DEVELOPMENT REVIEW BOARD
NOTICE OF DECISION

Applicant: Capitol Plaza Hotel (c/o Rabideau Architects)
Property Owner(s): Capitol Plaza Hotel
Address: 100 State Street
Application # Z-2018-0116, Amending Permit # Z-2017-0145
Zone: Urban Center I/Central Business I Flood Hazard Area/Design Control Overlay District

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

PROCEDURAL HISTORY and APPLICANT REQUEST

1. Application Date: September 24, 2018

2. Applicant’s Proposal: The Applicant seeks approval to amend Permit #Z-2017-0145 to reflect changes to the Site Plan and Utility Plan as authorized by that permit:

   a. Remove from the plans the area containing the previously permitted parking garage, which is surrounded by a “bubble” on the Proposed Site Plan; and

   b. Instead of the 230 parking spaces currently approved as on-site, parking-garage spaces, authorize the hotel to have 200 off-site parking spaces in a City-owned parking garage, and approve 55 surface parking spaces on site – two (2) more than previously authorized.

3. Zoning District/Applicable Provisions: The subject parcel is at 100 State Street on a 119,616.85 SF parcel in the Urban Center I (hereinafter, “UC-1”) Zoning District as indicated on the Official City of Montpelier Zoning Map adopted by the City Council on January 3, 2018, as part of the City’s current Unified Development Regulations (the “2018 Regulation”). However, Permit #Z-2017-0145 was granted by the Development Review Board (the “Board”) under the City’s Zoning and Subdivision Regulations, adopted by the City Council on August 30, 2006, as amended through January 26, 2011 (the “2011 Regulations”), meaning that at the time the permit issued the parcel was in the Central Business I (“CB-I”) Zoning District.
4. **History:** Including this application, three inter-related zoning applications were presented before 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. This 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.

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, during which 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
  1. 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. Hellinger
     ii. John Russell
     iii. Sandra Vitzthum
     iv. Andrea Stander
     v. Nathaniel Frothingham
     vi. Les Blomberg
     vii. Elizabeth Slayton
     viii. William J. Koucky
     ix. Lisette Elise Paris
     x. 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
(collectively, the “Petitioners”). The petition is defined further below in the list of Materials Submitted by Public at the November 5th Hearing.

2. James Findlay-Shirras, from Wagner Hodgson Landscape Architecture (hereinafter, “Wagner Hodgson”)
3. Ron Lyon, of DuBois & King

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 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 questions regarding particular features of the hotel site plan approved by Permit #Z-2017-0145 but not raised in the subject application. 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 in Application:

1. Development Application, dated 9/24/2018;
2. Zoning Permit Attachment, dated 9/21/2018;
3. Montpelier Hotel, Overall Orthophoto, Sheet Number C-1, prepared by DuBois & King, Inc., dated 9/19/2018;
4. Montpelier Hotel, Orthophoto, Sheet Number C-2, prepared by DuBois & King, Inc., dated 9/19/2018
5. Montpelier Hotel, Existing Conditions Plan, Sheet Number C-3, prepared by DuBois & King, Inc., dated 9/19/18;
6. Montpelier Hotel, Proposed Improvement Site Plan, Sheet Number C-4, As Approved Under Permit #Z-2017-0145, prepared by DuBois & King, Inc. (the “Approved Site
7. Montpelier Hotel, Proposed Utility Site Plan Schematic, Sheet Number C-5, As Approved Under Permit #Z-2017-0145, prepared by DuBois & King, Inc. (the “Approved Utility Plan”);

8. Montpelier Hotel, Proposed Improvement Site Plan, Sheet Number C-4, Exhibit Revisions for Development Review Board Review, prepared by DuBois & King, Inc., dated 9/27/18 (the “Proposed Site Plan”);


10. Montpelier Hotel, Proposed Utility Site Plan Schematic, Sheet Number C-5, prepared by DuBois & King, Inc., dated 9/19/18 (“Proposed Utility Plan B”);

11. Hampton Inn Capitol Plaza, Landscape Plan, Subdivision Changes to Approved Plan, Sheet Number L100, by Wagner Hodgson, revision date 9/26/18 (the “Landscape Plan”)

Additional Materials Submitted by Applicant on 10/1/2018.

12. Drawing Number H1.0, by Civil Engineering Associates, Inc., dated Sept., 2018 (“Drawing H1.0”);

Supplemental Materials Supplied by Applicant by October 19, 2018

13. Montpelier Hotel, Proposed Improvement Site Plan, Sheet Number C-4, Submitted for November 5th Hearing, prepared by DuBois & King, Inc., dated 10/19/18, clarified copy requested by Staff and received by Department of Planning and Community Development 10/25/18 (the “Updated Proposed Site Plan”);

14. Montpelier Hotel, Proposed Utility Site Plan Schematic, Sheet Number C-5, Submitted for November 5th Hearing, prepared by DuBois & King, Inc., dated 10/19/18, clarified copy requested by Staff and received by Department of Planning and Community Development 10/25/18 (the “Updated Proposed Utility Plan”);

Materials Supplied by Staff for 10/15 Hearing

15. Email correspondence between Ms. Crandall, Stephanie Hainley, Chief Operating Officer and Senior Project Manager for White + Burke Real Estate Investment Advisors, Inc., William Fraser, City Manager, and Sue Allen, Assistant City Manager, re: access easement, dated 10/10/18 (the “October 10th Email”);

Materials Supplied by Staff for 11/5 Hearing


17. Letter from Daniel P. Richardson, Board Chair, to Ms. Crandall re: Recusal for 100 State Street Applications (#Z-2018-0115; Z-2018-0116; and Z-2018-0117), dated 10/24/28;

18. Montpelier Development Review Board Report, as updated from the October 11th version for the November 5th hearing – prepared by Ms. Crandall, dated November 1, 2018 (the “Hotel SPA Staff Report”);

Materials Submitted by Public During the November 5th Hearing

20. 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

Per the § 4306.C requirement that the review be the same as “for the original approval,” the Board applied the 2011 Regulations to the substantive review of this proposal, while procedural matters were handled in accordance with the 2018 Regulations.

5. Existing Conditions: The parcel is an existing 119,616.85 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.

Applicant has approval under Permit #Z-2017-0145 to construct a five-story hotel building (Hampton Inn) with 81 rooms and a four-story, 230 parking space parking garage on the site. Construction has not yet begun.

6. Permit/Parcel History: A parking garage was originally proposed by Applicant as part of its plan to meet on-site parking requirements for the five-story hotel authorized by Permit #Z-2017-0145, which was granted by the Board under the 2011 Regulations. 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.

Applicant has submitted this site plan amendment application as part of the process required to maintain compliance with the 2011 Regulations parking requirements now that the garage will be owned by the City.

7. Project Scope: The Applicant’s request seeks approval to amend Permit #Z-2017-0145 to reflect changes to the Site Plan and Utility Plan as authorized by that permit such that:

a. The area containing the previously proposed parking garage, which is surrounded by a “bubble” on the Proposed Site Plan, would be removed, consistent with the subdivision request made in Application #Z-2018-0115;
b. Instead of the 230 parking spaces currently approved as on-site, parking garage spaces, the hotel would have 200 off-site parking spaces in a City-owned parking garage, and 55 surface parking spaces on site – two (2) more than previously authorized; and

c. Additional changes would occur to the vehicle route that connects State Street, Taylor Street, access to the hotel authorized under Permit #Z-2017-0145, the new parking garage, and the neighboring Christ Church parking lot.

8. **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. Under the 2018 Regulations, the parcel is in the Downtown Business Neighborhood in the UC-1 Zoning District. Under the 2011 Regulations, the parcel was in the CB-I Zoning District. It is also within the Design Control Overlay District and the Flood Hazard Area.

9. **Design Review §305:** The parcel is within the Design Control District.
   
i. The Board finds that:
   
(1) The prior permit’s application was reviewed by the Design Review Committee five times, considering various aspects of the evolving project. None of the site plan revisions requested by this application required further Design Review.

(2) The Design Review Committee has reviewed the plans associated with Application #Z-2018-0117, and has recommended changes to landscaping on Applicant’s property to assist with the pedestrian access features on the property that is proposed to contain the City-owned parking garage. Further, Applicant has agreed to incorporate the following Design Review Committee Recommendation in its final Landscape Plan: 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.

10. **Table 607. Dimensional Requirements for Lots, Yards & Buildings**
    
*Section-Specific Findings*

a. The dimensional requirements for the CB-I District are found on Table 607 in the 2011 Regulations.

b. **Lot Area:** The minimum lot area in CB-I is 5,000 SF with off-lot water and sewer, or 10,000 SF for residential uses.

   i. The Board finds that the parcel currently contains 2.74+ acres (119,786.85 SF). If the Board grants the City’s separate subdivision request, the parcel at issue will contain 2.19+/- acres (95,396.4+/- SF).

c. **Frontage:** No changes are proposed in this amendment application implicating the lot frontage.

d. **Setbacks:** The setbacks in the former CB-I district are 0’ (front), 0’ (side), and 20’ (rear).

   i. The Board finds that:

   (1) Applicant proposes no changes to the rear setback behind the
approved, but not yet constructed hotel.

(2) The new eastern property boundary is in compliance, as the side setbacks are 0 feet.

(3) Removing the garage and subdivided land from Applicant’s parcel means that the variance associated with Permit #Z-2017-0145 allowed the garage to encroach into the rear setback is no longer applicable.

e. **Lot Coverage:** The maximum building coverage in CB-I is 100%.
   i. The Board finds that, with the removal of the garage, the proposed coverage on the subject parcel will still be less than 100%.

f. **Building Height:** No changes to building height are requested.

**Section Specific Conclusions of Law**

Based upon the findings of fact and law presented above, the Board concludes that the proposed amendments to Zoning Permit #Z-2017-0145 comply with all applicable dimensional requirements of Table 607 from the 2011 Regulations, as:

1. No changes have been proposed to frontage or building height;
2. The revised lot area meets the setback and density requirements; and
3. The proposed amendments will not violate the coverage maximum.

**SITE PLAN CRITERIA § 306 (2011 REGULATIONS)**

In accordance with 24 V.S.A. § 4416, all development involving non-residential and multifamily uses shall be reviewed by the Board: (a) to assure the project’s compatibility with its location and the Montpelier Municipal Plan, (b) to promote the highest quality design for such development, and (c) to prevent and/or mitigate potentially negative impacts resulting from the development.

11. **Streets § 702**

**Section-Specific Findings**

a. Per § 702.C, “development shall not cause unreasonable congestion or unsafe conditions with respect to use of existing streets and intersections.” The Board has the option of requiring a traffic impact study, which must be reviewed by the Department of Public Works.

i. The Board finds that the subject parcel has vehicular access off Taylor Street and State Street. Applicant is in the process of negotiating a public access and maintenance agreement with the City to allow public access over the route to the new City-owned parking garage. See further analysis regarding this easement at #13.

ii. The Board finds that the change in ownership of the parking garage, such that: (a) two hundred (200) of the hotel’s parking spaces will be off-site – but in the same general physical location as approved previously; and (b) there will be two (2) more on-site parking spaces, does not result in a change to the Board’s prior analysis under § 702.

**Section Specific Conclusions of Law**

Based upon the findings of fact and law presented above, the Board concludes that this application will not cause unreasonable congestion or unsafe conditions with respect to use...
of existing streets and intersections. Therefore, this proposal meets the requirements of § 702.

12. **Pedestrian access and circulation § 703**

*Section-Specific Findings*

a. Section 703 requires lot layouts, site design, and site elements to provide for pedestrian circulation, such as through the provision of sidewalks, bicycle paths, easements, or some combination thereof. Such facilities should be located to provide circulation within a development between buildings and parking areas, to common areas within a development, to adjacent properties, and to schools, parks, shopping areas, transportation and other community facilities. Pedestrian facilities are required whenever necessary to serve existing or projected pedestrian traffic, to provide safety along vehicular traffic locations, or to provide connections to existing pedestrian facilities. Pedestrian facilities may include sidewalks, bicycle paths, or other facilities intended to serve any form of non-vehicular transportation including pedestrians, bicycles, roller blades, stroller, etc. The ordinance requires that all sidewalks and paved paths comply with the access requirements of the Americans with Disabilities Act.

i. The Board finds that:

1. Applicant proposes internal pedestrian walkways and sidewalks connecting the surface parking area, hotel, and the proposed City-owned parking garage. See Landscape Plan (Sheet L100) and the Updated Proposed Site Plan (Sheet C-4). These pedestrian walkways and sidewalks are shown to connect with the existing buildings and public sidewalks on State and Taylor Streets. An additional pedestrian walkway is shown on the Landscape Plan (Sheet L100) between the proposed hotel and parking garage connecting to the City’s shared use path.

2. Per this Board’s approval of Permit #Z-2017-0145, which included review by the Department of Public Works, the Updated Approved Site Plan complies with all ADA accessibility issues.

3. During the October 15th and November 5th hearings, Applicant agreed to incorporate into the final, amended site plan all of the features included in the Parking Garage Traffic Management Plan, Drawing No. C1.3, by Civil Engineering Associates, Inc., dated 10/19/18, which was presented as part of inter-related Application #Z-2018-0117 (the “Traffic Management Plan”) – such as stop signs and other directional signs, and crosswalks.

*Section Specific Conclusions of Law*

Based upon the findings of fact and law presented above, the Board determines that this application provides for pedestrian access and circulation, and that all sidewalks and paved paths comply with the access requirements of the Americans with Disabilities Act; provided, that within 60 days of the Board’s decision, and prior to issuance of a zoning permit, Applicant shall submit to the Zoning Administrator final Site, Utility, and
Landscape Plans incorporating all features that will be located on Applicant’s property from the final Traffic Management Plan approved as part of Application #Z-2018-0117.

Provided that the above condition is met, the Board concludes that this proposal meets the requirements of § 703.

13. Vehicular access and circulation § 704
Section-Specific Findings
a. Section 704.C, Access Management, includes requirements that: (i) parking spaces be “separated from access lanes sufficiently to prevent conflicts with entering/departing vehicles”; and (ii) that parking lots on adjoining properties be “interconnected and common entrances and exits” be used “whenever practical.”
   i. The Board finds that
      (1) The proposed development will be accessed by existing curb cuts off Taylor Street and State Street. Both curb cuts will be 24 feet in width. Vehicles may enter the site using either curb cut. Both curb cuts appear to have been designed to accommodate 2-way traffic.
      (2) The access easement will have 24-foot wide travel corridors, while the segment of the easement that extends from in front of the Christ Church parking lot to the parking garage parcel will be 36 feet wide.
      (3) Per testimony adduced at the November 5th hearings, Applicant and the City are in the final stages of negotiating an agreement to: (a) transfer ownership of a parcel of land from Applicant to the City; (b) formalize the ownership and maintenance responsibilities for the public access easement over Applicant’s retained property; (c) provide for the lease of 200 parking permits in the proposed City-owned parking garage to Applicant; and (d) provide for any other necessary rights and responsibilities of the parties related to this proposal and the inter-related projects (hereinafter, the “Master Agreement”).

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 § 704; provided, that, prior to issuance of a zoning permit, Applicant shall: (A) submit to the Zoning Administrator; and (B) record in the City Land Records, final, signed versions of the Master Agreement and applicable easements meeting all applicable conditions of the Board’s decision on this application, as well as Applications #Z-2018-0115 and #Z-2018-0117.

14. Parking §§ 705
Section-Specific Findings
a. Table 705(B)(2) outlines the parking requirements under the 2011 Regulations. Hotels (P-7) require one off-street parking space per lodging unit or hotel/motel room. The existing retail (P-11) and office (P-11) uses require one off-street parking space per each 400 sq. ft. of net floor area.
b. Per § 705.A, the Board may, at its discretion, approve various means of meeting the parking requirement, including parking on “another suitably located private site, as provided in 705.F.”

c. Section 705.B notes that “[i]n general, the Board shall seek to require sufficient parking spaces to meet anticipated demand but also avoid provision of excess parking areas.”

d. Per § 705.F, private off-site parking must be “no more than 1,000 feet from the off-site parking space to the building entrance in which the use is located.” Such distance to be “measured as the distance traveled by a pedestrian walking along a route easily traveled and intended for pedestrian use.”

e. ADA requirements mandate that a parking lot or garage with 51–75 parking spaces have at least three (3) ADA accessible spaces, with at least one (1) of them being “van accessible.”

   i. The Board finds that the existing and approved uses on the subject parcel require a minimum of 165 parking spaces:
      (1) The existing 60 room hotel requires 60 spaces;
      (2) The existing 9,757 SF of retail and office space require 24.3 spaces;
      (3) The 81-room hotel approved in Permit #Z-2017-0145 requires 81 parking spaces.

   ii. The Board finds that the site plan approved in Permit #Z-2017-0145 provided for two hundred and eighty-three (283) parking spaces: fifty-three (53) 90-degree surface spaces, and a 4-story parking garage containing a total of 230 spaces (4 levels):
      (1) Five (5) surface parking spaces are delineated as handicap accessible near the State Street curb cut, with two (2) of these being van-accessible.
      (2) There are also four (4) electric vehicle charging station spots, located in the “L” of the rear of the existing hotel.
      (3) The 90-degree parking spaces measure approximately 9’ x 18’.
      (4) The aisle width of both the northern and western access drives are shown to be 24’.

   iii. The Board finds that this application proposes a total of two hundred and fifty-five (255) parking spaces: (a) fifty-five (55) on the subject parcel; and (b) two hundred (200) located off-site, in the City-owned parking garage. This is 89 more than the minimum required by the 2011 Regulations, and 28 fewer than authorized by the prior permit (though with two-more surface parking spaces than approved previously).
      (1) Applicant has reduced the on-site ADA accessible parking spots to three (one van accessible), located on the hotel and NSB side of the northern access route to State Street.

   iv. The Board finds that there is roughly 100 feet between the main entrance of the proposed hotel and the closest possible pedestrian entrance to the proposed City-owned parking garage, meaning that more than 200 parking spaces within said parking garage will be within the required 1,000 feet of a hotel entrance. Further, during the October 15th hearing, Applicant’s
representative agreed that the requirements of § 705.F would be met.

Section Specific Conclusions of Law

Based upon the findings of fact and law presented above, the Board concludes that the total number of parking spaces requested (255, with 55 surface spaces on-site) meets the minimum required by § 705, as well as the placement requirements, and the number of ADA accessible parking spaces complies with ADA requirements. Therefore, this application meets the requirements of § 705.

15. Loading & Siting of Parking and Loading Spaces §§ 706 and 707

Section-Specific Findings

a. §706: For any building erected for the purpose of business, trade or industry, the regulations require sufficient space for loading and unloading of vehicles be available to meet the needs of the use. For buildings containing hotels, motels, hospitals, commercial, business service, or industrial establishments as a primary use, one off-street loading space for every 10,000 square feet of gross floor area is required. Section 706(B) allows the Board the authority to grant a waiver for any or all of the loading requirements in the Design Control District if it finds that such a waiver will advance the purpose of the Design Control District. In the CB-I district, the Board may waive any or all off-street loading requirements.

b. Section 707 provides general standards for the siting of parking and loading spaces and requires that parking and loading spaces not visually dominate the appearance of the lot.

i. The Board finds that:

(1) Permit #Z-2017-0145 authorizes a +54,000 SF hotel, which typically requires five (5) off-street loading spaces. In its May 29, 2018, decision, the Board waived this requirement, allowing Applicant to use the recessed curb in front of the new hotel for temporary loading and unloading, given the testimony from Applicant during a May 7th hearing regarding the limited number of expected deliveries (limited food service will be provided at the new hotel, and all laundry services will be performed at the adjacent Capitol Plaza Hotel without requiring the loading or unloading of vehicles).

(2) Applicant has approval for a surface parking area with landscaping and pedestrian improvements to accommodate 53 surface parking spaces. Applicant has not proposed any major changes to the placement of those parking spaces (just an increase to 55 spaces), with no changes to the associated landscaping.

(3) Members of the public questioned whether the loading space waiver should continue to apply to this amended site plan, particularly given the inter-related Application #Z-2018-0117. However, the Board’s authority in this respect is limited by § 4306.C of the 2018 Regulations, which states that “The process for reviewing and issuing a decision on an amendment [to approved plans] shall be the same as for the original approval.
except that the scope of the review shall be limited to those aspects of the plan affected by the proposed amendment.” Applicant has not proposed any changes to the size or use of the permitted hotel that would alter the Board’s analysis of the loading requirements under § 706, and the resulting waiver of said requirements.

Section Specific Conclusions of Law

Based upon the findings of fact presented above, the Board concludes that this application continues to meet the requirements of § 706 for loading areas and § 707 for the siting of parking and loading spaces.

16. Landscaping and Screening § 708

Section-Specific Findings

a. Per Section 708.B. Plantings, the Board:

[M]ay require expenditures for on-site planting in an amount up to 3% of the total development costs. In determining the appropriateness of the landscaping plan, the Board may seek input from the Tree Board and shall consider the following elements:

1. Mature Size: Plantings shall be appropriate to function and shall have available space above and below ground.
2. Function: Plantings shall be suited to the aesthetic and functional needs of the site and shall not be put in unsafe locations.
3. Soils: Soil conditions shall be suitable for the proposed plantings.
4. Disease Resistance: Insect and disease resistant varieties shall be used whenever possible.
5. Tolerance for Site Conditions: Plantings shall be tolerant for salt, exhaust fumes, drought, wetness, wind, and any other adverse site conditions.

b. Parking lots containing ten or more spaces shall be planted with a least one tree per eight spaces, no smaller than two inches caliper, planted in a bed of no less than 40 square feet. The Development Review Board may require fewer trees if the required landscaping results in undue loss of parking. § 708.D.

c. Under § 708.E, the “Board may require parking areas, loading docks, service entrances, dumpsters, propane tanks, open storage areas, exposed machinery, and waste disposal areas to be screened from public streets and adjacent land uses. The screening may consist of densely planted landscaping, fencing, land forms, or a combination thereof. The screening area shall be five feet wide at a minimum. The location, design, and height of all elements of the screening must be reviewed and approved by the Board.”

i. The Board finds that:

   (1) Applicant’s revisions to the previously permitted landscape plan (removal of the landscaping on the portion of the subject parcel that will be subdivided and transferred to the City of Montpelier), results in a total proposal for fifty-six (56) deciduous trees, five (5) evergreen trees, and numerous shrubs, perennials, and ornamental grasses. See Landscaping Plan.

   (2) Currently, Applicant is proposing 55 parking spaces within the on-
site parking lot. This requires only 6.875 trees per the requirements of § 708.D. Even if the Board considers all 255 parking spaces available for the hotel, both on and off-site, the total number of trees required is only 31.875.

(3) See also discussion regarding further landscaping changes requested by the Design Review Committee, and agreed to by Applicant, at #9.

Section Specific Conclusions of Law

Based upon the findings of fact and law presented above, the Board concludes that the 61 trees proposed for the amended landscape plan meet the requirements of § 708. The Board further concludes that the final Landscape Plan filed with the Zoning Administrator per conditions herein must include those landscaping changes recommended for this parcel by the Design Review Committee during its review of Application #Z-2018-0117.

17. Signs §§ 504 & 711
Section-Specific Findings
a. Section 504.B.2.f. states that signs required by the City of Montpelier “in the interest of the public are essential services and shall be permitted in any district without permit application or review.”
   i. The Board finds that:
      (1) This application does not propose any signs. However, Application #Z-2018-0117 does propose that the City install vehicular traffic and pedestrian guidance signage, most on the property involved in this site plan amendment.
      (2) Vehicular traffic and pedestrian guidance signs are “in the interest of the public,” as they facilitate safe and efficient travel.
      (3) In the interest of transparency and completeness of permit files, any signage required or approved by this Board in its decision on Application #Z-2018-0117 must be included in the final plans filed with the Zoning Administrator per the conditions herein.

Section Specific Conclusions of Law

Based upon the findings of fact and law presented above, the Board concludes that this application – which proposes no additional signs – complies with the provisions of §§ 504 and 711; provided, that any signage required or approved by this Board in its decision on Application #Z-2018-0117 shall be included in the final plans filed with the Zoning Administrator per the conditions herein.

18. Floodplain Development § 716
Section-Specific Findings
i. The Board finds that:
   (1) This project is located within the Special Flood Hazard Area.
   (2) Applicant obtained Flood Plain Approval prior to the issuance of Permit #Z-2017-0145.
(3) None of the changes proposed in this Application require further approval under the City’s floodplain regulations.

Section Specific Conclusions of Law
Based upon the findings of fact and law presented above, the Board concludes that this project meets the requirements of § 716, as the previous Flood Plain Approval is still valid.

Section-Specific Findings
i. The Board finds that the parcel is currently served by municipal water and sewer, and none of the changes proposed by this Application require additional flows or increased capacity, or re-routing of water or sewer lines.

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 the water supply and sewage disposal criteria, and therefore complies with §§ 721 and 722.

20. Utilities § 725
Section-Specific Findings
a. All new construction requiring zoning permits shall have underground utility service from the nearest appropriate utility pole including electric, cable television, and telephone services unless this requirement is waived by the Development Review Board for good cause.
   i. The Board finds that:
      (1) The Updated Proposed Utility Plan proposes no changes to the approved utility routes, though some specifics have changed (i.e., a 6-inch waterline instead of a 12-inch line).
      (2) Per the Department of Public Works’ review of the inter-related Application 3Z-2018-0117, additional utility features (such as a district heat service line) may be routed over Applicant’s property for service to the new, City-owned parking garage.
   ii. Further, the Board finds that it is essential that the final site plan incorporated in any permit issued in response to this application contain all relevant utility information.

Section Specific Conclusions of Law
Based upon the findings of fact and law presented above, the Board concludes that this application meets the utilities criteria, and therefore complies with § 725; provided, that, all utilities required or approved by this Board in its decision on Application #Z-2018-0117 that must be routed over the property subject to this application be included in the final plans filed with the Zoning Administrator per the conditions herein.

Further, given the conclusions at ##11-20, above, the Board hereby grants site plan approval to the amendments to Permit # Z-2017-0145 as requested by Application
DECISION

Based upon the Findings and Conclusions set forth above, the Board hereby unanimously (6-0) grants approval for amending Permit #Z-2017-0145, as presented in Application #Z-2018-0116 and supporting materials, subject to the following conditions and requirements:

I. This approval does not result in the issuance of a new permit, but is merely an amendment to the site and landscaping plan approvals under Zoning Permit #Z-2017-0145, and no change in expiration date shall be implied from this action.

II. Except as modified in this amendment, all conditions of previous Development Review Board approvals for Zoning Permit #Z-2016-0145 remain in full force and effect, including, but not limited to, the requirement for a Certificate of Compliance.

III. Within 60 days of the Board’s decision, and prior to issuance of a zoning permit, Applicant must submit to the Zoning Administrator: (A) Final Site Plan and Utility Plan documents incorporating all site features, the traffic management plan (e.g., signage, markings, etc.), and utility specifics applicable to the subject property, including those approved by this Board as part of Application #Z-2018-0117; and (B) a final Landscaping Plan that revises that landscaping around the access between the proposed hotel and the City’s proposed garage to invite access rather than hide the access to the pathway, as well as indicating the planned open curbing for walkable access.

IV. Further, within 60 days of the Board’s decision, and prior to issuance of a zoning permit, Applicant must: (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-2018-0117.

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
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Nathaniel Frothingham  
7 Hillside Dr  
Montpelier, VT 05602

Paul Carnahan  
Eve Jacobs-Carnahan  
14 Sabin St  
Montpelier, VT 05602

Rebecca Davison  
28 Liberty St  
Montpelier, VT 05602

Ron Lyon, Dubois and King  
1602 Paine Tpk  
Berlin, VT 05602

Sandra Vitzthum  
14 Loomis St  
Montpelier, VT 05602

Sarah Gribbin  
234 Main St  
Montpelier, VT 05602

Stephen Mills  
47 North Main St  
Suite 200  
Barre, VT 05641

Stephen Whitaker  
PO Box 1331  
Montpelier, VT 05601

Steve Everett  
60 Chestnut Hill Rd  
Montpelier, VT 05602

Sue Allen  
39 Main St  
City Hall  
Montpelier, VT 05602

Tim Heney  
81 Main St  
Montpelier, VT 05602

Timberlake Associates  
Wesco Inc.  
32 San Remo Dr  
So Burlington, VT 05403

Tom Golonka  
64 Meadowbrook Dr  
Montpelier, VT 05602

Tom McArde  
39 Main St  
City Hall  
Montpelier, VT 05602

United States of America  
87 State St  
Montpelier, VT 05602

Vermont Mutual Insurance Co.  
PO Box 188  
Montpelier, VT 05601

Vermont State (BGS)  
2 Gov Aiken Ave  
Montpelier, VT 05602

Washington County of  
65 State St  
Montpelier, VT 05602

William Kouicky  
5 Deerfield Dr  
Montpelier, VT 05602