoning district. He said that it was possible to have both conservation overlays and conservation zoning. Ms. Facciolo asked how the conservation would be accomplished when a development proposal was submitted. Mr. Beyer said that the method could be anything from the City simply requesting conservation to requiring the developer complete a natural resource inventory and open space impact analysis and follow a prescribed formula for preserving resource values. Ms. Power said the method could range from just identifying an overlay district in the Master Plan to putting it into ordinances with restrictions. Ms. Facciolo said she would prefer that the City move toward the end of the spectrum closer to regulation because she did not want to

leave open the possibility of developing one house on one acre anymore. She would prefer to avoid broad options.

Mr. Borgendale said that he appreciated the subcommittee's work. He said that, to a certain extent, the Planning Commission's efforts have focused on drawing lines on properties, but those lines may be more appropriate at the site plan level of detail. He said that he believed that the approach that was described involves identifying values and how much value is to be preserved, but does not try to draw boundaries on the site plan level before the studies have been done to establish the values. Ms. Campbell said that it would be helpful for the Planning Commission to have an example of an application of this method to walk through. Ms. Power said that the Planning Commission will provide direction to the Conservation Commission after the City Council gives some direction to the Planning Commission.

Joint Meeting with the City Council to Discuss the Proposed Master Plan Amendment

Ms. Power explained that a joint meeting of the Planning Commission and the City Council had been scheduled so that the Council could hear the Planning Commission's thoughts on the proposed "mini-amendment" to the Master Plan. She turned the Chair over to the Mayor.

Mayor Hooper expressed appreciation to Ms. Power and Ms. Campbell for attending the Council's hearing on the Master Plan amendment. It seemed to make sense to schedule a joint meeting rather than have the two commissioners bring the Council's questions back to the full Commission and then bring the responses back to the Council. Mayor Hooper said there are a number of people interested in the issues. The meeting was not a public hearing and is principally intended to be a conversation between the Council and the Planning Commission, though she may call upon members of the public for points of clarification. There are two large questions – The genesis of the Reserve area and the concept of Traditional Neighborhood Development.

Ms. Power said that the Council set up the zoning subcommittee to develop the proposed zoning, the Planning Commission received the draft zoning from the subcommittee and held one hearing. Issues raised at the hearing caused the Planning Commission to have a public meeting with the City Attorney. At that meeting, the Planning Commission was advised that it would be wise to change the Master Plan so it and the proposed zoning for Sabin's Pasture would be consistent. Ms. Power said there seemed to be a public consensus that the appropriate uses for Sabin's Pasture should be housing, open space, and some small commercial uses related to the housing. With that in mind, the Planning Commission created a planning district designated as a Reserve. Ms. Power said the Reserve is different from a preserve. The Reserve designation says the area is sensitive without deciding the zoning in advance and recognizes that the area must be zoned carefully. The change would enable the Planning Commission to move ahead with the zoning on Sabin's Pasture.

Mayor Hooper asked whether the proposed amendment removes the underlying zoning. Ms. Power said the underlying zoning would still remain in place. She noted that the underlying zoning designations are not necessarily in conflict with the Reserve designation. The Reserve allows for housing, open space, and small scale commercial development and the underlying HDR, MDR and LDR zones would still apply. The small area of commercial zoning would be affected to the extent that large scale commercial uses would not be consistent with the Reserve designation.

Jim Sheridan asked why any undeveloped land in the city would not qualify as a Reserve. Ms. Power said it could if it was identified as sensitive land. Mr. Sheridan asked whether that suggested that the

definition of the Reserve should refer to sensitive open space. Ms. Power said that the Reserve would include open space that should be, but is not yet protected from development. The Reserve designation applies to particularly sensitive land. Mr. Sheridan said he sees the definition as very broad and wondered how the City will distinguish sensitive land from non-sensitive land. Ms. Grodinsky said the Planning Commission encountered a Catch-22 because, without a natural resource inventory, you cannot identify characteristics that make the land important and sensitive.

Riley Allen asked whether the Planning Commission could have gone further with the definition of the area. Ms. Campbell said that the difficulty for the Commission came from the absence of definitive criteria and information to use in developing accurately defined lines.

Nancy Wasserman said this seems like the time to “fish or cut bait.” She expressed concern that the Master Plan amendment process seems to be driven by the zoning proposal. The Master Plan process should be to define what is desired for the community. The City does have the “Views and Vistas” study that identifies areas for high priority protection. That language could be placed in the Master Plan identifying the upper pasture as sensitive based upon that study. The Master Plan should lay the framework for community benefits based on available data and the Views and Vistas study clearly identifies the upper pasture as sensitive. Ms. Campbell said the Planning Commission would have to work with nebulous criteria if it were to draw a line based on the Views and Vistas study. Ms. Wasserman said the study was clear that the upper meadow was the area that should not be developed. Ms. Campbell said the study did not tell the Commission where to draw the line. Ms. Wasserman said the line did not have to be drawn in the Master Plan, but should be drawn in the zoning. Mayor Hooper noted that the land use map is part of the Master Plan, causing a dilemma for everyone. Ms. Wasserman said there is clearly an understanding that the GB zoning is inappropriate. She added that there is a consensus that the upper meadow should remain undeveloped and housing could be permitted at some density in the lower pasture.

Ms. Campbell asked whether the consensus of the Council was that the Commission should vaguely identify some area of the upper meadow as open space based upon Views and Vistas and designate some vague portion of the property near Barre Street for housing. Jim Sheridan said the dilemma is that the City needs to be able to tell land owners how they will be affected so they are not left in limbo. The Reserve designation does not meet that need and the City needs measures that give some certainty to land owners. Mayor Hooper said she is concerned about how long the Reserve designation would remain in place while the zoning was being finished. Ms. Power said that the existing categories from the current Master Plan and land use plan could be extended onto the Sabin’s Pasture properties, but that would leave less flexibility to use tools like open space overlays. The Reserve designation provides flexibility to recognize the sensitivity of the area without committing to any particular land use. Ms. Power said the Planning Commission needs more direction from the Council.

Nancy Sherman said she was interested to hear that the Reserve is an overlay and the underlying zoning would remain. Ms. Power said that the Reserve is not really an overlay, but it says that the land is sensitive. Ms. Sherman said she is concerned with the clarity of the proposed definition of Reserve. She was interested in the definition that Ms. Capels provided from Attorney Stitzel that had the same provisions, but different justification. Mayor Hooper said the Master Plan definition seems to put off the planning for the area. She did not know what the consensus of the Council was, but the community consensus seems to be to have housing and mixed use on the lower portion of the parcel and open space on the upper part.

Mayor Hooper said that the Open Space Advisory Committee told the Council they will have trouble meeting the deadline, so all of the data may not be available by the time that the zoning must be done. The Master Plan does not have to draw a specific line, but has to establish broad concepts. The question is how to reflect the concepts on the land use map. Mayor Hooper said she did not think that it was necessary to add the new concept of a Reserve which is not generally understood by the community. The community does understand land conservation for open space. There is a community consensus that the GB zone could be removed and the housing and mixed uses could be captured using existing terms.

Mr. Sheridan asked why, if the Master Plan is a broad plan, does the discussion keep coming back to the specific. People will be concerned about how the Reserve designation will apply throughout the city and it is necessary to understand what characteristics define the designation so that it can be understood how it will be applied. He asked everyone to remember that the Views and Vistas study has not been adopted and represents one person's opinion. The Reserve should be devised to fit the city and then its application to Sabin's Pasture could be considered.

Ms. Facciolo said that the Commission's goal is to rewrite the Master Plan. Work on that task was proceeding when the Commission came up against development pressures on Sabin's Pasture and the Interim Zoning. That was why the Commission began focusing on Sabin's Pasture. The City may lose the opportunity to say what gets developed on the parcel if the land use designations for the parcel are left too general while work continues on the Master Plan.

Ms. Wasserman said she will not vote for a T1/T4 zoning scheme. She thinks the City has the tools that are needed without focusing on one piece of land. She hopes the Planning Commission will go back to work on the comprehensive Master Plan revisions. Mayor Hooper said the question for the City Council was whether to give the Master Plan amendment back to the Planning Commission or to move the process along by adopting the needed changes.

Ms. Power said the Master Plan must be re adopted if the "mini" amendment is not adopted. She noted that the timetables for the Master Plan and interim zoning do not fit together well. Nancy Sherman said that she wanted to move forward on the mini Master Plan amendment. She said the Reserve should be defined through clarifying the components of what it is intended to accomplish. Mayor Hooper said she was suggesting eliminating the concept of the Reserve and drawing generalized lines for land conservation and residential and mixed use.

Mayor Hooper said the next question is whether the Planning Commission wants the Council to make the revisions or to give the proposed amendment back to the Planning Commission. Mr. Borgendale said he believed the amendment should definitely be sent back to the Commission. Ms. Power said she did not agree. The Council ultimately will have to make the final decision and the Planning Commission would need to know exactly what the Council wants to see in order to produce something that the Council would approve.

Mayor Hooper asked the Council members if they agreed with the concept of land conservation on the upper pasture, eliminate the GB designation and provide for housing and mixed use on the lower pasture. She thought that if there was a consensus on the concept, it would give the Planning Commission the guidance that it needed. She noted that Mr. Sheridan did not like the concept.

Riley Allen said that he could like the concept if he had a clear indication from the Planning Commission that it made sense. Ms. Wasserman said that she would just as soon keep the amendment to move it along, but keep it in the full Council rather than a subcommittee. Harold Garabedian asked for clarification that the discussion related to the mini amendment. Mayor Hooper said that it did. Nancy Sherman said that she could go along with her colleagues while noting that the work needs to focus on the definition of Reserve. Mayor Hooper said she was talking about eliminating the concept of the Reserve. Ms. Sherman clarified that she meant that the work would only focus on that part of the proposed amendment.

Mayor Hooper said that, with all due respect to the work that the Planning Commission has accomplished, the Council will make the changes to the Master Plan amendment through its process. Nancy Sherman noted that some definitions will have to be added because the existing definitions are not consistent with the land uses on the land use plan. Mayor Hooper said that the Reserve will be called something else and will be defined.

Ms. Capels said that the College has raised concerns about the inclusion of its property. She believed that the development that the College is contemplating would be consistent with the existing institutional designation. Mayor Hooper said that care should be taken to let the Master Plan process proceed without trying to accommodate specific proposed development. She thought that everything that had been designated by the Planning Commission as Reserve would be considered. Riley Allen said that he would like to understand why the Planning Commission included the College property in the Reserve. Ms. Power said it was included because part of it is under the Interim Zoning and all of it is part of Sabin's Pasture. She has not understood the position of the College since the proposed changes would appear to be beneficial to their proposed development. Nancy Sherman said it was important to look at what works for the entire city without addressing individual property owners' wishes. Jim Sheridan said that if the land use designation is clearly defined so that it works for the whole city, it can then be applied to Sabin's Pasture.

Mayor Hooper said she believed the Council has decided to take this matter on. She would like to discuss what is meant by traditional neighborhood development. Ms. Power said that the term was used instead of traditional neighborhood design in order to be clear that the concept would be used to shape the way that development patterns would be done rather than to prescribe design requirements. Ms. Sherman said the term worked for her. Mr. Allen agreed. Mr. Sheridan said that it was not a big issue for him. Ms. Wasserman read the definition of the term and said that she has trouble with the use of the phrase, but not with the concept. The phrase is loaded. Ms. Capels noted that the language and the concept corresponds to the SmartCode language that the Planning Commission is currently working on. Mayor Hooper said the definition of traditional neighborhood development is fine, but she did not want people to think that the City is getting into regulating architectural design. The question is whether the Commission should be spending time on the existing zoning and getting rid of the aspects that result in most of the variance requests rather than going in the direction that the Commission has been going.

Ms. Power said that the previous Council wanted the Planning Commission to move on Sabin's Pasture right away, but wanted the zoning concept used for Sabin's Pasture to be applicable to the rest of the city while eliminating the need for most variances. She said that the SmartCode is meant to be adapted to the particular needs of the city. It is good to simplify the permit process while creating a code that meets the community's goals. Mayor Hooper said the Council will have to take time to consider the type of zoning that it wants to see. She thanked the Planning Commission for all of its hard work. She said that the City

Council will take the proposed Master Plan amendments that were forwarded by the Planning Commission and revise them. Any revisions will be limited to the portions of the Master Plan that the Commission proposed to amend. The Council would focus principally on the concept and definition of Reserve, but there might be other word smithing changes. The changes will be presented back to the Planning Commission and then the Council will hold hearings. Mayor Hooper said the Council will give the Commission a timeline in its next packet. She also noted that Tom Golonka could not attend the meeting, but had provided written comments.

MOTION: Nancy Wasserman made a motion that the City Council portion of the meeting be adjourned, Seconded by Riley Allen. The motion was approved unanimously by the Council members.

Master Plan/Rezoning

Ms. Power said that it would not be productive to continue to discuss Article 6 until direction is received from the Council.

Other

Ms. Capels said that the CVRPC is developing a build-out analysis computer model for a number of communities including Montpelier. The CVRPC staff could to a presentation at the next Planning Commission meeting. She understood that the model would address current zoning, but alternate scenarios could also be plugged in. Ms. Grodinsky said she would also like to hear from Ed Larson since he represents the City on the CVRPC. Ms. Power suggested that he be invited to the next meeting.

Ms. Campbell asked whether the Commission wanted to give the Conservation Commission some guidance on whether the Commission wants to proceed with the concept of conservation overlays. Ms. Grodinsky said she would like to see the background materials. Ms. Power suggested waiting until better direction is received from Council.

Ms. Facciolo said that if the Commission is not going to move ahead on the zoning, it should refocus on the Master Plan and take a look at where that work stands. Ms. Power suggested that a discussion of that matter be placed on the next agenda if time allowed.

Ms. Power asked Ms. Capels to let the Council know that Mr. McCormack has resigned from the Planning Commission.

Mr. Borgendale said that another item for the next agenda would be the Carr Lot. Ms. Capels noted that there is a workshop meeting on Wednesday evening regarding the alternate site plans for the transportation center.

Adjournment

MOTION: Mr. Borgendale made a motion to adjourn the meeting, seconded by Ms. Grodinsky. 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