

Montpelier Development Review Board
August 1, 2005
City Council Chambers, City Hall

Subject to Review and Approval

Present: Philip Zalinger, Chair; Kevin O'Connell, Vice Chair; Alan Blakeman; Douglas Bresette; Roger Cranse; Jack Lindley; Guy Teschmacher; and Ylian Snyder (Alternate)
Staff: Stephanie Smith, Administrative Officer

Call to Order

The meeting was called to order by Mr. Zalinger.

Minutes of July 5, 2005, Meeting

Mr. Lindley made a motion to approve the minutes of the July 18, 2005 meeting. Mr. Blakeman seconded the motion. The Board voted 6-0 (Mr. O'Connell abstained) to approve the minutes.

I. Consent Agenda

a. Design Review

Property Address: 100 State Street
Applicant: Frederick Bashara for Capitol Plaza Hotel
Property Owner: Capitol Plaza Hotel
Zone: CB-I/DCD

- Replace existing wooden railing with 36" wrought iron railing on the edge of existing deck
- A 42" tall wrought iron fence in planting beds.
- DRC recommended approval with optional changes

Mr. Bashara said that he had attended the meeting of the Design Review Committee and agreed with its recommendations. Ms. Smith said that she wanted to clarify that the wrought iron fence adjacent to the parking lot will be set back at least 6" from the edge of the back of the sidewalk to allow for snow plowing. Mr. Bashara said that would be the case. He said that he had cleared that with Tom McArdle.

Mr. Blakeman made a motion that the Board grant design review approval with the DRC and staff recommendations. Mr. O'Connell seconded the motion. The motion was approved unanimously.

b. Design Review

Property Address: 2 Liberty Street
Applicant: Daniel and Britt Richardson
Property Owner: Daniel and Britt Richardson
Zone: HDR/DCD

- Landscaping improvements including a 25' long stacked stone retaining wall
- DRC recommended approval with optional changes

The applicants said that they had reviewed the DRC recommendations and are in agreement with them. Ms. Smith said that Tom McArdle asked for the opportunity to review the location of the retaining wall to ensure that it would not be damaged by plows during snow removal activities. Mr. McArdle also wanted to ensure that any curb cut needed to expand the driveway would be subject to review by the Public Works office. Mr. Richardson said that he had already discussed those matters with Mr. McArdle.

Mr. O'Connell made a motion that the Board grant design review approval with the DRC recommendations. Mr. Cranse seconded. The motion was approved unanimously.

II. Public Hearing - Variance, Conditional Use and Design Review

Property Address: 183 Main Street
Applicant: Benjamin Cheney
Property Owner: Benjamin Cheney
Zone: HDR/DCD

- Change from two family to three family dwelling
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Interested Parties: Ben Cheney and Ellen Miley

Ms. Smith described the application for a variance from the requirement for the minimum area per family in order to allow for three units in an existing structure. She said that the application will also require conditional use review for the expansion of the use within an existing noncomplying property. She said that the house encroaches into the front and side yard setbacks. Ms. Smith said that a prior approval authorized the change from a single family dwelling to a two-family dwelling. Mr. O'Connell asked whether the conversion had taken place. Mr. Cheney said that the house is presently under renovation. Mr. Cranse asked which of the three lot sizes noted in the staff report was the most reliable. Ms. Smith said that the survey found the lot to contain 4,449 s.f. and she would expect that figure to be the most accurate. Mr. Cranse noted that the lot size is close to the 4,500 s.f. minimum required area.

Ms. Miley described other buildings in the area that do not meet the requirement for the minimum area per family. She said that 8 Loomis Street has 14 units on 0.37 acres (or 1,150 s.f. per dwelling), 2 Jay Street has four units on 0.12 acres (or 1,306 s.f. per unit), 19 Franklin Street has three units on 0.07 acres (or 1,016 s.f. per acre) and 269 Elm Street has four units on 0.08 acres (871 s.f. per unit). She said that the application will allow for the creation of three studio apartments, but the number of residents in the building will not change. She said that, if only two units were created, one unit would be an overlarge 3 ½ bedroom apartment and one would be a studio apartment. She said that could result in eight residents rather than six residents for the three studio apartments. Ms. Cheney said that the foot print of the building is only 588 square feet so there is a high proportion of green space on the lot. She said that there will be an effort to keep the number of cars parking on the lot down to three. Mr. Zalinger asked whether this was the property that previously received approval for the demolition of a garage. Ms. Smith said that it was and the garage has been removed.

Ms. Miley said that she understood that there was a precedent for this type of request. Ms. Smith said that the Zoning Board of Adjustment granted a variance at 5 Baldwin Street for five units in a 4-unit building on a lot that did not meet the minimum area per family. Mr. Zalinger said that he was not sure that precedent has any impact on the Board's ability to grant a variance. He asked if anyone wished to be heard on the application. There was no response. Mr. Zalinger said that he would like to know when the lot was created. Ms. Smith said that the adjacent structures are older buildings. Mr. Teschmacher said that the survey refers to deeds from 1878, 1880, 1902 and 1917.

Mr. Zalinger asked Ms. Smith how she was able to issue the permit for the structure to convert from a single family home to a two-family home. Ms. Smith said that the proposal met the minimum area per family requirement. She said that she may have erred in that a conditional use review would have been required due to the setback non-conformities.

The Board considered the variance criteria:

1. *That there are unique physical circumstances or conditions, including irregularity, narrowness, or*

- shallowness of lots size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located. The main building was constructed in 1876. The lot is a pre-existing nonconforming lot.*
2. *That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is, therefore, necessary to enable the reasonable use of the property.* Mr. Zalinger said that he was having difficulty with this criterion. He said that it was not clear that the need for the variance for the third unit was based on the physical circumstances of the lot. Mr. Cranse said that it is reasonable for a landlord to use the property efficiently and that cannot be done without three units. He said that seems to be a reasonable use of the property and the hardship arises from the lot size which is only 51 square feet short. Mr. O'Connell said that a literal reading of the requirement does not allow much room to maneuver, but the question is whether the Board should use some latitude and determine whether it is a reasonable project.
 3. *That the unnecessary hardship has not been created by the appellant, and the hardship relates to the applicant's land, rather than personal circumstances.* Mr. O'Connell said that this is really the same issue. Mr. Zalinger agreed. He said that the applicant did not create the lot, but it is the applicant's decision to make the number of units three instead of two. Ms. Cheney said that the proposal is an attempt to keep the population down by creating three smaller units rather than on large unit and one smaller unit. She said that it is not a financial issue as much as an attempt to limit the number of people and cars on the site. Mr. Cranse noted that the application form says that three units are proposed because it will be difficult to rent the large unit. Ms. Cheney said that the response on the application form was poorly worded because the actual issue is limiting the number of people so that the site can be kept looking nice. Mr. Bresette said that the issue is really just 51 square feet. He said that no variance would be required if the property were one foot longer and it seems to be ludicrous to prevent more efficient use of the property due to a difference of one foot in length.
 4. *That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use of development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare.* There is no record of objections from adjoining property owners. The proposal will not be detrimental to the public welfare. Renewable energy resources are not applicable.
 5. *That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and from the Montpelier Municipal Plan.* The variance to account for 51 square feet is minimal.
 6. *The variance will not result in the initiation of a nonconforming use of land.* The use will continue to be residential housing in the HDR zone.

Mr. Cranse made a motion that the application for a variance from the requirement for the minimum lot area per unit be approved. Mr. Bresette seconded. The motion was approved by a vote of 6 in favor and 1 abstention (Mr. Zalinger).

The Board considered the conditional use criteria and the site plan provisions.

1. *Capacity of existing or planned community facilities.* One additional unit will not adversely impact

- the capacity of community facilities.
2. *Character of the area affected.*
 - a. *Performance standards in 814*
 - i. *No use shall emit noise at the property line in excess of the standards set in the Montpelier code of Ordinances, Chapter 11, Article 10 [814].*
 - ii. *Emit odor which is offensive at property line [814]*
 - iii. *Emit dust or dirt at the property line [814]*
 - iv. *Emit smoke in excess of Ringmann Chart no.2 [814]*
 - v. *Emit noxious gasses which endanger the health, comfort, safety, or welfare of any person, or which have a tendency to injure or damage property, business or vegetation*
 - vi. *Emit lighting or signs which cause undo glare, which could impair the vision of a driver of any motor vehicle or are offensive to the neighborhood [814]*
 - vii. *Cause fire, explosion, or safety hazard, or create electrical interference[814]*
 - b. *Site plan review standards in 506.C.*
 - c. *Hours of operation.*
 - d. *Cumulative impact of the proposed conditional use taken together with other conditional uses in the neighborhood.*
 - e. *The noise generated per unit [504]*
 - f. *Any factors judged to have an adverse impact on the area [504]*
 - g. *The cumulative impact of the proposed conditional use taken together with other conditional uses in the neighborhood [504].*

The adjacent building presently has three units in it. There are other multifamily units in the area. The proposal will not affect the character of the area.

3. *Traffic on roads and highways in the vicinity.* There will be no significant increase in traffic. A turnaround is provided on site and sufficient parking is provided.
4. *The zoning and subdivision regulations in effect [504].* There will be no effect on the zoning and subdivision regulations.
5. *Provisions to protect the utilization of renewable energy resources [504].* Not applicable.

Mr. O'Connell made a motion that the Board grant conditional use and site plan approval. Mr. Blakeman seconded. The motion was approved with 6 members voting in favor and one member (Mr. Zalinger abstaining).

III. Public Hearing - Variance, Conditional Use Review and Design Review

Property Address: 154 Main Street
Applicant: Robert Hitzig
Property Owner: Robert Hitzig
Zone: CB-II/DCD

- Construction of an accessibility ramp between the main structure and the carriage house
- DRC recommended approval as submitted.

Interested Parties: Robert Hitzig

Ms. Smith described the application for a dimensional variance of 5 feet from the side yard setback (south) for the construction of an accessibility ramp between the existing carriage house and the main building. She said that the application requires conditional use review. She said that the DRC recommended approval of the application. Mr. Hitzig said that a handicapped access ramp is needed for the building and he would like to install one that is ADA

compliant. He said that such a ramp was previously approved at a different location, but that ramp location would interfere with the other door on the side of the building. He added that the ramp at that location would also have to be too long and extend out into the driveway. He said that the currently proposed location in the back of the building would better maintain the historic look of the building. He said that the options for the rear location are constrained by the existing supports for the fire escape. Mr. Hitzig said that the proposed ramp will not increase the encroachment into the setback. Ms. Smith said that the ramp is proposed to be 5' from the property line while the required setback is 10'.

The Board considered the variance criteria:

1. *That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lots size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located. The applicant is proposing to meet ADA requirements for accessibility on the existing lot. The garage is located in the setback. The location of the existing fire escape limits the options for the location of the ramp.*
2. *That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is, therefore, necessary to enable the reasonable use of the property. An ADA compliant handicapped ramp is a reasonable use.*
3. *That the unnecessary hardship has not been created by the appellant, and the hardship relates to the applicant's land, rather than personal circumstances. The lot is pre-existing and the building is historic. The need for the ramp is not created by the applicant.*
4. *That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use of development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare. The ramp is consistent with the multi-unit residential and commercial use of the building. There is no evidence of objections by adjacent property owners. The ramp will not be detrimental to the public welfare.*
5. *That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and from the Montpelier Municipal Plan. The applicant has testified that the ramp will not extend further into the setback than the existing garage.*
6. *The variance will not result in the initiation of a nonconforming use of land. There will be no change in use.*

Mr. O'Connell made a motion to grant the variance. Mr. Cranse seconded. The motion was approved unanimously.

The Board reviewed the conditional use criteria:

1. *Capacity of existing or planned community facilities.*
2. *Character of the area affected.*
 - a. *Performance standards in 814*
 - i. *No use shall emit noise at the property line in excess of the standards set in the Montpelier code of Ordinances, Chapter 11, Article 10 [814].*
 - ii. *Emit odor which is offensive at property line [814]*

- iii. *Emit dust or dirt at the property line [814]*
- iv. *Emit smoke in excess of Ringmann Chart no.2 [814]*
- v. *Emit noxious gasses which endanger the health, comfort, safety, or welfare of any person, or which have a tendency to injure or damage property, business or vegetation*
- vi. *Emit lighting or signs which cause undo glare, which could impair the vision of a driver of any motor vehicle or are offensive to the neighborhood [814]*
- vii. *Cause fire, explosion, or safety hazard, or create electrical interference[814]*
- b. *Site plan review standards in 506.C.*
- c. *Hours of operation.*
- d. *Cumulative impact of the proposed conditional use taken together with other conditional uses in the neighborhood.*
- e. *The noise generated per unit [504]*
- f. *Any factors judged to have an adverse impact on the area [504]*
- g. *The cumulative impact of the proposed conditional use taken together with other conditional uses in the neighborhood [504].*
3. *Traffic on roads and highways in the vicinity.*
4. *The zoning and Subdivision Regulations in effect [504].*
5. *Provisions to protect the utilization of renewable energy resources [504]. .*

Mr. Lindley said that the staff summary of the compliance of the application with the conditional use criteria is acceptable. He made a motion to accept the staff summary and to grant conditional use and design review approval to the application. Mr. Blakeman seconded the motion. The motion was approved unanimously.

IV. Public Hearing - Conditional Use Approval

Property Address: 250 Main Street
Applicant: Nick & Morrisey Development
Property Owner: New England Culinary Institute
Zone: MDR

- Change of use from an existing noncomplying use (academic institution) to another noncomplying use (office).

Interested Parties: Eric Seidel, Jeff Nick, Roberta Harold, David Putter, David Abbott

Mr. Teschmacher said that he would recuse on this application. Mr. Zalinger said that he would also recuse since he was a neighbor of 250 Main Street and did not feel that he could be objective or impartial in the review of the proposal. Ms. Snyder stepped in to participate in the Board's review. Mr. O'Connell acted as chair for the Board's review of the application.

Ms. Smith said that the application was for a change of use from an academic institutional use which is non-complying to an office use which is also noncomplying. She said that the change of use will only occur within the main building on the site and the uses of the other buildings will remain the same storage maintenance and dormitory uses. She said that conditional use review is required and noted that the building exceeds 10,000 s.f. Ms. Smith also pointed out that section 302.C of the zoning regulations states that "a non-conforming use shall not be changed to another non-conforming use without approval by the Development Review Board, and then only to a use which, in the opinion of the Board is of the same or of a more restricted nature. Any change of a non-conforming use that may be allowed under these regulations also shall be subject to the site plan review provisions of this ordinance."

Mr. Nick said that his company was the potential buyer of the building which is currently used as the New England Culinary Institute's (NECI) headquarters. He said that the building presently contains offices, a library, a banquet hall and a commercial kitchen that is also used for teaching. He said that the application is for a change to general office use within the building. Mr. Nick said that the current number of vehicle trips at the site was counted over several days. He said that an average of 38 vehicle trips per peak hour occurred during the morning peak (from 7:30 a.m. to 8:30 a.m.) and an average of 34 vehicle trips occurred during the afternoon peak hour. He stated that an engineer had determined that the sight distances were adequate for 25 mph speeds. Mr. Nick said that an estimate of the number of vehicle trips for the proposed use had been made using Institute of Transportation Engineers (ITE) data. He said that those results indicated that there would be 18 trips per hour during the morning peak and 17 trips per hour during the afternoon peak. He said that this indicated that there would be a reduction in the use of the building.

Mr. Nick said that the building currently contains 11,478 s.f. and has been used as a teaching facility and administrative offices. He said that he looked at potential uses of the building, including multifamily residential, and determined that a general office use would be most appropriate. He said that the building could be used for a state office, law office, insurance office, nonprofit agency office or other similar office. Mr. Seidel said that the other two buildings will continue to be used by NECI. He said that one of those buildings is used for student housing and storage and the other is used for maintenance. He said that no change in those uses is proposed at this time. Mr. Bresette asked how many vehicles are associated with the student housing. Mr. Nick said that there are 13 students in residence. Mr. Bresette noted that the plan shows parking for 72 cars and asked why that would not increase the traffic at the site. Mr. Nick said that NECI is using the site intensively now. He said that the trips were counted for an average peak, but there would be more trips when the banquet hall was used. He said that the ITE numbers are based on the size of the building for general office use. Ms. Smith noted that the 72 parking spaces were more than the 49 spaces that would be required for the proposed office use and the other uses on the site.

Mr. O'Connell asked whether the Board will have the information it needs to review the site plan without knowing the specific office use that will occupy the building. Ms. Smith said that the site is already improved and no construction is proposed. She said that the Board may want to discuss landscaping. Ms. Snyder said that the code indicates that the conversion to office use would reduce the use of the building. Mr. Bresette expressed concern that the change from an intermittent school-type use to a general office use would create greater traffic peaks by resulting a more regular schedule. Mr. Seidel said that 3/4 of the building is currently in office use associated with the operation of the academic institution.

Mr. Blakeman asked why the building would not be used as a dormitory. Mr. Seidel said that NECI has housing in the City and leased from Vermont College and the Land Trust. He said that the goal is to concentrate NECI's functions closer to the Vermont College location and NECI is looking into developing new housing there. Mr. Blakeman said that the use of the building as a dormitory could allow NECI to free up some of its apartments for availability to the public. Mr. Seidel said that NECI did some of that last year and the goal is to do more of it. Mr. Blakeman asked where the cooking facilities will be relocated to. Mr. Seidel said that the kitchen facilities at Vermont College's Dewey Hall will be used.

Mr. Nick said that the traffic impact analysis looked at a total number of daily trips during the week. He said that there is an average of 120 employee trips each day, a daily average of 90 trips per day for the students, an average of 24 trips each day from the function room, and average of 20 daily trips from the library and an average of 24 daily trips for the purchasing function. He said that the estimate for the proposed office use was 126 trips per day based on the gross square footage. Mr. Seidel said that estimates for the existing uses were based upon his experience of how the facility is used.

Mr. O'Connell asked whether anyone else wanted to speak about this application. David Putter, of 6 Towne Street, said that he has had experience with the zoning and planning process over the years and has had some difficulties with the staff in the past. He said that he has found Ms. Smith to be really up to par. He said that he has been pleased with her responsiveness and the good information she provided. He said that he was pleased with the experience. Mr. Putter said that he was not really opposed to the idea contained in the current application, but was concerned that the change in use might be used as a wedge to allow for other future uses of the rest of the property. He said that the neighborhood is a nice, quiet community. He said that it is not a dense place with many people making noise and coming and going. He said that he did not see this as a traffic issue, but was concerned about the sight distances. He said that the applicant is asking for a change from one noncompliant use to another. He said that he understood that this could be permitted if the use is the same or less intensive. He said that, in the future the proposed use will be the new standard that future changes will be measure against.

Roberta Harold, of 5 Towne Street, said that she would like to be kept informed as to future projects on this property. Ms. Smith suggested that she write a letter stating that interest so that it could be placed in the file. Mr. O'Connell reminded everyone that the Board was reviewing the current proposal, not potential future uses. Mr. Lindley asked whether the Technical Review Committee reviewed the sight distances. Ms. Smith said that the Committee discussed sight distances and did not believe that they were a concern.

The Board reviewed the conditional use and site plan criteria:

1. *Capacity of existing or planned community facilities.* Mr. O'Connell said that the testimony is that the proposed change of use will result in a decrease in traffic volume. Mr. Cranse said that it was hard to make a judgement on that because a specific office use had not been identified. He gave examples of doctor, dentist or photocopying establishments as office uses that might generate a great deal of traffic. Mr. O'Connell asked what types of offices are permitted in the GB district. Ms. Smith said that the DRB previously made a decision regarding a dentist office on Stone Cutters Way and what constituted an "office." She was not sure how this would apply to an medical office at this location. She said that the ordinances contain specific definitions of a general office use and a medical clinic. She read those definitions aloud. She said that she understood that the applicant proposes a general office use and not a business service use such as a photocopying establishment. Ms. Smith noted that a facility with only one doctor and four support staff members would qualify as a general office use. Mr. Nick offered to consult with the staff as potential occupants are identified. Ms. Smith said that could be incorporated as a condition of any approval of the proposal.
2. *Character of the area affected.*
 - a. *Performance standards in 814*
 - i. *No use shall emit noise at the property line in excess of the standards set in the Montpelier code of Ordinances, Chapter 11, Article 10 [814].*
 - ii. *Emit odor which is offensive at property line [814]*
 - iii. *Emit dust or dirt at the property line [814]*
 - iv. *Emit smoke in excess of Ringmann Chart no.2 [814]*
 - v. *Emit noxious gasses which endanger the health, comfort, safety, or welfare of any person, or which have a tendency to injure or damage property, business or vegetation*
 - vi. *Emit lighting or signs which cause undo glare, which could impair the vision of a driver of any motor vehicle or are offensive to the neighborhood [814]*
 - vii. *Cause fire, explosion, or safety hazard, or create electrical interference[814]*
 - b. *Site plan review standards in 506.C.*

- c. *Hours of operation.*
- d. *Cumulative impact of the proposed conditional use taken together with other conditional uses in the neighborhood.*
- e. *The noise generated per unit [504]*
- f. *Any factors judged to have an adverse impact on the area [504]*
- g. *The cumulative impact of the proposed conditional use taken together with other conditional uses in the neighborhood [504].*

Mr. Lindley said that the neighborhood was not a general business area. He said that he had difficulty in saying that the character of the area will not be affected by the change from an educational institution to a general office. Mr. O'Connell asked how the effects on the area would be significantly different from the current affect. Mr. Lindley said that he would be concerned about peak vehicle trips and affects on traffic from County Road, Towne Road and Main Street. He said that he would have liked to see a technical review of this issue. Ms. Smith said that the TRC did review the proposal and did not identify that as an issue. Mr. O'Connell said that he would like a technical review that addressed the fact that the 25 mile per hour speed limit is a fiction at that location. He said that he would like the TRC to look at how to put in more persuasive speed controls. Ms. Snyder said that Ms. Smith reported that the TRC looked at the sight distance issue and did not see a problem. She asked whether the Board was asking for written conclusions. Mr. Bresette said that the traffic would be condensed to peak hours. He expressed concern that traffic coming up the hill in snowy conditions would be stopped by turns into the site and would not be able to then make it up the hill. Mr. Seidel said that the use of the site will not be very different from the current use. He said that, currently, the majority of people working in the building arrive from 8:00 to 9:00 a.m. and leave from 4:30 to 5:30 p.m. Mr. Cranse noted that the testimony was that 3/4 of the building is presently in office use accessory to the academic institution. He said that it was hard to see that the conversion to full office use will greatly affect the timing of traffic peaks. Mr. Nick said that the ITE data indicates that traffic will be reduced. Mr. Blakeman said that he was concerned about the effect of this office use over time. Mr. O'Connell said that future changes of use will require a new review.

- 3. *Traffic on roads and highways in the vicinity.* See discussion in item 2, above.
- 4. *The zoning and Subdivision Regulations in effect [504].* Mr. O'Connell said that this is a change from one non-complying use to another non-complying use. Mr. Lindley asked who owned the property behind the NECI site. Mr. Nick said that his company did. Mr. Lindley observed that when the properties are consolidated, there could be an entrance on Towne Street and one on Main Street. Mr. Seidel said that the steep topography would make another entrance very difficult to construct. He said that NECI has never considered putting another entrance in. Mr. Nick said that his company has not considered another entrance either.
- 5. *Provisions to protect the utilization of renewable energy resources [504].* Not applicable.

Mr. Bresette asked whether a conditional use approval automatically requires that the use be the same as or less intensive than the existing use. Ms. Snyder said that the approval would be for general office use. Mr. Bresette said that could be more intensive. Mr. O'Connell said that any approval would be based upon the testimony provided about the intensity of the use. Ms. Smith said that the Board could include a condition that, before leasing the space, the applicant request a determination from the Administrative Officer that the use is a general office use. She said that there could also be a condition requiring a memo from Tom McArdle determining that the sight distance is adequate. David Abbott, of 11 Towne Street, said that the question had been whether the sight distance was adequate when the actual speed of the approaching traffic from the north was taken into account. Ms. Smith said that she would bring the speeding issue to the TRC's attention. Mr. Abbott said that the Board could also have an independent study by a traffic engineer to establish the baseline traffic conditions.

Mr. O'Connell reviewed the Board's options. He said that the Board could act on the application with appropriate conditions to get whatever information is needed or the Board could continue the application and ask for whatever technical assistance is needed. Ms. Smith said that she did receive an e-mail message from Tom McArdle that made suggestions for the traffic study. Mr. Cranse expressed concern that the traffic information that was presented with the application did not use the systematic approach outlined in the memo. Mr. Seidel said that the study followed the suggestions in Mr. McArdle's memo. Mr. Nick said that he could offer to have a traffic engineer provide data on the specific office use when a specific use is proposed.

Mr. Bresette suggested that the Board go into a deliberative session. Mr. Lindley made a motion to close the hearing and take the matter up in a deliberative session. Mr. Bresette seconded the motion. The motion was approved by a vote of 5-1 (Ms. Snyder voted in opposition).

V. Sketch Plan - Planned Unit Development

Property Address:	Capital Heights, Hebert Road
Applicant:	Fecteau Residential, Inc.
Property Owner:	Fecteau Residential, Inc.
Zone:	GB/MDR

Interested Parties: Vic Fecteau, Sara Field, Rick DeWolfe, Charon Goldwyn, Edward Burkhart, Heather Cipolla, Susan Limoge, Leane Garland, Susan McCreary, George Johnson

Ms. Smith advised the Board that they had received copies of a letter from Susan Limoge, of the Stonewall Meadows Homeowners Association. Ms. Smith said that she believed that the letter was referring to the next application on the agenda. Charon Goldwyn, of the Stonewall Meadows Homeowners Association, said that the comments in the letter were in reference to the next matter, but the Board may have to consider the two matters together.

Ms. Smith described the sketch plan review process and requirements. Mr. Lindley asked whether the Board had conducted sketch plan review on this previously. Ms. Smith said that the Board conducted sketch plan review of the parcel in 2003, but this was a different proposal. Mr. Zalinger said that the prior sketch plan approval had expired, so this application would be reviewed from the start. Mr. DeWolfe asked for clarification on the time periods for the different review actions. Ms. Smith explained the time periods and the potential for requesting extensions.

Mr. DeWolfe described the project. He said that 5,200 feet of roadway was proposed and 35 condominium buildings and 47 single family lots were proposed for a total of 177 dwelling units. He said that project will be split into four phases. He said that the applicant will request conditional approval for all of the phases and then will submit each of the four phases separately for final approval. Mr. DeWolfe said that the applicant hopes to receive final approval for phase 1 this winter. That phase will consist of three commercial lots, a six-building condominium complex and a four building condominium complex. He said that construction of phase 1 was planned for 2006-2007 and phase 2 was planned for 2008. The other phases would follow.

Ms. Smith advised the Board that a waiver of the side yard setbacks will be requested as part of this PUD. She said that this project is proposed as an independent project from the Stonewall Meadows project, but the lots are contiguous to Stonewall Meadows and are owned by the same entity. Mr. DeWolfe said that he believed that relief from side yard setbacks will be needed to allow the minimum proposed separation of 25 feet between the single family homes. He said that it may be necessary to place the houses to one side of the lot to allow for terracing of the lots. He said that the current sketch plat maximizes the number of lots, but the number of single family homes may be reduced once the final topographic survey is completed. Ms. Smith asked if the number of condominium units would be increased if the number of single family lots is reduced. Mr. DeWolfe said that he did not expect that to be the

case, but future market conditions may result in changes to the plans.

Mr. DeWolfe said that City water and sewer service is proposed. He said that plans will be finalized with the Public Works office as the project design moves forward. He said that stormwater will be controlled through the use of three detention ponds with the likely transfer of the ponds to the City as part of the City's stormwater management system. Mr. DeWolfe said that the project will be subject to an Act 250 review. He added that a traffic impact study will be prepared.

Ed Burkhart, a property owner on Isabel Circle, said that the project has too big an impact to squeeze onto a small site. He said that he was concerned about traffic flow on Isabel Circle since the road might not be able to take the additional traffic from the 171 additional units. He said that the parcel is very steep and noted that the proposal would involve development on the ridge line. Mr. Zalinger said that the sketch plan review is an opportunity to ask any questions about the application rather than providing testimony. Mr. Burkhart asked what will be placed on the commercial lots. Mr. DeWolfe said that has not yet been decided.

Heather Cipolla asked whether the applicant intended to extend sidewalks on the existing portion of Isabel Circle. Mr. DeWolfe said that there were no plans for extending the sidewalks beyond the applicant's property. Susan McCreary asked what the applicant will do about Hebert Road. She said that traffic from the project will use that road which is not adequate for the traffic and will have to be improved.

Charon Goldwyn asked why the focus was changed from Stonewall Meadows to a separate development with a new access from River Street. Mr. DeWolfe said that the property owner decided that it would be better to handle the unresolved issues with Stonewall Meadows on their own and make sure that the new development did not change the originally approved development. Ms. Goldwyn said that the last time this was before the Development Review Board, Mr. Fecteau was instructed to go back and have discussions with the Homeowners Association. She said that he did that to some extent, but now brought in an entirely different plan. Leane Garland asked how the existing erosion problems will be dealt with. Mr. DeWolfe said that any current erosion on this property will be dealt with as part of the permit process. Ms. Garland asked what type of open space was planned. Mr. DeWolfe said that the open space would be left in its natural condition. Ms. Garland said that some of the areas shown as open space are so steep that they cannot be used. She asked whether there are plans for mixed income housing. Mr. DeWolfe said that there are no such plans. Ms. Garland said that this project needed to be considered together with Stonewall Meadows.

Ms. Smith asked whether the 77 acre lot includes Stonewall Meadows. Mr. DeWolfe said that the recreation lands in Stonewall Meadows have been dedicated in fee simple. Ms. Field said that there is a dedication of condominium that involves the parcel of land that is shown for the prior condominium project and that stands in Fecteau's name. She said that there is undeveloped land within that project, but they are not common lands by deed or by declaration of condominium. Ms. Smith asked whether a subdivision will be requested. Ms. Field said that has been created as a separate phase. Mr. Zalinger said that it was his understanding that the gross acreage that Fecteau owns includes a small portion that is within the area designated for the condominium development. Ms. Field said that was correct.

George Johnson asked how tall the phase four condominium buildings will be. Mr. DeWolfe said that they will be two story buildings and about 32 feet high. He said that would place them about 42' above the houses on Isabel Circle. Mr. Johnson said that those new units would loom over the existing houses and asked whether privacy issues had been considered.

Paul Burns asked whether Mr. Fecteau has abandoned the idea of reconfiguring the Recreation Association land. Mr. DeWolfe said that the project was designed without the reconfiguration of the Recreation Association land since the discussions with the Association were not successful.

Ms. Smith said that staff suggested that the review of the commercial sites should be included in phase 1 with building envelopes (which account for topography, proposed grading and other natural features), stormwater drainage, access and parking areas noted on the plans. Prior to beginning construction on each of the commercial sites, the applicant should be required to return for site plan review and, if necessary, any conditional review depending on the proposed uses. Mr. DeWolfe said that he understood that site plan approval will be needed for commercial sites. He said that those plans will be done when a tenant or buyer is found for those sites. He said that the stormwater drainage system will be based upon the maximum impervious surface allowed for those sites. Mr. Zalinger suggested that access also be provided for. Mr. DeWolfe said that the design will have to ensure that it is possible to provide access, but not necessarily identify the exact location of the driveways. Mr. Lindley asked whether the ownership of the detention ponds will be worked out by the time conditional approval is requested. Mr. DeWolfe said that it would be. He said that he could not say that the identified pond locations will be suitable until additional work is done on the site.

Mr. Bresette asked whether a traffic study will be done for the intersection of the new road and River Street and for the intersections of Isabel Circle and Hebert Street and Berlin Street and Hebert Street. Mr. DeWolfe said that there seems to be some difference of opinion on where the traffic will go. He said that a traffic study will be done for each phase and will be guided by suggestions from the TRC. He said that the applicant is not fixed on requiring access to Isabel Circle, but the current design is based on the ordinance requirement that two means of egress be provided for roads longer than 1,800 feet. He said that he was open to suggestions from the Board including the elimination of the connection to Isabel Circle. Mr. Lindley said that the Board could not make such a recommendation without first speaking to the Fire Commissioner.

Mr. Blakeman asked what the expected home prices would be. Mr. Fecteau said that the condominiums would market for \$190,000 to \$250,000 and the houses would range from \$230,000 to \$290,000. Ms. Smith asked whether the road will be staked out soon. Mr. DeWolfe said that it would be staked out in the coming week. Mr. Lindley said that it would be helpful if the Board members could make a site visit to get an idea of the relative heights of the units. He said that balloons could be used to provide reference for the heights of the buildings. Mr. DeWolfe said that existing trees could be used for reference. He said he would be happy to stake out the road and walk the site with the Board.

Mr. Cranse asked what plans had been made for pedestrian circulation. Mr. DeWolfe said that sidewalks will be provided on one side of each road and sidewalks will be provided from the condominium units out to the parking areas.

Mr. Zalinger suggested that the Board deliberate on this application and issue its determinations in writing at a later date. He asked whether anyone had additional questions. No one responded. Mr. Zalinger closed the discussion of sketch plan review.

VI. Sketch Plan - Planned Unit Development

Property Address:	Stonewall Meadows
Applicant:	Fecteau Residential, Inc.
Property Owner:	Fecteau Residential, Inc.
Zone:	GB/MDR

Interested Parties: Vic Fecteau, Sara Field, Rick DeWolfe, Charon Goldwyn, Susan Limoge

Ms. Smith directed the Board members' attention to the letter from the Homeowners Association requesting a continuance because notice was not received in adequate time to have their attorney attend the meeting. Ms. Smith read the letter aloud. Ms. Field said that a continuance was not appropriate. She said that notice was provided in the newspaper and this proceeding was not a public hearing. She said that the condominium owners own their units and

the common areas around their units. She said that they do not own the vacant land on the site. She said that the property owner is requesting approval for two buildings as part of the original condominium project. Susan Limoge said that the Homeowners Association requested a continuance. She said that they have disputed the land ownership and development rights and requested the continuance because their attorney could not be present on the short notice available. She said that she did not see why the project could not be continued. Mr. Zalinger asked whether a copy of the sketch plan application was sent to the Stonewall Meadows Homeowners Association or to their attorney. Mr. DeWolfe said that had not been done. Ms. Field said that she had previously communicated with the Homeowners Association's attorney on the ownership issue and requested responses by June but had not received them. Charon Goldwyn said that the attorney did not receive Ms. Field's letter and just recently obtained a copy from the Recreation Committee.

Mr. Bresette said that it appeared that the property owners should be notified. He said that he did not want to address arguments between the developer and the Homeowners Association at this time. Ms. Smith said that notice to property owners is not required for sketch plan review. Mr. Cranse noted that the regulations urge the applicant to notify neighboring property owners and seek resolution of the issues. He said that the application was not sent to the Homeowners Association. Mr. DeWolfe said that the applicant was not required to send such a copy, but had met with the Association in the past. Mr. Zalinger said that the notice may not be legally required, but it was not neighborly to provide no notice. He said that he did not think that conducting sketch plan review that night would advance the applicant's case and it did not appear that the application would be disadvantaged by a continuance. Mr. DeWolfe said that the applicant did not object to a continuance. Mr. Zalinger said that the application would be continued to August 15, 2005.

VII. Continuances - Design Review

- a. Property Address: 89 State Street
Applicant: Vermont Mutual Insurance Company
Property Owner: Vermont Mutual Insurance Company
Zone: CB-I/DCD
 - alterations to a front entryway

- b. Property Address: 154 Main Street
Applicant: Robert Hitzig
Property Owner: Robert Hitzig
Zone: CB-II/DCD
 - six square foot double sided sign

Ms. Smith said that these two applications would be considered by the DRC at its next meeting. Mr. Zalinger said that these applications would be continued to the August 15, 2005 meeting.

Adjournment

Mr. Lindley made a motion that the meeting be adjourned at 10:30. Mr. O'Connell seconded the motion. The motion was approved unanimously.

Respectfully submitted,

Stephanie Smith
Administrative Officer

These minutes are subject to approval by the Development Review Board. Changes, if any, will be recorded in the minutes of the meeting at which they are acted upon.

Transcribed by Kathleen Swigon

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