DEVELOPMENT REVIEW BOARD
NOTICE OF DECISION

Applicant: City of Montpelier (c/o Rabideau Architects)
Property Owner(s): Capitol Plaza Corporation; Heney, Mary Trust
Address: 100 State Street; 60 State Street
Permit # Z-2018-0117
Zone: UC-1/Flood Hazard Area/DCD

Hearing Dates: October 15, 2018 and November 5, 2018
Major Site Plan: Approved with Conditions

PROCEDURAL HISTORY and APPLICANT REQUEST

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

2. **Applicant’s Proposal:** Applicant seeks major site plan approval to build a roughly 101,953 SF, four-story parking garage on a 24,393.6 SF portion of land currently owned by Capitol Plaza Corporation ("Capitol Plaza"), as well a 0.55 acre parcel of land at 60 State Street owned by the Mary M. Heney Trust (the "Heney Lot").

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. Application # Z-2018-0115 – the City’s request to subdivide the parcel owned by 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. This Application # Z-2018-0117 – the City’s request for Major Site Plan approval for the City-owned parking garage design.

Since the Board’s approval of Permit #Z-2017-0145 in May of 2018, the City of Montpelier has taken ownership of the garage portion of the project, increasing the number of parking spaces and the footprint, among other changes.
The Board first reviewed this application at a warned public hearing held on October 15, 2018, and after extensive 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), Rock, Kane, Markowitz, Goodwin, 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 15th
  2. Montpelier’s Director of Public Works, Tom McArindle
  3. Montpelier City Manager, Bill Fraser
  4. Corey Mack, Transportation Engineer from Resource Systems Group (“RSG”)
  5. James Findlay-Shirras, from Wagner Hodgson Landscape Architecture
  6. Stephen Whitaker

- November 5th
  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  x. Cara Barbero
     ii. John Russell     xi. Diana Baron
     iii. Sandra Vitzthum xii. Jill Muhr
     iv. Andrea Stander  xiii. Sarah Gribbin
     v. Nathaniel       xiv. Daniel Costin
     vi. Frothingham    xv. Mollie Gribbin
     vii. Les Blomberg  xvi. A. David Gram
     viii. Elizabeth Slayton xvii. Albert P. Sabatini
    ix. William J. Koucky xviii. Rebecca Davison
  (collectively, the “Petitioners”). The petition is defined further below in the list of Materials Submitted by Public at the November 5th Hearing.
  2. David Grover, Senior Analyst from RSG
  3. Mr. Marshall
  4. Mr. Findlay-Shirras
  5. Mr. McArindle
  6. Ron Lyon, of Dubois & King
  7. Montpelier Planning Director, Mike Miller
No *ex parte* communications were reported during any of the DRB hearings. However, on November 8th, after the close of the public hearing, Erica Garfin sent an email related to this application 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 by 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:**

1. Development Application, dated 9/24/2018;
2. Zoning Permit Attachment, dated 9/21/2018;
3. Montpelier Parking Garage Cover Sheet and Abbreviation and Symbol Key, by Rabideau Architects, received 9/27/18;
4. Level 1.0 Drawing, Sheet A101, by Rabideau Architects, dated 9/26/18;
5. Level 0.0 to Level 0.5 Drawing, Sheet A102, by Rabideau Architects, dated 9/26/18;
6. Level 1.0 to Level 1.5 Drawing, Sheet A103, by Rabideau Architects, dated 9/26/18;
7. Level 2.0 to Level 2.5 Drawing, Sheet A104, by Rabideau Architects, dated 9/26/18;
8. Level 3.0 Drawing, Sheet A105, by Rabideau Architects, dated 9/26/18;
9. Garage East and West Elevation Drawings, Sheet A201, by Rabideau Architects, dated 9/28/18, received 10/1/18;
10. Garage North and South Elevation Drawings, Sheet A202, by Rabideau Architects, dated 9/28/18, received 10/1/18;
11. 3D Views 1 and 2, Sheet A901, by Rabideau Architects, dated 9/26/18;
12. South Exterior Elevation, Sheet G-200, by Rabideau Architects, dated 9/25/18;
17. 3D View from State Street Access Route, by Rabideau Architects, received 9/26/18 (“State Street View”);
18. Proposed Conditions Site Plan, Sheet C1.1, by Civil Engineering Associates, Inc. (hereinafter, “CEA”), dated Sept., 2018, received 9/26/18 (the “Site Plan”);
19. Current, Approved, and Proposed Structure Building Envelopes overlaying GIS mapping, with details, received 10/01/18 (the “Amended Orthophoto”);
20. Garage Floor Lighting Plan, received 9/26/18 (“Lighting Plan”);
21. McGraw-Edison TT Toptier Area/Site LED Cut Sheet, pp.1-5, dated 6/21/18, received 09/26/18;
22. McGraw-Edison TT Toptier Parking Garage/Canopy LED Cut Sheet, pp. 1-5, dated 10/9/17, received 09/26/18; and

Additional Materials Submitted by Applicant on 10/1/2018
24. Drawing Number H1.0, by CEA, dated Sept., 2018 (“Drawing H1.0”);
25. Garage Rear High View, by Rabideau Architects, file dated 09/26/2018 (“View from Bike Path”);
27. Montpelier Parking Garage – view from across bridge (“View from Barre Street”);

Materials Supplied by Staff for 10/15 Hearings
29. Email from David Rugh to Meredith S. Crandall, Planning and Zoning Administrator, re: Legal Opinion re: Building Constructed Over Two Lots, dated 9/20/18 (the “Rugh Legal Opinion”);
30. Email from Stephanie Hainley to Ms. Crandall re: Montpelier – Lot Line Memo, including two-page Legal Memo from John Riley re: development spanning two lot, dated 9/21/18 (the “Riley Legal Opinion”);
31. Email from Greg Rabideau to Ms. Crandall, Audra Brown, Sue Allen, and William Fraser re: Updated Elevations, dated 9/25/18;
32. Email from Ms. Hainley to Ms. Crandall, Ms. Brown, Ms. Allen, and Mr. Rabideau re: parking garage breakdown, dated 9/13/18;
33. Email from Ms. Hainley to Ms. Crandall, Ms. Allen, and Mr. Fraser re: access easement memorialization, dated 10/10/18 (the “October 10th Email”);
34. RSG Memo from David Grover PE to Mr. Rabideau re: Proposed Capitol Plaza Hotel and Parking Garage Traffic Study, dated October 11, 2018 (the “Traffic Study”);
Materials Submitted October 15, 2018

36. Memorandum from Mr. McArandle to the Board, c/o Ms. Crandall, dated October 15, 2018 ("DPW Review of Traffic Study");

37. Annotated Winooski River Greenway segment from the Montpelier Capital District Master Plan 1999, pp. 1–5, with copies of original Master Plan pp. 18–21, submitted by Mr. Whitaker at the October 15, 2018, hearing;

38. Copy of photograph of green wall shown to Board members by Bill Fraser, during October 15, 2018, hearing;

39. Email with Attachments from Mr. Whitaker, received by Ms. Crandall at 11:51 pm on October 15, 2018, Attachments:
   a. Email from Michael Oman to Mr. Whitaker re: traffic study, pp. 1–2, dated 10/14/18;
   b. Written comment from Mr. Whitaker titled "Montpelier City Hall Self Deception Runs Amok, pp. 1–2, dated 10/14/18;
   c. Photographs of parking garage site with red "wireframe" estimates of garage location, by Mr. Whitaker, received 10/15/18;

Supplemental Materials Supplied by Applicant by October 19, 2018

40. Montpelier Parking Garage: South and East Garage Elevations, Sheet Number A201, Revision No. A, by Rabideau Architects, dated 10/19/2018 ("Sheet A201-A");

41. Montpelier Parking Garage: North and West Garage Elevations, Sheet Number A202, Revision No. A, by Rabideau Architects, dated 10/19/2018 ("Sheet A202-A");

42. Montpelier Parking Garage: 3D Views 1 and 2, Sheet Number A901, Revision No. A, by Rabideau Architects, dated 10/19/2018 ("Sheet 901-A");

43. Montpelier Parking Garage: Existing Conditions Site Plan, Drawing No. C1.0, by CEA, dated 10/19/2018 ("10/19 Existing Site Plan");

44. Montpelier Parking Garage: Proposed Conditions Site Plan, Drawing No. C1.1, by CEA, dated 10/19/2018 ("10/19 Proposed Site Plan");

45. Proposed Conditions Site Plan Slope Highlight, received by the Department of Planning and Community Development 10/11/2018 ("Slopes Detail");


49. Final Subdivision of Parking Garage Parcel from Capitol Plaza Corporation, Drawing No. BA 1, by CEA, dated 10/18/2018 ("Final Subdivision Plan");

50. Montpelier Parking Garage: Details (paths, pavement, curbs, crosswalk), Drawing No. C2.0, by CEA, dated 10/19/2018 ("Details Sheet C2.0");

51. Montpelier Parking Garage: Details (ADA ramp handrail, retaining wall, water trench, detectable warning surface), Drawing No. C2.1, by CEA, dated 10/19/2018 ("Details Sheet C2.1");

52. Montpelier Parking Garage: Details (electrical, storm trench, catch basin), Drawing No. C2.2, by CEA, dated 10/19/2018 ("Details Sheet C2.2");

53. Montpelier Parking Garage: Details (sewer, holding tank, grit/oil separator), Drawing
No. C2.3, by CEA, dated 10/19/2018 ("Details Sheet C2.3");
54. Montpelier Parking Garage: Stormwater Details, Drawing No. C2.4, by CEA, dated 10/19/2018 ("Stormwater Details");
56. Montpelier Parking Garage: Site Specifications, Drawing Nos. C4.0 – C4.4, by CEA, dated 10/19/2018 ("Site Specifications Sheets 1–4");
57. Montpelier Parking Garage: Site Specifications, Drawing No. C4.5, by CEA, dated Sept., 2018, received by Department of Planning and Community Development 10/19/2018 ("Site Specifications Sheet 5");
58. Steel Guardrail Detail, Sheet 5 NTS, received by Department of Planning and Community Development 10/19/2018;
59. Montpelier Parking Garage Landscape Plan, Sheet L100, by Wagner Hodgson, dated 10/19/2018 ("10/19 Landscape Plan");
60. Exterior Photometric Point Calculation, Sheet SL-1, by Apex Lighting Solutions, dated 10/8/2018 ("Exterior Lighting Plan");
61. Philips LUMEC, MPTR Urban MetroScape LED Post Top Luminaire, Type SL-1 Specifications Sheet, pp. 1–5, dated 01/18 ("SL-1 Specs");
62. Philips GARDCO, Wall Mount, LED mini sconce 111L - Type IV, Type SL-4 Specifications Sheets, pp. 1–2, dated 12/16 ("SL-4 Specs");
63. Philips GARDCO, Wall Mount, LED mini sconce 111L - Type II, Type SL-5 Specifications Sheets, pp. 1–2, dated 12/16 ("SL-5 Specs");
64. Hevi Lite, Inc., Comact LED adjustable accent fixture, flood light, Catalog Number HL-369-LED, Type SL8, received by Department of Planning and Community Development 10/19/2018 ("SL-8 Specs");
65. Unilock, U-Cara Multi-Face Wall System 2018 Brochure, pp. 0-27, received by Department of Planning and Community Development 10/19/2018 ("Retaining Wall Specs");
66. Mary H. Heney Trust/Lawrence P. Heney Trust and City of Montpelier Notice of Intent for Stormwater Discharges Associated with Construction Activities on Low Risk Sites Under Vermont Construction General Permit 3-9020, pp. 1-2 ("Heney Lot Stormwater NOI");
67. Heney Lot Stormwater NOI Maps, 1 & 2;
69. Photograph of Fixit Bike Repair Tools;

**Additional Materials Presented at 10/30 Design Review Committee Special Meeting**
70. Montpelier Parking Garage Cover Sheet, by Rabideau Architects, Rev. No. B, Parking layout and grid revised, dated 10/26/18;
71. Level -1.0 Drawing, Sheet A101, by Rabideau Architects, received 10/30/18 (Parking layout and grid revised);
72. Level 0.0 to Level 0.5 Drawing, Sheet A102, by Rabideau Architects, received 10/30/18 (Parking layout and grid revised);
73. Level 1.0 to Level 1.5 Drawing, Sheet A103, by Rabideau Architects, received 10/30/18 (Parking layout and grid revised);
74. Level 2.0 to Level 2.5 Drawing, Sheet A104, by Rabideau Architects, received
10/30/18 (Parking layout and grid revised);
75. Level 3.0 Drawing, Sheet A105, by Rabideau Architects, received 10/30/18 (Parking layout and grid revised);
78. Montpelier Parking Garage: 3D Views 1 and 2, Sheet Number A901, Revision No. B – Parking layout and grid revised, by Rabideau Architects, dated 10/26/2018 (“Sheet 901-B”);
79. Montpelier Parking Garage, Southeast Corner – Close View Toward 1 Taylor Street, received 10/30/18 (“10/30 Southeast Corner Close Rendering”);
80. Montpelier Parking Garage, Southeast Corner – Wide View Toward Capitol Plaza, received 10/30/18 (“10/30 Southeast Wide Capitol Plaza Rendering”);
81. Montpelier Parking Garage, Southeast Corner – Focused View Toward Capitol Plaza, received 10/30/18 (“10/30 Southeast Focused Capitol Plaza Rendering”);
82. Montpelier Parking Garage – Illustrative Elevation, Sheet L101, by Wagner Hodgson, dated 10/30/18 (“River View with Landscaping and Boardwalk”);
83. Montpelier Parking Garage – Landscape Plan, Sheet L101, by Wagner Hodgson, dated 10/30/18 (“10/30 Landscape Plan”);

Materials Supplied by Staff for 11/5 Hearing
87. Letter from Paul Carnahan and Eve Jacobs-Carnahan to Design Review Committee and the Board, dated 10/18/2018, pp. 1–2, along with carrier email to Ms. Crandall (the “Carnahan Letter”);
88. Proposed Capitol Plaza Hotel and Parking Garage Traffic Study, by David Grover, PE, from RSG, dated 10/26/18 (the “Updated Traffic Study”);
89. Email from Anthony Facos, Montpelier Chief of Police, to Ms. Crandall re: review of parking garage exterior lighting, dated 10/25/18;
90. Emails between Tom McArdle, Director of Public Works, Sue Allen, Montpelier Assistant Manager, and Ms. Crandall, copy Mr. Rabideau, Emily Mack, Michael Miller, Audra Brown, Corey Line, and David Marshall re: fences along railroad tracks, dated October 23, 2018 (the “Oct. 23rd RR Fence Emails”);
91. Letter from Daniel P. Richardson, Chair of DRB, to Ms. Crandall re: Recusal for 100 State Street Applications (#Z-2018-0115; Z-2018-0116; and Z-2018-0117), dated 10/24/28;
92. Email from Emily Mack, at Rabideau Architects, responding to a verbal question from Ms. Crandall re: goal and placement of SL-8 exterior light fixtures, dated October 29,
2018 ("October 29th Lighting Email");

93. Montpelier Development Review Board Report, as updated from the October 14th version for the November 5th hearing – prepared by Meredith Crandall, Planning and Zoning Administrator (dated November 1, 2018) ("Garage SP Staff Report");


95. Email from Ms. Crandall to Mr. McArdle, Mr. Rabideau, Ms. Allen, and Mr. Findlay-Shirras re: Street Trees applicability to Parking Garage, dated 11/5/18;

96. Email from Mr. McArdle to Ms. Crandall, copy Mr. Fraser, Ms. Allen, Stephanie Hainley, and Mr. Rabideau re: Parking Garage Project – street trees, sent at 3:06 pm on 11/5/18;

97. City of Montpelier Design Review Recommendation Form for 100 State Street: Review new proposal for parking garage, dated 10/30/18, cont. to 11/5/18 (the “DRC Recommendation Form”);

Materials Presented by Applicant at the November 5th Design Review Committee and Board Hearings


100. 6 – Guardrail at Wood Deck details, received 11/5/2018;

101. Photos of proposed guardrail type in use, 1 (around garden), 2 (along ramp), 3 (close-up), received 11/5/2018;

Materials Presented by Applicant During the November 5th Board Hearing

102. 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”);

103. Montpelier Parking Garage: Existing Conditions Site Plan, Drawing No. C1.0, by CEA, dated 10/19/2018, received 11/5/2018 ("11/5 Existing Site Plan");


107. Montpelier Parking Garage Rendering from Southeast Corner, Site View, with Landscaping and Public Requested Solar Panels, received 11/5/18;

108. Montpelier Parking Garage Rendering from Southeast Pedestrian Bridge, Ground View, with Landscaping, received 11/5/18;

Materials Submitted by Public During the November 5th Hearing

110. Photos submitted by Mr. Whitaker, received 11/5/2018:
   a. Urban Canyon of Burlington;
   b. Farmer’s Market on Heney Lot, including slopes between Heney Lot and parcel
to be subdivided and granted to the City, ##1–3;

111. 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 under the Montpelier Unified Development Regulations adopted
January 3, 2018 (the “Regulations”).

5. **Existing Conditions:** The 24,393.6 SF parcel owned by Capitol Plaza is part of an
existing 119,616.85 SF parcel with 406 feet of frontage on State Street and 209 feet of
frontage on Taylor Street, which Applicant has requested be subdivided under
Application # Z-2018-0115. Although Capitol Plaza has the permitted right to build a
parking garage on this portion of its land, there are no structures on it currently, just a
portion of the Capitol Plaza parking lot.

   Applicant leases the Heney Parking Lot (60 State Street) from the Heney Family Trust
under a long-term lease that runs through June 30, 2065. See Riley Legal Opinion. There
are no structures on this land currently, though it is bounded by properties owned by
Christ Church, Overlake Park, LLC, and the Stephen R. Everett Trust (the building
containing Julio’s and Kismet). The main feature on the Heney Lot other than parking
spaces is a small strip of grassy slope with a staircase connecting it to the Capitol Plaza
parcel. However, a small parking lot owned by Overlake Park does use the Heney Lot for
access.

   The acreage in question is serviced by municipal water and sewer. There is also
stormwater infrastructure and overhead powerlines on the project site.

6. **Project Scope:** Applicant seeks major site plan approval to build a roughly 101,953 SF,
four-story parking garage on a 24,393.6 SF portion of land currently owned by Capitol
Plaza (the “Garage Parcel”), as well as the 0.55 acre Heney Lot.

7. **Location:** The acreage is within the area of land bordered by Taylor Street, State Street,
the North Branch, and the Winooski River. The project site 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.

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

9. **Procedural Status:** This project is being proposed by the City of Montpelier. Therefore, it falls within the bounds of 24 V.S.A. § 4413, meaning that the Board may only evaluate the aspects of the project that are listed in § 4413(a)(1), and only to the extent that the Board’s regulation of those items does not interfere with the intended functional use of the facility as a parking garage. The project aspects that may be evaluated are: “location, size, height, building bulk, yards, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements.” 24 V.S.A. § 4413(a)(1).

**CHAPTER 200 BASE ZONING DISTRICTS & NEIGHBORHOODS:**

10. **Section 2107.C – Use Standards**

    **Section-Specific Findings**

    a. **Table of Uses [Figure 2-15]:** In the UC-1 District, parking garages and surface parking are permitted uses. See further discussion per § 3001, below.

11. **Section 2107.D - Dimensional Standards**

    **Section-Specific Findings**

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

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

    c. 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 “[d]riveway 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).

        i. The Board finds that:

        (1) The proposal is to build the garage on a 24,393.6 SF parcel of land to be subdivided per Application #Z-2018-0115, as well as roughly 5,500 SF of land on the 0.55 acre (23,958 SF) Heney Lot.

        (2) The Heney Lot has over 50 feet of frontage on State Street.

        (3) The subdivided parcel will have 36 feet of frontage on a private street 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.

    d. Property boundary setbacks in the UC-1 are 0 feet, and the water setback is 20 feet except in channelized sections of river where the setback will be 0 feet.

        i. The Board finds that, with 0 foot property setbacks, the Regulations allow the parking garage to cover more than one parcel of land, as further supported by the Riley Legal Opinion and Rugh Legal Opinion.

        ii. See § 3005 discussion at #15 for water setback analysis.

    e. The coverage maximum in UC-1 is 100%.
i. The Board finds that coverage on each of the Garage Parcel and the Heney Lot will be less than 100%, per the green spaces shown on the 11/5 Landscape Plan.

f. The density maximum is 4.0 Floor Area Ratio, maximum.
   i. The Board finds that the 24,393.6 SF Garage Parcel has a maximum floor area limit of 97,574.4, and less than that (roughly 79,953 SF) will be built on that subdivided parcel. Roughly, 22,000 SF of the garage’s floor area will be on the 23,958 SF Heney Lot, less than 1.0 FAR.

g. In UC-1, buildings must be at least 24 feet in height, and no more than 60 feet tall. The height must be measured as “the vertical distance from the highest point of the structure to the average of the highest and lowest points where the exterior wall meets the finish grade.” § 3002.H(5). However: (a) per §3002.H(3)(b) “mechanical equipment usually located on the roof level” is exempt from the height maximum, “provided that such features are limited to the height necessary for their proper functioning.”
   i. The Board finds that:
      (1) The average of the highest (528 feet, 2 inches, above sea level) and lowest (518 feet above sea level) points where the exterior wall meets the finish grade is 523 feet, 1 inch.
      (2) The highest point on the garage (the roof of the stairwell in the southeast corner of the garage) will be 53 feet, 3 inches, taller than that starting point, as measured per § 3002.H(5), notwithstanding the potential exemption for mechanical equipment.

Section-Specific Conclusions of Law

Based upon the findings of fact and law presented above, the Board concludes that the provisions of §§ 2107 and 3002, Dimensional Standards, have been met by the Applicant, as the Board has found that the proposed site plan meets the lot size, frontage, density, building footprint, coverage, height, and property boundary requirements.

The water setback analysis is below at #15, regarding § 3005.

CHAPTER 220 OVERLAY ZONING DISTRICTS

12. Section 2201. Design Control Overlay District

Section-Specific Findings

a. 100 State Street falls within the Design Control Overlay District, and therefore is subject to review by the Design Review Committee (the “DRC”), with the limitations noted above from 24 V.S.A. § 4413 on any conditions placed on a final permit.

b. Per § 2201.D(1)-(8), the DRC evaluates design review plans based on:
   i. Preservation or reconstruction of the appropriate historic style if the proposed project is in the historic district or involves an historic structure;
   ii. Harmony of exterior design with other properties in the district;
   iii. Compatibility of proposed exterior materials with other properties in the district;
iv. Compatibility of the proposed landscaping with the district;
v. Prevention of the use of incompatible designs, buildings, color schemes, or exterior materials;
vi. Location and appearance of all utilities;
vii. Recognition of and respect for view corridors and significant vistas including gateway views of the city and State House; and
viii. The design standards established in Section 2201.E for development that is also within the Western Gateway district and in Section 2201.F for development that is also within the Riverfront district.

c. Applicant presented this application before the DRC during regular meetings on October 1<sup>st</sup>, October 15<sup>th</sup>, and November 5<sup>th</sup>, as well as a Special Meeting on October 30, 2018.
i. The Board finds that:

1. During the DRC hearings, the Committee reviewed renderings of the proposed parking garage created by Rabideau Architects that demonstrate the expected height of the parking garage in relation to surrounding buildings and features. See View from Barre Street, River View, State Street View, 10/30 Southeast Corner Close Rendering, and 10/30 Southeast Wide Capitol Plaza Rendering.

2. Members of the public (Mr. Whitaker and the Petitioners) questioned the accuracy of Applicant’s evidence, and whether it was sufficient to determine whether or not this project recognized and respected “view corridors and significant vistas including gateway views of the city and State House,” as required by § 2201.D(7).

3. During the 11/5 hearing, testimony was adduced regarding the various heights of utility poles visible from the Heney Lot, as well as in the View from Barre Street and River View renderings, indicating that the middle pole was 34 feet high, while the two others were 40–43 feet high, and suggesting that the Board could use those known points of reference as a matrix for weighing the accuracy of Applicant’s view corridor renderings without the submission of additional evidence.

ii. The Board further finds that, in the DRC’s role as the evaluator of design standards and criteria, the DRC approved all of the design elements of this application during the November 5<sup>th</sup> hearing on a 5 – 0 vote, with the following recommendations and options agreed to by Applicant:

1. Recommendations
   a. The DRC chose Option #1 as seen on Sheet No. A-700 for the large artwork panels, with a public contest for selection of the actual artwork to be printed on the screens; provided, that the artwork on the skrim shall be: (a) muted black and grey tones in color; and (b) subtle, preferably echoing the neighborhood themes;
b. Cornices may be made out of GFRC or a polymer composite material, but shall be colored to resemble the grey granite used elsewhere on the building.

c. The decking for the boardwalk shall preferably, be made from locally sourced black locust, and if that’s not practicable, ipe or another tropical hardwood to withstand the anticipated heavy use and weathering of the surface.

d. Use a smooth, not rough, finish for the granite portions of the garage – rougher faces are more apt to catch and hold dirt, increasing maintenance costs.

e. Applicant to change the landscaping around the access between the proposed hotel and the garage to invite access rather than hide the access to the pathway, as well as open curbing for walkable access.

f. Clarifying that fencing and railing at the rear of the garage may be galvanized metal or black color metal material. Recommend black against the building and galvanized on the boardwalk area.

g. Clear markings and signage compatible with the Wayfinding Proposal by Montpelier Alive to guide pedestrians and bicycles to the bike and/or walking paths along the river need to be included.

2. Options

a. Bike racks may be provided on the boardwalk, as well as inside the parking garage.

b. Applicant may provide hardware for hanging temporary banners over the large artwork sections on the river side of the garage – such as eyebolts below the cornice work.

Section-Specific Conclusions of Law
Based upon the findings of fact and law presented above, the Board accepts the DRC’s approval of this project, including the above-noted recommendations and options; provided, that Applicant shall provide bike racks in accordance with the Board’s findings pursuant to § 3202. Further, this Board affirmatively concludes that, based upon the available evidence and in reliance on the professional judgment of the members of the DRC, this proposal recognizes and respects the view corridors and significant vistas of the City of Montpelier, including gateway views of the city and State House, as required by § 2201.D(7).

CHAPTER 300 GENERAL STANDARDS:

13. Section 3001. Use Standards
   Section-Specific Findings
   a. Per § 3001.A, “[l]and development shall conform to the use standards for the applicable zoning district …”
   b. Per § 3001.B, “[a]ny combination of permitted or conditional uses may be allowed on a single lot.”
i. The Board finds that:
   (1) Parking garages and surface parking are permitted in UC-1, per § 2107.C and Table 2-15.
   (2) The Garage Parcel will contain a parking garage.
   (3) The Heney Lot will contain a parking garage and surface parking.
   
   (4) The City Fire Chief requires that construction of a parking garage within the City include the following: (i) a fully automatic fire suppression (dry sprinkler) system; (ii) dry standpipes, two per floor located in each stair enclosure, with hose connections per MFD Standard; and (iii) at least one heated, enclosed room or closet containing the sprinkler controls.

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 Heney Lot, and the proposed parking garage use on the Garage Parcel, are permitted uses per §§ 3001.A, 2101.C and Fig. 2-15 (2018).

14. Section 3002, Dimensional Standards – See discussion at #11 above.

15. Section 3005, Riparian Areas
   Section-Specific Findings
   a. Per Figure 2-01, UC-1 has a 20-foot water setback.
   b. Per § 3005.D–E, the only new development allowed within the water setback (or riparian area) are “mowed lawns, patios, decks, walkways, or other impervious area provided impervious cover does not exceed 20% of the entire riparian area.” § 3005.E(1).
   c. Further, within UC-1, the first 15 feet of any water setback along unchanneled portions of a river shall be established or maintained as a riparian buffer “of natural woody vegetation.” § 3005.D(1) and E.
   d. Per § 3005.D(1), channelized portions of river within UC-1, shall not have riparian buffer requirements. More expansively, per Figure 2-01, Note 2, channelized portions of river within UC-1 do not have any water setbacks at all.
   i. The Board finds that:
      (1) The exterior ramping in the southeast corner of the parking garage design extends roughly 10 feet into the water setback, 5 feet more than allowed if a riparian buffer is required under § 3005.D(1) and E.
      (2) Applicant’s and Owner’s engineers, Ron Lyon, from Dubois and King, and David Marshall, from CEA, testified during the November 5th hearing that the section of the North Branch of the Winooski River that abuts this project is channelized under both the Army Corps of Engineers and Vermont statutory definitions of channelization, as: (a) fill and human structures have altered or restricted the flow of the river in this segment, including riprap and the railroad bridge abutment; (b) the shared-use path bridge abutment will continue this restriction; and (c) the portions of the river upstream of this segment are severely channelized due to the historic nature of building up to the river’s edge.
      (3) In a March 27, 2018, decision on Permit #Z-2018-0009, regarding 10,
12, & 16 Main Street, the Board determined that the section of the North Branch River abutting the subject property was functionally channelized, based on testimony from an engineer that the river was "physically controlled at its banks." The Board agreed with this determination at the time, given the lack of guidance or a definition of "channelized" provided for in the Regulations, and determined that no water setback applied for that permit.

Section-Specific Conclusions of Law

Based upon the findings of fact and law presented above, the Board determines that, consistent with the professional opinions of Messrs. Lyons and Marshall, as well as with the precedent of this Board's decision on Permit #Z-2018-0009, the stretch of the North Branch of the Winooski River adjacent to the parcels involved in this project is channelized. The Board therefore concludes that no water setback applies to this application and, accordingly, this project complies with the requirements of § 3005.

16. Section 3007. Steep Slopes

Section-Specific Findings

a. Section 3007 applies to land development that proposes to disturb or clear land on steep slopes that exceed the threshold amounts specified in Figure 3-08, in order to:

    (1) Protect public safety and property;
    (2) Minimize the potential for erosion, runoff, flooding and degradation of water quality; and
    (3) Avoid the increased cost of providing services to remote or difficult to access land.

§ 3007.A.

b. Per Figures 3-08 and 3-09: (1) Disturbance of more than 4,000 SF of greater than 25% slopes requires an engineered plan; and (2) Slopes of ≥30% may not be developed, disturbed, or cleared.

   i. The Board finds that, per the Slope Detail, all of the slopes between the Garage Parcel and the Heney Lot are less than 30% slopes. Further, the total area of slopes greater than 25% is less than 1,500 SF.

Section-Specific Conclusions of Law

Based upon the findings of fact and law presented above, the Board determines that this project will not disturb slopes of ≥30%, nor will it disturb more than 4,000 SF of greater than 25% slopes. Therefore, this project meets the requirements of § 3007.

17. Section 3008. Erosion Control

Section-Specific Findings

a. "This section is intended to promote construction practices on development and redevelopment sites that limit soil disturbance and compaction, and minimize erosion and sedimentation of downstream water bodies." § 3008.A.

b. A professionally prepared erosion control plan is required for development that proposes to disturb any amount of land on slopes that are steeper than 25%. § 3008.C and Figure 3-10.
i. The Board finds that
(1) Per the Slope Detail, this project will disturb over 1,400 SF of soil with slopes of more than 25%.
(2) Applicant submitted a professionally prepared erosion control plan (reference Drawing No. C3.0, last updated 10/19/18).

Section-Specific Conclusions of Law

Based upon the findings of fact and law presented above, the Board determines that Applicant is required to submit a professionally prepared erosion control plan, which Applicant has done. Therefore, the Board concludes that this application meets the requirements of § 3008.

18. 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 shall 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:
      (1) Generally, the storm water system approved under Permit #Z-2017-0145 will continue to operate as previously proposed and approved by the Department of Public Works, collecting “storm water in a variety of catch basins and direct[ing] storm water to an outfall in the headwall of the proposed bicycle bridge crossing the North Branch of the Winooski River.”
      (2) The current design includes a new roof drain connection, the proposed relocation of the existing storm drain line, and the addition of a subsurface sand filter, Stormtech Model DC780, for pre-treatment that will be installed just to the south of the garage, under the ramps leading to the boardwalk.
      (3) The Director of Public Works has raised concerns regarding the viability of the location of the Stormtech pre-treatment filter, and whether it will be serviceable by the City’s equipment.

Section-Specific Conclusions of Law

Based upon the findings of fact and law presented above, the Board concludes that this Application meets the requirements of § 3009, pending submission to the Administrative Officer of final written approval by the Department of Public Works Director of the final design for the storm sewer system and other drainage improvements, including the location of the sand filtration system and all flood/precipitation infiltration prevention measures.

19. Section 3010. Access and Circulation
Section-Specific Findings
a. Section 3010 is intended to promote safe and efficient access to and circulation within a property for vehicular, bicycle, and pedestrian traffic.
   b. Vehicular access. Section 3010(B) requires that all lots being developed or redeveloped to provide vehicular access from the street in accordance with any city
public works specifications, VTrans’ B-71 Standard, and the standards listed in § 3010.

c. Applicable requirements include: (1) All proposed land development shall be designed with adequate access and circulation to prevent traffic congestion on the street and traffic conflicts (including service vehicles, passenger vehicles, parking, drive through lanes, bicyclists and pedestrians) within the site; (2) Shared access between adjacent properties is strongly encouraged; (3) Cross access; and (4) Any street improvements necessary to accommodate anticipated traffic and minimize congestion as warranted by a traffic study.

i. The Board finds that:

(1) The proposal includes public vehicular access on a private street (a public access easement) that allows for two-way traffic to the parking garage from both State Street and Taylor Street, as well as cross access to the neighboring Capitol Plaza parcel and the Christ Church Parcel. Further, the new garage will not block access to the property adjacent to the Heney Lot that is owned by Overlake Park LLC.

(2) An alternate vehicle access to the garage, for maintenance and emergency purposes only, will be located in the lower level of the garage, exiting through the Heney Lot.

(3) Per testimony adduced at the November 5th hearings, Applicant and Owner are in the final stages of negotiating an agreement to:
   (a) transfer ownership of a parcel of land from Owner to Applicant;
   (b) formalize the ownership and maintenance responsibilities for the public access easement over Owner’s retained property; (c) provide for the lease of 200 parking permits in the proposed City-owned parking garage to Owner; and (d) provide for any other necessary rights and responsibilities of the parties related to this proposal and the interrelated projects (hereinafter, the “Master Agreement”).

(4) Various members of the public, including the Petitioners, Mr. Whitaker, Paul Carnahan, and Eve Jacobs-Carnahan, expressed concerns regarding pedestrian access and safety in and around the parking garage.

(5) This application provides for various new, pedestrian access routes around the garage, including connecting to the shared-use pedestrian and bike path to the south of the parking garage site.

(6) Applicant has agreed to coordinate with the rail road operators and the Department of Public Works to confirm the necessary height and location of fencing along the stretch of rail road tracks between 1 Taylor Street, Owner’s new hotel, and the project, such fence height to be specified in a final site plan submitted to the Zoning Administrator prior to issuance of a permit. Per a request from the Director of Public Works, the focus of such fencing should be to encourage people to utilize the designated railroad crossing for the shared-use path, but not be so extensive and enclosing that a person trespassing on the railroad property would be trapped and have difficulty escaping should a train approach.
(7) Applicant has also agreed to coordinate with the Department of Public Works to achieve a design for the system(s) for connecting the boardwalk at the rear of the parking garage to the retaining wall supporting the shared-use path, including an expansion method to account for differential settling and temperature related movement.

(8) Based on the traffic analyses provided by RSG, and evaluated 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.

(9) Applicant has agreed to add cross walks, stop signs, and other directional signs as detailed in the Traffic Management Plan.

(10) Applicant has also agreed to conduct a follow-up traffic study within one year after completion and use of the new hotel and parking garage to confirm whether or not the anticipated increases in trip generation from the RSG predictions is accurate, and to ascertain whether any off-site mitigation may be needed to address traffic directly attributable to the new land uses, such as whether a left-hand turn lane should be added to the access easement’s intersection with State Street.

Section-Specific Conclusions of Law

Based upon the findings of fact and law presented above, the Board concludes that this application provides for: (i) sufficient access and circulation to prevent traffic congestion on the street and traffic conflicts; (ii) shared access between adjacent parcels; (iii) cross access; and (iv) sufficient street improvements given the results of the updated traffic studies.

Therefore, the Board further concludes that this application comports with the requirements of § 3010; provided, that: (A) the follow-up traffic study described above is completed within one year after completion and use of the new hotel and parking garage; and (B) within 60 days of the Board’s decision, and prior to issuance of a zoning permit Applicant (1) submits to the Department of Planning and Community Development; and (2) records in the City Land Records executed copies of the Master Agreement and all related easements.

20. Section 3011. Parking and Loading Areas

Section-Specific Findings

a. Under § 3011.C, no minimum number of parking spaces is required for a parking garage. However, the exact number of parking spaces should be clear, and the plans must comport with ADA requirements.

i. The Board finds that the parking garage plans provide for 348 parking spaces, 8 of which are ADA accessible – all adjacent to the elevator shaft
located in the northwest corner of the garage.

b. Per § 3011.H, parking spaces must be 8.5 feet wide by 18 feet deep, except for compact car parking spaces approved by the Board. Access aisles must be at least 20 feet wide, “except that one-way aisles serving angled parking spaces may be designed in accordance with accepted engineering standards.”

   i. The Board finds that all parking spaces in the garage are 8.5 feet wide by 18 feet deep, and the access aisles are at least 20 feet wide.

c. Under § 3011.I, there are design, construction, and maintenance standards for parking and loading areas that regulate pavement types, layout of parking areas, erosion and drainage requirements, handling of snow storage, markings and edging, the number of electric vehicle charging stations, and maintenance requirements. Per § 3011.I(6), there must be at least 1 electric vehicle charging station for each 20 parking spaces.

   i. The Board finds that:

      (1) The surface of the parking garage will be concrete. § 3011.I(1).

      (2) Parking within the structure will be perpendicular.

      (3) Regarding surface run off:

         a. The current parking lots on the subject parcels have no stormwater treatment systems, only collection.

         b. Surface run off on the top floors of the garage (exposed to the elements) will be collected and piped to a stormwater treatment unit prior to release to the storm water system (with river outlet).

         c. Intermediate floors of the garage will drain to the municipal sewer system.

         d. The lowest floor of the garage will drain to a holding tank, which Applicant will pump out as needed and dispose of properly – whether due to normal use or after a flood event. Further, Applicant has agreed to the Police and Fire Chiefs’ request to 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.

      (4) Applicant will be melting the snow on the top level of the parking garage, either with district heat or a towable machine. The other levels of the garage will collect minimal snow, as the openings in the walls of the garage will be screened with various structures (printed screens, living wall, etc.) that will prevent incursion of the elements.

      (5) Parking spaces are clearly marked as required on the Level Drawings.

      (6) Applicant has agreed to include 20 electric vehicle charging stations in the parking garage.

Section-Specific Conclusions of Law

Based upon the findings of fact and law presented above, the Board determines that this application: (i) includes the appropriate number of ADA accessible parking spaces (8) and electric vehicle charging stations (20) given the 348 total parking spaces proposed; (ii) meets the parking space and aisle dimensional requirements of § 3011.H; and (iii) meets
the design, construction, and maintenance standards of § 3011.I, provided, that Applicant includes the heated surface or other manual snow melting device for removal of snow that collects on the top level of the garage.

Therefore, the Board concludes that this application meets the requirements of § 3011.

21. **Section 3012. Signs**

   **Section-Specific Findings**
   a. Section 3012 encourages the orderly and appropriate design, scale and placement of signs.
   b. Per § 3012.D(1), “public signs ... erected or required by the city or state within the public right-of-way, including signs associated with public transit” “do not require a zoning permit.”
      i. The Board finds that the signs proposed in the Traffic Control Plan are required by the municipality to direct and control traffic, and are within the public right-of-way.
      ii. The Board further finds that the signs proposed in the 11/5 Landscape Plan will be on municipal property or within the public right-of-way (i.e., the public access easement), and therefore are exempt from zoning permits under either § 3012.D(1) or 24 V.S.A. § 4413(a)(1)(A).

   **Section-Specific Conclusions of Law**

Based upon the findings of fact and law presented above, the Board concludes that none of the signs proposed by this application require a zoning permit, and therefore § 3012 does not apply to this project.

**Chapter 320 Site Plan Standards:** The purpose of Chapter 320 is to establish additional standards for proposed land development subject to site plan review (land development other than one- and two-family dwellings).

22. **Section 3201. Major/Minor Site Plan Determination**

   **Section-Specific Findings**
   a. Section 3201 classifies site plans as follows:
      (1) The following shall require major site plan review:
         (a) Construction of new principal buildings.
         (b) Major renovations of existing principal buildings.
         (c) Construction of more than 10 new parking spaces or 2,000 square feet of impervious surface.
         (d) Construction of an accessory structure with a footprint of more than 2,000 square feet or a height of more than 24 feet.
         (e) Construction of an addition of more than 2,000 square feet to an existing building.
      (2) All other applications shall require minor site plan review.
         i. The Board finds that construction of a new principal building is proposed by this application, as well as more than 10 new parking spaces.
Section-Specific Conclusions of Law

Based upon the findings of fact and law presented above, the Board concludes that this application qualifies as a Major site plan.

23. **Section 3202. Access and Circulation**

Section-Specific Findings

a. **3202.A Bicycle access.** Bicycle access and storage may be required in accordance with the following: The [Board] has the authority to require bicycle racks and may require sites with high traffic volumes to incorporate designated bicycle lanes or paths that provide safe and convenient routes between the street and the bicycle parking area(s) on the site.

b. **3202.B Pedestrian access.** All development provide safe and convenient pedestrian access including: (1) public sidewalk shall be provided along the street frontage; (2) continuous internal pedestrian walkways are required ...; (3) walkways be provided between the parking area(s) and building entrance(s); and (4) the proposed development enables energy efficient modes of transportation such as walking, biking, transit, electric vehicles, carpooling, car sharing as feasible given the location and use.

i. The Board finds that, under this proposal:

1. The City’s bike path will cross the southeast corner of the Garage Parcel, as well as along the southern boundary of the Heney Lot.

2. Applicant has agreed to provide bicycle storage within the parking garage per LEED standards (though details have not been provided), and the DRC has allowed Applicant the option of providing additional bicycle storage on the boardwalk to the south of the garage.

3. Currently, there are no public sidewalks abutting the parking garage as permitted under Permit #Z-2017-0145.

4. Applicant has agreed to include an 8-foot wide publicly accessible pedestrian easement along the western boundary between the Garage Parcel and the hotel to be built by Owner, which will run from a cross walk at the intersection of the two sections of the public access easement, the parking garage and the Christ Church parking lot entrance, between the garage and hotel, around the rear of the hotel, until terminating at the intersection of the boardwalk and the City’s future shared use path.

5. A 5-foot wide sidewalk will extend from the emergency access entrance on the Heney Lot to the main vehicular entrance to the garage, and then turning the corner to the north and ending at the Christ Church parking lot entrance and a cross walk to the west. Another short stretch of 5-foot wide sidewalk will extend from the 8-foot wide pedestrian path to the main parking garage entrance (passing a pedestrian entrance to the stairwell and elevator shaft), turning to the north, and ending at the crosswalk across from Christ Church parking lot entrance.

6. A roughly 6-foot wide ADA accessible ramp at the south-east corner of the garage will connect the walkable and bike-able route through the Heney Lot at the 518 foot level of the garage to: (i) a pedestrian exit on the main entrance level of the garage (at 523 feet above sea level); and (ii) the boardwalk at the
rear of the garage (at 525 feet above sea level), which then connects to the shared-use path, as well as providing pedestrian access to the transit center on the south side of the railroad tracks.

Section-Specific Conclusions of Law
Based upon the findings of fact and law presented above, the Board determines that this application provides for: (i) bicycle storage and access; (ii) publicly accessible sidewalks along the main parcel's frontage, and connecting the current pedestrian access routes to those within the proposal's site plan; and (iii) pedestrian walkways, including stair cases and elevators, between the parking levels, building entrances, and the exterior sidewalks. Further, the design of the parking garage, including the ability to expand the number of electric vehicle charging stations as demand increases, and its location within the commercial downtown, and adjacent to the transit center and shared-use path, clearly enable and encourage energy efficient modes of transportation such as walking, biking, transit, electric vehicles, carpooling, and car sharing. Therefore, the Board concludes that this proposal meets the requirements of § 3202.

24. Section 3203. Landscaping and Screening
Section-Specific Findings
a. Section 3203 protects quality of life and community character by: (1) Enhancing the appearance of the built environment as viewed from public vantage points; (2) Creating shade along sidewalks and walkways, and within parking lots; (3) Providing a landscaped buffer between residential and nonresidential land uses; and (4) Screening land uses and development that create visual clutter and distraction. § 3203.A.

b. Section 3203.B requires that major site plan applications include a professional landscape plan.
   i. The Board finds that Applicant provided a professional landscape plan.

c. Section 3203.D states “Plant materials shall meet the planting specifications in Figure 3-19. Use of native plant materials is strongly encouraged. Use of invasive plant materials is prohibited.”
   i. The Board finds that the plant schedule included on the 11/5 Landscape Plan does not include any of the invasive species listed here: https://vtinvasives.org/gallery-of-land-invasives, as referenced on the Department of Forest Parks and Recreation website.
   
   ii. Further, during the October 15th DRC hearing, James Findlay-Shirras, the chief landscape architect on the project from Wagner Hodgson, indicated that river birches were chosen as the main tree on the site due to their rapid growth, consistency with other trees along the riverbank, low height to avoid conflicts with the area power lines, ability for successional growth, and resiliency to spraying by the railroad.

d. Section 3203.E Maintenance requires that landscaping be maintained in a healthy condition and dead or dying plant shall be replaced within one growing season.
   i. The Board finds that testimony adduced during the October 15th public hearing indicates that maintenance of the listed plants will be reasonable, and that Applicant agrees to replace dead or dying plants as required.
e. Section 3203.F, states that "[a]pplications requiring major site plan approval within any district except the rural district are required to provide street trees along existing and new streets." Such street trees to be "planted within 5 feet of the edge of the street right-of-way unless otherwise recommended by the Department of Public Works." § 3203.F(1).

f. Per § 3203.F(2), "[i]f a planting area at least 5 feet wide within or immediately adjacent to the street right-of-way does not exist, or is not feasible to establish as determined by the Department of Public Works, the Development Review Board may waive the street tree requirement."

g. Further, "[p]reservation of existing trees to meet [the street tree] requirement is strongly encouraged." § 3203.F(7).

i. Board finds that:

1. The new parcel on which the Parking Garage is proposed has 36 feet of frontage on the public access easement (a private street).

2. The area of land between the garage and the stretch of frontage on the access easement is 5 feet deep, but has been allocated as a paved walkway along its entire length to provide pedestrian access from the Heney Lot and the Christ Church Parking Lot to both the neighboring hotel and to connect to the 8-foot wide pedestrian access to the rear of the garage and the shared-use path.

3. In his November 5th email to Ms. Crandall, the Department of Public Works Director, Mr. McArdle, suggests waiving the street tree requirement under § 3203.F(2), as removing or relocating the walkway is not recommended, and that would be the only way to provide for the minimum planting area for a street tree on the garage-parcel.

4. Although the Board is evaluating three different, yet inter-related, applications, the Board is limited in where it may require additional landscaping, as – other than the removal of the Garage Parcel area from the landscaping plan approved in Permit #Z-2017-0145, Owner has offered no changes to the hotel’s landscaping plan. And, per § 4306.C, when the Board is reviewing a request to amend an approved site plan, "the scope of the review shall be limited to those aspects of the plan affected by the proposed amendment."

5. Per testimony adduced during the November 5th DRC and Board hearings, the landscape plan approved in Permit #Z-2017-0145 includes Owner planting a large gingko tree immediately to the east of the entrance avenue to the parking garage, on the peninsula between the garage entrance and the Christ Church parking lot entrance. Any trees required on the Garage Parcel in this general area would likely interfere with that previously permitted (and therefore, for the Board’s purposes, existing) large tree.

h. Section 3203.I requires a site plan to include landscaped buffers, berms, fences, walls, screens, camouflage or similar mechanisms to minimize impacts of proposed development on adjacent properties and public views. Parking lots, in particular, must be "screened from view from the street and abutting properties to the maximum
extent feasible.” Subsection 3203.1(3).

i. The Board finds that:

(1) Applicant proposes a living wall to screen the parking garage from the surrounding development (including any potential, future residential development by Christ Church).

(2) Birch groves are also proposed along the boundary with the river and the railroad right of way, which will also help to break up the bulk of the garage when viewed from across the river.

Section-Specific Conclusions of Law

Based upon the findings of fact and law presented above, the Board determines that: (i) the professional Landscape Plan does not include invasive species, and therefore meets the requirements of §§ 3203.B and D; (ii) Applicant has agreed to maintain all landscaping, and remove any dead or dying plants within 1 growing season; and (iii) given the specifics of this parcel and the development involved, the proposal provides sufficient mechanisms (e.g., the living wall and decorative screens) to minimize impacts of proposed development on adjacent properties and public views.

Further, relying on guidance from the Department of Public Works Director, and in the interests of prioritizing pedestrian access and safety, the Board has determined that it is not feasible to provide for sufficient planting area for a new street tree along the access easement frontage. Additionally, if any such tree were required, it would interfere with a previously permitted – and therefore, legally “existing” – large street tree, thereby conflicting with § 3203.F(7). Therefore, this Board hereby waives the street tree requirement under § 3203.F for this application; provided, that, the gingko tree approved under Permit #Z-2017-0145 is actually planted and maintained by Owner.

Given the determinations and waiver above, the Board hereby concludes that this application meets the requirements of § 3203.

25. Section 3204. Outdoor Lighting

Section-Specific Findings

a. Section 3204.C requires a “lighting plan prepared by a qualified professional lighting designer or engineer.”

i. The Board finds that this application includes a professionally drafted lighting plan.

b. Per § 3204.D, the Board may approve security lighting in accordance with the following: (a) “[n]o provision of this section shall be interpreted to prohibit the minimum security lighting required to meet state or federal code”; and (c) “[t]he use of timers and sensors to automatically activate and deactivate security lighting is strongly encouraged.”

c. Section 3204.E specifies the applicable Lighting Classes and Zones.

i. The Board finds that this project involves Class 2 Lighting (outdoor lighting used for illumination of walkways, roadways, equipment yards, parking lots, outdoor security or similar applications where general illumination for visibility, safety or security of the grounds is the primary
concern) in Lighting Zone 2 (UC-1) so the following limitations apply to outside lighting:

(1) Lamps with initial outputs of <2,000 lumens must be partially shielded;
(2) Lamps with initial outputs of ≥2,000 lumens must be fully shielded;
(3) Partially shielded light fixtures may, at most, generate 10,000 lumens per acre; and
(4) Total outdoor light fixtures (fully + partially shielded) may generate a maximum of 100,000 lumens per acre.

ii. The Board further finds that the outdoor light fixtures proposed by Applicant include:

(1) One (1) Type SL-1, fully shielded fixture (at the rear of the garage) has a per lamp lumen output of ~8,400, for a cumulative output of 8,400 lumens.

(2) Ten (10) TT Toptier Site, C1-LED-E1-WQ, fully shielded fixtures have a per fixture maximum output of 3,623 lumens, for a cumulative output of 36,230 lumens.

(3) Three (3) Type SL-4, fully shielded fixtures have a per fixture output of 1,768 lumens, for a cumulative output of 5,304 lumens.

(4) Five (5) Type SL-5, fully shielded fixtures have a per fixture output of 1,908 lumens, for a cumulative output of 9,540 lumens.

(5) Seventeen (17) Type SL-8 fixtures have a per fixture output of <1,000 lumens, for a cumulative maximum output of 17,000 lumens. Further, per testimony adduced at the November 5th hearing from Mr. Findlay-Shirras, the intent of these fixtures is to produce a soft glow within the area behind the parking garage that is below and within the retaining wall among the river birches, and the fixtures will be partially shielded, as they will be aimed no higher than 45°, as required by § 5101.L.(6).

(6) The total lumen output of outdoor partially shielded light fixtures will be 17,000 lumens.

(7) The cumulative output of all outdoor fixtures will be 76,474.

iii. The acreage involved in this project equals roughly 1.10+ acres (the 24,393.6 SF Garage Parcel, plus the 23,958 SF Heney Lot), resulting in a cumulative maximum output for partially shielded fixtures of roughly 11,000 lumens.

iv. The Board acknowledges that Montpelier’s Chief of Police, Anthony Facos, conditioned his approval of the project on Applicant working with the Montpelier Police Department to provide adequate security lighting: (a) adjacent to the bike path / rail tracks in 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 (b) on top of the garage. Further, Chief Facos confirmed in his October 25th email to Ms. Crandall that “it appears that the lamp posts and lighting plan should sufficiently illuminate the backside area of concern” on the parking garage site plan.

v. Related to that security lighting, Applicant has agreed to Chief Facos’ request that:

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

(2) Public access to the area under the boardwalk at the rear of the parking garage be restricted with a fence similar to that used on the nearby ramps, consistent with the recommendations from the DRC.

d. Per § 3204.F(6), “[a]ny outdoor light fixture containing a lamp with an initial output of more than 10,000 lumens that will be located within 50 feet of residential property or a public right-of-way shall use an internal or external ‘house side’ shield.”

i. The Board finds that all external lamps proposed by Applicant have initial outputs of less than 10,000 lumens.

Section-Specific Conclusions of Law

Based upon the findings of fact and law presented above, the Board concludes that, with the exception of the cumulative lumen output from partially-shielded outdoor light fixtures, Applicant’s proposal complies with the requirements of § 3204.

Further, given the concerns expressed by the Chief of Police, and the allowance for security lighting requirements in § 3204.D, the Board waives the maximum cumulative lumen output limit for partially-shielded fixtures, on the following conditions: (1) Applicant will install motion sensors to automatically activate and deactivate outdoor lighting where practical and consistent with security requirements of Montpelier’s Chief of Police; and (2) Any new lighting added within the low area surrounding the boardwalk behind the garage at the request of the Chief of Police must be fully shielded, and may not result in a total output for the project site of more than 100,000 lumens.

26. Section 3205. Outdoor Seating, Display or Storage

Section-Specific Findings

a. Per § 3205.B, outdoor seating and service areas for patrons may be permitted as an accessory use, under certain conditions.

b. Outdoor seating is not within the uses that may be regulated by zoning under 24 V.S.A. § 4413.

i. The Board finds that the Applicant proposes outdoor seating on the boardwalk and as part of the gateway/wayfinding proposal requested by the DRC, as seen on the 11/5 Landscape Plan and Pedestrian Direction Sign detail.

Section-Specific Conclusions of Law

Based upon the findings of fact and law presented above, the Board finds it has no authority to regulate the outdoor seating included in this proposal.

27. Section 3206. Solar Access and Shading and Energy Conservation (Major)

Section-Specific Findings

a. Section 3206 applies to any land development requiring major site plan review not located within the Urban Center 1, Urban Center 2, Urban Center 3 or Riverfront districts.

b. Per 24 V.S.A. §4413(g): “[n]otwithstanding any provision of law to the contrary, a
bylaw adopted under this chapter shall not ... Regulate the installation, operation, and 
maintenance, on a flat roof of an otherwise complying structure, of a solar energy 
device that heats water or space or generates electricity. For the purpose of this 
subdivision, ‘flat roof’ means a roof having a slope less than or equal to five 
degrees.”

i. The Board finds that this application does not propose any solar energy 
devices.

ii. One rendering presented by Applicant does include an example of what a 
solar energy device located on top of the parking garage might look like. 
However, Mr. Rabideau testified during the November 5th hearing that this 
rendering was provided solely due to public comment inquiries, and was 
not intended as a proposal or in any way indicative of future phases of the 
project.

Section-Specific Conclusions of Law
Based upon the findings of fact and law presented above, the Board concludes that § 3206 
does not apply to this project, as the parcels in question lie in the UC-1 district, and this is a 
proposal for a community-owned facility exempt from regulation under this provision per 24 V.S.A. § 4413.

28. Section 3207, Design and Compatibility 
Section-Specific Findings
a. Section 3207 requires architectural standards for all projects requiring major site plan 
approval. However, projects in the Design Control District are exempt from the 
architectural standards; provided that they are reviewed by the Design Review 
Committee. § 3207.B.(1).

i. The Board finds that this application has been reviewed by the DRC, in 
compliance with § 2201.

Section-Specific Conclusions of Law
Based upon the findings of fact and law presented above, the Board concludes that § 3207 
does not apply to this proposal.

DEcision

Based upon the Findings and Conclusions set forth above, the Board hereby grants Major Site 
Plan approval for the parking garage, as presented in Application #Z-2018-0117, 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. (a) Submit to the Zoning Administrator, and (b) Record in the City Land 
Records, final, signed versions of the Master Agreement and all relevant 
easements meeting all applicable conditions of the Board’s decision on this 
application, as well as Applications #Z-2018-0115 and #Z-2018-0116;
2. Obtain Department of Public Works approval of the storm sewer system and other drainage improvements, and submit such written approval to the Zoning Administrator; and

3. Submit to the Zoning Administrator a final set of plans, elevations, renderings, and drawings incorporating all conditions listed herein, as acceptable to the Zoning Administrator, such plans to include:
   a. Final subdivision plat with all relevant easement areas;
   b. Existing Conditions Site Plan;
   c. Proposed Conditions Site Plan;
   d. Proposed Conditions Utility Plan;
   e. All Site Specification Sheets, C4.0–4.5;
   f. Traffic Management Plan;
   g. All Details Sheets, including Stormwater Details;
   h. Erosion Control Plan;
   i. ESPC Details & Specifications;
   j. Landscape Plan;
   k. Outdoor Lighting Plan, including the roof of the parking garage, showing the locations and types of all fixtures;
   l. Garage Level Drawings, A101–105;
   m. Garage Elevations, A201 and 202; and
   n. Garage 3D views A901.

II. Applicant shall ensure that the garage includes:
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;
3. At least one heated, enclosed room to allow the sprinkler and standpipe controls to function; and
4. A plan for closing any 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. Within one year following the completion and use of the new hotel and parking garage, Applicant shall ensure the completion of a follow-up traffic study to determine whether the traffic projections from the RSG studies were accurate and to ascertain whether any off-site mitigation may be needed which are directly attributable to the new land uses, such as whether a left-hand turn lane should be added to the access easement’s intersection with State Street.

IV. Applicant shall ensure that all lamps (i.e., light bulbs) used within outdoor fixtures on the subject property shall be Energy Star certified.
V. Applicant shall ensure that any Type SL-8 outdoor fixtures used on the subject property shall be angled no higher than 45° from the ground at the location in which each fixture is located.

VI. Applicant will install motion sensors to automatically activate and deactivate outdoor lighting where practical and consistent with security requirements of Montpelier’s Chief of Police. Should the Chief of Police request additional lighting within the low area surrounding the boardwalk behind the garage, such new lighting must be fully shielded, and may not result in a total light output for the project site of more than 100,000 lumens.

VII. As Applicant has agreed, the garage will include security cameras on each exterior corner, in the stairwells and elevator, pedestrian areas, at the garage gates, and any other enclosed spaces that are not easily visible by routine security patrols.

VIII. Landscaping shall be maintained in a healthy condition. Dead or dying plants shall be replaced within one growing season with a comparable plant (in terms of type, form, size at maturity, etc.) of at least the minimum size requirements specified in Figure 3-20.

IX. Applicant shall coordinate construction of the parking garage with other nearby projects and uses as much as practicable, such that impacts on nearby uses are minimized, while ensuring that construction access is achieved for all relevant projects.

X. A Certificate of Compliance pursuant to § 4207 shall be obtained from the Zoning Administrator following the construction of the parking garage, but prior to occupancy and use.

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, Markowitz, and Rock.
Voting to deny: None.

Kevin O’Connell, Acting Vice Chair

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
<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
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<td>Nathaniel Frothingham</td>
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<td>Paul Carnahan</td>
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<td>Eve Jacobs-Carnahan</td>
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<td>Rebecca Davison</td>
<td>28 Liberty St</td>
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<td>Sandra Vitzthum</td>
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<td>Resource Systems Group</td>
<td>1602 Paine Tpk</td>
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<td>David Grover and Corey Mack</td>
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<td>Stephen Mills</td>
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<td>Sarah Gribbin</td>
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