

**Montpelier Planning Commission**  
**May 23, 2011**  
**City Council Chambers, City Hall**

*Subject to Review and Approval*

**Present:** Jesse Moorman, Chair; David Borgendale, Vice Chair; Alan Goldman, Jon Anderson, Kim Cheney, John Block and Tina Ruth.  
Staff: Gwen Hallsmith, Director, Planning & Community Development;  
Clancy DeSmet, Planning & Zoning Administrator; and Isaac and Taylor,  
VISTA Volunteers, Planning Dept.

**Call to Order:**

The meeting was called to order at 7:00 P.M.

**Review & Approval of Minutes:**

April 25<sup>th</sup> and May 9<sup>th</sup> Minutes not available.

**Discussion of Representative to CVRPC:**

John Bloch nominated Tina Ruth to be the representative to the Central Vermont Planning Commission. David Borgendale seconded the motion. The motion was unanimous on a vote of 6 to 0.

**Zoning Project Discussion – Neighborhood Development Standards:**

Planning Director Gwen Hallsmith said it would be good for the Planning Commission to participate in a discussion with the Housing Task Force about the housing goals for the city. The City Council has come up with a very strong housing goal and is interested in holding a housing summit sometime between now and the next Town Meeting. That obviously would be quite closely tied into what we are doing with the zoning because the zoning is one of the regulatory mechanisms to either encourage or discourage housing in the city.

They talked about the outline they developed for the neighborhood development standards. They have also developed a sample table of contents for the zoning focused on Articles 6 and 7 because those are the articles they right now are particularly concerned with when they look at neighborhood development standards. Clancy, Isaac and Taylor will describe them for the Planning Commission.

Mr. DeSmet said they have tried to show an example of one of the rural districts. Ultimately, they will have approximately 5 districts and each of those neighborhoods will be contained within one of their designated districts. This is a copy of a template that the Regional Planning Commission and Taylor and Isaac have worked on. Some of it is a blend of what we currently have in zoning and other things are aspirational. He has looked at some other zoning ordinances around and not a lot of them are organized like ours. Ours are organized in a way that is good for me because it is organized through what requires a permit, what doesn't require a permit, the procedures and the district regulations and standards and appeals. They are going to try to merge part of Article 6 and Article 7 together. They are going to be general standards that are going to apply to things that are site plan review, which is anything that is not single or two-family dwellings. They are going to try to come up with some things that each of those different designations has specifically special about it. When Gwen talks about Wrightsville Rural maybe we want some different types of uses in that area than we would in some other traditional LDR areas. He explained the table of contents and zoning district for Hill Street Rural to Planning Commission Members.

Ms. Hallsmith said you can see from the table of contents near the end of Article 6 where we describe the neighborhood development standards which were called for in the Master Plan where they have divided the different neighborhoods up into 5 categories. These follow the same categories we are using for reviewing the zoning – rural, suburban, residential village, village commercial and gateway. Even though there are a lot of neighborhoods that have some coherent form and function there are really 5 big districts which is simpler than

what we have now. This organizes it by the larger type of district it is, and the things that are common for the rural districts will be in the introduction, and the things that are specific for the neighborhoods would be the part that is pulled out by neighborhood. This will drive the drafting process from here forward. The last meeting we discussed the boundaries and thought they had made the adjustments they requested at the last meeting. Our current zoning is actually very complex. It's difficult to find your way through.

Mr. Moorman asked if the purpose of the neighborhood development standard being by specific neighborhood to identify all possible regulations within the book that might apply. For instance, floodplain doesn't apply to every district. Potentially everybody is subject to conditional use review, site plan review, etc.

Isaac and Taylor explained the template and how it relates to rural districts.

They are looking at the outline of the general structure of having the neighborhoods clustered in the five categories. Right now village and commercial are where we put the River Arts District which is the section along Route 2. Under Gateways there is the farm and factory district which is the industrial area and the commercial area to the eastern side of the town and the western gateway which is the area that is to the west of the town which controls the Liquor Control Board, some of the state buildings and triangle property office park. They chose these for tonight's discussion because this is how they organized the review. There may be another around business development. Right now they are divided between village commercial like Toy Town and places where there is residential mixing a lot with the commercial structures and the gateways where it isn't so mixed. There isn't much residential around Agway and there isn't much residential around the office park. For incentives they are going to have to go to the Master Plan. Making permanently affordable housing would be another potential incentive built into the zoning. If someone wanted to go into Sabin's Pasture and wanted to build just a few houses on the land, which is in the Smart Growth District, and not put in the kind of housing that exists in the neighborhood next door which is higher density and more affordable, they might be able to make a trade through a transfer of development rights structure with another area of town where the density could be increased.

What this outline is focused on right now is the boundaries and the neighborhood development standards because that will drive that section of the zoning. Mr. Moorman said they are going to have five district write-ups. He struggles to see how a budget fits into the overall zoning.

Ms. Hallsmith said if you take the permitting conditional uses there might actually be a third category, in a neighborhood that is primarily residential where the residents might like a little commercial like a café or a convenience store there would be a budget for the future. Right now in a district you would have a mix that is approximately 99 percent residential and 1 percent commercial, the 20-year budget might be 90 percent residential and 10 percent commercial. As proposals come in that fill that budget you would get to the point of it being allowed conditionally to not allowed as it filled that budget in the neighborhood.

Mr. Anderson said the housing replacement ordinance he would see as being similar to a budget. For their purposes tonight it seems there would be placeholders of what those would be and then the Planning Staff are going to come back with specific language.

Mr. Moorman said he likes the notion of these being one-stop shopping in terms of making this document more user friendly for the neighbors, citizens and developers, and to that end he would suggest in the framework of the table of contents it somehow be pushed up to the front.

Mr. DeSmet said the ordinances from Morrisville and St. Johnsbury that is exactly what they did.

Mr. Moorman said he likes footnote 4 which is a citation to the Master Plan. He would encourage the final product to have citations where necessary back to the Master Plan.

Mr. DeSmet agreed it would be a good idea because there have been cases where whatever it says in Article 7 remain consistent with the Master Plan.

The Planning Commission reviewed the document step by step.

Mr. Moorman inquired about streetscapes.

Isaac said they see those standards applying to the public space in front of buildings along a roadway or right-of-way. There could be landscaping standards that apply to barriers around roads, lighting, sidewalks, bike paths, etc. included.

Ms. Hallsmith said there are likely to be streetscapes that will be citywide for pedestrian and bicycle access if you are putting in a subdivision. There would be some district specific and some very specific ones for neighborhoods.

Mr. Anderson said he had some comments on the use table. The permitted uses and conditional uses he would see as recurring throughout the ordinance it should be in a separate section.

Ms. Hallsmith said another thing that might be added to this section is that there are a bunch of categories of uses that are permitted but do require site plan approval. Site plan approval uses are those uses that can go in but have to have the site plan reviewed. The review process is one whereby there is some community input into what happens but there isn't a "no" at the end of the day where with conditional use there is a potential "no" at the end of the review. Some permitted uses don't require any review and are administrative. There are lots of things they give permits for in the Planning Office. It doesn't have to go to the DRB. You just need to meet the requirements. There is an administrative process for amendments to site plans that are minimal. If there is enough parking and no change in the footprint and landscaping they can just change that out. Site plan is something they should flag in the use schedule. That is clear and comes from Vermont Title 24.

Mr. Moorman inquired about the section on natural resources.

Ms. Hallsmith responded by saying there are a number of different natural resources that were identified in the Master Plan as deserving attention in the case of developments – wetlands, forest lands, biodiversity areas and consider ridge lines. That is where those considerations would be in the neighborhood write up.

Mr. Moorman said we should make the zoning as user friendly as possible, but he thinks the write up is going to point the reader to 15 different spots.

Mr. Borgendale said he had a question about the targeted natural resources. Would those be likely to be different between the different districts at all? He tends to think of it as an overlay.

Mr. DeSmet said it would make more sense if those things were an overlay for site plan.

Ms. Hallsmith said one of the ideas in the Master Plan that was interesting was the idea of the concentric circles from the center of town for the Smart Growth District. They may have incentivized areas for higher density that are more like receiving areas that would be neighborhood level although citywide orientation that would be different among the different neighborhoods. One of the nice things about having the neighborhood level areas is we can probably more easily achieve that focus development than we could if it was just MDR everywhere when they were going through the Growth Center application. The incentives could also percolate down to the land use budgets.

Malcolm Fitzpatrick said he thinks they are reinventing the wheel. If you look at any zoning bylaws a lot of this stuff is included. Most of the other zoning bylaws are integrated as a whole and have been developed over a

period of time. The zoning enabling act for Vermont he would question whether a lot of this is allowable. He doesn't remember that it allowed for conditional uses.

Ms. Hallsmith and Mr. DeSmet said it does. There is a specific statute about conditional uses. It used to be more of an enabling act and you were given a lot less latitude to stray but that has changed now.

Mr. Fitzpatrick said a person has certain amenable rights to use their land and there is a tradeoff. What the Planning Commission wants to do is to restrict those rights so you protect the common rights of everybody, and there is a balance. When someone buys a piece of land they want to know what they can do with that land. When you get to other uses and incentives you may be infringing on someone else's right next door because when he bought that piece of land he didn't know the city was going to condition his neighbor so he could do more than what you gave him under the zoning to do. When you change the zoning you are then changing everything in it that exists perhaps to nonconforming or non-complying uses. Some guy 10 years down the road will say that was an existing nonconforming structure or use and you just didn't know it. It wasn't recorded because it was legal at that time and he didn't have to register it.

Ms. Hallsmith said everybody has a right to develop their property but not in a way that has a deleterious impact on neighboring lands or the city as a whole. That is where the police power comes in under zoning which is the right to protect public health and safety and the right to protect our local economy. A lot of the zoning ordinance we have right now incorporates all of that. She wants to assure him that when they are looking at their new ordinance they are looking very carefully at the existing ordinance. What they are doing primarily is reorganizing it more than they are changing it fundamentally because with the rural districts what is allowed there now is going to be allowed there tomorrow once the zoning changes. The rural districts they are talking about right now are called Low Density Residential. They are being very careful not to create a lot of new nonconformities because the nonconformities are what gives the Zoning Office a real headache. In the past when the city has done its zoning has created wholesale nonconformities throughout entire districts. If you wanted to put on a deck, porch or roof overhang you needed to come for a variance because they imposed suburban zoning on an area that was more of a village form. In the last rewrite of the zoning they got rid of a lot of that but they are still faced with a way high level of variances. They are looking to make the zoning more flexible, to produce less nonconformity and to move away from some of the strict Euclidian categories that have created some of the problems you talk about in the past.

Mr. Fitzpatrick replied that is very good. If you look at Lower Hill Street those houses are clinging to the hillside and built with very little setback. If you require setbacks for each of them then they become nonconforming structures. This zoning bylaw doesn't at all consider the topography of sites, which is very important in land use planning. A 10 percent open space may be great in some cases but not on others. It may be a nice thing on a hillside so you minimize runoff but on flat land you may want it higher and the district may include both high slopes and fairly level slopes. Therefore, there is a factor in there that planners too often think they are doing dimensional planning instead of topography. He thinks they are making a very complex bylaw and not simplifying it enough. One of the problems in zoning is that you want to deal with everything and the Zoning Enabling Act has let you do more flexibility than that is good. Having to deal with special permits takes a lot more time by the Planning Commission because you have to deal individually with each and every one of them.

Mr. Anderson told Mr. Fitzpatrick his comments are great.

**Adjournment:**

Upon a motion duly made by Mr. Borgendale and Mr. Cheney the Planning Commission adjourned at 9:00 P.M.

Respectfully submitted,

Gwen Hallsmith, Director  
Planning & Community Development

Transcribed by: Joan Clack