

**Montpelier Development Review Board**  
**August 21, 2006**  
**City Council Chambers, City Hall**

*Subject to Review and Approval*

**Present:** Philip Zalinger, Chair; Kevin O'Connell, Vice Chair; Alan Blakeman; Roger Cranse; Jack Lindley; Guy Teschmacher; and Kenneth Matzner. Jeremy Hoff participated in items # VI and VII. Ylian Snyder was absent.  
Staff: Kathy Swigon.

**Call to Order:**

The meeting was called to order by Mr. Zalinger.

**Minutes:**

Mr. Lindley moved approval of the August 7<sup>th</sup> minutes, with Mr. Blakeman seconding the motion. Mr. Matzner abstained. The motion to approve the minutes was approved 6-0, with 1 abstention.

**Comments from the Chair:**

The applications 250 Main Street and the Capital Heights Subdivision will not be taken up tonight. With staff's last review of the projects, 250 Main Street is tentatively scheduled for September 18<sup>th</sup> and the Capital Heights Subdivision is tentatively scheduled for September 5<sup>th</sup>.

**I. Design Review for Sign Permit Application – CB-I/DCD**

8 State Street

Applicant: Glen Marold

- o 90" x 20" wall sign
- o DRC recommends approval with adjustments

Interested Party: Glen Marold

Ms. Swigon explained that the Design Review Committee has recommended approval with minor adjustments. The background of the sign was recommended to be a color other than white. The applicant said he was satisfied and ready to move forward with the recommended adjustment.

Mr. Blakeman moved approval of the sign at 8 State Street with the adjustment that the background of the sign will be monroe bisque instead of white. Mr. Matzner seconded the motion. The motion was approved unanimously 7-0.

**II. Design Review – CD-I/DCD**

8-12 State Street

Applicant: Glen Marold

- o Paint exterior wood trim and panels
- o DRC recommends approval as proposed.

Interested Party: Glen Marold

The application is for a change in the color of the trim and wood elements on the front of the building. The DRC recommended approval as submitted.

Mr. O'Connell moved approval of the application, with Mr. Matzner seconding the motion. The application was approved unanimously 7-0.

### **III. Design Review – HDR/DCD**

1-3 Cliff Street

Applicant: Peter Hack

- o Exterior renovations
- o DRC recommends approval with option changes.

Interested Party: Peter Hack

Mr. Zalinger asked if Mr. Hack was in agreement with the options the DRC suggested. Ms. Swigon said there were three options addressing different aspects of the proposal.

- a. The applicant will research Therma Tru or other door companies for a horizontal panel design that mimics the original door and may use that type of design rather than the vertical panel door that is proposed.
- b. The horizontal trim between the two sets of spindles may be 2 1/2" thick.
- c. The turned posts on the porch may be painted in detail and the doors may be painted the same color as the shingles.

Philip Zalinger asked for clarification of the first option. Ms. Swigon said Mr. Hack had agreed with the DRC suggestion that he research the door and use one with the horizontal panel design, if feasible.

Mr. Cranse moved approval for design review at 1-3 Cliff Street with the Design Review Committee's recommended options. Mr. O'Connell seconded the motion. The application was approved unanimously 7-0.

### **IV. Continuation of Public Hearing – Conditional Use Approval and Site Plan Review – HDR**

18 Hubbard Street

Applicant: Gary Schy

- o Conversion of an existing three car garage into a two bedroom apartment.

Interested Parties: Gary Schy and Margot George

Mr. Zalinger said this is a continuation of the hearing that was initiated by the DRB on August 7, 2006. Ms. Swigon reviewed the details of the application for the Board. She said this is a continuation for a request for site plan review and conditional use review for the conversion of a three car garage and a portion of the adjacent building to an apartment, which would bring the number of apartments in the building to a total of three. At the last hearing, the Board asked for more detailed site plans showing exactly what was happening on the property, a better floor plan for the apartment and a plan for landscaping. Mr. Schy submitted the plans in response to the Board's request. Parking on the revised site plan has been reduced to three spaces based on the Board's discussion about the right-of-way.

Mr. Schy said there were three items missing and he added details so the DRB could see where the doors and windows were going. Mr. Schy said he included some shrubs for the landscaping as well as birch trees.

Mr. Zalinger said the revisions to the site plan appear to address all of the requisites. Ms. Swigon said she believed the changes addressed all of the issues and concerns the Board had about the application.

Margot George appeared before the Board. She said she owned a property abutting Mr. Schy's property on Wilder Street. She thought there were already three units in the building. Mr. Schy said that, presently, the whole downstairs is one apartment, and the entire upstairs is an apartment unit.

Mr. O'Connell moved to approve site plan approval and conditional use proposed for 18 Hubbard Street with the modified plans submitted on August 15, 2006. Mr. Matzner seconded the motion.

Mr. Cranse said he was reluctant to vote in favor of the application under the neighborhood compatibility standard. Apartments on top of garages are relatively common, but garage conversions are not. Garage conversions are not common in residential zones. Mr. Schy told the Board that the garage had never been used as a garage. He said there is ample parking in the driveway to the building. Mr. Teschmacher said it is common for carriage houses to be converted to residences.

Mr. O'Connell said approval of this project, and projects like these, need to be on a case by case basis. Mr. Zalinger pointed out that the third unit was previously approved by the Development Review Board under a different configuration. He said he sees this application as a reconfiguration of a conditional use permit that was granted some time ago. Mr. Cranse said he was persuaded by the discussion.

Mr. Zalinger said there is a motion for approval for site plan review and conditional use, with a second. He inquired if there was more discussion on the application. The Board voted unanimously 7-0 in favor of site plan review and conditional use for 18 Hubbard Street.

#### **V. Design Review – CB-II/DCD**

138 Main Street

Applicant: Vincent Illuzzi

- o Construction of airlock entry
- o DRC recommended denial

Interested Party: Joe Illuzzi and Margot George

**Philip Zalinger recused himself from this application. He offered to administer the proceedings but said he would not vote or join in the discussion.**

Ms. Swigon said this application is a proposal to construct a glass enclosure as an airlock at the entry way at 138 Main Street. The enclosure was going to be constructed on the existing landing of the building using aluminum framing and glass walls. A plexi glass door would be installed that would open inward. The concept was to create an airlock to preserve heating in the winter months.

The Design Review Committee reviewed the application on August 8<sup>th</sup> and found that it did not meet the design criteria and that the application be denied as it was currently submitted. The report identifies the concerns.

The DRC evaluation form was included in the packet to the Development Review Board, and also minutes from the DRC meeting. Ms. Swigon commented that there was a call from one DRC member who felt those minutes didn't fully reflect how strongly the Committee felt about the project. Ms. Swigon shared that with the DRB since the minutes are in draft form and the DRC has not approved them yet. The DRC's prime concern is listed in item 4.

*“This structure is one of the most important buildings in Montpelier’s architectural collection (See National Register description). This doorway should not be obscured. This doorway and the arches are very important elements of the streetscape. This building is intact in its original form. Use of this doorway in winter could be diminished by moving the mailboxes and encouraging/requiring tenants to use other doorways that are more energy efficient, allowing the public to be the primary users of the front door and minimizing its use.”*

Ms. Swigon said that, at the DRC's request, the DRB and Mr. Illuzzi have been provided a copy of the National Register description of the building.

Mr. Illuzzi said he had discussed the proposed plan with two contractors. They would like to construct the airlock door temporarily. It would be installed on November 15<sup>th</sup> and removed on April 1<sup>st</sup>. During the summer months the public would have the full view of the front of the building. He said this will save a tremendous amount of energy.

Mr. O'Connell inquired if the proposal was for seasonal use when it was discussed with the Design Review Committee. Mr. Illuzzi said the first plan presented was to be permanent. It was a permanent structure with aluminum frame and glass sides. Mr. Illuzzi said the two contractors said they could redesign it to actually remove the door and side panels and put it back to normal. They could take it apart and store it in the basement during the summer months. Ms. Swigon said she wanted to clarify that a temporary enclosure was discussed as a concept at the DRC meeting, but there was no specific proposal for it. She said that the DRC said the idea could be considered, but they have not yet seen that proposal.

Mr. O'Connell said if the DRC has not reviewed the proposal with the change, then maybe the DRC should review it again. Mr. Illuzzi said it would actually be the same design. Mr. Cranse said the evaluation criteria wouldn't change by the door only being there five or six months. It still would not be acceptable to members of the DRC.

Mr. Teschmacher said he would be curious to know what other energy efficiency technologies Mr. Illuzzi had explored besides this proposal. Mr. Illuzzi said besides changing the windows next year this is it. There is no room to actually build an enclosure inside those doors. Mr. Teschmacher said he shares the same concerns the DRC has. It really is a beautiful old building. It has one of the most unique entry ways in the entire city. He said he was sensitive to the skyrocketing energy costs and all of the issues with that, but he doesn't know what could be placed there that wouldn't compromise the design. Mr. Illuzzi said the DRC had said to not use the door in the winter and to move the mailboxes, but that isn't an option. Mr. Matzner said he would want to see the design for a removable structure, but he also would want to see what the DRC felt about that.

Mr. Blakeman inquired if he could use just the right-handed door. Mr. Illuzzi said the big left door is the only one used right now. The right hand door is stationary locked unless someone is bringing something big in. Mr. Blakeman said the doors are rather high, but, of course, that is the beauty of the doors. He inquired if they could somehow keep the same shape but possibly the top three feet wouldn't open, and you would only open the bottom part. Conceivably, that would cut off a lot of the cold air coming into the building. Mr. Illuzzi said he could think about it.

Mr. O'Connell said that he understood the concern for saving fuel, but with such a strong recommendation from the Design Review Committee, it is very difficult for him to vote in another direction.

Mr. Zalinger asked Mr. Illuzzi how he would like to proceed. Mr. Illuzzi said he felt the DRC would end up in the same place, even if a removable structure was proposed. The design would be the same frame and structure, only taking it apart in the spring. Mr. Zalinger said that it might be a different dialogue with the DRC if it went up on September 1<sup>st</sup> and came down on April 1<sup>st</sup>.

Margot George appeared on behalf of the Montpelier Heritage Group. She said she thought the Design Review minutes reflect the Design Review Committee's position on the application. She said that the Brock family built this house in 1875 after the fires in downtown Montpelier. There was a study of the choice of bricks, slate and metal. The whole building was designed to make sure if there was another fire that went through this building wouldn't be lost. This house has been meticulously cared for years and years. She said that the Illuzzi family has done a wonderful job of maintaining the building. This is one of the most important buildings of a residential nature on Main Street. The door itself is the architectural feature that is the most prominent on the building. The application, as proposed, takes aluminum and glass to cover up the most important feature. Being weather related issue, Ms. George said she could understand the concern.

Ms. George said there have been these kinds of applications before. There was one on the Blanchard Block where people wanted to put enclosures in, and we have reached compromises on most. There have been energy studies that show indeed that airlocks are not very effective. When the study was done on the Blanchard Block it was found that it wasn't going to be successful.

There are a number of buildings in Montpelier that should have airlocks if this were the case. There is the Kellogg-Hubbard Library, City Hall, and any building that is a historic building, but people realize that the architectural features of the building make that building as valuable and as pleasant to look at.

The Montpelier Heritage Group strongly believes that this should not happen with this building. Mr. Illuzzi mentioned that the Design Review Committee mentioned the use of other doors. That is not such a silly idea in the sense that this building does have another first floor entrance that everybody can use. There are other ways to look at energy conservation. With this building it is important to recognize that this is what the Design Review District is all about. What we are trying to preserve in Montpelier is the architectural integrity.

Ken Matzner asked what the Heritage Group thought about using a temporary airlock. Ms. George said there are some temporary airlocks in town. There used to be one on the Vermont Mutual building, which they have now abandoned. There is still one on the Fothergill Segale building on Barre Street. In many instances they are never taken down. Ms. George said she didn't find them particularly attractive, either. It is going to be difficult to put an entrance that covers this front door that really works. There have been many regrets for many years for the enclosure at the Howard Bank building when they put in the ATM machine. The looks of the original building are destroyed. Mr. O'Connell said when that went in at the Bank North building it became a major impediment to the architectural features of that entry way. Ms. George said that was the case where they wanted a secure ATM, so that was the compromise. It was the wrong choice. This building is too good looking. Maybe we haven't done a good enough job at convincing the Illuzzi family to recognize that they own one of the most important buildings Montpelier has on Main Street. With that ownership comes the responsibility of maintaining the appearance of it.

Mr. O'Connell affirmed that the building is one of the jewels of the downtown. It really does stand out as an architectural treasure. Ms. George said the "Walk Through Montpelier" has a whole page dedicated to that building and the importance of it. Another example of buildings not having airlocks are the State of Vermont buildings. Mr. O'Connell said that energy efficiency issues are going to be more and more prominent. He said he has to agree with the DRC in their findings that this is just too valuable feature to our downtown.

Mr. Illuzzi said he didn't think four to six months out of the winter was such a problem. Mr. O'Connell told Mr. Illuzzi that his best shot would be to appear before the DRC with the seasonal proposal. If you can get the DRC to take another view, he would personally be swayed. Right now, the Development Review Board has a very strong rejection of your application as it is.

Mr. Zalinger asked what the preference of the Board was with regards to Mr. Illuzzi's application. Did they want to vote on it or have Mr. Illuzzi come back later. Mr. Illuzzi said he could check with the contractor to see if they could come up with another plan. Mr. Zalinger said as he reviewed the DRC minutes a temporary structure was not unilaterally opposed. They certainly seemed to leave the door open a bit for an alternate plan. It would be up to the applicant whether he wants to continue this until another date to have a chance to consider an alternate plan with the Design Review Committee. Mr. Zalinger said they could continue this to a later date and then he could get a determination from the DRC based upon this plan. Ms. Swigon said the next possible DRC meeting would be September 5<sup>th</sup>, which is quite full.

Mr. Zalinger said if he went back to the DRC on September 5<sup>th</sup> he could probably come back to the DRB on September 18<sup>th</sup>. He asked Mr. Illuzzi if it was his intent to come back then. Mr. Illuzzi replied yes.

Mr. O'Connell moved that the Development Review Board continue the Illuzzi application for 138 Main Street be tabled until September 18<sup>th</sup>. Alan Blakeman seconded the motion. The vote was approved 4-2.

**VI. Design Review for Sign Permit Application – HDR (AI-PUD)/DCD**

56 College Street

Applicant: New England Culinary Institute

- o 14.3 square foot wall sign
- o DRC recommends approval with adjustments

Interested Parties: Jay Ancel and Eric Seidel

**Roger Cranse and Guy Teschmacher recused themselves from participating in this application. Jeremy Hoff participated.**

Ms. Swigon said this is an application for the installation of a wall mounted sign at the New England Culinary Institute headquarters at 56 College Street. The site is located in the Vermont College AI-PUD and the Vermont College Master Plan governs development within the AI-PUD. The Master Plan was approved by the Planning Commission September 4, 2001 for a five-year period, so it will expire September 4, 2006. The underlying zoning is high density residential.

The sign is going on the building that was the subject of previous approvals for office use by NECI. During some of the discussions of those applications, there was a discussion about the sign. There wasn't a formal application for the sign at that time, but it was noted that the sign is not consistent with the Vermont College Master Plan for signs. Actually, the guidelines specify the color, the type of lettering and whether it was routed. The Master Plan did have a footnote that said the college would like to allow its tenants flexibility in the background color for their on-campus signage. The proposed sign varies from those guidelines because it is wall mounted, and because of the coloring and lettering which is carved foam board.

The Development Review Board should consider whether this represents a significant change from the Master Plan or if it is minor enough that it can be considered not a significant alteration. The Board might want to take up the question of whether there actually has to be an amendment to the Master Plan in order for the Board to act on this sign. The Board might want to consider that before you consider the specifics of the sign.

The sign was reviewed by the Design Review Committee and was recommended for approval as proposed.

Jay Ancel said there seems to be a question whether there is flexibility in the Vermont College Master Plan or if you have the ability to approve the sign. With regards to the Master Plan's statement about background color, in looking at the original setup in the Master Plan they do recognize and talk about how future plans for the college are directly influenced by a number of critical issues. One of the issues is there is a need to serve an ever changing market and we need to be able to respond quickly to changes in the market.

Mr. Lindley inquired how Harris Hall, LLC fit the AI-PUD zoning at the campus. Mr. Seidel said it was because of NECI's academic use. Mr. Lindley asked if NECI was Harris Hall, LLC. Mr. Seidel said no but they are a long term lessee of the property.

Mr. Teschmacher said he understands the Vermont College Master Plan expires in two weeks, and inquired what that means. Mr. Ancel said it means the college has the option of amending the plan if they desire.

Mr. Zalinger inquired if the New England Culinary Institute terminated its lease with Harris Hall, LLC that Harris Hall, LLC could be back in front of the DRB again seeking to reconfigure the property for another

perspective tenant. Jay Ancel said it was conceivable. Eric Seidel said they have a 10-year lease on it and we consider this to be our permanent home. Mr. Zalinger said Harris Hall, LLC is not really an academic institution. It is an entrepreneurial independent entity separate and distinct from NECI. The web is no less tangled by who the applicant is.

Ms. Swigon said in a hearing that closed on September 7, 2004, the DRB took up the question of the use of Harris Hall by NECI and actually approved an amendment to the Vermont College Master Plan which allowed the additions with connection to the building and the number of changes that NECI was proposing.

Mr. Zalinger said he was troubled by the prospect that if Union Institute seeks to renew its academic institution PUD and the Master Plan associated with it the DRB is faced then with a series of applications for alternate uses of buildings, which could constitute the subdivision of the campus for segregation and/or subdivision of units on campus. How does the DRB respond to that? Would it be a rolling and continuous amendment to the Master Plan? Ms. Swigon said she thought that would be a question that the DRB would have to take up. The DRB acted on one individual part of the puzzle. Would it be appropriate to do continuous amendments for other buildings, or would it be better to review a comprehensive Master Plan revision.

Mr. Zalinger said he didn't mind sharing his view about the 56 College Street property segregated by two city streets from the balance of the campus. To his mind it was both physically and psychologically segregated for some time because the Institute of Sustainable Communities had leased the property for some time.

Mr. O'Connell said he shares Mr. Zalinger's concern. When the AI-PUD concept was originally proposed it was a very different environment up at the college. There still was a Norwich University presence and it looked a lot more solid. With the financial realities of the situation, he doesn't know what they can do until some of the ownership issues are resolved.

Mr. Blakeman said that the preschool is located up there. There are local businesses up there. There is also another educational center created at the campus. Community College has a presence up there. Mr. O'Connell said it really has become a real estate holding with a lot of different tenants. Mr. Blakeman said most of them have education as their goal, and they certainly don't want NECI to leave.

Mr. Zalinger inquired whether the Board could find that the sign represents a significant alteration or that it is minimal alteration to the Vermont College Master Plan in light of the fact that the building is in different ownership. We could determine that the initial question is whether the sign requires an amendment to the Master Plan as a preliminary determination. If we determine that it doesn't require an amendment to the Master Plan, does the DRB have the authority to allow the sign to go through in a fashion that is inconsistent with the Master Plan?

Ms. Swigon if you determine it is a minimal change and not really an amendment to the Master Plan, the Board could move on to just design review for the sign. If the Board decides that it really is a change and requires an amendment to the Vermont College Master Plan, then the Board could not continue. The next step then would be for the applicant to request an amendment to the Master Plan to allow the sign. A Board member inquired if the DRC was aware of the Vermont College Master Plan when they approved this. Ms. Swigon said she did mention to them that the Master Plan did spell out the blue signs with the gold lettering and said there was a question as to whether an amendment to the Master Plan would be needed. She also mentioned that the issue would be taken up by the DRB.

Mr. Zalinger said he did not feel that this was so substantive that it requires an amendment to the Master Plan. Mr. O'Connell said he agreed with Mr. Zalinger on this. His unease with what is happening at Vermont College has nothing to do with this project. He thinks the proposal is fine. It is minor and should be covered by the current Master Plan.

Mr. Lindley moved that the application for a sign by NECI at 56 College is not a significant alteration of the Vermont College Master Plan. Mr. Matzner seconded the motion. Mr. Zalinger said there should be a friendly amendment that the motion should include a modification stating that the signage at 56 College Street, as proposed, doesn't rise to the level requiring an amendment to the Master Plan. Mr. Lindley and Mr. Matzner agreed to the change. The amended motion was approved unanimously 6-0.

Mr. Zalinger said the DRB could consider the design review for the sign as presented. He inquired if there was presently a sign up there. Mr. Seidel said there is a construction sign on the property. The proposed sign will be the only sign on the structure. Mr. Zalinger inquired if the DRC had recommended its approval, and Ms. Swigon replied yes.

Mr. Lindley moved that the Board grant design review approval for the sign at 56 College Street as submitted. Mr. Matzner seconded the motion. The motion was approved unanimously 5-0. Mr. Zalinger abstained from voting.

#### **VII. Public Hearing – Design and Site Plan Review – HDR (AI-PUD)/DCD**

56 College Street

Applicant: New England Culinary Institute

- o Installation of fence
- o DRC recommends approval with adjustments

Interested Party: Eric Seidel

**Roger Cranse and Guy Teschmacher recused themselves from participating in the application. Jeremy Hoff participated in discussing the application.**

Ms. Swigon said this is an application for the installation of a 36" high cedar split rail fence along the property line at 56 College Street. The applicant has indicated that the fence is intended for protecting the building from bumping by vehicles at the adjacent property. There is angle parking there, and they head in and park very close to the building. It is at risk of some damage to the foundation.

The DRC reviewed the application and recommended approval with an adjustment that the fence be set back so that it begins at the front corner of the front porch and extends back. It wouldn't extend further into the front yard than that.

Mr. Seidel told the Development Review Board that they chose a minimalist fence that will stand up to plowing but will protect the foundation. The fence will weather naturally to grey and blend well with the building and not be highly visible. Mr. Seidel told the DRB he was in agreement with the adjustments suggested by the Design Review Committee. The fence will be at the front corner of the porch.

Mr. Blakeman moved approval for the installation of a fence at 56 College Street, adjacent to 58 College Street, and that it will be set at the front corner of the porch extending back. Mr. Lindley seconded the motion.

Mr. Zalinger inquired if a split rail fence was architecturally integrated with the style of the building they have just renovated. He said he couldn't imagine that building with the configuration using a split rail fence in an urban city environment. It doesn't seem compatible. Mr. Seidel said this was discussed at the Design Review Committee. He explained to them the reason they chose this fence was because its visibility would be relatively minimal. The intent is only to keep cars away from the foundation of the building. There are other fences of this type in urban areas, such as Montpelier.

Mr. O'Connell said he agreed with the DRC's recommendation that bringing the fence back to start no sooner than the porch is definitely the right direction to go. It would have looked unusual if it had gone all the

way to the street. He said he agrees with Mr. Zalinger's comments, but he also agrees with Mr. Seidel that visually it will be pretty minimal.

The motion to approve the installation of a fence at 56 College Street with the DRC's adjustments was approved unanimously 6-0.

#### **VIII. Design Review and Site Plan Review – CB-I/DCD**

3 Pitkin Court

Applicant: Duane Wells

Permit Application: # 2006-0118

Interested Parties: Duane Wells and Dot Helling, Esq.

**Philip Zalinger recused himself from discussion on this application. Jeremy Hoff joined the Development Review Board for participation.**

Ms. Swigon said this is a request for design and site plan review at 3 Pitkin Court. It is for the excavation of an area of approximately 2,500 square feet behind the building and for the construction of a concrete block retaining wall. The excavated area will be paved to create 7 parking spaces. The current use of the building is an office. The area the excavation will go into is a vegetated and wooded area.

The Technical Review Committee reviewed the application and had a number of comments. The applicant addressed most of the comments. Ms. Swigon said the staff and advisory comments identify some remaining issues that Tom McArdle felt could be addressed as conditions of approval. Ms. Swigon said she received an e-mail from Doug Hoyt. A couple of the comments are already addressed in the report.

Some of the work that is proposed will extend onto city property. The report notes the city's consent to work on any of its property would be required.

Mr. O'Connell inquired whether Chief Hoyt's comments in the e-mail would be reviewed by the TRC. Ms. Swigon said no, not at this point, because the project is before the DRB. She said that the staff report recommended conditions that would be part of any approval. For example, final design plans would be submitted to the Department of Public Works.

Mr. Wells said he had read the reports from the Technical Review Committee and Design Review Committee and he agrees with them.

Dot Helling, an attorney in Montpelier, said her property on East State Street abuts Mr. Wells' property he plans on expanding into parking. She and her neighbors are concerned about the noise and whether there is going to be blasting and the stability of the slope. It is very wet and clay soil. She wondered if Mr. Wells could address those issues.

Mr. Wells said there will be a certain amount of noise with machinery digging out a bank. Mr. O'Connell inquired what the estimated duration of the project would be. Mr. Wells said it would probably take a month. No blasting is proposed. He said they had hired an engineer and did boring tests. They have designed the retaining wall based on the boring test results. The engineer said once the wall is in place it will be stable and there will be no risk of erosion. Ms. Helling asked the DRB if there were conditions that addressed this.

Mr. O'Connell said the Technical Review Committee, which consist of staff from public works, fire, police and parks, do a review of the application. From a standpoint of meeting adequate specifications to prevent a major slide, if managed appropriately, he would take some comfort in that.

Ms. Helling inquired if there will be information available to residents in terms of how it moves forward if it is approved here.

Ms. Swigon said it would depend on how the Board decides to proceed. If this were approved with a condition that plans be submitted to the Department of Public Works for their approval, there is really no mechanism to issue a notice or alert her. Ms. Helling said she was concerned with the slide issue because of what has happened in other parts of the city. Mr. O'Connell said that was a valid concern. If it isn't done right, it can have disastrous consequences. She said she was concerned that what happened at College Street might occur.

Mr. O'Connell asked Mr. Wells how tall the wall is going to be. Mr. Wells said at the highest point it is 22 feet. Mr. Wells was asked what the purpose of the excavation was for, and he replied parking. He said there is a lack of parking in the city so he wants to make more parking for the city.

Mr. Matzner said according to Chief Hoyt part of the wall will be built on city property. Doesn't that need approval? Ms. Swigon said it was her understanding that it would have to be approved by the City Council. As Chief Hoyt has taken a first look at the plan and has raised issues, some work would also extend into the parking area between the two buildings, the Police Department and 3 Pitkin, which would also be on city property. Some work could be handled with an access permit, which is what Public Works issues when there is work on city property, such as a driveway. The part of the project that is near the Police Department involves the wall actually coming up against the building. There will be some excavation in a very small area of city property. She believes that will require the City Council's approval.

Mr. Matzner inquired who will be using the parking spaces. Mr. Wells said tenants of his building at 3 Pitkin Court. Mr. Matzner asked if there would be any loss of city parking by opening up that area. Ms. Swigon responded by saying there would no loss of city parking.

Mr. Cranse asked if Mr. Wells could respond to the questions posed by Chief Hoyt. Mr. Wells said his engineer told him there was no increased load to the foundation of the police station. Mr. Wells said there is approximately a foot around the police station that he doesn't own. He now has a wall that abuts the police station because the wall was there first and the police station was built after. Basically, all he is doing is turning that wall 90 degrees from where it is now. It's the same use of city land that he has now. He said there is a chain link fence that goes around so people won't fall.

Mr. Matzner said there appears to be a little bit of space where the wall abuts the Police Department's building. Mr. Wells said it runs up tight against that building. Mr. Matzner said he wasn't an engineer but stress appears on that wall of the Police Department in this configuration seems to be different, and if that hillside begins to move there will be an impact. Mr. O'Connell said that certainly would be an area for Public Works to advise on.

Mr. O'Connell said he noted that the DRC specified rose-colored facing. He asked if it would be cement block with a facing on the front. Mr. Wells said the cement blocks have a textured facing on them. These are approximately 18" x 12" high by 2' deep. Mr. O'Connell inquired if behind the wall itself if it was a rock material for drainage. Mr. Wells replied it was. Mr. O'Connell asked how over time he could insure its effectiveness. Mr. Wells said that was an engineering question and he didn't know. He said it was his understanding that the Public Works Department is overseeing the project. Ms. Swigon added that the cross section shows filter fabric running between the edge of the stone drainage and the actual soil.

Mr. O'Connell asked Ms. Swigon if there was another wall of this height anywhere in the city. Mr. Cranse said the wall at the demolition project at 22 Court Street was fairly high.

Mr. Blakeman asked if the excavation is totally on his property. Mr. Wells said other than the little section Ms. Swigon was talking about between his property and the parking lot, where the little curve is, and the one foot section where it connects to the Police Department, it is all his property. He owns to the top of the hill, which is Blanchard Park.

Mr. O'Connell asked Mr. Wells if he was aware of the issue of having to obtain City Council approval for doing work on City property. Mr. Wells said he did. Mr. O'Connell inquired how that worked. Ms. Swigon said her understanding was that City Council adopts a resolution authorizing access. She said the concerns of the Chief of Police would have to be satisfied and the City Council would get involved. There is a concern, and the city will have to be satisfied with the terms of that concern. It is really the DRB's decision if they are comfortable with moving ahead with conditions or asking for those concerns to be addressed before acting on the project.

Mr. O'Connell said he was comfortable moving forward because the Design Review Committee has granted their approval. With regards to the Technical Review Committee, he said he was comfortable with the Department of Public Works and their attention to detail and the comments from the Chief. This application is for Design Review and Site Plan Review. Ms. Swigon said the staff report has some suggested findings relevant to site plan criteria. Mr. O'Connell reviewed the staff recommendations and advisory comments.

Mr. O'Connell inquired if Mr. Wells had reviewed the staff comments and read Chief Hoyt's e-mail. He said yes.

Mr. Lindley moved approval of the Design Review and Site Plan Review of 3 Pitkin Court with the addition of the staff and advisory comments contained in the application. Mr. Blakeman seconded the motion. Mr. Cranse said he would like to add a friendly amendment to the motion. This would be to add a fifth condition, that prior to the issuance of a zoning permit an engineering report be submitted showing no increased load on the Police station foundation in the event of the ground shifting. Mr. O'Connell and Mr. Lindley said the new language could be added as c. in the staff and advisory comments.

Mr. Cranse said that Mr. Matzner had made a good point. What if the earth starts to move? Mr. Wells not being an engineer couldn't answer that question. He said the Chief of Police deserves an answer. That is why he made the very specific motion. That could be as simple as a statement from the city engineer. A board member said it should be from Mr. Wells' engineer to the city engineer, and then it meets the standards the Board is looking for.

The motion to approve the design review and site plan review, as amended, for 3 Pitkin Court was approved unanimously 7-0. Mr. Zalinger abstained from the vote.

#### **IX. Sketch Plan Review – MDR**

End of Mountainview Street

Applicant: National Life Group

? Two (2) acres to be subdivided from the larger National Life property

Interested Parties: Shawn Bryan, Duncan Robb, Kathy Flanagan, Colleen

Hartford, and Joe Loga

Mr. Zalinger said that before they proceeded with the application, he would like to read what the sketch plan review process is as outlined in the zoning ordinance.

Mr. Zalinger said consistent with that the DRB has always used sketch plan as a preliminary review and a fact find process. The Board has always used it as a fact finding process and an opportunity to hear from both the applicant and other folks who have views or questions about the matter. That being understood, it is also not a step in the process where one seeks and achieves interested person status, which is really a legal acknowledgement that you are a party in the case and provides you with appeal rights. This is a free flowing informational meeting.

An interested community member inquired what MDR meant. Mr. Zalinger explained that it is medium density residential, which is one of the zoning districts in the city.

Joe Loga, a neighbor, inquired if this meeting was not the time to air concerns. He asked if there would be a future meeting, or if this was an appropriate time to ask questions. Mr. Zalinger said this is the very first tentative step that the applicant has taken toward the subdivision process. It is intended to illicit comments from the neighbors before the applicant makes final decisions about the plan itself. He said it was not an inappropriate time but encouraged folks to avoid redundancy in their questioning. The DRB will hear from the applicant first.

Mr. Bryan from National Life said that for several years National Life had contemplated the sale of this L-shaped piece of property which is at the end of Mountainview Street and Abbey Road. The property is landlocked in a medium density residential area even though most of their property is office park. This property is in a residential area that doesn't have any particular use for National Life. They have been approached over a number of years by folks who have expressed a desire to buy the property. National Life simply is seeking subdivision approval to split it off from the office park district and offer it for sale. They have no idea of developing the property but only to sell it as raw land.

Duncan Robb, of Abbey Road, said he is an abutting property of the property proposed in the application. He said he had some questions for both the DRB and the applicant. He said he understood this is a two-acre lot that is going to be offered for sale. Are there any restrictions? This is simply allowing that two acres to be split off. Is that correct? What can be done with the two acres after it has been split off from the rest of the property? In order for further development on that property to occur, there will have to be another whole series of hearings.

Mr. Zalinger said it will be a two-acre lot in a medium density residential zoning district. Mr. Robb said that could be further subdivided. Medium density residential doesn't cut off at two acres. The person who buys it could say they want to break it into one acre lots or 8 average sized lots. Mr. O'Connell said what would guide what could happen there is what could happen in any medium density residential area. If somebody bought it and wanted to subdivide it further, they could certainly have that proposal come before the Board for action. Mr. Robb inquired if medium density residential included condominiums or apartment houses. Would that be appropriate in a medium density residential district? Ms. Swigon said residential uses are permitted in medium density residential. The form of ownership isn't regulated by the ordinance or how many units could be allowed there. The minimum lot area in a medium density residential district is 10,000 square feet, or a quarter acre.

Mr. Robb inquired if at the time National Life acquired this property if there were any restrictions on the ability to subdivide it or maintain a certain amount of open space. Mr. Bryan said not that he was aware of. The property was acquired in the '60's and he hasn't researched the land records. Mr. Robb said is it Mr. Bryan's understanding that there has been no agreement to sell this and this is only so National Life can offer it for sale in the future. Mr. Bryan said yes.

Mr. Robb said he would like to request of National Life that abutters of this property be notified of future hearings in this matter. He said they didn't learn about this until this afternoon. Therefore, they have no way of knowing how to proceed at this point.

Ms. Swigon said the sketch plan review level doesn't require notification of abutters, but abutters are notified at the conditional approval level. Notification would go out to all abutting property owners at the point that conditional approval is requested. The next step in the process before National Life could subdivide and sell off the property would be conditional and final approval of the subdivision by the Development Review Board. Mr. O'Connell said this evening they aren't taking any official action. Tonight's hearing is a preliminary informational process.

Mr. Robb asked Mr. Bryan if there was any necessity to provide information on access to the property or how water and sewer are going to be accommodated. Mr. Bryan said since National Life doesn't have any plans for development they don't have any plans for access or water and sewer. What they are seeking to do is to sell the raw land. Conceivably, someone could put one house on a two-acre lot, or they could want to subdivide it.

A Board member asked Kathy Swigon if the property was served by water and sewer. She said she believed it wasn't based on the information on the application form. She did not know if those utilities are available near the property. Either water or sewer would be extended to the property, or the minimum lot would be 20,000 square feet.

A Board member says that .7 acres is OP and 1.3 is MDR. Does this remain that way if it is subdivided? Ms. Swigon said it remains that way unless a zoning change is requested. Actually, Mr. Bryan and she discussed that it might make some sense to request a change. It wouldn't make a lot of sense to leave part of the new lot as OP. Mr. Robb said if they left it as OP, then that .7 acres couldn't be made residential, is that right? Ms. Swigon said residential use wouldn't be permitted. OP stands for office park. Mr. Robb asked how complicated would it be to change the zoning in this case. Ms. Swigon said a property owner can petition the Planning Commission for the zoning to be amended at any point and time.

Mr. Zalinger inquired of Mr. Bryan whether Ms. Swigon had shown him the process for conditional approval and the information we normally require for that. Mr. Bryan said that would be the next step. Mr. Zalinger said however well intentioned your desire to simply subdivide the two acres and leave future development to the purchaser, his review of the conditional review standards suggest there would have to be a good deal of planning undertaken by National Life before conditional approval could be granted. Mr. Bryan said they would certainly comply with whatever the requirements are.

Kathy Flanagan, a resident at 6 Mountainview Street, said she and her husband reside on the property listed on the map as A9. To follow up on Duncan Robb's comments about water and sewer, there was conversation about what is happening on Abbey Lane about sewer. At 6 Mountainview they currently have a septic system because they are not able to connect to the city sewer system. When their house was built in 1956, there was a plan in that neighborhood to have a development in that area, so there was a plan to extend city water and sewer throughout a development that would curve down to Northfield Street.

Ms. Flanagan said they believe the property line drawn on the map is not accurate. The line which is abutting their property, which is the L-shape, does not allow for an existing roadway that has been an extension of Mountainview Street since their property was built in 1956. The City of Montpelier currently plows and maintains that roadway, and that roadway is not shown on the map.

Ms. Flanagan said she heard someone say this is just a minor review for a minor subdivision, but for the people on Mountainview Street and Northfield Street, there are many families with young children who use the field at the end of the street, which is how we refer to this property, so for us this is the potential for development of what is currently being used as community property. It is access to a lot of the undeveloped land out in back that National Life has allowed people to use for snowshoeing and skiing in the winter as well as hiking in the summer. Many of us and people on Northfield Street do those activities with our families, so to us this is not necessarily a minor application.

In terms of the road extension, the City currently plows that portion of the street and they use the end of Mountainview Street to dump a large portion of the snow. She is concerned about how the plowing is going to be done in the winter if that access isn't there.

Ms. Flanagan inquired of Mr. Bryan if he was proposing to sell one two-acre lot or two one-acre lots for subdivision. Mr. Bryan said they are proposing to sell the 2.01 acres that is defined by the boundary. She asked how the sale of this property fit into the Master Plan of National Life. Mr. Bryan said the master plan for the larger parcel of 190 acres really is quite separate from this small parcel. That is the reason they are looking at the possibility of splitting it off, because it is in a residential neighborhood. It seems inappropriate to keep it part of the office park. Ms. Flanagan said one of the plans they had seen for the master plan showed an access to the industrial park. It went up from Northfield Street through this property. Mr. Bryan said he has seen the master plan and they don't have any plans today to develop the additional industrial sites on the property. This is not to say it couldn't happen in the future, but for today there are no plans. It wouldn't be impacted by this sale in any case because most of the routes of access to those properties have a different access.

Ms. Flanagan said it is a little surprising to find out that a proposal National Life is putting forth that was not at all communicated to any of the current landowners. It would have been nice for us to have heard that information from National Life directly, and, of course, there was no communication from National Life inquiring whether any of the landowners singly or jointly interested in purchasing the property. Mr. Bryan said if they go forward with this the property will certainly be offered for sale. He said he was sure there was no intent to exclude people from discussion. Mr. Bryan thought they would have been notified about tonight, and that was a misunderstanding on his part.

Mr. O'Connell said it was his understanding that the next phase, which would be the conditional approval, that there would have to be a detailed engineering analysis showing stormwater, etc. Does it have to be a hypothetical proposal, such as showing where the potential drain fields are and septic? Ms. Swigon said her understanding is that it needs to be demonstrated that it is a "buildable" lot, so a building envelope would have to be shown. It would have to be shown that the building envelope didn't involve wetlands or other unsuitable land. It would have to include a detailed engineering analysis regarding the soil suitability.

Colleen Hartford, a resident of 116 Abbey Road, asked if the neighbors could be notified prior to the sale going public. She also inquired how long the process for approval of the sale to take place was. Mr. Zalinger said the applicant has one year to proceed to the next level of review.

Mr. Cranse asked when there is no city water and sewer service, what happens when somebody wants to develop a lot. Ms. Swigon said they would have to use on-site septic and well, and there are permits required for both of those. Mr. Cranse inquired what would happen if the builder wanted the city to provide those services. Ms. Swigon said they would request that the Department of Public Works look into it.

Mr. Zalinger said there is a whole list of application materials that have to be submitted for conditional review. It fully contemplates that conditional review doesn't go forward unless a variety of issues are adequately addressed by competent professionals. This is a very preliminary review of the proposal tonight. There isn't much you can do with a 2.01 acre lot that you can bring to a sketch plan. Essentially, it is the outline of a lot and there is access through Mountainview Street and Abbey Road. It has frontage and two city streets. That's the broad sketch of the configuration of the lot and the applicant says this is their sketch and they are seeking to receive feedback from the DRB.

An interested property owner inquired if there was a mechanism for non-abutting landowners to be notified of the next hearing. Mr. Zalinger said it then becomes incumbent upon the city's staff to provide information to post and mail notices. It is published in the newspaper. Ms. Swigon added that the Development Review Board's agendas are posted on the city web site.

Mr. Lindley said he would encourage working out the zoning before they come back to the DRB with conditional review. Mr. Bryan said they agreed. Ms. Swigon said the staff had recommended that the applicant be permitted to proceed to conditional and final review together and the Board should think about whether it wants to do that or not. Mr. Zalinger said the ordinance contemplates there be a three-step process: sketch plan, conditional review and final review. The three step process in subdivision review is intended for major subdivisions. He said it may have a major affect in the neighborhood, but it doesn't make this project a major subdivision. It is a one two-acre lot. The kind of questions that may arise with conditional review can be joined with final review. That doesn't mean that there will be one hearing at which the matter will be taken up and all questions answered, and a final decision made by the Board. It just means the next phase of review can include both conditional and final review.

Mr. Zalinger asked Mr. Bryan if he had received sufficient feedback from the DRB. Mr. Bryan said yes.

The DRB shall make recommendations to guide the applicant in preparation of plans for conditional approval. Mr. Zalinger said the Board is going to expect to see all of the formal details in the conditional review application as outlined in the ordinance.

**Other Business**

There was no other business at this time before the Board. The next meeting of the DRB is scheduled for September 5<sup>th</sup>.

**Adjournment**

Mr. O'Connell moved adjournment of the meeting, with Roger Cranse seconding the motion. The meeting adjourned on a unanimous vote of 7-0.

Respectfully submitted,

Kathy Swigon  
Administrative Officer

Prepared by Joan Clack  
City Clerk & Treasurer's Office

*Thee 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.*