

**Montpelier Planning Commission**  
**May 22, 2006**  
**City Council Chambers, City Hall**

*Subject to Review and Approval*

**Present:** Marjorie Power, Chair; Carolyn Grodinsky, Vice-Chair; David Borgendale; 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 7:00 p.m.

**Public Appearances**

There were no members of the public present.

**Minutes**

MOTION: Ms. Power moved the adoption of the minutes for discussion, seconded by Mr. Graham. Ms. Grodinsky said on page 5 of the “to do list”, the minutes reads that she suggested we continue to look at how to densify the city, and it should say infill development of the city. The minutes were approved unanimously 6-0.

**Comments by Chair**

Ms. Power commented about the recent City Council meeting at which they considered the zoning proposal that the Planning Commission had forwarded to them for adoption. She said that, as part of that meeting, which went on for about five hours, they talked about the projecting sign ordinance and decided they would allow projecting signs on State and Main. She felt that because she had told them the issue was under consideration by the Planning Commission and we had not had our discussion and had not come to a conclusion, it was a show of disrespect. There is no point in the Planning Commission discussing it now since they have decided the issue.

Ms. Power said she is concerned about the entire process of planning in Montpelier, which is why she will not be seeking reappointment. It is not just this particular configuration of the City Council but also prior configurations of the City Council, but they have essentially disrespected the process of zoning and planning in Montpelier. The Planning Commission and the planning process as a whole in this town, as opposed to the permitting process, is dysfunctional. The planning is done basically by the City Council with desperate input from the Planning Commission. She said she did not feel that the input of the Planning Commission is significant. The Planning Commission previously had jurisdiction over permitting major projects and it gave the Planning Commission a real world feel for what was being proposed. Now that the Development Review Board has sole development review responsibility, the Planning Commission no longer sees the projects which are proposed, and doesn't get a feel for the reality of proposals. Consequently, the Commission sits here discussing things intelligently trying to figure out the pros and cons of different ways of doing things, but, in the end, we're speaking not from a lot of experience about what is going on and not a lot of respect for our input.

### **Election of New Chair**

Ms. Power said a motion was tabled at the last meeting nominating Ken Jones as Chair.

MOTION: David Borgendale moved to bring the motion back up for action, with Richard Sedano seconding. Rich Sedano moved that nominations be closed, with Craig Graham seconding. There is a motion for Ken Jones to be Chair of the Planning Commission. Motions passed unanimously 6-0 and Ken Jones was voted in.

Mr. Jones said he wanted to follow up on Ms. Power's comments. He said he couldn't disagree with the observations she made. The reason he joined the Planning Commission was to hopefully provide a stronger connection between the planning process and the sentiments of the citizens of Montpelier with regard to its direction. He said he is not discouraged and is looking forward to moving forward on the Master Plan.

### **Demolition by Neglect**

Ms. Capels said she e-mailed to Commissioners the May 12, 2006 memo that was provided to the City Council. The City Attorney had expressed concerns about the language the Planning Commission originally proposed in the March 22 draft and he faxed some information from other communities in the country. Using that and information she already had, Ms. Capels drafted what was in the memo. The City Attorney looked at it and said the language still needs a little bit of tweaking. For example, paragraph two needs to be clearer about when that section applies. Ms. Capels said that since having drafted that, she found the Town of Bennington's zoning regulations on-line and saw they have a very extensive section about this topic.

Ms. Capels said the City Council is looking for refined language and she intends to offer the section from Bennington. She wanted to share the information with the Planning Commission as well and get their thoughts. Section 4.2 of the Town of Bennington zoning ordinance has an extensive provision on the subject of demolition by neglect.

Ms. Power said she had quickly reviewed the language submitted to the City Council and preferred the Bennington section. Ms. Capels said that she tried to adapt the model to Montpelier's situation and was concerned about how the average citizen would navigate the process.

Ms. Power said it sounded as though the language could be used to exempt someone who was incapable for either financial, mental, or physical capacity reasons that had not been able to keep the property up. In Bennington's Section 4.2, it says "willful or negligent acts." This is designed for someone who is unable, for whatever reason; to keep up their property it wouldn't be willful. You have to maintain a capacity before you can be negligent, and if you have Alzheimer's disease it's not negligence because you don't have the capacity. If you don't have the money to make the repairs, would it be negligence? Ms. Power said she wasn't sure they would want to exempt all of Montpelier's historic buildings. If a little old lady lives in a historic building, does she get a pass to knock down a historic building that someone else would be able to repair? Are we using a pass on demolition for our failure to deal with the real problem that the person may not be capable of taking care of the problem?

Mr. Sedano said a question before the Planning Commission is whether the zoning regulations and the material which goes before the Development Review Board differentiates between those people who are able and who are not able. If it is an owner-occupied structure, does the DRB have the responsibility to ensure that property is being taken care of? If it is not an owner-occupied building, there is probably a commercial interest. They talk about income producing properties, but 22 Court Street was not an income producing property in the formal sense because it was abandoned. It was owned by a company that did nothing, and they weren't generating any income from it. It was not an owner-occupied building; therefore, it was owned by someone who had other interest there than residing there. Mr. Jones said he felt it was subject to the City's review. You cannot have a building that is a public nuisance. If it is a fire hazard, the Fire Chief should have some authority over it. If this is falling between the cracks, the Planning Commission should review this. Safety issues are covered by the police and fire departments.

Ms. Capels said in the memo there was a paragraph that said: "The requirements of this section shall not apply to orders of the building inspector or fire marshal requiring that a building be removed due to public safety, health or welfare." This isn't just demolition by neglect but demolition in general. Ms. Power asked how this would interface with the building codes. Ms. Capels said there was a program to inspect nonresidential properties and possibly even duplexes. Inspections in the past have been complaint driven or public safety and health driven. The city is working toward a more regular inspection program, and Ms. Capels said she isn't sure where the single family home fits into that process.

Ms. Grodinsky pointed out there was a home next to her on Fuller Street which is unoccupied, and it is definitely falling apart. Mr. Jones said the Commission should use that as an example. He said he didn't know how the determination is made, but this section has the clock starting after one year.

Ms. Power said we have decided in the city that there are public safety issues even in owner-occupied residential homes. Isn't that why we are requiring sprinklers in new homes? There can be other situations where the neglect of a home becomes a safety issue. For instance, if you don't maintain your chimney you can create a fire that could run up and down the whole street.

Ms. Capels said she will be working on a revised draft incorporating what was in the May 12<sup>th</sup> memo and it would probably reflect many of the provisions in the Bennington zoning ordinance. She pointed out that this section applies throughout the town in Bennington and is not just limited to the design review district. It also combines abandonment, which we were just talking about, and demolition of structures where our draft just focuses on demolition. In terms of the city wide application, the real anchor is whether the property is listed on the historic sites and structures survey. In Montpelier, we have an extensive historic sites and structures survey that goes well beyond the boundaries of the design review district. But it has not been updated since 1989; some properties are no longer contributing and some might have become eligible since then. Properties that are no longer contributing architecturally or historically may not need to go

through this process. Ms. Capels added that the Bennington model includes a significant review process and requires that there be a site rehabilitation plan to follow the demolition

It was suggested that if we do have a historic property that is abandoned and neglected, maybe it should be the City's responsibility, unless we had a buyer who bought it for the purpose of restoring it. If it is an historic property and no one buys it, then maybe it should be the city's responsibility. Ms. Power referred to the Court Street property where they demolished the building for a parking lot. Is that the kind of development we want to encourage?

Ms. Power said this reminded her of the debate and discussion that went on around the old Chittenden Bank building when McDonald's was proposed. An argument was that if we don't have McDonald's there, it would stay empty forever and ever. But in the meantime it became an incubator for a thriving business, which I think the people of Montpelier would agree it was more preferable business than a McDonald's would be. You need to strive for what you want in the planning process and the areas and structures we are talking about giving this protection are ones that make the city a desirable place to live and visit. Mr. Ken Jones said he felt this language accomplishes that

Ms. Capels said since the Planning Commission hasn't talked about *abandoned* buildings and it hasn't been a priority, her recommendation would be not to include it at this time in their recommendations to the City Council. She wasn't sure the City is prepared to address abandoned structures through its zoning regulations. If a person isn't ready to do something with their empty building within a year, this almost forces them to apply for a demolition permit. Ms. Capels said she also didn't see a provision for a penalty process. What happens if they don't comply with the first part for maintenance and repair after two years? How many letters are sent? Are they in violation of the zoning ordinance? She said she didn't know what kind of impact or volume there would be in Montpelier.

Ms. Power voiced concern that while the Planning Commission is debating this issue the City Council is going to adopt something next week. They want to be clear but not have too much detail. She said she didn't know that the City Council would want to deal with abandonment at this point because they aren't waiting for us.

Valerie clarified what she intended to give to the City Council. They had talked about a public safety exemption. She voiced concern that she didn't have a clear sense from the Planning Commission whether they wanted to apply beyond the design review district and have it apply to all properties. Ms. Grodinsky said she felt historic structures should definitely be covered. Ms. Power said she felt it should be extended to contributing structures and historic registry structures wherever they are located in town. The requirement that there be a redevelopment plan required should be based upon an economic hardship or a valid redevelopment plan which provides clear and substantial benefit to the community.

Ms. Power said that Barre requires that someone who is going to abolish a building in a historic district to produce a plan showing what is going to replace what is being demolished. You could have the demolition of a structure which could bring a benefit to the community without having

an undue hardship. Mr. Jones said if you could show undue economic hardship you still need to have a plan and that plan probably needs to show some benefit to the community. Ms. Power said two different things need to be addressed. One is the prerequisite to allowing the demolition – the financial hardship or the clear and substantial benefit to the community of whatever you replace it with. Once one of those factors has been found to exist, the demolition permit is issued only on the condition that you do something. The permit should be granted on condition. This is listed under standards of determination. Mr. Jones said he felt that both components are necessary for the Development Review Board to make a decision. They need to talk about their economic hardship and the site development plan.

The Commission members discussed requirements of a historic site and how a property owner could be listed on the historic register.

Ms. Capels said she was not hearing consensus, such as providing a distinction between owner-occupied versus non owner-occupied or income producing. Mr. Jones said that in evaluating a request for demolition, the applicant is providing information regarding undue financial hardship, rehabilitation, and site development. Ms. Power said if you can't bring something back to life because of undue financial hardship, you probably wouldn't be in the position to present a site development and design plan that provides a clear and substantial benefit.

Mr. Borgendale said that you could have an income producing building which isn't producing anywhere near the income that is needed to maintain it. They could say they own the property and are going to just tear it down. Ms. Grodinsky suggested that the term "deconstruction" be used along with demolition. She is concerned that many of these old historic buildings have valuable timbers, etc. If they are going to knock a building down, they should try to get maximum value for it. The DRB would use this as part of the site development plan and some other plan than just demolition. A member pointed out that in section 2 it talks about a design plan and that would be part of the appropriate conditions. If there are valuable things in the building, then the plan should salvage them.

Mr. Jones asked if there should be any differentiation between owner occupied and non-owner occupied buildings. Ms. Power said she thought we were looking at what buildings were important to the City of Montpelier. From a planning point of view, we need to say if you want to demolish an important or contributing historic building in Montpelier, you have to spit wooden nickels because it's not important who owns them but importance based upon their existence. If we say that is the planning goal, it tells the City they need to deal with it because we don't make the other ordinances. Zoning can govern demolition in this instance. We need to say that our zoning goal is not to have historic buildings demolished.

### **Master Plan - Housing**

Ms. Capels said she distributed to Commissioners the package of the draft goals at a previous meeting.

Mr. Jones distributed an outline and said he looked at the housing section in the 2000 master plan and the draft from 2004. The information on housing was pretty significant. It was enhanced in

2003 with the Montpelier housing inventory and needs assessment. He put two asterisks next to the household size because that was a very significant change noted in the inventory and needs assessment about how dramatically household size had changed, and that has been a huge influence. That is why we have new housing in Montpelier. There is also information on age distribution, school enrollments, which is going down, and household income which is going up. There is also the number of apartment units is a significant number, regardless of the ghettoization that people claim Montpelier is striving toward. We have a very large percentage of people in apartments, and, in fact, many of them are restricted because of income, especially compared to some of our neighboring communities. The growth that has taken place since 1980 has largely been multi-unit facilities. There have been a lot of condominiums. The median sales price from 2002 begins to show the increase. If we had more recent data, it would show a very dramatic increase in median sales, which leads to the affordability gap. This document shows that just recently Montpelier has crossed the threshold where median household costs have crossed the income line. 43 percent of the housing units in Montpelier are by renters.

Mr. Jones reviewed the Master Plan Goals for 2000:

- ? Provide Clean, Safe, and Affordable Housing for current and future Montpelier residents.
- ? Create opportunities for new housing development that respects the city's existing settlement patterns and allows for a diversity of types of housing.
- ? Ensure that the city's housing stock is safe and increasingly healthy, energy efficient and accessible

If you go to summary and progress of accomplishing the 2000 goals and strategies, indeed they did finish the housing inventory and needs assessment. It does ask for a plan to address housing needs. Is the need really understood? What is the housing need, and what is that plan? The language in both 2000 and 2005 that residential growth should be encouraged and in 2000 they say in areas designated in the zoning regulations. If that indeed does mean the future land use map, which it does refer to, if you look at it in terms of residential, it's a big chunk of the city. Ms. Power said almost all of it is LDR or mixed residential. There is a lot that is conservation, and there is a big difference between conservation and residential land. Mr. Jones said the language in the Master Plan says that residential growth should be encouraged in areas designated in the zoning regulations. There is a lot of undeveloped land that the current Master Plan says should be encouraged for residential growth. If somebody comes in with a development proposal that is included in those places, we are encouraging residential growth. He would like to have a more robust discussion – not just among Commission members but the public as well. Let's look to see what we are doing to encourage residential growth.

Ms. Grodinsky pointed out that George Seiffert in his presentation on housing mentioned that 39 percent of Montpelier residents live alone. She thinks that is an important factor to look at in considering what the different household needs in Montpelier are. Some of it has a very small household size. Ms Power said that a lot of the loss of rental units came from the conversion of big old houses. A lot of them that had been subdivided are now being converted back into single-family houses. Ms. Capels noted that family structures of divorce, single parents, and

senior citizens living alone are a significant factor. Ms. Power said there are many times single parents with shared custody of the children. They actually need more bedrooms than they would if they were single persons living alone.

Mr. Jones said that it was time to revisit the 2000/2005 Master Plan housing development objectives to decide if we need to put new energy into finding some creative ways to accomplish them or recognize that perhaps they are out of our grasp. Commission members reviewed the strategies in the draft 2005 update on the Master Plan housing section. Mr. Jones said he felt strongly that the housing chapter is central to the next step in planning and he would like to work in the next few months to develop a public discussion about the Montpelier housing issue. He wants this for two reasons: 1) the issue of affordable housing and some of the things we were challenged on in terms of whether Montpelier is a housing friendly community; and 2) the other reason is we are going to be faced with more and more significant residential development. He wants the Master Plan to provide some guidance for the Development Review Board and we need to have a strong sentiment from what the people in Montpelier want. Ms. Grodinsky said she feels transportation ties directly into housing as well. She said until transportation can be adequately addressed, the city can only accommodate so many more units without total gridlock.

Mr. Jones said trends in traffic show it's not changing much and has remained fairly flat. There has been a much faster rate of growth within the communities surrounding Montpelier, and many of them work in Montpelier. If there is a shift so the growth is actually growing in Montpelier rather than outside, the traffic may actually decrease on Memorial Drive.

Ms. Power said she was surprised at the number of restricted housing because of income level requirements in Montpelier. She inquired if it would be possible to get the data on the same numbers for the surrounding towns. What is their proportion of housing that is restricted to people with limited incomes? She would like to see data showing relative percentages of housing that is provided for people of modest means.

Ms. Power said the other thing we need to address is the diversity in types of housing. We have heard that people want housing for different levels of means that is socio-economically diverse. Not just high end apartments or condos, but a full range of housing for every family type. She would like the Master Plan to give a more articulated definition of what the city means by diversity. It's not just that working families can live in Montpelier, but that working singles can live in Montpelier without having to live five to a room in an apartment, as well as retired people living with a limited income. Commission members believe that every generation should be able to live in Montpelier. Ms. Power said we should also reference the Montpelier Housing Trust Fund and that we are taxing ourselves specifically for a dedicated fund for that purpose.

Ms. Capels said there is also the home-share program and the One More Home campaign. Mr. Jones affirmed that as we take on more of these topics he wanted everyone to keep in mind how the Planning Commission would gather stronger input from the public on the goals.

### **Master Plan - Infrastructure**

Mr. Borgendale said he had set out some goals and objectives on infrastructure. A significant piece of research was done after he had originally prepared his outline, which had to do with the fiscal impacts of growth. Pages 11-14 of the report should be built into the Master Plan. What we typically talk about in terms of water and sewer the City of Montpelier is in very good condition with that respect. The same is true on the public safety portion of the report. In terms of speaking about housing, he believed that was very good news. The Department of Public Works said we are at about 28 percent capacity with water and sewer and any substantial increase in utilization probably wouldn't increase operating costs. Given the high fixed costs of water and sewer, it is highly likely that rates would remain the same or go down if we had a high utilization.

Mr. Borgendale said one of the things he had suggested under goal 2 related to water supplies and sewer is that there is a goal that all residents and organizations shall use city water and sanitary sewage facilities. Basically, wherever we have any kind of new development or new facility we really should be pushing that to happen in areas where we can connect to city water and sewer. Ms. Power said at one time there were people on the city water and sewer lines who had septic tanks because they said it was cheaper to install a septic system than attach to the Town Hill water or what was going to be the fire district. You don't actually want to allow people to opt out of the system when they are on a road with a water pipe going by. Mr. Borgendale agreed that if you were building a house on the city water and sewer system that you should be required to use it. There are some areas in the city, like upper Elm Street or upper Terrace Street, which would need an exception. They're about a quarter of a mile from the city limits.

Ms. Power said it might depend upon the height of the land they are building on before the storage tanks were installed. There are pressure issues. Murray Hill is not on city water; they have their own water system. Ms. Capels reported that some businesses downtown are on still on well water, such as the laundromat and one the car washes, because they are high water users so it was in their interest to dig a well.

Questions were posed about having some sort of backup emergency water system because of a drought or contamination. This would be an alternate water source, not a storage tank. Ms. Power said the City Council looked at a number of possibilities, including groundwater, when they were going to put in the water treatment plant. Under the Safe Drinking Water Act, the City had to put in the filtration plant because we had a surface water supply. Mr. Borgendale said this was done back in the early 1990's and he thinks our risk assessment cost benefit analysis would be quite different today.

Mr. Borgendale said he felt more work should be done on public safety within the infrastructure section. However, that is addressed in the fiscal impacts of growth study too because one of the important things from a planning concept is how much public safety costs are driven by commercial activity versus residential. He hoped that we could say in five years what we want the residential and job growth would be. Ms. Capels said it would be interesting to look at the data published in the annual reports at the public safety activities of the fire and police and the

service calls they respond to each year. You can chart which ones are increasing and decreasing, as well as which ones demand more of their time and how they correspond to residential versus transient population versus commercial activity.

Ms. Power said another area that was probably under estimated in the fiscal impact statement was the impact of development upon street maintenance, i.e., snowplowing and paving. Ms. Capels said this was an interesting point to address because it was recently a topic of discussion concerning the Capitol Heights subdivision before the Development Review Board. It would connect River Street to Berlin Street and, if approved, there would be a significant amount of new sidewalk connected to other sidewalks.

### **Master Plan – Health and Social Services**

Ms. Power said this sort of mixes two things together, which is the commitment to the social services and health organizations in the town, and the commitment to the well-being of residents. She thought the relations with the organizations are basically an implementation strategy for the goal. The goal should be to create a living environment that optimizes on the physical, mental and economical well-being of residents and employees who work here, as well as visitors. There was discussion about healthy living communities and how communities are structured to promote healthy physical behaviors like walking and recreation.

There was discussion about the Americans with Disabilities Act (ADA) and the degree to which the City should oversee ADA compliance of public or private buildings. Standards for ADA compliance currently exist in the zoning regulations, but how far do people really expect the City to go with regard to enforcement of federal and state policies. Ms. Capels said that, with City-managed projects, the City is in a position to ensure ADA compliance because we hire people to make it happen.

A member voiced concern about the area of citizen services such as health and social services are typically delivered and funded by larger government units. It is hoped that under this section there could be some sort of definitions. One way municipalities can take care of some of these issues is to have zoning that is friendly to siting facilities. Addressing the city's attitude and policies and goals in terms of being a friendly host to organizations that provide services might be more feasible.

Ms. Power said the goals, policies and strategies she had drafted are the ones that in its own operations and development policies encourage the provision of infrastructure that makes mobility simpler, and other things to facilitate this, and in its own operation make sure that people who interface with the city can successfully do their business. We can put in the Master Plan that we want its businesses to be friendly and facilitate the ability of people to live here and function up to their optimum level in town. We need to put up zoning that enables and doesn't put up barriers.

Mr. Jones asked if there were any volunteers who wanted to present their view of their topics to the City Council. We have put off the natural resources section until Anne Campbell comes back. The Commission that June 12<sup>th</sup> would be a good date for the Downtown Forum. And they

would share input prior to that to build the agenda. Ms. Capels suggested that if the forum doesn't take up the whole meeting, there should be a back-up topic discussion for the Master Plan.

Ms. Capels reminded commissioners that there are four members whose terms expire on July 24<sup>th</sup>. The last meeting of the Planning Commission before then is July 10<sup>th</sup>.

The economic development presentation will be on June 26<sup>th</sup>.

Ms Power said that at some point the Planning Commission is going to have to comment on whatever the City Council has done. Ms. Capel s said the City Council is meeting this Wednesday, May 24<sup>th</sup>. They will resume discussions on Article 8. She said they have scheduled a special meeting on May 31<sup>st</sup> and believes it's their goal to know what substantial or minor changes they would like to make. Then, the soonest they could have a public hearing at a regularly scheduled meeting would be June 28<sup>th</sup>, or on June 21<sup>st</sup> if they wanted a hold a special meeting.

Mr. Jones said they could have a short discussion on June 22<sup>nd</sup> on the importance of the Commission's comments they need to present to the Council.

The next meeting on May 26<sup>th</sup> will cover culture and recreation, historic resources, and education.

### **Adjournment**

The meeting adjourned at 9:15 p.m.

Respectfully submitted,

Valerie Capels

Transcribed by Joan Clack, City Clerk & Treasurer's Office

*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.*