DEVELOPMENT REVIEW BOARD
NOTICE OF DECISION

Applicant: City of Montpelier (c/o Rabideau Architects)  Hearing Dates: October 15, 2018, and November 5, 2018
Property Owner(s): Capitol Plaza Corporation Two Lot Subdivision: Approved with Conditions
Address: 100 State Street
Permit # Z-2018-0115
Zone: Urban Center 1; Flood Hazard Area; Design Review Overlay District

PROCEDURAL HISTORY and APPLICANT REQUEST

1. **Application Date:** September 24, 2018

2. **Applicant’s Proposal:** Applicant seeks final plan approval to subdivide a 2.74+ acre (119,786.85 SF) parcel into two, such that the Capitol Plaza Hotel will remain on a 95,393.25 SF parcel, and a new parcel containing 24,393.6 SF will be created.

3. **Zoning District/Applicable Provisions:** The subject acreage is located in the Urban Center 1 Zoning District (hereinafter “UC-1”) as indicated on the Official City of Montpelier Zoning Map adopted by the City Council on January 3, 2018.

4. **History:** Including this application, three inter-related Zoning Applications were presented before the Development Review Board (the “Board”) at the same time:

   I. This Application # Z-2018-0115 – the City’s request to subdivide the parcel owned by Capitol Plaza Corporation (hereinafter, “Capitol Plaza”), as part of the transfer of said land to the City for building a parking garage;

   II. Application # Z-2018-0116 – Capitol Plaza’s request to amend Permit #Z-2017-0145, so that the previously permitted Hampton Inn may have off-site parking within a City-owned parking garage; and

   III. Application # Z-2018-0117 – the City’s request for Major Site Plan approval for the City-owned parking garage design.

The related, Subdivision Sketch Plan Application was reviewed by the Board on October 1, 2018. This Final Application was first reviewed by the Board on October 15, 2018, and after various testimony and discussion the hearing was continued to November 5, 2018.
The Board closed the public hearing on November 5th, initiating the 45-day period for the issuance of a written Board decision.

Members present who participated in the decision were: O’Connell (Acting Vice-Chair), Kane, Rock, Goodwin, Markowitz, and Kester. Vice-Chair Kate McCarthy recused herself upon learning of the application, and did not attend any related hearings. Chair Dan Richardson participated in the October 15th hearing, but recused himself from any further participation in the hearings or decision on this permit via a letter dated October 24th (see Materials listed below). Staff Meredith Crandall, Planning and Zoning Administrator, was present at all hearings. Applicant was represented by Greg Rabideau, of Rabideau Architects.

The following additional persons commented or presented evidence on this application during the Board hearings noted below:

- **October 1st, Sketch Plan Application**
  1. Sandy Vitzthum
  2. Stephen Whitaker

- **October 15th, Final Application**
  1. Applicant’s engineer, David Marshall of Civil Engineering Associates, Inc. (hereinafter, “CEA”)
  2. Montpelier’s Director of Public Works, Tom McAdrle
  3. Montpelier City Manager, Bill Fraser
  4. Mr. Whitaker

- **November 5th, Final Application**
  1. Laura Rose Abbott, on behalf of herself and the following persons that signed a petition for interested party status under 24 V.S.A. § 4465:
     i. Dorothy L. Helling
     ii. John Russell
     iii. Sandra Vitzthum
     iv. Andrea Stander
     v. Nathaniel Frothingham
     vi. Les Blomberg
     vii. Elizabeth Slayton
     viii. William J. Kouucky
     ix. Lisette Elise Paris
     i. Cara Barbero
     xi. Diana Baron
     xii. Jill Muhr
     xiii. Sarah Gribbin
     xiv. Daniel Costin
     xv. Mollie Gribbin
     xvi. A. David Gram
     xvii. Albert P. Sabatini
     xviii. Rebecca Davison
  2. Mr. McAdrle

No *ex parte* communications were reported during any of the Board’s hearings. However, on November 8th, after the close of the public hearing, Erica Garfin sent an email related to related Application # Z-2018-0117 to Board Member Markowitz, copy to Ms. Crandall and other recipients who are not members of the Design Review Committee or the Board, which email Ms. Markowitz disclosed during the Board’s deliberative session for all three, inter-related applications.
In addition to the above-described email from Ms. Garfin, the Zoning Administrator also received: (1) a November 11th email submission from Stephen Whitaker; and (2) a second petition for interested party status under 24 V.S.A. § 4465, related to that detailed above, with twelve additional signatories. As all of these submissions were filed with the Board and/or the Zoning Administrator after the close of the public hearing, the Board has not considered them as evidence in this decision.

The Board further notes that during various public hearings the Applicant and members of the public asked questions regarding, or made reference to, matters that are not within the scope of this application — such as certain issues related to the River Hazard Area Regulations, and questions regarding particular features of the hotel site plan approved in Permit #Z-2017-0145. The Board did not consider such statements as evidence in this decision, as the Board: (1) may not stray outside of the bounds of its regulatory authority; and (2) must make a decision based upon the application before it — not second-guess decisions related to prior permits.

Materials submitted and/or made available to the Board and admitted into the record as evidence included:

**Materials Submitted for October 15th Hearing:**
1. Development Application, dated 9/24/2018;
2. Subdivision Attachment, dated 9/21/2018;
3. Montpelier Parking Garage, Subdivision and Zoning Regulation Narrative — prepared by Greg Rabideau of Rabideau Architects, dated 9/14/2018 (the “Project Summary”);
5. Current, Approved, and Proposed Structure Building Envelopes overlaying GIS mapping, with details, received 9/21/18 (the “Amended Ortho”);
6. Drawing Number H1.0, by CEA, dated Sept., 2018, presented to the Board during the October 1, 2018, Sketch Plan hearing (“Drawing H1.0”); and
7. Written comments from Stephen Whitaker, submitted during the Board’s October 1, 2018, Sketch Plan hearing.

**Supplemental Materials Supplied by Applicant by October 19, 2018**
8. Montpelier Parking Garage, Proposed Conditions Site Plan – Slope Highlight, Drawing No. C1.1; dated Sept. 2018, received by Department of Planning and Community Development 10/11/18 (“Slope Highlight Map”);
9. Subdivision of the Land of Capitol Plaza Corp., Drawing Number BA-1, by CEA, dated 10/18/18;

**Materials Supplied by Staff for November 5th Hearing**
11. Montpelier Development Review Board Report, as updated from the October 9th
version for the November 5th hearing – prepared by Meredith Crandall, Planning and Zoning Administrator (dated November 1, 2018) ("SD Staff Report").


13. Memorandum from the Director of Public Works to the Board, c/o Ms. Crandall, dated October 15, 2018 ("DPW Review of Traffic Study");


Materials Presented by Applicant During the November 5th Hearing

16. Subdivision of the Land of Capitol Plaza Corp., Drawing Number BA-1, by CEA, dated 10/18/18, Revised 10/23/2018 to "ADD TEMP. CONSTR. EASE." (the "10/23 Final Subdivision Plan");

Materials Submitted by Public During the November 5th Hearing

17. Petition by Ten or More Persons for Interested Person Status Under 24 V.S.A. Section 4465, pp. 1–8, with a nine-page list of 10 concerns of the Petitioners related to Application #Z-2018-0115, Application #Z-2018-0116, and Application #Z-2018-0117, received on November 5, 2018 (the "November 5th Petition").

**FINDINGS and CONCLUSIONS**

This application was reviewed in accordance with Montpelier Unified Development Regulations adopted January 3, 2018 (the "Regulations").

5. **Existing Conditions**: The parcel is an existing 119,786.85 SF parcel with 406 feet of frontage on State Street and 209 feet of frontage on Taylor Street. It is an odd-shaped lot with approximately 8 sides (plus a jag) that currently contains the Capitol Plaza Hotel and Conference Center and leased business spaces (e.g., Central Vermont Adult Basic Education, Northfield Savings Bank, etc.), an approximately 3,600 SF garage/shed, and a large parking lot.

The parcel is serviced by municipal water and sewer.

6. **Location**: The subject parcel is the largest within the area of land bordered by Taylor Street, State Street, the North Branch, and the Winooski River. The parcel is in the Downtown Business Neighborhood in the UC-1 Zoning District. It is also within the Design Control Overlay District and the Flood Hazard Area.

7. **Permit/Parcel History**: The parking garage was originally proposed by Owner as part of its plan to meet on-site parking requirements for a five-story hotel building that was authorized by the Board under Permit #Z-2017-0145. Since the Board’s approval of that
permit in May of 2018, Applicant has taken ownership of the garage portion of the project, increasing the number of parking spaces and the footprint, among other changes.

CHAPTER 210 BASE ZONING DISTRICTS & NEIGHBORHOODS:

8. Section 2101.D - Dimensional Standards

Section-Specific Findings

a. The dimensional requirements for the UC-1 district are found on Figure 2-01.

b. Pursuant to the Regulations, frontage may be on “a public or private street,” and the Regulations define a “street” as “any vehicular way that serves as the principal means of providing access to abutting property and that is not a driveway.” §§ 3002.F and 5101.S(16). A “driveway means a vehicular way that provides access from a street to a parking space, loading area, garage or other structure on private property.” § 5101.D(11).

c. Lot size in UC-1 is required to be at least 3,000 SF, with a minimum frontage of 30 feet.

d. The Board finds that the existing parcel:

   i. Contains 119,786.85 SF.
   
   ii. Has an approximate frontage of 406 feet on State Street, and 209 feet on Taylor Street.

 e. The Board finds that after the subdivision:

   i. The larger parcel (“Lot 1”) will be 2.19+/- acres (95,396.4 SF) and the smaller parcel in the southeastern corner (“Lot 2”) will be 0.54+/- acres (23,522.4 SF).
   
   ii. Lot 1’s frontage will remain the same, and Lot 2 will have 36 feet of frontage on a private street (the proposed access easement) running through Lot 1 and connecting Main Street to Taylor Street. This is a public access easement negotiated between Owner and Applicant, the bounds of which are shown on the 10/23 Final Subdivision Plan.
   
   iii. Coverage on both parcels will continue to be nearly 100%, as no changes will occur to buildings or paved areas by the subdivision.
   
   iv. The subdivision complies with the setback requirements, as the act of subdivision will not result in new structures – and the property line setbacks are 0 feet.
   
   v. Regarding density:

     1) Lot 1 will now have a maximum floor area limit of 381,585.6 +/- SF and, without the parking garage, Lot 1’s total floor area after the subdivision will be 119,007 SF.
   
     2) Lot 2 will have a maximum floor area limit of 94,089.6 +/- SF and, as of the subdivision, no buildings will be on Lot 2.

   vi. Building height standards are not applicable here, where the Application at issue proposes no changes to existing buildings and no new buildings.

   vii. The new parcel can be used without encroaching on the 20-foot water setback.
Section-Specific Conclusions of Law

Based upon the findings of fact and law presented above, the Board concludes that the provisions of § 2101 have been met by the Applicant, as the Board has found that:

1. The current and new parcels meet the lot size and frontage requirements.
2. After the subdivision, Lot 1 continues to meet the setback, footprint, and coverage limits.
3. Lot 2 is large enough to accommodate a building that meets the setback, footprint, and coverage requirements.
4. The proposed densities conform to the UC-1 standard.
5. The height maximum doesn’t apply to this application.

CHAPTER 300 GENERAL STANDARDS:

9. Section 3001. Use Standards
   Section-Specific Findings
   a. The Board finds that the parcel is located within the UC-1 zoning district, and contains or is permitted for retail sales and service (indoor), hotels, surface parking, and parking garages, all of which are permitted uses in UC-1.
   b. The new, subdivided parcel will be used for a parking garage.

Section-Specific Conclusions of Law

Based upon the findings of fact and law presented above, the Board concludes that the mix of uses on the current parcel, and the proposed use for the subdivided parcels (Lots 1 and 2) are permitted uses per §§ 3001.A, 2101.C and Fig. 2-15 (2018).

10. Section 3002. Dimensional Standards – See discussion at #8 above.

11. Section 3009. Stormwater Management
   Section-Specific Findings
   a. Section 3009 outlines the requirements for stormwater management and requires that storm sewer system and other drainage improvements be in accordance with plans approved by the Director of Public Works. In no case shall stormwater discharge into a city sewer system if a separate system exists.
      i. The Board finds that the act of subdivision does not, by itself, trigger changes to stormwater flows or the stormwater systems for Owner’s previously approved Hampton Inn parking garage, both on-site and off-site, which the Director of Public Works found to be sufficient.
      ii. The Board finds that the 10/23 Final Subdivision Plan no longer includes stormwater easements, as requested by the Director of Public Works per the November 2nd DPW Review.

Section-Specific Conclusions of Law

Based upon the findings of fact and law presented above, the Board finds that the Director of Public Works has approved the stormwater systems associated with this subdivision request and, therefore, this application meets the requirements of § 3009.
12. **Section 3010, Access and Circulation**

*Section-Specific Findings*

a. Section 3010.B requires that all lots being developed or redeveloped provide vehicular access from the street in accordance with any city public works specifications, VTrans’ B-71 Standard, and the standards listed in § 3010.

i. The Board finds that:

   1) Lot 2 will have a single access point to a public access easement over private property (i.e., a private street) that then provides access to either State Street or Taylor Street.

   2) The private street exists on Lot 1 and was permitted previously, under Permit #Z-2017-0145, and therefore already “exists” for the purposes of this application.

b. Section 3010.B(5) requires that nonresidential development “provide for cross access between adjacent properties whenever physically feasible.”

i. The Board finds that the access easement will provide cross access between adjacent properties, Lot 1, Lot 2, and Christ Church.

c. Section 3010.B(8) states that “applicant may need to fully or partially fund or to construct a turn lane, traffic signal, intersection redesign or other street improvements if necessary to accommodate anticipated traffic and minimize congestion as warranted by a traffic study.”

i. Per testimony adduced at the October 15th and November 5th hearings, the Board finds that, as of the November 5th hearing, Applicant and Owner were in the final stages of negotiating an agreement to: (1) transfer ownership of Lot 1 to Applicant; (2) formalize the ownership and maintenance responsibilities for the public access easement over Lot 2; (3) provide for the lease of 200 parking permits in the proposed City-owned parking garage to Owner; and (4) provide for any other necessary rights and responsibilities of the parties related to this subdivision and the inter-related projects (hereinafter, the “Master Agreement”).

ii. The Board further finds that the subdivision alone is not anticipated to increase traffic in the area. Further analysis of traffic with regard to potential future development is at #15.

*Section-Specific Conclusions of Law*

Based upon the findings of fact and law presented above, the Board determines that the proposal: (A) has adequate access and circulation to prevent traffic congestion; (B) meets the number of access points as the proposal has a single access to an existing private street; and (C) will support cross access over private property between three adjacent parcels of land, including both Lots 1 and 2.

The Board also determines that, although this two-lot subdivision would not normally require additional street improvements, in this instance – where the future development is known, the Board would be remiss if it did not condition approval of the subdivision on: (A) submission to the Department of Planning and Community Development; and (B) recording in the City Land Records of: (i) final, signed versions of the Master Agreement and all related easements; and (ii) a final Subdivision Plat that clearly
delineates the easements as approved by this Board for Applications #Z-2018-0115, #Z-2018-0116, and #Z-2018-0117.

The Board further determines that the following subsections are not applicable to this application: 3010.B(2) – State or Class 1 Highways, (4) – Spacing, (6) – Length, (7) Emergency Vehicle Access, and (9) – Nonconformities.

Given the above, the Board concludes that the Applicant has met the requirements of § 3010, as applicable, provided the above-noted conditions are met.

**CHAPTER 350 SUBDIVISION STANDARDS:** All subdivision of land shall conform to the standards of this section.

13. **Section 3502, Capacity of Community Facilities and Utilities**
   **Section-Specific Findings**
   a. Per § 3502.A, Applicant shall demonstrate that the proposed subdivision shall not cause a disproportionate or unreasonable burden on the city’s ability to provide community facilities and utilities including: (1) local schools; (2) police, fire protection, and ambulance service; (3) street infrastructure and maintenance; (4) parks and recreation facilities; (5) water supply, sewage disposal, and stormwater systems and infrastructure; (6) Solid waste disposal services and facilities.
   i. The Board finds that:
      1) The proposed subdivision will support commercial uses, and is not anticipated to generate new students.
      2) The proposed subdivision, standing alone, is not anticipated to increase demands on the municipal police, fire protection, and ambulance services. Nonetheless, the Board finds that:
         (a) Per evidence provided by the Fire Chief and relayed in the SD Staff Report, the low height of the ceilings in the proposed parking garage are not an issue for the municipal fire department, as fire crews would not drive any engines into the garage during a fire, but would treat any fires in the garage as they do those in large office buildings. Further, Hazmat situations in the garage would be dealt with the same as any in the current parking lot.
         (b) Per the City’s Chief of Police, there is no plan to use the separately permitted parking garage as a staging area during floods or other emergencies, whether for emergency communications equipment (such as COLTs) or otherwise.
         (c) Any security cameras installed in the parking garage will not be monitored constantly, and will be used mostly for after-the-fact policing. Given this, the garage – and other downtown development that is occurring – will require an increase in patrols by the Police Department, and the Department is working on plans to affect these increased demands.
(d) Per the Chief of Police, restrooms in parking garages are bad for security. Typically, staffing in parking garages is minimal, and no security cameras would be allowed in the restroom. Signage directing those using the parking garage to the nearest public restrooms would be a better choice.

(e) The Police and Fire Chiefs require the following conditions on any future parking garage at this site:

(i) Any permitted parking garage must have: (1) a fully automatic fire suppression (dry sprinkler) system; (2) dry standpipes, two per floor located in each stair enclosure, with hose connections per MFD Standard; and (3) at least one heated, enclosed room or closet containing the sprinkler controls.

(ii) Applicant will institute a plan for closing the lower (below flood stage) level of the parking garage when flooding of the Winooski or North Branch Rivers is anticipated and notifying those parked in that level of the risks.

(iii) Applicant will work with the Montpelier Police Department to provide adequate security lighting: (1) adjacent to the bike path / rail tracks at the rear of the garage, enabling police patrols to view the area from across the Winooski River and/or through the open concept of the garage; and (2) on top of the garage.

(iv) Security cameras will be on each exterior corner of the parking garage; in the stairwells, elevator, and pedestrian areas; at the garage gates; and in any other enclosed spaces that are not easily visible by routine police patrols.

(v) Public access to the area under the boardwalk at the rear of the parking garage (per materials associated with Application #Z-2018-0117) shall be restricted with a fence.

3) Street Infrastructure and Maintenance: See analysis regarding details of the access easement at #8, 12, 15, and 17.

4) The public access easement over Lot 2 will connect the shared-use recreation path on the far (southern) side of Lot 1 with Main Street, improving public access to these recreation facilities, but not unduly adding to the demand for use.

5) The subdivision itself will not result in additional demands on the municipal water supply, sewage disposal, or stormwater systems.

6) The subdivision itself will not result in additional solid waste.

Section-Specific Conclusions of Law

Based upon the findings of fact and law presented above, the Board finds that, so long as
the conditions requested by the Fire and Police Chiefs listed above are met, the requested subdivision itself, without further development, will not cause a disproportionate or unreasonable burden on the City’s ability to provide community facilities and utilities.

14. **Section 3503. Suitability of Land**

   **Section-Specific Findings**

   a. Section 3503.A requires that the Board determine whether the land to be subdivided is “suitable for use without endangering public health or safety, and causing undue adverse impacts on the environment, neighboring properties or the character of the area.”

   b. Further, per Section 3503.B “land subject to periodic flooding, poor drainage, inadequate capability to support development or other hazardous conditions shall not be subdivided unless the applicant can demonstrate that appropriate measures shall be taken to overcome the physical limitations.”

      i. The Board finds that Applicant has applied for a municipal Flood Hazard Area permit, as well as review under Act 250, and such review is occurring concurrently with the zoning permitting process.

      ii. Further, there are various potential uses for the new Lot 2 that would not endanger public health or safety, or cause undue adverse impacts on the environment, neighboring properties, or the character of the area. Normally, with a subdivision, this is as far as the inquiry would go. However, given that there is an intended use for this new parcel, the Board finds that concerns have been raised about the proximity of the proposed municipal parking garage to the easternmost property line of the Heney Lot as it regards access during construction to the adjacent parking lot owned by Overlake Park, LLC.

      iii. Consistent with testimony provided by the Department of Public Works via the Staff Report, the Board finds that construction of the proposed shared use path and new bridge must be coordinated with any concurrent construction on the subdivided parcel.

   **Section-Specific Conclusions of Law**

   Based upon the findings of fact and law presented above, the Board concludes that this application proposes a subdivision of land that is suitable for use without endangering public health and safety, or causing undue adverse impacts on the environment, neighboring properties, or the character of the area, so long as Applicant maintains appropriate construction coordination measures, as conditioned herein.

15. **Section 3504. Traffic**

   **Section-Specific Findings**

   a. Per Section 3504, an application must “demonstrate that the proposed subdivision will not have an undue adverse effect upon the traffic in the area including:” (1) That the traffic generated by the proposed subdivision shall not unreasonably and disproportionately contribute to a reduced level of service for affected streets, intersections, and for all modes of travel; and (2) That reasonable measures have been taken to minimize or mitigate the amount of vehicular traffic generated by the
proposed subdivision.
b. The Board may also factor the results of the traffic impact study when one is required.
c. A traffic impact study “prepared by a qualified professional in accordance with VTrans’ traffic impact study policy” is required by § 3504.B for applications “for subdivisions that are expected to generate 75 or more new trips during the a.m. or p.m. peak hour on Class 1 roads, and 50 or more new trips during the a.m. or p.m. peak hours on Class 2 and 3 roads.” The Board also has the option to require a study if such is deemed necessary “to determine the compliance with this section.”
   i. The Board finds that:
      1) The two-lot subdivision, alone, will not result in the generation of new trips (i.e., increased traffic). However, given that the proposed future use for Lot 2 is known, the Board determined that it should consider the traffic analyses of the proposed future parking garage use provided by Applicant for this subdivision application and Application #Z-2018-0117.
      2) Based on the Traffic Analysis and the Updated Traffic Analysis provided by RSG, and in reliance on the professional evaluation of such by the Director of Public Works, the impacts from potentially increased levels of traffic in the area, including to the intersections of the access easement with both State Street and Taylor Street, do not rise to a level that require the creation of new turning lanes, traffic signals, or city street intersection redesigns. A new left-turn lane might be advisable at the intersection of the access easement with State Street; however, the addition of such a lane could be detrimental to traffic flows, as well as pedestrian safety at this high traffic (both vehicular and pedestrian) intersection.
      3) Per testimony adduced from Mr. Rabideau during the November 5th hearing, Applicant has agreed to add cross walks, stop signs, and other directional signs to manage potential changes to the traffic patterns resulting from the planned future development on Lot 2.

Section-Specific Conclusions of Law
Based upon the findings of fact and law presented above, the Board concludes that – strictly speaking – the requested subdivision of one parcel into two, without further development, does not have an undue adverse effect upon the traffic in the area, and therefore meets the requirements of § 3504.

Further, the Board concludes that the traffic analyses provided by Applicant – though not strictly required – are sufficient for the Board to find that: (a) the proposed future use of a parking garage on Lot 2 shall not unreasonably and disproportionately contribute to a reduced level of service for affected streets, intersections, and for all modes of travel; and (b) reasonable measures have been proposed by Applicant to minimize or mitigate the amount of vehicular traffic that may be generated by the planned future parking use on Lot 2. However, these secondary conclusions in this decision on a subdivision application should not and do not bind Applicant to any particular use of Lot 2.
16. **Section 3505. Design and Configuration of Parcel Boundaries**

*Section-Specific Findings*

a. **Lot arrangement.** The applicant shall design the subdivision:

1. To follow and extend the planned settlement pattern (including lot size, lot configuration, street layout and building location) as defined by the purpose and standards of the applicable zoning district to the maximum extent feasible given the site’s topography and natural features;
   
i. Per § 2101.A, the purpose of the UC-1 District “is to maintain a compact and walkable urban center by preserving historic character and encouraging compatible infill development.”

2. To connect to and extend existing street, sidewalk, path, trail, utility, greenway, and open space corridors to the maximum extent feasible given the site’s topography and natural features;

3. So that there shall be no foreseeable difficulties in obtaining zoning permits to build on all lots not intended for conservation purposes in accordance with the standards of these regulations;

4. So that there shall be no foreseeable difficulties in providing access to buildings on lots not intended for conservation purposes from an approved street;

5. To avoid direct access from arterial streets or state or Class 1 highways. The Development Review Board may require shared access or other means to minimize new access points along arterial streets or highways; and

6. So that there shall be positive drainage away from building sites and a coordinated stormwater drainage pattern for the subdivision that does not concentrate stormwater drainage from each lot to adjacent lots.

   i. The Board finds that, per the application materials (particularly the 10/23 Final Subdivision Plan and the Project Summary) and testimony adduced by Applicant’s representatives at the public hearings, the proposed subdivision:
      
      1) Promotes infill development;
      
      2) Connects to and extends existing street, sidewalk, path, trail, and utility corridors;
      
      3) Has no foreseeable difficulty with obtaining zoning permits for Lot 2, or providing access to a building on Lot 2;
      
      4) Includes access to Lot 2 over the access easement, not directly from arterial streets or state or Class 1 highways;
      
      5) Proposes no changes for access to Lot 1; and
      
      6) Continues the flows of stormwater in the general manner that it has previously.

   ii. Therefore, the Board finds that, without consideration of future development details, this application has met the standards of § 3505.A, Lot Arrangement.

b. **Lot dimensions.** The applicant shall design the subdivision:

1. So that all lots front on a street;

2. So that lot dimensions meet the minimum standards for the zoning district;

3. So that generally side lot lines are at right angles to straight street lines or radial to
curved street lines with recognition that some variability may be desirable to respond to the site’s topography and natural features;
(4) So that generally rear lot lines are parallel to street lines with recognition that some variability may be desirable to respond to the site’s topography and natural features; and
(5) To avoid flag and other irregularly shaped lots except when desirable to respond to the site’s topography and natural features.
   i. The Board finds that Lot 2 will have frontage on a street (the access easement, per detailed analysis at #8), meets the minimum dimensions of UC-1 (see #8), is not a flag lot or otherwise irregularly shaped (i.e., it has four sides), and the rear parcel boundary will be roughly parallel to State Street.

Section-Specific Conclusions of Law

Based upon the findings of fact and law presented above, the Board concludes that this application for a two-lot subdivision has met all of the relevant lot arrangement and lot dimension standards under § 3505.A and B.

17. Section 3506. Design and Layout of Necessary Improvements

   Section-Specific Findings

   a. Subsection A lists requirements for the design and construction of all “new streets within a subdivision.”
   i. The Board finds that no “new streets” are being designed or created under this subdivision application. The access easement lies over currently permitted travel lanes on Lot 1, authorized under Permit #Z-2017-0145. The Board acknowledges that some changes, such as crosswalks, are proposed in relation to these travel lanes via Permit Applications #Z-2018-0116 and #Z-2018-0117 to accommodate potential traffic impacts of a parking garage larger than that permitted currently. However, the actual travel lanes and curb cuts are in existence already, were permitted for improvements under the 2011 Regulations, and the Subdivision itself does not “create” any new streets.

   b. Subsection B requires an integration of pedestrian and bike access in the subdivision design.
   i. The Board finds that:
      a) No new streets will be created, so no new sidewalks are required.
      b) There is room for a pedestrian access path on the western side of the new parcel.
      c) The City’s new bike path will cross a portion of Lot 2.

   c. Per subsection C, the subdivision must be designed to “provide potable water and wastewater facilities” so that the subdivision: (1) if “within the city’s water service area shall be connected to the municipal system”; and (2) if “within the city’s sewer service area shall be connected to the municipal system.”
      i. The Board finds that Lot 2 is capable of being connected to both the municipal water and sewer systems. See further analysis at #13.

   d. Per subsection D, the subdivision must be designed “to provide water for fire
protection” such that if connected to the “city’s water system, applicant shall install fire hydrants in accordance with the city’s Public Works Specifications.”

i. The Board finds that:

a) Fire hydrants are located roughly 60 feet north of the northern boundary of Lot 2 on the Christ Church Property, and at the Corner of State and Elm Streets. Another hydrant is located on State Street opposite the entrance to J. Morgan’s.

b) Per testimony adduced at the public hearings, and as requested by the Fire Chief and City Building Inspector, the future parking garage that Applicant has proposed for Lot 2 under Application #Z-2018-0117 will include standpipes in the stairwells that are connected to the municipal water system and act as fire hydrants within the structure.

e. Per subsection E, the subdivision must be designed to provide utility service to each lot, such that the utilities are located underground unless prevented by ledge or other physical conditions, and located within street rights-of-way to the maximum extent feasible.

i. The Board finds that, per the 10/23 Final Subdivision Plan and testimony adduced at the public hearings, Applicant has located utilities underground and within street rights-of-way, as feasible given the physical conditions and bounds of Lot 2.

f. Subsection F specifies landscaping requirements for subdivisions.

i. The Board finds that no landscaping plans were provided with this Final Subdivision Plan Application, as any landscaping for what is currently an almost completely paved parking lot, with only slight greenery on the easternmost boundary, will need to be designed around future development. Further, detailed landscape plans are part of the inter-related Applications #Z-2018-0116 and #Z-2018-0117.

g. Subsection G, stormwater management, is discussed above at #11.

h. Subsection H specifies requirements for parks and recreation areas.

i. The Board finds that this subsection is not relevant to a two-lot subdivision without common areas.

i. Per subsection I, permanent right-of-way monuments must be installed at all street intersections and other critical points in street lines, and corners and angle points of all lots must have corner markers installed, all in accordance with state statute.

i. The Board finds that, per testimony adduced at the public hearings, Applicant has acknowledged that the subdivision will be monumented and marked per state statute.

j. Subsection J lays out requirements for the construction and maintenance of necessary improvements.

i. The Board finds that this provision is not applicable to a two-lot subdivision.

Section-Specific Conclusions of Law
Based upon the findings of fact and law presented above, the Board determines that this two-lot subdivision design: (1) contains sufficient pedestrian and bicycle access avenues;
(2) allows for connection to municipal water and wastewater systems for future development; (3) provides sufficient access to municipal fire hydrants; (4) provides for underground utilities, located in the street rights-of-way, to the maximum extent feasible; (5) includes adequate drainage and stormwater infrastructure in accordance with § 3009 and municipal specifications; and (6) incorporates the required monuments and markers, per subsection I.

Further, the Board has determined that §§ 3506.A, F, H, and J do not apply to this application.

Therefore, given the above, the Board concludes that this application meets the applicable requirements of § 3506.

18. Section 3507. Character of the Neighborhood and Settlement Pattern
   Section-Specific Findings
   a. Per § 3507, a proposed subdivision must: (1) “Be compatible with or extend the city’s traditional settlement pattern as a compact urban center”; (2) “Not contribute to a pattern of strip development”; and (3) “Be compatible with the character of the neighborhood.”
      i. The Board finds that this is a proposed two-lot subdivision within the UC-1 zoning district, in the heart of the urban center of the City. Additionally, this proposal is consistent with an infill, not strip, development pattern.
      ii. The Board further finds that § 2101.B(2), describes the Downtown Business Neighborhood as “encompass[ing] most of the city’s historic downtown business district characterized primarily by multi-story, block commercial buildings directly fronting on the sidewalk. Proposed land development should promote a pedestrian-oriented and mixed-use downtown that preserves and is compatible with historic character by using traditional building forms and street-level storefront designs.”

   Section-Specific Conclusions of Law
   Based upon the findings of fact and law presented above, the Board determines that most permitted development on Lot 2 would be consistent with a compact urban center, as it would be in the center of downtown. Further, the creation of Lot 2 does not contribute to a pattern of strip development, and the two-lot subdivision — on its own — does not conflict with the character of the Downtown Business Neighborhood. The Board therefore concludes that the requested subdivision meets the requirements of § 3507.

   Section-Specific Findings
   a. To the maximum extent feasible given topography, orientation, and vegetation, all subdivisions must be designed: (1) “[s]o that the maximum number of lots [ ] receive direct sunlight sufficient for using solar energy systems”; (2) “[w]ith streets and lot lines that [ ] accommodate buildings oriented with their long axis oriented within 30 degrees of true east west”; (3) “[w]ith the highest densities sited on south-facing slopes and the lowest densities sited on the north facing slopes”; and (4) “[w]ith
appropriate protections for each lot’s solar access.” §§ 3508.A and B.

i. The Board finds that subsection 3508.B(1) does not apply, as this is a subdivision application for the creation of a single parcel.

ii. The Board further finds that the parcel can accommodate a building oriented for solar exposure, no new streets are created with this subdivision, there are no south or north facing slopes on the subject property, and neither Lot 1 nor Lot 2 will impose on the other’s solar access.

Section-Specific Conclusions of Law

Based upon the findings of fact and law presented above, the Board concludes that the proposed subdivision meets the requirements of § 3508.

DECISION

Based upon the Findings and Conclusions set forth above, the Board hereby unanimously (6-0) grants approval for subdivision of Owner’s 2.74+ acre parcel located at 100 State Street into two parcels, as presented in permit application # Z-2018-0115, dated 9/24/2018, and supporting materials, subject to the following conditions and requirements:

I. Within 60 days of the Board’s decision, and prior to issuance of a zoning permit, Applicant shall: (1) Submit to the Zoning Administrator; and (2) Record in the City Land Records, final, signed versions of the Master Agreement and related easement agreements meeting all applicable conditions of this decision, as well as Applications #Z-2018-0116 and # Z-2018-0117, and the requirements listed within the November 2nd DPW Review.

II. The final survey plat must: (1) be prepared by a registered land surveyor; (2) include all easements referenced in the Master Agreement and related easement agreements, including, but not limited to, those referenced in the final site plan for Application #Z-2018-0117; (3) be recorded in the Montpelier land records office within 180 days of this decision, per the procedures detailed in § 4405 of the Zoning Regulations; and (4) include all dimensions of the access easement, including widths where it connects to Taylor Street, State Street, and Lot 2.

III. Applicant shall identify on the final survey plat, and install monuments or markers at all street intersections, critical points in street lines, corners, and angle points relevant to this subdivision, in accordance with applicable Vermont statutes.

This approval constitutes local zoning approval and does not in any way preclude the Owner or Applicant from the requirements of obtaining any and all other permits or approvals, including, but not limited to, local building and floodplain permits. State permits may be required for this project. Contact the State Permit Specialist before beginning any construction.
By acceptance of this approval without appeal, the Permittee confirms and agrees for itself and its successors and assigns that the conditions of this permit once issued, shall run with the land and the land uses herein approved, and will be binding upon and enforceable against the Permittee and all assigns and successors in interest.

Voting to approve: O'Connell, Goodwin, Kane, Kester, Clare, Ryan.
Voting to deny: None.

[Signature]
Kevin O'Connell, Acting Vice-Chair

[Signature]
12/13/2018
Date

Cc: Abutters, Hearing Attendees, Interested Parties, and Those Seeking Interested Party Status
(by First Class Mail)
See attached Appendix A.

NOTICE OF RIGHT TO APPEAL: In accordance with 24 V.S.A. §§ 4471 and 4472, this decision may be appealed to the Vermont Environmental Court within 30 days of the date of this decision. Notice of appeal shall be filed by certified mailing, with fees, to the Vermont Environmental Court and by mailing a copy to the Montpelier City Clerk, or the Zoning Administrator, who shall supply a list of interested persons to the appellant within five (5) working days. Failure of any interested person to appeal this decision to the Vermont Environmental Court within the specified 30-day period shall result in such interested person being bound by this decision or act of the Board. Thereafter, such an interested person shall not contest, either directly or indirectly, the decision or act of the Board in any subsequent proceeding, including any enforcement action brought under the provisions of Title 24, Chapter 117 of the Vermont Statutes Annotated. See also Montpelier Zoning and Subdivision Regulations, Chapter 460, Appeal Procedures.
APPENDIX A

(CC List: Abutters, Hearing Attendees, Interested Parties, and Those Seeking Interested Party Status)

December 10, 2018
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<thead>
<tr>
<th>Name</th>
<th>Address</th>
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<tr>
<td>A. David Gram</td>
<td>18 Cross St, Montpelier, VT</td>
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<td>Associated Industries</td>
<td>Barbara Conrey, 36 Liberty</td>
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<td>of VT</td>
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<td>Mollie Gribbin, 234 Main St</td>
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