

Montpelier Planning Commission
October 17, 2005
Police Dept. Community Room, Pitkin Court

Subject to Review and Approval

Present: Marjorie Power, Chair; Carolyn Grodinsky, Vice Chair; Anne Campbell; Craig Graham; Ken Jones; Richard Sedano
Staff: Valerie Capels, Planning & Community Development Director

Call to Order

The meeting was called to order by Ms. Power at approximately 4:00 p.m..

Minutes of September 26, 2005 Meeting

Ms. Capels asked for clarification of the last sentence on page 4 of the minutes: "She said that the Commission could also work on the 7/15 requirements and any other Chapter 117 work that is pending". Ms. Power said that she intended to say that the Planning Commission would still be moving ahead with the Chapter 117 work and needed to get together with the housing people. Ms. Campbell said that the word "overlay" should be stricken from the first sentence of the last paragraph on page 1. The Commission voted 5-0 to accept the minutes with those changes.

Public Appearances

There were no public appearances. Ms. Power noted that Jim Libby, from the Housing Task Force was present. She told him the Planning Commission was interested in input from the Task Force on the statutory limitation that an accessory apartment be no more than 30% of the size of the principal dwelling. Mr. Libby said he thought that the size limitation was carried forward from the previous statutory provisions. He said the provision may have addressed the concept that, at some point, the second unit becomes less of an accessory use and more like a principal use. Ms. Power said the Planning Commission did not immediately see a reason that it should not be more generous in the allowable size of the unit and would like input on whether there were related issues that the Commission was not seeing. Mr. Libby said the Commission may also want to seek input from Steve Stitzel on the legal question of whether the Commission has the authority to allow something larger than would normally be allowed as a permitted use. Ms. Power said that she would also like the Housing Task Force to provide input on whether it believed that it would be good to be more generous. Gordon Hall said that accessory units will be more appropriate in all location in the city if there were some restrictions on them. He said that the elimination of the restriction might allow for units that are not appropriate in some parts of the community and might create the need to limit the areas where the units could be permitted. The elimination of the restrictions on the size of the units might result in limitations on the range of locations where those units could be permitted. Ms. Capels noted that this topic is planned to be on an upcoming agenda.

Zoning Revision Schedule

Ms. Power said that Mayor Hooper would like to get an understanding of the Planning Commission's approximate schedule for the zoning revisions. The Commission had previously indicated it would not meet the Council's desired date for the end of December. Ms. Power asked how much time was needed to meet the administrative requirements for adoption of the amendments. Ms. Capels said that the Commission had projected that 3 ½ months were needed from the date of publication of the finished draft to the adoption of the ordinance. That included the 21-day period of time for the ordinances to take effect, but the statute provides that

the regulations would be effective at the time that the Council warns the first public hearing on the ordinances. Ms. Power said the Planning Commission is not yet finished with the drafting of the ordinance so it could not set a date for the first public hearing. She asked the Commission members when they thought the Commission would finish the draft. Ms. Campbell said it depended, in a large part, on the progress made during this meeting. Ms. Power said that, realistically, the Commission would do well to have the regulations in place by the time the interim zoning expires. Ms. Grodinsky suggested breaking the PUD provisions out for work by a subcommittee in order to speed up the process. Ms. Power said that could be done, but there was still a couple months work to be done on the draft. Ms. Capels said that the Commission might wish to break the project into parts and adopt the framework for the improved PUD process while continuing to work on the overlay provisions. Mr. Sedano said that the concepts were too interrelated for the public to understand if they were adopted separately. Ms. Power said that it would not be fair to the public because they would not have the opportunity to fully understand how the pieces would work together. Mr. Jones said that he thought the overlay subcommittee can have a draft together for refinement by the full Commission in a month.

Mayor Hooper said that it was only a few weeks ago that the City Council received the information that the Planning Commission would not be meeting the Council's expected timetable for the end of December. She was very concerned about going back to the Council with the message that it could take six months to produce the document. There has already been some discussion that the Council might take the work back from the Planning Commission and finish it. She would like to avoid any further discussion of that scenario. Ms. Power said the Commission was clear from the start that it regarded the December deadline as unlikely. She was sorry that the Council did not get that message. Mr. Jones said the reason that the Commission determined that it could not meet the deadline was that it realized that the existing zoning tools would not allow the Commission to craft the zoning that would achieve the desires and goals of Montpelier's residents for that parcel.

Mr. Libby said that the circumstances that the community objected to three years ago were a lousy development design and a zoning district that made no sense. He said that those circumstances have changed and asked whether the Commission would consider fixing the problem with the map by zoning the lower pasture HDR and the upper pasture LDR and then considering whether the density could be shifted from the upper pasture to the lower pasture. Ms. Power said part of the problem is that LDR zoning still allows for development, like one unit per acre, on the part of the parcel that the City wants to protect. Mr. Libby said the community would never allow that type of development to happen. Ms. Power said that type of development might be prevented by community opposition and law suits, but the Commission is trying to create zoning that will meet the community's expectations for what is appropriate. Mr. Jones asked whether the use of HDR and LDR zoning would be satisfactory with the understanding that there will still have to be steps taken to conserve the land. Mr. Libby said that it was unacceptable to the Housing Task Force to take property by regulation. Mayor Hooper said the intention has been to conserve the upper pasture and put more density on the lower pasture, but she would be alarmed if the Commission was speaking of a regulatory taking. The Council has wondered why the PUD regulations would not be adequate to push density down onto the lower pasture. Ms. Power said the PUD standards are not adequate to accomplish the results that the community desires. The Commission was discussing revising the PUD standards and using community resource overlays to create strong incentives for the developers to place development on the lower pasture. Mayor Hooper asked whether the

Commission could at least move ahead with that piece. Mr. Jones said that the Commission was also talking about changing the PUD provisions on a parallel time frame and putting them out to the public together. Both pieces may be ready in a month, but they may take longer. Ms. Campbell said the use of the "regulatory taking" term is inflammatory and not appropriate in relation to the community resource overlay concept. Mr. Jones said the Commission needs to let the public know about the ideas behind the concepts before labels are applied to them.

Mayor Hooper asked the Commission to narrow down the work and get the results to the Council as soon as possible. She would also like the amendments to eliminate unnecessary paper work for the Development Review Board and the staff and for the rules to address antennas and wireless communication technologies.

Sabin's Pasture Zoning Revision Objectives

Ms. Grodinsky said she had some comments on Mr. Jones' draft proposal. The objectives should include opportunities for mixed uses, opportunities for mixed uses, and protection of significant open space. She asked where the goal of 200 units came from. Mr. Jones said that it was just proposed as a starting point for discussion. Ms. Campbell asked what the combined number of allowable units would be if the HDR and LDR zoning were the underlying zoning designations for the parcel. Mr. Jones said he thought that number was about 200 units based on prior discussions. Ms. Power asked Ms. Capels for a "dot" map showing how many structures could be placed on the parcel using the HDR and LDR zoning. Ms. Power said the Commission will have to remember that the dots represent structures which will not necessarily be the same as units. Mr. Sedano said the objectives in Mr. Jones' draft are painting a picture and that the Commission may not be placing a particular number in the zoning. He would like to see the number be as high as possible without abandoning limitations. Ms. Power said the plans that the Housing Task Force and the Friends of Sabin's Pasture produced were not inconsistent with the number of units under discussion. Mr. Libby pointed out that those numbers had no basis in market reality. Ms. Power said the issue was more closely related to what the development would look like rather than the number of units. Ms. Campbell said that was why Mr. Jones' first objective was important.

Mr. Libby said he wanted to comment on the objective that referred to the "aesthetic value". After the vote that approved \$188,000 for the protection of the parcel, a group of people met and discussed the desire for a low maintenance park on the upper pasture. Ms. Grodinsky said the overlay subcommittee was looking at more than aesthetics including a broad range of natural resource values. Ms. Power said the fact that any property is designated as open space does not necessarily mean it will become a park unless it is purchased by the public. Mr. Sedano said the list of objectives should acknowledge that there are limits beyond the zoning process.

Mr. Jones said he was interested in the other members' reactions to the steps that he drafted. There was a discussion of the community resource overlay approaches at the last meeting which he was unable to attend. The discussion focused on a scoring system compared to a system that incorporated "bright lines". He suggested that option number 2 did not provide incentives for the developer to do some positive things that are desired by the Commission. He thought the Commission could mesh the two approaches and maintain bright lines while still incorporating incentives to get the positive results that are desired. That approach would recognize that development might create both positive and negative results.

Recess

The Commission took a brief recess.

Continued discussion of Sabin's Pasture Zoning Revision Objectives

Ms. Campbell said she still would like to know the number of units that the underlying zoning would allow. Mr. Sedano said each Commissioner could arrive at a different number based upon their thoughts about the property and the concepts being considered. Those numbers would be based on incomplete information. He had in mind a number in the range of 160 to 170 units, but recognized that the number was based on the incomplete information and considerations. Ms. Campbell asked whether the City would be bound by the baseline number if it used the underlying zoning. Ms. Capels said that was not necessarily the case. She said the number could change based on the PUD standards. Ms. Power said that the number of allowable structures will drive the number of units. Ms. Capels said the rules could establish a minimum area per family, if the Commission wanted that type of limit. Ms. Grodinsky asked why the number of units is relevant. She said the Commission was supposed to be focusing on the PUD regulations. Ms. Power said that was correct, but the numbers will be significant to the interested parties like the Housing Task Force. Ms. Campbell asked whether the Commission could agree that there will be a maximum of 200 units. Mr. Sedano said he could not say that. There should not be a limit on the number of units. Mr. Jones said he was thinking that the Commission should focus on density and not set out a number of units.

Mr. Sedano said that the Commission would also need to discuss affordable units. Ms. Power said that affordability could be addressed through inclusionary zoning. Ms. Grodinsky added that incentives could be used. Ms. Capels said that the statutes require considerable procedures for inclusionary zoning. Ms. Campbell said she thought the Commission would be doing the responsible thing by addressing affordable housing.

Procedural Simplification

The Planning Commission agreed to defer this discussion for a future meeting.

Review of Second draft of PUD Process and Standards

Ms. Capels reviewed some of the changes to the draft. One question from the last discussion was how to close the loophole related to incremental subdivisions over time. She said that 402.D. was her first attempt at doing that. The Commission discussed a theoretical subdivision of a 75-acre lot into four lots and the applicability of the standards to such a proposal. Ms. Grodinsky said she would like to have a standard that would require a community resource inventory for development of any lot of a specified size. Ms. Capels pointed out that the proposed matrix would require a natural resource inventory for any subdivision.

Ms. Power suggested looking at the criteria that would trigger the PUD requirements. She asked whether the 10-acre threshold is appropriate. She would like to know the size of the vacant parcels that exist in the city. Ms. Campbell said it might be better to include the parcels that are identified as important through their inclusion in the Community Resource Overlays rather than establish a threshold based on the lot size. Ms. Grodinsky disagreed. She thought that the Commission would not have the information needed to identify those parcels. A lot size threshold should be set for when inventories would be required. Ms. Power said that infill development might not be subject to such a requirement. Ms. Capels pointed out that the PUD

and the community resource inventory were two different things and the current draft regulations included separate requirements for inventories for any subdivision. There is also a provision that would allow the criteria to be waived. Ms. Power said that criteria could be established to describe the situations where the requirements could be waived. Mr. Sedano said requirements that capture all development and then create a process for sensible exemptions was an approach that would move the Commission toward its goals.

Ms. Power said the Commission would have to decide what size of undeveloped lot would require PUD review. Another question was the number of units on a lot that would trigger a PUD review and what time frame would apply. Mr. Sedano said the draft attempts to close the loophole by making it more difficult to do an incremental subdivision. The Commission would have to be more prescriptive if it wanted tighter control.

Ms. Campbell referred to section 205.C.2 and asked whether the phrase "or where there is an existing community resource overlay" could be added. Commissioners agreed. Ms. Capels said that the provision could be added as #5 under section 402.D.. Ms. Power said that sounded good and that it should apply to any parcel that includes any part of a community resource overlay. Ms. Campbell said the rule would then say that any parcel subject to a CRO requires a Planned Development review.

Ms. Grodinsky said that 508.A.2.a should encourage safer biking.

Ms. Capels referred to the bottom of page 55 and page 56. There is a new section of specific standards for mixed uses. Ms. Power said that 813.D.1.a. should say "and" instead of "and/or". Ms. Capels said she was concerned about that change because the section includes civic spaces. Ms. Grodinsky noted there are not many civic uses near many of the existing neighborhoods. She said that she did not know why it needed to be included.

Ms. Campbell said she wanted to add "play space" to 508.A.2.b. Mr. Sedano said the section is a purpose statement. He suggested adding "intensively used recreation . . ." Ms. Campbell agreed and said that recreation should also be added under 2.e.

Ms. Campbell asked whether the municipal plan was the same as the Master Plan. Ms. Capels said that it was. Ms. Power suggested using one term consistently. Ms. Capels said it should be municipal plan because master plan is used for different types of plans.

Mr. Sedano asked if the resource inventory should be included in the list of application requirements at 508.F. Ms. Capels said she was thinking that the matrix she had drafted would replace that section. There was general agreement with the concept of substituting the matrix, but the Commission wanted to take a closer look at it.

Ms. Campbell asked what the purpose of 508.D.3. was. Ms. Capels said this was a streamlining revision. Ms. Grodinsky suggested using notes to point out all of the streamlining changes. Ms. Campbell said that 601.A. should include the term "community resources". Mr. Jones said that it should replace "natural resources" throughout the document. Mr. Sedano said that the term should be defined early in the document as a term including all of the other resources. Ms. Grodinsky said that the subcommittee will draft a definition.

Mr. Sedano said he felt that the Commission should either accept or revise each of the sections that Ms. Capels rewrote. Ms. Capels noted that the shaded sections are those that were modified from the previous version. Ms. Power said 602.A.1 should be clarified. Mr. Sedano suggested that the first paragraph should become 602.A. and #2 and #3 should become 602.B.

The Commission discussed 802.B. Ms. Campbell said that 12.a. seemed to require paths and bike trails along existing roads where development has frontage. She questioned whether it made sense to require that when it will not connect to the existing paths. Ms. Power said it should be that way when the new houses front on the existing road. Ms. Campbell asked what would happen when none of the new houses front on the existing road. Mr. Jones said the rule says "new or modified public frontages" so it would apply if the frontage will be changed.

Ms. Power said she thought that concrete should be required for sidewalks. Mr. Jones said the road descriptions in the tables and in section 12 should be modified to be consistent. Ms. Power said she would like to eliminate the AOT classifications. The Planning Commission discussed road widths and traffic calming measures. Ms. Grodinsky said she was willing to look into the issues in relation to bikability and draft some suggestions. Mr. Jones said he thought the reference to traffic calming should go in 12.A. Ms. Power said that 802.C.2. should include traffic calming. Mr. Sedano suggested that another approach would be to take the list out and just state that improvements may be required. Ms. Power said that traffic calming should be at the top of the list.

Ms. Campbell said that 804.A1. should set a number for private driveways that is consistent with the threshold for PUDs. She said that the section should say "less than three single family dwellings or less than five multifamily dwellings."

Ms. Power said the Commission wanted to hear from the traffic committee on the issue of the winter ban on parking. Ms. Capels said she did not know the date of their next meeting. Ms. Power suggested that Ms. Capels could discuss the issue informally with the Public Works or Police Department. Mr. Sedano noted that the general standards section of the parking section includes a strong statement which opposes on-street parking. Ms. Power said the provisions had to be reconciled with the goals for increased density. She suggested this topic be taken up at the next meeting.

Mr. Jones said he would also like to address the railroad right of way. He said that it might be that the Vermont congressional delegation needs to take up the issue. Ms. Capels said the City itself is still in a dispute with the State on the right of way.

Adjournment

Mr. Sedano made a motion to adjourn the meeting at 9:10 p.m. Ms. Campbell seconded the motion. The motion was approved unanimously.

Respectfully submitted,

Valerie Capels

Transcribed by Kathleen Swigon

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.