

Montpelier Development Review Board
June 16, 2008
City Council Chambers, City Hall

Approved

Present: Philip Zalinger, Chair; Kevin O'Connell, Vice Chair; Alan Blakeman, Jack Lindley, Jeremy Hoff and Roger Cranse.
Staff: Clancy DeSmet, Planning and Zoning Administrator

Call to Order:

The meeting of the Montpelier Development Review Board of June 16, 2008 was called to order by Philip Zalinger, Chair, at 7:00 P.M.

Review of June 2, 2008 Minutes:

Members present at that meeting were Jack Lindley, Alan Blakeman, Jeremy Hoff, Dan Richardson who isn't in attendance tonight, and Roger Cranse.

Mr. Lindley moved approval of the minutes with the following changes on page 3 where it should read the "gold" standard and not the "goal" standard. Mr. Hoff seconded the motion. The Minutes of June 2, 2008 for the DRB were adopted on a vote of 4-0.

I. 7 West Street – HDR/DCD

Applicant: Steven Hingtgen and Michele Childs
Design Review for repainting building.

Mr. Zalinger said this is an application for design review at 7 West Street. The Design Review Committee reviewed the application on June 10th and recommended approval with an optional change the applicant may pursue at their discretion. Minor colors may be changed. The applicant said he was fine with the approval from the DRC. Mr. Zalinger said the DRB generally doesn't take additional evidence if the applicant is in agreement with the Design Review Committee's recommendations.

Mr. Blakeman moved approval for design review at 7 West Street with the recommendations made by the Design Review Committee, with Mr. Cranse seconding the motion. The application was approved unanimously on a 6-0 vote.

II. 25 School Street – CB-II/DCD

Applicant: Strategic Signage, LLC (agent)
Owner: Fairpoint Communications
Design Review for a sign
Interested Party: Robert Keyser

Mr. Keyser said he had met with the Design Review Committee. There were no disagreements. What they have done is provide additional documentation that identifies the changes that were made by the Design Review Committee last week and he would like to include the changes in the DRB's minutes. Basically, this covers all of the recommendations that the Design Review Committee made on the size of the sign, the location of the sign, and the addition of the building number above the main entrance of the door. They are also planning on repairing and cleaning the marble entrance way without using any type of abrasive material or chemical treatment.

Mr. Lindley moved acceptance of the 25 School Street application with the advisory recommendations made by the Design Review Committee, along with the adjustments attached to the staff and advisory comments. Mr. Cranse seconded the motion. Approval should be granted on the condition that the submission they received from the applicant tonight conforms with respect to comments made by the Design Review Committee.

Mr. Cranse said it was the dimensional size that was the problem, and this says it is 8.44 square feet, and it has to be not more than 10 square feet. It meets that requirement.

Mr. Lindley said the applicant is ahead of the game. This didn't even need to be submitted. The language here is what was worked on by the committee. Mr. Lindley and Mr. Cranse both agreed to amend their motion. The application was approved on a 6-0 vote.

III. Site Plan Review

213 Elm Street – HDR/FP

Applicant: Fred and Nancy Cleveland

Construction of an egress tower at rear of building

Mr. Zalinger administered the oath to the applicant, Fred Cleveland.

Mr. DeSmet said this applicant proposes to build an access stairway at 213 Elm Street. Because it is more than a two-family dwelling it has to go through site plan review, and the Planning Office records indicate that it had never gone through site plan review. That is why it is here.

Mr. Cleveland said basically there is an issue of egress from the third story apartment. They are being required by their insurance company to provide an alternative egress that will have stairs. According to Montpelier's building codes, that has to be largely enclosed because of snow conditions and maintenance issues. They are picking up as a bonus egress, again not required by the life safety codes, to two second floor apartments that will tie into this project.

Mr. Zalinger asked if the footprint on the site was going to change.

Mr. Cleveland replied yes. It is 8 foot by 22 or 23 foot envelope.

Mr. Blakeman asked if this was going to be enclosed. Mr. Cleveland said yes. Mr. Blakeman asked if it was on the back of the house. Anyone traveling on Elm Street would never see it unless they looked for it. Mr. Cleveland said it was planned that way. The roof lines are going to be a continuation of the roof line of the existing horse barn. It will be visible from the street, but to a very minor extent. They tried to minimize that, so that is why it was put on the back of the house.

Mr. Cleveland said they are showing five existing parking spaces. That is true, if you don't count the garage. If you count the garage there are actually six. He wasn't aware of the floodplain issues and wanted the Board to know there isn't going to be anything but concrete below the 100-year floodplain.

Mr. Zalinger said he wanted to confirm going down through the site plan criteria in the ordinance that ingress and egress to the streets will be changed. Mr. Cleveland said yes. The pedestrian access and circulation will not change but for the egress as identified in the new construction. Mr. Cleveland replied that was correct. Vehicular access and circulation will be unchanged. The parking is unchanged. Landscaping and screening, as well as the lighting will be unchanged. The only excavation and filling will be done in connection with the construction.

Mr. Hoff moved approval of the site plan at 215 Elm Street as proposed by the applicant. Mr. Blakeman seconded the motion.

Mr. Lindley said he was curious about the staff comments with regards to the ANR. Is it necessary to make that part of the conditions?

Mr. DeSmet said it is customary they send all construction in a floodplain to ANR for them to review.

Site plan was approved for 213 Elm Street on a 6-0 vote.

IV. Site Plan Review – IND/MDR

122 Gallison Hill Road

Applicant: Patrick Malone

Construction of a 25,000 foot dry storage warehouse building.

Interested Parties: David Frothingham, DeWolfe Engineering Associates

Matthew Hoar, McIntosh, Inc., adjoining property owner

Philip Zalinger recused himself from participating in the application but sat as Chair to facilitate the hearing.

Mr. Zalinger administered the oath to Mr. Frothingham.

Mr. Frothingham said five years ago the DRB approved construction of a 53,000 square foot distribution warehouse, the surrounding parking, stormwater pond, utilities and a 25,000 square foot dry storage warehouse. The warehouse never got built so they are back for a second review of that. In addition, they are looking for approval for the construction of an internal access drive to access a refrigerated warehouse on the west end of the site and directly from the distribution center on the east end of the site. Currently, trucks travel out onto Route 2, back in here and go back out again, and this would remove those trips from Route 2 from the Gallison Hill Route 2 intersection. There are no new employees, no hookups, and traffic is the same as previously approved.

The plan shows in more detail the earth work involved. Currently, around the back of the building excavation began for the building and then stopped. There is a cut slope back there and they are proposing to push that slope back another 30 feet or so to fit in the road and the drainage swale required behind it. There will be a two-tiered slope behind it with intermittent swales to pick up any drainage coming from above the earth works and 80,000 yards.

Mr. Blakeman asked where the loading would be done.

Mr. Frothingham said there are two loading docks. They were originally proposed to be in the front of the building, but that would block access to the doors. As part of this road they are now able to access the west end of the building.

Mr. Blakeman asked if they would have any connection with the other Cabot buildings.

Mr. Frothingham said there would be access from this building.

Mr. O'Connell asked if dry storage meant it was refrigerated.

Mr. Frothingham said it is not refrigerated. The only refrigerated warehouse is already present there and the distribution center.

Mr. O'Connell inquired what kinds of things would be kept in the warehouse.

Mr. Frothingham said he wasn't sure. Stuff that is related to the packaging and distribution of cheese.

Mr. Zalinger administered the oath to Matthew Hoar, an adjoining property owner.

Matthew Hoar said he is across the tracks to the right of the Blodgett building. Mr. Hoar said the water that comes down off the hill is his spring out of the wetland. That used to be his father's property; he bought it in 1943. Having trailer trucks driving out back or parking in the parking lot is getting oil and gasoline in his drinking water.

Mr. Frothingham said the runoff off the proposed road does not go towards Mr. Hoar's property. It's collected and taken over the stormwater. Everything from above the hill is actually routed around that area and continues to the swale.

Mr. Zalinger asked Mr. Hoar what was the nature of the improvement on his property. Is there a building on his property? Mr. Hoar replied no. Mr. Zalinger said he was unsure how drinking water would be accomplished there. Mr. Hoar said there is an RV there. Mr. Zalinger asked if he occupied the RV on a temporary basis. Mr. Hoar said yes.

Mr. Zalinger asked if he drank surface water. Mr. Hoard said, sometimes yes. He has a little plastic hose coming out by the East Montpelier Road.

Mr. Zalinger said surface water isn't potable, and it is not a safe or sanitary water source.

Mr. Lindley said the point becomes moot as Mr. Frothingham has explained to Mr. Hoar about the flow of water.

Mr. Frothingham said he is currently talking about a wetland up above which drains off the Elks Club, and there is currently a swale that brings it down the bank around the warehouse and around the parking lot. They are cutting that swale off and bringing it up higher and dumping it into the same soil down around the parking lot, and then everything from the new road and building gets collected and brought back to the pond.

Mr. Zalinger told Mr. Hoar that was a practical explanation from an engineer that in their opinion it is not going to interfere with the flow of water to his site. He also pointed out to Mr. Hoar that the Development Review Board has no jurisdiction over the private property rights that accrue from one property to another. For example, if his property was benefitted by a spring right that was imposed upon the parcel on top he would have an easement hypothetically over intervening properties. The Board can't adjudicate those things; only the superior court can. If Mr. Hoar has rights that are interfered with by this project he can go to court to protect them. The explanation from DeWolfe Engineering Associates is that the flow of water from the wetland is not going to be substantively changed.

Mr. Frothingham said that was a fair statement. The testimony is that the flow path, although slightly altered, that wetland still drains down and crosses out of their property in the same location under the railroad tracks just as it does today. The water off of the pavement from this development goes in a different direction.

Mr. Hoar said from the pavement there are three culverts catching that.

Mr. Frothingham said there is one catch basin, a manhole and another pipe to pick up higher.

Mr. Hoar said he has two pipes coming off of his property, one from the boardwalk and one from Patrick Malone's property.

Mr. Zalinger asked Clancy if he had any materials that related to the prior approval of the dry storage warehouse. He asked if there were any substantive controversial issues then.

Mr. DeSmet said he didn't have a Technical Review Committee meeting but met with Tom McArdle and he didn't have any problems. He saw the retention of the flows, the access of the new drive; it is a substantially similar project. The project just expired.

Mr. O'Connell inquired if this required an amendment to the Act 250 permit.

Mr. Frothingham said the addition of the road does, and that is currently under review, as well as amendments to their storm water permits and erosion control permits.

Mr. Hoff asked what would be the circulation patterns of the trucks.

Mr. Frothingham said they would drive into the loading dock, pass by it, back into it, and then come out, turn around and go out.

Mr. Zalinger said what really comes to mind is vehicular access and circulation has been improved by the creation of an internal roadway. Mr. Frothingham said there are an access from Gallison Hill and an access from Route 2.

Mr. Zalinger asked if the Route 2 access was going to be continued.

Mr. Frothingham said they are planning on placing a barrier across it with a post and chain so it will be for emergency access only.

Mr. Zalinger asked if that was evidenced in the application. Mr. Frothingham said it was in the letter to Clancy and it is shown on the plan.

Mr. Zalinger said it is the applicant's intention that the access from route won't be used regularly at all. Mr. Frothingham agreed that was correct.

Mr. Lindley moved approval of the site plan for 122 Gallison Hill Road as presented, with a second by Mr. O'Connell. The vote was 4-1-1, with Mr. Zalinger recusing himself from voting. Site plan for 122 Gallison Hill Road was approved.

V. Site Plan, Conditional Use, Design Review – RIV/DCD/FP

Stone Cutter's Way – Turntable Park

Applicant: Nina Thompson/City of Montpelier

Owner: Agency of Transportation

Creation of a Community Park

Interested Parties: Nina Thompson, City of Montpelier

Jake Owens, Landscape Architect, ORW Landscape Architects & Planners

Sally Bishko, River Station Family Dentistry

Mr. Zalinger administered the oath to Jake Owens.

Mr. Owens presented a small history of the project. The Turntable Park was designed around a historic rail turntable, which was at the center of a thriving rail yard from the 19th century up until the second half of the 20th century. More recently it has been an important part of Montpelier's mixed use redevelopment along the river at Stone Cutter's Way. In 2003, the Turntable Park was envisioned as a quarter acre pocket park and outdoor performance space set between two prominent new buildings, an office building to the west and the Pyralisk Performing Arts Center to the east with views to the river to the south. At that time they designed the project with this context in mind. The office building has been built and is fully occupied. The performing arts center has recently been redesigned as an arts park. About a month ago they were asked to redesign the Turntable Park with this in mind. They are supposed to coordinate the two outdoor spaces so they work together, so they will be actually permitted and are two separate projects with their own funding sources.

Mr. Owens said the first element of the plan is the restoration of half of the turntable, the idea being they would restore half of the turntable to its original condition with the mechanism that turns the turntable as well as the bridge and the rail that the turntable sat on. That is the first part of the project. The fact that it is a deep hole they will need to guardrail so people won't end up falling into the original turntable section. The history and the use will be described through an interpretive panel that will be near the entrance. The redevelopment of the other half of the turntable is that it will be partially filled and then part of it will have a metal deck over it that will be used as a stage for outdoor performances and any other uses that seem appropriate. the design of the deck and walks are based on the historic location of the rail lines that radiated out of the turntable and went over to what he refers to a square house. The radiating structure of the deck and walks can be enhanced by the use of some of the track which can be embedded right into the walks.

The bridge itself will be decked over and become part of the circulation of the park, and it will provide a great view of the historic site of the turntable as well as out to the river. The graveled river front path, which will come from the Pyralisk side, can connect over in front of the office building.

On-street parking can be developed that will keep with the on-street parking that exists out there now. An ADA access space will also be included. Shade trees and perennials will complement the park. Benches, possibly designed with old rail car wheels will be provided throughout the park. Lighting will be lit from just three poles

within this particular park. The river bank will be left as undisturbed as they can, except they may want to possibly put in some things to try to get some views out between the upper and lower areas of vegetation out to the river.

Mr. Zalinger said he assumes the applicant is in agreement with the recommendations from the Design Review Committee. Ms. Thompson said they are.

Mr. Zalinger said the Board would consider the conditional use standards.

D. Conditional Use Criteria - 304.D.

1. A conditional use may be approved only if the DRB determines that the proposed use does not adversely affect the following:
 - a. The capacity of existing or planned community facilities;
Mr. Zalinger said it is a rather rare application but it is in fact a community facility. He suggested that criteria is not applicable.
 - b. The character of the area affected, as defined by the purpose(s) of the zoning district within which the project is located, and specifically stated policies and standards of the Montpelier Municipal Plan;
The character of the area will be enhanced by the addition of the park which one of the primary focuses of the whole district was to enhance access to the river front and to create park space for citizens to enjoy.
 - c. Traffic on roads and highways in the vicinity;
The record seems to be rather quiet as to the impact on parking from the creation of a park there. Mr. Zalinger asked Clancy if there was anything suggested in the zoning ordinance of what the demand might be with the creation of a park. Mr. DeSmet said typically recreational uses require one parking space per 8 persons. However, there is a waiver in the Riverfront District under §705(h) that says any use involving existing floor space shall not be subject to off street parking. Mr. Zalinger said when the pocket park was created out on Elm Street, which was a canoe access, they required one or two parking spaces. Ms. Thompson said they are adding 3 regular parking spots and 1 handicapped parking place. Mr. Zalinger asked why they were creating grass curb extensions between parking spaces up and down an area that is begging for more parking. Mr. Owens said it would be the potential for one more space if you didn't have it. The idea was to make the entrance to the park as visible as possible from the street. That is assuming people will be entering the park from the bike path. Mr. Zalinger asked if there was a crosswalk in the vicinity. Mr. Owens said there will be with the Pyralisk. Mr. Zalinger said if they have a crosswalk why have a grass entry. Mr. Owens said there is a lot of parking on the street and all of those people are going to need to get into the park.
 - d. The Zoning and Subdivision Regulations in effect; and
This is all consistent with the Riverfront District zoning.
 - e. The utilization of renewable energy sources.
Non applicable.

Sally Bishko, River Station Family Dentistry, inquired about the impact of parking on Stone Cutter's Way. She has patients coming and going five days a week. Are people coming to the parking going to be parking at the Coop? What is the impact of parking going to be on offices on Stone Cutter's Way?

Mr. O'Connell asked what was the net impact of parking looking at both projects.

Ms. Thompson said they haven't conducted a traffic study.

Gwen Hallsmith, Director of Planning and Community Development, said there is going to be more parking as a result of the project. The Pyralisk is creating 9 spaces and Turntable Park creates another 4. There will be 13 more parking spaces in that area.

Ms. Bishko asked if they would be metered or free.

Mr. Zalinger administered the oath to all interested parties attending the DRB hearing testifying on both the Turntable Park Project and the Pyralisk Project.

Mr. Zalinger asked Ms. Bishko if she suspected people would be using the park during the day when the dental office is open. Ms. Bishko said that is what she is concerned about. Probably nobody will use the park after 5:00 P.M.

Ms. Thompson said her hope is that if they create a park along the bike path that people will start using their bikes to get there and enjoy and it will increase pedestrian use without vehicles. There is lighting in the park so there will be people will be there after hours. They have been told there is excess parking there, and they are adding 13 parking spots.

Mr. Zalinger told Ms. Bishko she was a tenant in 535 Stone Cutter's Way. Is there expectation in her lease that her clients and patients have the right to park there?

Ms. Bishko answered no. She said there is an expectation they can park along that street somewhere. Public parking is public parking.

Ms. Thompson said she thinks by beautifying and creating open green space they will see more people use their bikes and walking.

Mr. O'Connell said conceptually having that space as open space is a great way to take advantage of the river front. Looking at both projects together, what is the expectation as to how active a use will occur? He doesn't see how they can separate the two parks. What is the expectation of how many people will be using it, and for what kinds of activities?

Ms. Hallsmith said that is a more appropriate question for the Pyralisk. The Turntable Park is not going to be programmed like the Pyralisk Park will be. Mr. O'Connell said he accepts that, but it is one park. The funding sources may be different.

Ms. Hallsmith said the purposes of the parks are different. Turntable Park is more of a preservation of an historic monument to the area whereas the Pyralisk Park is more of a performing arts space. Turntable Park is going to be quite different. Ms. Thompson said her thought would be people having lunch there and just hanging out. There will be programming at the Pyralisk. The city won't be programming any events at the Pyralisk. It is just to preserve it, clean it up, provide access to the river, a place to sit and enjoy the outdoors.

Mr. Lindley said he understands the historic significance, but why are they insistent upon the depth that requires fencing to be put around it? If it is historical maybe we need to retain the deep pits.

Ms. Thompson said there is a single rail track which actually moved the machinery. It is actually 4 feet deep. In order to view the mechanics of the previous working turntable you would have to have 4 feet for that. Then, there is 3 more feet to the bottom. You would have to have a fence around it just to view that one element.

Mr. Zalinger asked if they could tell them if there were more parking spaces available.

Mr. Owens said they could almost get a second space. That would be one additional space.

Mr. Hoff asked if there were any bike racks proposed.

Mr. Lindley asked if they were using the best space to accommodate parking. He doesn't know anybody who has had much luck finding parking during the day at Stone Cutter's.

Mr. Cranse said in the winter when the snow builds up and there are cars parked you can barely get through. It's very narrow. We need parking in the city, and he agrees with Jack's direction on the parking space.

Mr. Zalinger said it seems to him that the design on the far side of Stone Cutter's Way is not really compatible with the development that is beginning to occur on the river side. We have the applicant who happens to be the City of Montpelier who has the authority to change the bulb out on the other side of Stone Cutter's Way and change the curb to put in a couple more parking spaces and then install the grass swale.

Ms. Hallsmith said during the Technical Review Committee meeting Tony Facos testified to the fact that the parking down at that end of Stone Cutter's Way is the only relatively unusual under utilized parking the city. The parking down at that end of Stone Cutter's Way is often empty during the day.

Mr. Zalinger said demand is not the issue. It is not whether there is demand for the parking spaces, but the question is whether the design of the far side of Stone Cutter's Way is compatible with the near side of Stone Cutter's Way as presented here. Ms. Hallsmith said they didn't have any comments about that. Mr. DeSmet said Tom McArdle didn't have a problem with this plan.

Mr. Owens said the other reason the bulb outs exist is the travel lane is still defined and you don't end up with cars passing each other down that road late at night, so there is a physical impediment to the parking. Ms. Hallsmith said there are traffic calming devices. It's also a one-way street. They didn't raise objections at the Technical Review Committee to this.

Mr. Zalinger said no one has told him they think it's a poor idea because they are changing the use on the near side of Stone Cutter's Way and adding the grass entry to the park that it wouldn't be a good idea to delete the bulb out on the other side and add 2 or 3 parking spaces.

Ms. Hallsmith said she doesn't believe that is in the purview of this project or what is being considered here. That is the city's purview at this point. Whether they would do that or not she can't promise because it isn't her department.

Mr. O'Connell said the point is that the DRB has a concern, which has been well vetted here, and being that it is the city there is clearly chance to go to the TRC and express our concerns.

Ms. Hallsmith said they could set a condition on the development that the bulb out is eliminated on the park side and a parking place is added. She doesn't believe it is within the DRB's domain to ask the city to eliminate something on the other side of the street. They certainly could set a condition on this development to create parking where the bulb out is on the park side if they feel that is important.

Mr. Lindley said what is troubling to him is that there are two applications that are going to bring a lot more people to this area, and it seems they are just overlooking the potential of finding additional parking spaces in this particular district for the sake of some grass that will probably die with the salt that is put on the street every winter. Common sense says if you are going to do these projects and add people to this area we need more parking put in, and there is an opportunity for approximately 5 more spaces.

Mr. O'Connell said this is really one project. The activity that occurs in the Pyralisk Park is key to the discussion about the parking.

Ms. Thompson asked if they could talk about the specific area for the Turntable Park Project.

Mr. O'Connell said the activity which will occur is for the two projects; it isn't one but two. The concerns the DRB has made with regards to handling the extra vehicles and vehicular traffic is key to that. From the standpoint to the new activity, these are not separate projects. We are rapidly getting to the point where we need a broader discussion.

Ms. Hallsmith said she could appreciate the DRB's sentiment that creating two parks on Stone Cutter's Way seems like they are inherently related. They actually are two separate projects. The Turntable Park is the preservation of an historic structure. They are happy to modify the plans to add a parking space instead of having the grass swale if that is what the Board feels is important to do for parking in the vicinity. When they were meeting with the Technical Review Committee and discussing parking needs of the project, at first they had designed this side of Stone Cutter's Way without the parallel parking and because of their input they put in quite a bit of parallel parking along that side of Stone Cutter's Way to make sure there was going to be adequate parking for both the Turntable Park and the Pyralisk. But if the Board feels it is important to take out that bit of grass swale and add a parking space for Turntable Park's purpose, then set a condition on the permit. It's important to mention from the city's perspective, at least from the Planning Department's perspective, that both of these projects right now are up against a very serious time constraint. We will lose the funding for both the brownfields cleanup of this blighted property and the creation of a performance park by September 21st if they haven't moved forward with the project. The project admittedly has been plagued with a number of different issues in the past that are completely out of the city's control and completely out of the Pyralisk's control. What they are seeing here tonight is a proposal that basically is trying to save about 3/4's of a million dollars of improvement for the City of Montpelier. They are happy to adjust the proposal as the Board sees fit. If they want to set a condition on the permit that they eliminate the grass swale and add a parking space, that's great, and they are happy to do that. She tends to agree with traffic calming and the designer's feeling that this would provide an entrance to the park, but she also agrees with the Board's sentiment that parking is an issue in Montpelier. If you look at the purpose of Stone Cutter's Way district and look at the fact they eliminated some of the parking requirements for the reuse of the existing floor space, which does have a higher parking demand than open space, because of the need and desire of the city to create an area along the river that was conducive to pedestrian and bicycle travel they reprioritized parking in this area for that reason. She tends to think adding or subtracting one parking space in the mix of things they are flexible.

Mr. Cranse said he could see how the two parks are connected in some way, but they are separate applications so he thinks they ought to review the criteria for the Turntable Park.

Mr. Blakeman said he had a couple of other questions that tie in. What type of fencing are they are looking at to keep kids or people from jumping into the pit?

Mr. Owens said it is going to be 42 inches high and it will be aluminum or metal fencing with a cable guardrail. A handrail will be required.

Mr. Blakeman said he is curious about the metal mesh. It says stage area. Does stage mean stage as in performance?

Ms. Thompson said it is a platform area. You could have a performance space on there for a very small audience.

Mr. Blakeman said possibly on the parking area there could be conceivably mini parking, such as designated compact spaces.

Mr. Hoff said there is absolutely nothing that would prohibit the Department of Public Works from eliminating the bulb out.

Mr. Blakeman said he would recommend some type of bicycle racks. Otherwise there will be bicycles flopping all over the place. Ms. Thompson said that would be fine.

Mr. O'Connell said the point he would like to have on the record is that we are creating two spaces, which is really acting like one space that is going to create considerable additional activity there with an additional demand for parking. That is the issue and not the one parking space.

Ms. Bishko said she would vote for keeping the bulb outs because people go 50 to 55 miles per hour down that street. There should be as much emphasis on slowing people down because they do travel fast on Stone Cutter's.

Also, the city needs to do a better job of snow removal because it is very tight there in the winter getting in and out of there.

Mr. Cranse said in the conditional use criteria, 2.d., the noise generated, in the application they have listed the purposes of the park as 3. They didn't list entertainment but there is a stage where they said there could be entertainment. Noise, therefore, is a consideration. The other application for the Pylalisk states specifically they will seek City Council's permission for events that might generate noise beyond the limits. He suggests they condition this application likewise.

Mr. Zalinger said if a permit is issued by the city for an event in front of City Hall, that doesn't necessarily mean there are other methodologies by which the city governs the use of city-owned property. This is public property, and if there is going to be a public event held on the city's Turntable Park, it will have to be permitted. He doesn't know why they would have to condition the use upon obtaining a permit to use it if the noise ordinance is going to be applicable. No one can use it for a private event unless it has been permitted by the city, which is different than private property holding an event. Because it remains public property, the use of it is always subject to the issuance of a permit by the city.

Mr. Zalinger said they have reviewed the conditional use criteria. The site plan criteria has been addressed by staff. He doesn't have any disagreements with their recommendations which have been made. The application pending before the DRB is for design review, and there are already recommendations from the Design Review Committee that the applicant has evidenced agreement with. There is also a request for conditional use approval. There is a request for site plan review approval.

Mr. Lindley moved approval of design review, conditional use and site plan review for Turntable Park with a request that additional parking be placed on the same side as Turntable Park along with a bike rack. That would be a condition to the application. Mr. Blakeman seconded the motion. Mr. Lindley said there should be added to the grassy area an additional parking spot and bike rack. He is suggesting the grassy area be removed.

Mr. Zalinger said the approval then is of a modified design that deletes the grass and curb extension for the inclusion thereof an additional parking space. Mr. O'Connell said it is his view that by modifying the design itself they are compromising the integrity. It wasn't the matter of one parking spot, but the increase of the intensity of the use of the area that was important to him. He isn't going to vote for that. He thinks the Board needs to discuss the one parking spot. Mr. Hoff said he agreed with Kevin.

Mr. Zalinger said the motion that was seconded by Mr. Blakeman had the removal of a grass area and the substitution of a parking space and a bike rack.

Mr. O'Connell said he could support a bike rack but he can't support removing the bulb out.

Mr. Zalinger said he isn't going to vote in support of the motion, either. The motion was denied.

Mr. Hoff moved approval of design review, site plan review and conditional use at Turntable Park with the condition that the applicant add a bike rack. Mr. Blakeman seconded the motion. The motion passed on a favorable vote of 5-1. Approval is granted.

VI. Site Plan, Conditional Use, Design Review – RIV/DCD/FP

575 Stone Cutter's Way

Applicant: Pylalisk Arts Center

Demolition of Salt Shed. Creation of an Arts and Community Park

Interested parties: Ward Joyce, Board of Directors, Pylalisk Arts Center

Jon Anderson, Board of Directors, Pylalisk Arts Center

Mr. Zalinger administered the oath to the interested parties.

Mr. Joyce said he is going to present the plan and Jon Anderson will speak about some legal issues and answer some questions. The object is to make a park that will dovetail with Turntable Park. They are just separate

applications. As we talk about the parking issues we need to talk about all of the parking, and they hope they have addressed the Board's concerns with parking. The park starts with the preservation of the riparian edge, which is a critical feature, and then they are trying to create is an open space to replace a very blighted sight with a building that has been condemned while in the process create an open space to benefit the community. The first feature is an open lawn that is just for activities people may want to do, with a continuous walk covered by an arbor and an amphitheatre for acoustical music with a wall behind it, and then an area for sculpture. They will be planting trees and doing some walks to connect it with the Turntable Park. The idea was to turn an ugly building into a public amenity.

Mr. Anderson said Ward Joyce prepared the graphics for the application and he prepared the text of the application. In reviewing he noticed in the conditional use portion of the application it said it would have no impact on water because they weren't installing anything. Ward put in a spigot so they can take care of the plants in the park. The Design Review Committee came forward and included a comment from Tom McArdle that they not have their events drop off located across the pedestrian crosswalk. They are happy to move the events drop off to the south side of the park area, which would be the area closest to the Coop. That is where their handicapped parking spaces are, and there will be handicapped access onto the sidewalk at that point as well, so that would allow the buses bringing people to events, if that is what happens, to pull in there and drop them off and have a handicapped access.

Mr. Zalinger said there are elements of the design review part of the application, and the Design Review Committee reviewed the proposal on June 10th and recommended approval as proposed.

Mr. Anderson said in their application they tried to address every single criteria in the zoning ordinance applicable to the project.

Mr. Zalinger said very often they don't duplicate the review of the Design Review Committee and adopt their recommendations. This brings us then to the conditional use criteria.

D. Conditional Use Criteria - §304.D.

- 1) A conditional use may be approved only if the DRB determines that the proposed use does not adversely affect the following:
 - a. The capacity of existing or planned community facilities;

Mr. Anderson laid it out in the application. They aren't using any sewer services. They are proposing there will be water available on the site through a spigot so they can get water. So they can use the site in the future they are installing water and sewer lines to the site, but they are not proposing to use them at this time. As far as fire and police services they would anticipate they wouldn't use an abnormal amount. As far as educational services, they think this is an amenity that improves the educational services because some of the arts activities would be educational. To the extent that they were ever perceived as over using the fire and police services, the nature of the requirements for the Pyralisk are because the noise requirements are so low at the property line unless they have an events permit from the city the city will have the ability to control their use of the site to an extreme degree.

Mr. O'Connell asked what the expectation was as to what the number of events, types of events, and the hours of operation for the Pyralisk.

Mr. Anderson said it is to be determined.

Mr. O'Connell said he is concerned about the noise because, as he is sure he is aware, the river corridor acts like an echo park for both sides of the river.

Mr. Joyce said they talked with Les Blomberg from Noise Pollution Control and he is going to consult with them on the project. He suggested if they did any sound whatsoever to do surround sound so that sound could be delivered in kind of a living room type volume directly at a group gathered. The Coop has had a concert in July and it is incredibly loud. If that kind of an event were to occur on a regular basis that would be a major problem.

Mr. Joyce said he didn't think anybody would be happy if they did. What they are trying to set up here is a space that can be used as best as it can. If we set up a stage and hold a St. Patrick's Day party down here and it was too loud, they wouldn't do a St. Patrick's Day party next year. They are trying to set up the infrastructure for a functional evolving community amenity, and it will be controlled by city permit. If they go astray and it's too loud at one event, they will be controlled at the next. They intend to have responsible programs at this park.

Mr. O'Connell said that was an issue with the original Pyralisk design even with an enclosed space.

Mr. Anderson said if you want to talk about parking, arts events in the city draw a number of people without creating a need for parking, such as the Brown Bag Concert Series that the MDCA sponsors. They are held in the middle of the day and because people are already parked they walk to the event, there is not a separate need for parking. To the extent they are holding events during the daytime they are hopeful people will walk to the site. They are creating 12 more parking spaces than are there now. On either side of the Pyralisk you have an office use building and one is a commercial use and their hours peak at different times.

Mr. O'Connell asked if the Coop's parking lot was available to this project.

Mr. Joyce and Mr. Anderson replied yes, and their lot is available to them. Mr. Joyce said they have an ongoing signed agreement to be able to use their parking.

Mr. Anderson said they don't want to have events that people can't get to because they can't afford to have events that people can't get to. For larger events where there is a risk of violating a very low noise limit at the property line, they will need an events permit from the city.

Mr. O'Connell said this could be a really great asset. He just wants to be on record about voicing his concern about the noise issue. Mr. Anderson said they are restrained because that is a very low limit.

Mr. Zalinger asked if they had anticipated security at the site.

Mr. Joyce said the Police Chief reviewed the plan and said he actually thought it was good. The only concern he had was a wall he had proposed which was 6 feet tall, and they lowered it to 3 feet. Other than that, he said the park looked great. It looks easy to police and a good park for his needs. He didn't want to see people sitting he couldn't see and they addressed that concern by lowering the wall.

Mr. Zalinger asked if there was going to be lighting.

Mr. Joyce said the lighting matches the Coop parking light so there is consistency. They will install motion sensitive lighting if that is what is acceptable. Mr. Anderson said they had a long meeting with security services and the fire and police, and they did not have any concerns. Mr. Joyce said the presumption is the lights would come on at dusk and go off at 10:00 P.M. The light all concentrates pretty uniformly in the park space.

- b. The character of the area affected, as defined by the purpose(s) of the zoning district within which the project is located, and specifically stated policies and standards of the Montpelier Municipal Plan;

Mr. Zalinger said he thinks this is the very reason why the Riverfront District was created, although there is enough in the Riverfront District description to satisfy about anything.

Mr. Cranse said this is a private park. Mr. Anderson said yes. Mr. Cranse asked if the owner pays taxes to the City of Montpelier. Mr. Anderson said that is to be determined and negotiated.

Mr. O'Connell asked if it would actually be Pyralisk that owned it. Mr. Anderson said they anticipate that the Pyralisk will own it. The Vermont Transportation Agency owns title to the site. Pyralisk has 55 to 60 years remaining on the lease. They anticipate they will negotiate with the city an operation agreement that will allow

the city to control the site except when the Pylalisk is providing arts programming at the site, and it will also allow them to construct a building at the site when they can raise money for it.

Mr. Zalinger said Mr. Cranse's question was if the Pylalisk will pay taxes. The answer is the Agency of Transportation owns the property. Mr. Anderson said they had been paying taxes on their building. They don't think they are required to pay taxes under Vermont law.

Mr. Zalinger said the improvements on the property have always been assessed and are in the grand list. The existing improvements are going to be raised, and then there are going to be new improvements. It is a question between the applicant and the Assessor's Office as to what the value of the improvements after the park is constructed. There are differing views as to whether it will be taxable or not.

Mr. Cranse said the Montpelier Municipal Plan has as one of its objectives to increase the tax base in the city, and that is why he is asking the question.

Mr. Blakeman asked if the Pylalisk was profit making. Mr. Joyce said they were a nonprofit.

Mr. Blakeman said the Department of Public Works wanted to have port-o-lets down there, and the applicant is saying maybe in the future. If you are going to encourage picnicking the businesses don't want everybody running into their offices. Mr. Joyce said there was an active discussion on that. They talked about having port-o-lets behind a screen. They talked about a permanent building that would have to be heated. There wasn't a consensus from the TRC as to what was the best approach. Some of the members thought it was probably not a good idea. The Police Chief wasn't very keen on having bathrooms at all for his policing reason. They are not legally required in creating an open space to provide bathrooms. They hope through the evolution of this they will provide bathrooms. The principle they are working under is that when they have an event they will bring in port-o-lets, and that will be part of setting the site up for 150 people. But on a daily basis when there are a few people strolling through a couple of port-o-lets or a permanent bathroom looked like more trouble than it was worth.

c. Traffic on roads and highways in the vicinity;

Mr. Zalinger said there was some evidence offered about parking earlier. The bird's eye renderings from the east do show traffic and parking facing west.

Mr. Joyce said across the street they added as many spaces as they could provide and then transformed our closest parking spaces, and added 3 handicapped parking spaces. Mr. Anderson said one of the bulb outs is for a crosswalk from the bike path over to the park. The other bulb out at the end near the Coop is the street transition from one-way on the downtown side to two-way on the Coop side. That bulb out is really good to turn the traffic into their site.

Regarding zoning and subdivision regulations in effect, Mr. Zalinger said there are no variances requested or required, and it is a conditional use in the district. The renewable energy resources criteria aren't applicable.

Mr. Zalinger inquired if there was going to be power delivered to the site. Mr. Joyce said there would be power for the lighting. Note 10 is the water and sewer line, and that should say water, sewer and power.

Mr. Zalinger said when they reviewed the character of the area affected he isn't sure any of the performance standards are applicable, and they will review the site plan.

E. Site Plan Criteria - §306

Mr. Zalinger said he didn't think they need to say anything about the existing structure; it speaks for itself.

Mr. O'Connell asked how long the Salt Shed had been there. Mr. Lindley said prior to that it was down at the high school when they had an open rink in 1970. The red building came from the high school and it provided the warming hut for our outdoor hockey program, which was called MAHA. Mr. Zalinger said it was in the front

yard of the high school until the Vermont National Bank foreclosed. Mr. Joyce said the metal building has two periods to it as well.

Continuing through the Site Plan Criteria, the Department of Public Works recommended there be no playing strip between the sidewalk and Stone Cutter's Way. Mr. DeSmet said Tom McArdle said there are minimum standards on the width of grass areas between sidewalks and curbs and he didn't think something that small would survive. Mr. Joyce said they would take it away.

§704 – Vehicular Access & Circulation. The Department of Public Works also suggest there be a public thoroughfare agreement between the City of Montpelier, the State and Pyralisk should be reached in order to accommodate the one-way and two-way traffic patterns on Stone Cutter's Way. Mr. DeSmet said traffic is currently one-way to the parking lot, and then the agreement that the Hunger Mountain Coop and the State of Vermont and the City of Montpelier have now is for traffic to turn around through the parking lot. If that wasn't an agreement there would have to be a cul-de-sac which would require about 200 feet, which would take up too much room.

Mr. Anderson said they understand their agreement is necessary to allow the pattern to continue, and that is fine with them.

Mr. Zalinger said the applicant is going to reduce parking from 17 to 15 at the site. Mr. DeSmet said that is what it said in their application. Mr. Anderson said on-site the number of parking spaces will be reduced, but they will in effect widen the street to allow a row of parking on their side of the street. There really is no definition of property lines here, so you go to the Transportation Agency and they adjust the lease lines, so their anticipation is that the lease line will be adjusted as necessary so that there will be a net reduction of 2 spaces on their side because they are providing handicapped parking which doesn't exist there now. They will construct at their expense on what they believe will be the city's leased land from the Transportation Agency an increase of 11 parking spaces. Those parking spaces don't exist there now because the building comes so close to the street. The net result will be an increase of 9 spaces.

Mr. Zalinger asked if the applicant felt confident that raising the existing building can be accomplished on site. It is going to need support for construction vehicles and other vehicles to take the materials away.

Mr. Joyce said there is a 30 foot easement along the Turntable Park side that has been granted to the Pyralisk for that purpose. Obviously, the wooden buildings come down very easily and quickly. When they are gone they will have 40 feet to work there. When Fred Connor worked out and proposed the brownfields grant that he had anticipated the difficulties of taking the building down.

Mr. Zalinger said the testimony is that raising the building and remediating the site will not materially adversely affect the use of Stone Cutter's Way. Mr. Joyce replied yes.

Mr. Zalinger said the application seems to meet the site plan criteria.

Mr. O'Connell asked what the contamination on the site was.

Mr. Anderson said it is relatively low level.

Ms. Hallsmith said it is typical of any contamination on any railroad site. In addition to the PCB's that have been found, which are relatively isolated in a very small area, there are polyaromatic hydrocarbons. It is all addressed in the corrective action plan that the city has and they discussed that plan with the Environmental Conservation Agency to modify the site.

Mr. Joyce said it is going to involve pretty uniform scraping and then refilling. Mr. Anderson said in most places it would not be regarded as hazardous waste. Because of our environmental standards it is apparently hazardous. They are paying to truck it to a local landfill to be used as ground cover.

Mr. Zalinger said they need a motion on the application. Bear in mind there is design review, conditional review and site plan review.

Mr. Hoff said he had three conditions listed: 1) relocation of the bus drop off area; 2) removal of the planting strip between the sidewalk and Stone Cutter's Way; and 3) the thoroughfare agreement.

Mr. Joyce said the removal of the narrow grass strip would exclude one bulb out because there is a little piece of grass on either side we hope to plant a crab apple tree. What he is talking about is the 120 feet of essentially 1 foot grass strip.

Mr. O'Connell added the condition that sound events are over by 10:00 P.M. and the sound design for this site be continued worked with by the Noise Pollution Clearing House. Mr. Zalinger said that is a rather unwieldy condition to put into a site plan approval or conditional use approval. Mr. O'Connell said he would add that as just a recommendation.

Mr. Hoff asked if anyone knew how that aligns with the noise ordinance of the city.

Mr. Zalinger said they are recommending that the applicant continue to work with a private contractor.

Mr. O'Connell said he would see that as just a recommendation, but the first suggestion that the sound events by over by 10:00 P.M. he would like to press forward as a condition. There will be no noise generating activities after 10:00 P.M. Mr. Zalinger said he couldn't support any zoning permit that had a cap on the time in which events could occur. Zoning permits aren't very flexible, and it seems to be an artificial limitation on the use of the site if we were to establish that. If there are outdoor activities that are going to have to be permitted there the terms of the public permit would probably control them.

Ms. Hallsmith said she would like to offer her own concern about enforcing the noise restriction on the permit through our zoning administrator. The city does have a noise ordinance in place and the people who are likely to be called about noise complaints are the police, so she would echo the concerns about putting a noise limitation on a zoning permit.

Mr. Zalinger said Jeremy's three limitations relating to the relocation of the bus drop off, dropping the grass strip as modified and the entry into a thoroughfare agreement. Can he identify those as to whether they relate to conditional use or site plan review? Can the applicant stipulate that the application has been amended to remove the grass strip? Mr. Anderson said yes. Mr. Zalinger said he doesn't think the DRB needs to make it a condition. On the record they have amended the application. The grass strip doesn't exist any longer. Mr. Zalinger asked if there was a motion with respect to design review.

Mr. Hoff moved approval of design review for 575 Stone Cutter's Way, with Mr. O'Connell seconding the motion. The motion for design review received approval on a vote of 4-2.

Mr. Hoff moved approval of conditional use for 575 Stone Cutter's Way, with Mr. Blakeman seconding the motion.

Mr. O'Connell said he would like to understand why a condition of limiting the house of operation is not appropriate. Mr. Zalinger said his perspective is that it is unworkable. If the activities that are going to be conducted there will require an event permit from the city, then there could be a city permit that allowed the activity to continue until 11:00 P.M. You would have an applicant who was weighted down or burdened by a zoning permit that had been granted in June 2008 that said there would be no activities there after 10:00 P.M. It's burdensome. Mr. O'Connell said one has to hope, and assume, that the use at the site is going to be appropriate and within reasonable time limits.

Mr. Anderson said the Pyralisk's goal is to emerge here with 4 positive votes, so if they don't have the 4 votes please put in any conditions so they will receive the 4 votes. Mr. O'Connell said he wasn't going to make that a condition.

Mr. Joyce said for the record they clearly understand Mr. O'Connell's point on this. It is their goal, too, to be good neighbors.

Mr. Cranse said he intends to vote against this, but he believes in accord with a municipal plan that it is desirable for the city that this property would generate revenue for the city. That is why he is going to vote against it.

Mr. O'Connell said the economic concerns are not the purview of this Board. Our purview is the design and conditional use issues but not economic considerations.

Mr. Cranse said one of the conditional use criteria is the character of the area affected as defined by the purpose of the zoning district where the project is located and specifically stated policies and standards of the Montpelier Municipal Plan. The Montpelier Municipal Plan says one of its objectives is to increase the tax base. In regards to this particular property of this particular zone, Stone Cutter's Way, it says that infrastructure improvements remain, water and sewer, underground electricity, etc. These improvements were intended to stimulate private sector reinvestment within this 14 acre stretch of land. He is basing his point of view on the Municipal Plan and the conditional use criteria. It is a bit shaky, and he is speaking somewhat from conviction.

Mr. Zalinger said that is one element of the Municipal Plan. The law on property tax exemptions is very closely scrutinized in the recent several years. There are a lot of different opinions on it. The new ice rink out on Gallison Hill Road has now been included in the grand list because of the Vermont Department of Taxes view that it doesn't qualify for an exemption. There is another rink in Waterbury that the Vermont Supreme Court has determined that it is not entitled to an exemption without a municipal vote. Whatever the applicant's views are on what occurs there is subject to taxation is really not the final word. If it is taxable under Vermont law it will be taxed by the state.

Mr. Anderson said there is an additional wrinkle. At one point they had secured an opinion from the Vermont Tax Department that they were not taxable and the city took the position they were taxable. The end result was that they have been paying full taxes and all that has happened for people in Montpelier is that anything in the way they paid for school property taxes has gone to the State of Vermont. People in Montpelier are not better off for them paying two-thirds of those taxes they have been paying to the city. Where it would be the best value for the people in Montpelier would be for there to be a decision that we are not subject to property taxes so they would not have to contribute to the school taxes, which after all goes to everybody in Vermont, and they would make a payment in lieu of taxes to the city for municipal services. That would be the best arrangement.

Mr. Zalinger reminded them they weren't talking about policy issues. Roger's whole comment is we are supposed to enhance the tax base in the city.

Mr. Joyce said while Mr. Cranse's point is absolutely valid, the other aspects of the Municipal Plan are to create open space. What they are providing here is an alternative community asset that could be viewed against taxes. To provide an open space on the river has an immense value that cannot be ignored.

Mr. Zalinger said the Board is not going to take any more evidence. The Board is considering its own motions.

Mr. Lindley said the good part of the project is they are cleaning up a brownfield. He tends to support Roger's position on highest and best use and he is frankly appalled that we think this is the highest and best use for this particular area. It will look nice.

Mr. Zalinger said if you had a high quality residential lot and you could only afford a ranch house, you might say to yourself that is not the highest and best use of that. We have an applicant that is trying to do the best they can with the means they have available to them at this time bearing in mind that not anything happens there until the revitalization of the site has been addressed. It may be an intermediate solution, but it's not perfect.

Mr. O'Connell inquired what the timeline for the project.

Mr. Anderson said they would anticipate tearing the building down and doing the brownfields for remediation this year and doing the affirmative construction as early next year as possible.

Mr. Lindley said the lack of attention to parking on both sites bothers him. The whole area down there needs serious parking attention. He can appreciate the fact that somebody is driving down there 55 miles per hour. If we can hire another policeman we should be able to get the traffic under control and provide enough parking in this town. This is a net gain of 9 spaces when in fact there should be more spaces at both locations. He is troubled by this.

The motion to approve conditional use for 575 Stone Cutter's Way was approved 4-2.

Mr. Hoff moved approval for site plan review at 575 Stone Cutter's Way with 2 conditions and 1 recommendation. The first condition is the relocation of the bus drop off area, and the second condition is entering into a thoroughfare agreement. The recommendation is the applicant continues to work with the Noise Pollution Clearing House to address any potential noise issues on the site. Mr. O'Connell seconded the motion. The motion to approve site plan review at 575 Stone Cutter's Way was approved on a 4-2 vote.

Mr. Zalinger said design review, site plan review and conditional use approval are granted to the Pyralisk project at 575 Stone Cutter's Way.

Adjournment:

Mr. Blakeman moved adjournment, with Mr. Cranse seconding the motion. The Development Review Board adjourned.

Respectfully submitted,

Clancy DeSmet
Planning & Zoning Administrator