

Montpelier Planning Commission
February 6, 2006
Memorial Room, City Hall

Subject to Review and Approval

Present: Marjorie Power, Chair; Carolyn Grodinsky, Vice-Chair; David Borgendale; 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 6:00 p.m.

Minutes

The minutes were not available

Review of Agenda

Ms. Power said she would like to add a discussion of the Montpelier Committee Inventory form that the Commission received.

Next Steps

Ms. Grodinsky said she thought that the Commission should discuss the next steps before continuing the discussion of the amendments. There was general agreement with that suggestion.

Mr. Jones said the question was whether there are specific changes that the Commission can agree to that would make the zoning proposal an acceptable document. He felt the Commission could try to do that and thought he heard that from the Council. The Planning Commission has to communicate clearly that the resource inventory must take place and that the City should take the responsibility for doing the inventory. He added that the Commission should consider whether it can provide language and principles to support a collaborative solution that includes the landowners. Ms. Grodinsky said that, if the City does the inventory without designated community resource overlay areas, it will have to inventory all of the open space in the city. She said it also sounded as though the Council wanted to remove the Conservation Areas. Ms. Power said she understood that the Council wanted the Conservation Area removed from the Sabin's Pasture zoning map, but that the Conservation Area would remain on the Future Land Use map in the Master Plan. Mr. Jones said the result would be that the green area of the map will have no specific meaning. Ms. Campbell observed that the Development Review Board will not take action based solely on a Master Plan provision that is not in the zoning regulations.

Mr. Jones said he heard support for incorporating the criteria that the Commission had proposed for the community resource overlay into the evaluation criteria for PUDs. He said the DRB could use some of those criteria to evaluate development proposals. Ms. Power said incorporating the criteria into the PUD standards will result in the need for applications to include some evaluation to show that the projects meet the criteria. The evaluations will have to include some sort of a site investigation. While the Council seemed to object to the requirement for an inventory, it did not seem to mind criteria that would require an investigation. Ms. Capels said the difference was that including the inventory as part of the planned development and subdivision process would mean that only those kinds of development projects would be subject to the requirement. The draft proposal requires any type of

development, even a single family home, in the community resource overlay to do the inventory. Mr. Jones pointed out that the Planning Commission had been willing to change that requirement. He suggested the Commission look at how to make sure that the PUD requirements apply where the Commission would want them to. Ms. Power said that placing the criteria into the PUD regulations leaves the Commission with the issues of what threshold to use for requiring applications to go through the PUD review and how to deal with serial subdivisions on a parcel.

Ms. Grodinsky said she was uncomfortable with the idea of just using the PUD rules with an inventory. That approach would lose the intention of using the resource overlay process to look at the community as a whole. Mr. Sedano and Ms. Power agreed. Ms. Capels said that issue could be addressed if the inventory was done as soon as possible to allow for the mapping of the best information available. Mr. Jones asked what could be done with the information if there is no mechanism to use it. How would the City prevent a house from being located on an important resource. Ms. Power said the rules could say that the City will do the inventory and the DRB will review the development proposal with regard to the inventory. She noted the City Council could always eliminate that provision if they found it unacceptable. Ms. Capels pointed out that a single family home would not trigger a development review process. Ms. Grodinsky said that she did not think Ms. Power's suggestion provides a way for the community to steer development away from important natural resources. She asked whether the Commission could phase a solution into the ordinances in the future. Mr. Jones said the Commission's transmittal memo to the Council could say that the Planning Commission thinks this is a sound idea it will be looking at in the future. Ms. Capels said that, once the sensitive areas are identified and mapped, the rules could define a district where uses are conditional uses. The conditional use designation would send even single family homes through the development review process. Ms. Grodinsky said she would like the Commission to make it known that this is still something that it would like to do.

Mr. Jones said the Commission should also clearly indicate that the members feel that the strategy for Sabin's Pasture that would be best for the community would be a collaborative solution with the landowner.

Continued Discussion of Zoning and Subdivision Amendments

Ms. Campbell referred to section 813.A.3 which she said contained a list of features to be addressed in a PUD application. Mr. Jones said the Commission needed to go back over the thresholds for the PUD requirements. Ms. Capels said those are in section 402.D on page 4-3 of the proposal. PUDs are not currently required for subdivisions, but they are required for four or more units on one lot. Mr. Jones said he was willing to use that definition for single lots and then address the larger lots for subdivision. Ms. Power said she was still concerned about lots being subdivided one piece at a time. Mr. Jones said he felt that issue could be addressed in the future if it becomes a problem. Ms. Power said Sabin's Pasture could be subdivided to separate the upper pasture from the rest of the lot. That would allow the applicant to propose a PUD on the lot that is made up of the land that the community does not want to see developed. Mr. Jones asked how the evaluation would be different if the property was subdivided. Ms. Power said there would be no requirement for planning and balancing the development on the entire parcel. A piecemeal subdivision of Sabin's Pasture would prevent comprehensive planning.

Ms. Grodinsky asked what tools other than zoning could be used. Ms. Capels said there were non-regulatory tools like negotiation and purchase, but they did not address the Planning Commission's task with zoning. Ms. Campbell said she would like to take the property owner up on his offer to show what it proposed for the parcel. Mr. Jones said he would like to pursue zoning changes. Ms. Power said was the Planning Commission's job. Ms. Grodinsky said this could be an interim step to address Sabin's Pasture if the Commission was to take up the conservation overlay provisions right away.

Ms. Campbell proposed retaining section 402.D.1 through 4. Mr. Jones said he would rather retain only 1 through 3. Ms. Campbell said item 4 should be kept in the proposal, but the Council could always remove it if they objected. Mr. Jones said he was concerned that the entire proposal could be thrown out. Ms. Power said the Commission should do its job and the Council can make any changes that they choose to. Mr. Jones agreed that 1 through 4 should be retained. Ms. Power asked if there was agreement to delete item 5.

MOTION: Ms. Campbell made a motion that the proposal use section 402.D.1 through 402.D.4 with item #2 amended to refer to four or more units. Ms. Grodinsky seconded the motion.

MOTION: Mr. Borgendale made a motion to amend the original motion so that item 402.D.4 would be deleted. Mr. Jones seconded that motion. Mr. Borgendale said he did not see a large enough concern about the serial subdivisions to justify the adoption of that provision. Mr. Sedano asked Mr. Borgendale what he thought of the concern that the planning for the entire parcel would be circumvented. Mr. Borgendale said there would always be opportunities to game the system. He did not think that this issue was significant enough to place that type of impediment in the rules. Ms. Power said a landowner could reasonably decide that a parcel is more salable if it was divided into several parcels and then sell them off separately without ever being involved with any development proposals for the land. The City would lose the ability to take a comprehensive view of the most appropriate development plan for the large parcel as a whole. Mr. Borgendale said Ms. Power was talking about implementing planning based on ownership. He was opposed to that. Ms. Power said it was a historic fact. Ms. Capels said Section 815 deals with natural resource protection for subdivisions. Ms. Power said Sabin's Pasture could be used as an example. If development was planned for the entire parcel, all of the development could be moved down to the lower pasture. If, instead, the lot was subdivided and the pieces sold, the planning possibilities would be limited to the individual parcels. Ms. Power asked for a vote on the amendment to the motion. The motion was defeated with 5 votes in opposition, one vote in favor and one abstention. Ms. Power called for the vote on the original motion. The motion was approved by a vote of 6 to 1 with Mr. Borgendale voting in opposition.

Ms. Capels asked for a time check on the discussion of the next steps. The Council had expressed an interest in moving ahead with the telecommunications and some of the other amendments. Mr. Sedano said he did not think that the telecommunications provisions were a priority for that meeting. Ms. Power said she did not see how the Commission could get the telecommunications provisions done in the time frame that the Council requested for the zoning proposal. Ms. Grodinsky said the telecommunications provisions could be taken up when the Planning Commission takes up the community resource overlay provisions. Ms. Capels said the Commission needed to go over the schedule for the next public session and for sending the

proposal back to the City Council. The Council needs to have two public hearings. It did not appear that the Commission had a quorum for February 27. The Commission discussed the fact that the legal requirement for a public hearing by the Planning Commission was satisfied. Mr. Borgendale said he understood that the next public session did not necessarily have to meet the legal requirements for a public hearing. Ms. Capels said that March 13 was a regular Planning Commission meeting date. If it was used for the public comment opportunity, the draft could go to the Council for their meeting on March 22. The Commission agreed to schedule the public meeting for March 13. Ms. Power said that the meeting would be viewed as a public input forum. Ms. Capels said the next regularly scheduled Planning Commission meeting was February 13. Mr. Sedano said the Commission would have to work out a process to accept the changes to the proposal. Ms. Capels said she would get the revised draft out the following week and look for feedback from the Commissioners by February 24.

Continued Discussion of Zoning and Subdivision Amendments

Mr. Jones asked whether any of the restrictions on development in 204.C would be appropriate for any PUD. Ms. Power asked Ms. Capels to explain her thoughts about conditional uses in the PUD regulations. Ms. Capels said if, in the next iteration of the zoning changes, the Planning Commission goes through the process of implementing an overlay concept, it might identify specific areas that will require a special level of review. The uses in those areas could be considered to be conditional uses. Ms. Power asked whether there was some way to apply the conditional use concept to PUDs in the absence of the overlays. Ms. Capels said the Commission could not use the PUD process to change a permitted use to a conditional use. The underlying zoning use table would still be the same.

Ms. Campbell suggested looking at adding the supplemental standards to the PUD provisions. The appropriate parts of 204.C could be added to Article 8. Ms. Capels said that was possible. She recommended the references to open space that are scattered through the ordinance be consolidated. Ms. Power agreed, but said that care should be taken that nothing is lost in the consolidation.

Ms. Power asked what the Commissioners thought about 204.C.7. Mr. Jones said that those provisions should be kept. Ms. Capels said that the City's ability to regulate agriculture is limited and the City's authority to regulate forestry is dubious. Mr. Jones said the Commission had these discussions previously. The sections simply say that these resources are important to the city. He had heard nothing from the public or the City Council that said that these provisions should be changed. Ms. Capels asked why there should be a provision requiring a redevelopment plan if the City does not have authority to review it. Mr. Sedano said the section does more than is needed. The section could simply ask the applicant to describe any proposed agriculture or forestry practices. Ms. Power said that the second sentence of 204.C.7.a regarding the submission of predevelopment plans should be stricken. The rest of the paragraph just says that the City is interested in what is done with forestry. Ms. Capels said the first sentence really deals with predevelopment site preparation issues. She had recommended moving it to Article 8. Ms. Power agreed that it should be moved. She said the last sentence of the paragraph could be left in. Ms. Capels said that topic is addressed in 402.A, which contains the statutory language for forestry and agriculture. Ms. Power said that section just said no zoning permit shall be required for those activities. She asked whether the Commission wanted the PUD provisions to state that the City has an interest in those activities

and wants landowners to adhere to the State regulations. Mr. Jones said that he did not see it as a big issue. Ms. Power said the provisions related to predevelopment clearing could then be moved and the rest of the forestry section could be deleted. There was general agreement to do that. Mr. Jones said that a question had been raised about whether the agriculture provision went beyond the State rules. Ms. Capels asked whether this was really a significant issue for Montpelier. Mr. Sedano made a motion to delete 204.C.7.b on lines 14 through 31 on page 2-12. Mr. Borgendale seconded the motion. Ms. Campbell said the sections on runoff and soil erosion controls should be combined into an appropriate section of the proposal. The Commission determined that there was no need to act on the motion because there was unanimous agreement to the changes.

Ms. Power suggested moving onto the supplemental overlay standards in 204.C.8. Ms. Capels said that much of the section could be moved. Mr. Graham suggested defining the required width of access roads instead of requiring that the width be "sufficient" in 204.C.8.a. Ms. Capels said she thought that road and street widths were in Section 802. Mr. Graham suggested combining the sections or adding a cross reference. Mr. Borgendale said Section 802 seemed to be the appropriate location for street widths. Ms. Power suggested the Commission decide which of the supplemental standards should be kept for application to all development. She said that Ms. Capels could then move them to appropriate locations.

Mr. Jones said he would like to keep the language regarding habitat fragmentation, but delete the references to community resource overlays. Mr. Borgendale asked whether the Commission was in agreement on deleting all of 204.C relating to community resource overlays, but retaining some of those standards and placing them in logical locations in the ordinance. There was general agreement.

Mr. Graham said 204.C.8.b regarding stormwater and erosion control should be moved or combined if there is a similar provision elsewhere.

Ms. Power asked where 8.c, which addressed the location of structures, could be placed. Ms. Capels said it could be combined with the building envelope section. Mr. Jones said that 8.c also dealt with views. Ms. Power said the provision only said to avoid impacts to the extent practical and that protection of views is a goal of the Master Plan. Mr. Jones agreed that 8.c should be retained and combined with an appropriate section. He asked what the Commission thought about 204.C.8.c. Ms. Power suggested deleting the references to community resources and to say that wooded cover shall be maintained to "the extent possible."

She said that 204.C.8.d and the first paragraph of 204.C.8.e should be deleted, but 8.e(ii) should be moved to an appropriate location. Ms. Campbell suggested keeping the first sentence of 8.d and a portion of the second sentence that stated "In determining potential visibility, the Board shall duly consider the visual ridgeline". Ms. Grodinsky said the term is not defined. Ms. Campbell said she thought that there was a reference to it in Article 8. Mr. Jones said the question is what the Commission means by visual impacts. He was not sure what could be done based on the language. Ms. Capels said Ms. Power had referred to "adverse impacts on scenic features." Ms. Capels said she thought that might be a category in Article 8. Ms. Power said that she was reading from 204.C.8.c regarding minimizing impacts to scenic and natural features. Ms. Campbell said the reference to visual ridgelines was in 815.E where reducing visibility from roadways and other vantage points was discussed. Ms. Power said the street names were a proposed addition, but people objected to that addition. Mr. Sedano observed that the addition of the street names actually added clarity and limited the application

of the section to only those streets. Ms. Grodinsky said she would like to keep the proposed revision and to explain its benefits since people did not appear to understand the section. Ms. Campbell said she thought the Commission had a responsibility to keep the revision in the proposal after all of the thoughtful work that went into developing the language. Ms. Power said the community did not want the section to be kept in the proposal. She said it should be removed even if that meant that the provision would apply more broadly. Ms. Grodinsky suggested keeping the street names and adding an explanatory note. Mr. Borgendale said he thought that the Commission should be specific about where it is concerned about the views. It was problematic to apply the ridgeline protection to Sabin's Pasture because there are other similar ridgelines in the city, some of which have been developed. Ms. Power said the fact that bad development was permitted in the past should not mean the City must continue to permit such development. Mr. Borgendale asked where the section would be located and whether it would apply only to PUDs or to all development. Ms. Capels said she thought that a lot of the standards could be moved to section 815 where they would apply to all development. Mr. Borgendale said that was acceptable with the provision that an explanatory note be included that explains why the street names were added. Ms. Campbell suggested that the existing section 815.E be modified so that the third sentence said "Additional planting may be required where needed to reduce visibility from roadways, particularly from Memorial Drive, River Street, . . . and Bailey Avenue, or other public vantage points." She said that would make it clear that the change is simply clarifying which roadways the section applies to.

Ms. Power referred the Commission back to Section 204.C.8.e(ii) which addressed building height. Mr. Borgendale said that the issue was that the visual impact depended on where a person is standing. Mr. Jones said he was unsure of what people would want to see for Sabin's Pasture. It was not clear where the visually sensitive part of the parcel began and he was not sure what the Commission could do to address the issue. Ms. Power said she thought this section should go and the Commission should make sure that it is satisfied that the general language on the location of the structures is satisfactory.

Ms. Power asked if 204.C.8.e(iii) regarding the creation of view openings was needed. She said that it seemed that the developers would take care of that as part of the development. Mr. Sedano said the provision related to the quality of the development and the Commission might want to bring it up again when it returns to the work on the standards for the entire city. The Commission agreed to delete 204.C.8.e(iv) regarding cluster development.

Ms. Capels said that the building design standards in 204.C.8.e(v) might go into the building planning section. Ms. Power said it should probably be placed with the form based provisions. Ms. Capels said she needed to think about where to place it since the standard is really for visually sensitive locations. It might be appropriate to create a new section in 815 to emphasize that these standards apply to projects with high potential for visible sensitivity. Mr. Sedano said that 815.G would be a logical place. Ms. Capels said it could be a subparagraph there.

Ms. Power said she thought that there was interest in retaining the wildlife habitat provisions in 201.C.8.f. Ms. Grodinsky said the reference to the inventory would have to be removed. Mr. Jones agreed and said that the first sentence in 8.f(i) should end with a period after "wildlife travel corridors." Ms. Power agreed and said the section could go into the PUD provisions. Ms. Capels said it could go into the subdivision section. Mr. Jones said the Commission needed to decide whether it wanted every subdivision to address this provision. Some of the comments

have indicated that there could be significant costs. He suggested putting the requirement in the PUD provisions since the City has not experienced a lot of small lot subdivisions up to now. There was general agreement with the suggestion. Ms. Grodinsky said one of the things she wanted to avoid was having to look at habitat linkage on an individual lot basis. Ms. Capels said the challenge is for the City to map the corridors. Ms. Grodinsky said she would like to say that the Commission is trying to link habitats between parcels. Ms. Power said that type of broad planning is not acceptable to the City Council. Mr. Jones disagreed. He said the Council is saying that they do not want landowners to be required to look at adjoining properties. He could accept that the City should take on that role. Ms. Power said the Commission's hope had been that the requirement would be a way to encourage landowners to allow the work to be done on their property. Mr. Borgendale said people react to these types of requirements as being anti-development.

Ms. Power asked what the Commission thought about 204.C.8.f(ii) regarding forest land. Mr. Jones said he thought it was beyond the Commission's scope for now. Ms. Power asked what should be done with 204.C.8.f(iii) regarding high meadows since Sabin's Pasture includes a high meadow. Ms. Campbell said that everything after "700 feet above sea level" in the first sentence could be stricken. Mr. Graham asked about the reference to trail corridors for public access in item (c). Ms. Power said the question was whether to say "these methods may include" or "these methods include." Mr. Jones said he thought the current wording is acceptable since the section is just giving options. The Commission needs to think about its intent and whether this is the paragraph that it is relying on to minimize development on the upper pasture. Mr. Borgendale asked why the section should not say the upper pasture of Sabin's Pasture rather than meadows and agricultural lands. Ms. Power said there are other meadows and pastures in the city that the provision should apply to. She noted the Commission has been asked to preserve open space. Ms. Campbell said the Commission needs to consider whether, in the long term, it would want all of the agricultural and forested lands in the city to be consumed. Mr. Jones said he thought this was an important section for Sabin's Pasture, but was not yet sure what to do with it. Mr. Matzner observed that the presence of meadows increase the attractiveness of the panoramic view of the city. Ms. Capels asked whether that was articulated in the Views and Vistas study. Mr. Matzner said it was. Ms. Power suggested holding the decision on this issue since everyone seemed to be tired.

Ms. Campbell referred to existing Section 813.A.1 which requires that planned development be consistent with the Master Plan and asked how the provision is applied currently. Ms. Power said the rules could require that the DRB list how projects comply with the Master Plan. Ms. Capels said the staff reports currently address the key aspects of that information. Mr. Matzner said that the DRB had just finished a sketch plan review for a project in a Conservation Area. He said that the staff report just noted that the site was in the Conservation Area. Ms. Campbell asked what the Board was to do with that information. Ms. Capels said that the DRB might be triggered to pay more close attention to some of the criteria or to ask for more information. Ms. Campbell said that she had never seen it happen. Ms. Capels said the staff reports are presented as suggested findings and identifies situations where a proposal may not be consistent with the Master Plan. The staff has also begun to ask the applicant for information on how the application complies with the Master Plan. Ms. Power said the Commission might want to add something saying that, where an application has potential to affect an area designated as conservation land use in the Master Plan, the DRB should make specific findings about consistency with the Master Plan. Mr. Borgendale said that upper

Sabin's Pasture is a Conservation Area in the Master Plan. He asked what findings would be needed if an application was submitted for houses on one acre lots. Ms. Capels said she did not know without having more information about the specific development application. She suggested looking at the definition of the LDR zone.

Ms. Capels added that she has not been an advocate of standards that state consistency with the Master Plan as a development review standard because the regulations themselves should implement the Master Plan. The staff reports go through each standard and writing an analysis of each project's consistency with every section of the Master Plan would be rather onerous, so staff would often simply state in general terms that the proposal appears to be consistent with the Master Plan—unless there was a clear discrepancy, which would then be identified. Mr. Borgendale said Councilor Wasserman had advocated for just that type of reference to the Master Plan. Ms. Capels said she would rather see references to specific sections or maps in the Master Plan. Mr. Jones said the Master Plan cannot be used to evaluate a specific development proposal. Ms. Power said people would use such a provision to litigate actions on development proposals.

Mr. Jones asked what message the Planning Commission could send to encourage collaboration and the completion of the natural resource inventory. Mr. Sedano asked whether the Council realized that they would have to be the principal players in a collaboration. Ms. Power said they were more than just a partner in a bargaining process since they would affect the strength of the other parties' positions. Ms. Campbell said she understood that the Council was putting this matter on this week's meeting agenda.

Mr. Borgendale said he really did not think that zoning was the way to get what the community wants for that parcel. Ms. Power said the zoning for the parcel was not appropriate and needed to be fixed at any rate. Mr. Jones said the Planning Commission needs to be clear that it came up with the best product it could and that has not worked. He wanted the Commission to recommend that the Council work with the landowner to come up with a collaborative solution for Sabin's Pasture. Ms. Power said there are regulatory tools that would have achieved the purpose, but they would not have passed the Council. Mr. Sedano noted that they might not have been acceptable to the Planning Commission either.

Adjournment

Ms. Campbell made a motion to adjourn the meeting. Mr. Graham 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.