

**Montpelier Development Review Board**  
**February 2, 2009**  
**City Council Chambers, City Hall**

*Subject to Review and Approval*

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

**Call to Order:**

The meeting of the February 2, 2009 Development Review Board was called to order by Philip Zalinger, Chair at 7:00 P.M.

**Review of January 20, 2009 Minutes:**

Mr. Lindley moved the minutes of the January 20, 2009 be accepted as printed, with Mr. Blakeman seconding the motion. The January 20, 2009 minutes were adopted on a 4 to 0 vote.

**I. Site Plan and Conditional Use Review**

**5 Home Farm Way – IND/FP**

Applicant: Martin Kemple

Owner: Foodworks at Two Rivers Center

Renovation of the existing facilities and the addition of a cultural center/agriculture sales, driveway improvements and a café.

Interested Parties: Rick DeWolfe, DeWolfe Engineering Associates  
Martin Kemple and Joseph Keifer, Foodworks  
Malcom Gray, Montpelier Construction

Chair Philip Zalinger recused himself from sitting on the application because of potential conflicts of interest. Kevin O'Connell chaired the meeting. Kenneth Matzner, DRB alternate member joined the committee for the discussion.

Mr. DeSmet said there were four items revised since the site plan was mailed to members. Sheet 4 of 7 of the site plan has been revised; sheet 5 of 7 has been revised; the construction details on sheet 7 of 7 and a letter from David Frothingham to Clancy. These all supersede the previous plans to the DRB.

Mr. O'Connell asked Mr. DeSmet to provide an update on the project. It was continued from the last meeting due to the fact there wasn't a quorum.

Mr. DeSmet said they were at the beginning of the application because at the last meeting there were not enough members. They didn't take any evidence or have any discussion.

Mr. O'Connell said the one overriding concern is the dispute about the right-of-way, which the DRB has no jurisdiction over. That is a legal issue which will have to be handled by the courts. The DRB will proceed with review of the conditional use and site plan approval. Inasmuch as factors associated with the right-of-way dispute may impact either of those two items, then that would be germane to the Board's discussion but not the legal issues.

Mr. O'Connell administered the oath to all interested parties. He asked the interested parties to introduce themselves. He asked Mr. Kemple and Mr. Keifer to tell the Board what Foodworks is and an overview of what the project is intending to accomplish.

Joseph Keifer, Co-Director of Foodworks at Two Rivers Center, and Martin Kemple, Co-Director of Foodworks at Two Rivers Center, appeared before the DRB. Mr. Kemple told the Board that Foodworks is a 23-year old nonprofit. They started the business as a result of working on hunger issues here in Central Vermont and their focus and realization was there needed to be a group that was focusing on hunger prevention work, working with children in schools, school gardening, and nutrition education. Over the last 22 years they have developed a broad range of programs around community food security, hunger prevention, connecting the under served with local farms and becoming a group that is focusing on food, farm, and nutrition education.

Mr. O'Connell asked how long they had owned the old homestead, 10 or 15 years.

Mr. Keifer said in 2001 Kathy Duprey and her mother Margaret contacted Foodworks. Kathy is a teacher at Barre Town School. They were looking for someone who might have interest in restoring this piece of land which was agricultural. From 1943 to 2001 they were the stewards of the land. They contacted them to say they liked what we did and would like to see education programming happen, and they would like to see the farm stay in some kind of agriculture and farming. That began the conversation. The building requires a lot of work.

Martin Kemple said they want to restore the 1836 farmhouse and the back house and barn to create a community food and nutrition education center for Central Vermont. It is their request to receive a zoning permit from the city to do that.

Mr. O'Connell asked them to explain what the components of the project are and how it interfaces with the bike path.

Mr. Kemple presented a quick overview of the buildings. They aren't looking for permission to build anything, just the restoring of the three buildings, the requisite parking and traffic control. The basic plan is to put a community root cellar down underneath the barn in the back house. They jacked up the buildings with their existing building permit in order to get that prepared. They want to have a small teaching kitchen for teaching people how to cook using local foods, and also have a small café. Upstairs they want to have classroom space and office space in the main house. Down stairs would be period rooms for visitors to come and learn about the history of the area, and a welcome center in the back house for visitors to come in, get some orientation and do educational programming through there.

Mr. O'Connell inquired where the café would be.

Mr. Kemple replied it would be in the barn on the first floor.

Mr. O'Connell asked if the use of the café would be a regular 5, 6 or 7 day a week operation, or only for special events.

Mr. Kemple said initially it would be for special events, but they would like to grow it into a regular daily café. It's a 40 seat café.

Mr. Cranse said he was a little confused about what the DRB is being asked to approve. It says on the second page of the application that Phase I consists of the construction of a new drive, parking and a building addition with associated utilities. Are that all they are approving tonight, or the whole project?

Mr. DeSmet said he talked about Phase I in the context of what was going on outside. Their proposal is what they have indicated here, that it is a 40-seat café. The first paragraph goes to the uses and the second is just breaking down the outside construction of the site plan.

Mr. Kemple said the 332 square foot building is a mechanical building to adjoin the barn.

Mr. Richardson inquired if there was a Phase II before the Board. Mr. DeSmet replied no, they were only looking at Phase I.

Mr. Cranse said what the DRB is approving tonight is the drive, parking and the mechanical building addition.

Mr. O'Connor inquired what would be housed in the mechanical addition. He asked if it would be heating and cooling.

Mr. Kemple replied yes.

Mr. Blakeman asked if he could assume that this was the old farmhouse. Are the other two greenhouses on another piece of property?

Mr. Kemple replied they were on their property and is existing. They are already there.

Mr. Cranse said the Board is asking to approve conditional use. Conditional use applies to agricultural sales, cultural facilities and eating and drinking establishments. Is the Board being asked to approve those tonight as well?

Mr. DeSmet replied yes.

Mr. O'Connell said the Board has before them site plan review and approval as well as conditional use. Are there three separate conditional use approvals?

Mr. DeSmet said all three of those uses require conditional use approval, so technically there would be three separate uses. I put them all together because it was happening within the same facility.

Mr. Blakeman asked regarding the café if that was something they are expecting to run themselves or have someone else to come in and run it.

Mr. Kemple said there are a number of discussions that are under way, including some with New England Culinary Institute. There is nothing that has been signed, sealed and delivered at this point. They are still working on the exact operations of the café.

Mr. Blakeman asked if their offices would be moving out of down street.

Mr. Kemple said that was their plan, yes.

Mr. Lindley asked if the total parking with that configuration is 43 spaces and not 38.

Mr. DeSmet said on page 3 of his report he breaks down the parking.

Mr. Richardson said the 40-seat café is used throughout Clancy's analysis.

Mr. O'Connell said in reviewing the packet he did not seek the Department of Public Works' review of the application. Have they reviewed this?

Mr. DeSmet said he has noted everything that was required in the site plan criteria. Everything they proposed was in response to technical review. There were two technical review meetings, and the result of the meetings is incorporated into the site plan criteria.

Mr. O'Connell said one point that occurred to him was regardless of how the legal case is resolved, if it should go against the applicant and they are left with a 12 foot right-of-way, does that put the entire project in jeopardy?

Mr. Kemple replied it does put it in jeopardy barring them their own right-of-way which Public Works has indicated they would not be sympathetic to.

Mr. O'Connell said it is a bit of a conundrum because it does make a huge difference as to the access and egress to a public site which would have a major impact on emergency services and everything else.

Mr. Hoff said the only thing they can do is act upon the information that was provided to the Board by the applicant. If they get their access denied and they only have a 12 foot right-of-way, then they can't comply with the permit. That's the risk they take.

Mr. O'Connell said the Board is reviewing the application as proposed.

Mr. Richardson asked where the litigation currently was. Is it in court?

Mr. Kemple replied it is in court.

Mr. Richardson asked if it was going through the discovery process.

Mr. Kemple said it is just about to go into the discovery process.

Mr. Richardson inquired whether there had been serious talks for settlement.

Mr. Kemple replied no.

Mr. Lindley said he thinks this application has been together as well as any the Board has looked at. It was done by a reputable firm and answers all of the conditions.

Mr. Lindley said he assumes the lighting will not be on 24 hours a day but would be turned off at some point in time. Is it their intention to keep the lighting on beyond the 10:00 P.M.?

Eric DeWolfe from DeWolfe Engineering Associates said the neighboring properties, which are Cabot's office to the west and Agway to the east, are lit 24/7. With this project there will be some minor security lighting, but it's not going to be lit up like a retail store or a commercial office building. This will not be an issue at this location.

Mr. O'Connell said the lighting being proposed is solar generated. Does it have back up?

Mr. DeWolfe said it has to have a back up because it is cloudy here occasionally.

**Conditional Use Criteria:**

Mr. O'Connell said conditional use can be approved by the DRB if the DRB determines that the proposed use does not adversely affect the following:

- a. The capacity of existing or planned community facilities;  
The Technical Review Committees has ascertained that it is within the existing capacity of the area.
- b. The character of the area affected, as defined by the purpose(s) of the zoning district within which the property is located and specifically stated policies and standards of the Montpelier Municipal Plan;  
Clearly, this project is not going to have any negative effect in that area.
- c. Traffic on roads and highways in the vicinity;  
Again, the Technical Review Committee has done its review and not found it to be an overly intense use project for that area. That area does have a lot of retail business with Agway and other businesses down that direction. Mr. Richardson said he would also note that the applicants have submitted a traffic impact assessment which shows no negative impact.
- d. The Zoning and Subdivision Regulations in effect; and
- e. The utilization of renewable energy resources.  
Here maybe for the first time that is actually a bit of an issue here.

The area affected. The DRB shall consider the following when determining whether the proposed development will adversely affect the character of the area:

- a. The performance standards;
- b. Site plan review standards and approval conditions;
- c. The cumulative impact of the proposal's failure, if applicable, to fully satisfy each of the conditional use standards;
- d. The noise generated per unit.

Mr. O'Connell said with regard to the food operations and compressors and cooling, has that been something they have looked into? It is an industrial area. Next door in the Connor property is Cabot Creamery. Are there just administrative offices there?

Mr. DeWolfe said yes, but they are air conditioned. He is sure their compressors are bigger than what they will use to cool the little section they are using there.

Mr. Hoff said one of the performance standards that the DRB is required to review is the emission of dust or dirt at the property line. He recalled one of the things that the neighboring property owner said that significant dust is created by traffic over the right-of-way to their parcel.

Mr. DeWolfe said in their last response back in a letter to Clancy of January 16<sup>th</sup> they agreed they would pave the roadway across Connor's property. In that same letter they relocated the road to relieve Mr. Connor's concerns about the flag pole, lighting and signs.

Mr. O'Connell said they also have to consider any other factors judged to have an adverse impact on the area. From the Board's view there doesn't seem to be any that are evident.

Mr. O'Connell asked the Board if there were any questions before they take a vote on conditional use. He would prefer to review them separately.

Mr. Cranse said if they look under Section 2 (b) one of the conditional use criteria is site plan review standards, so shouldn't they do site plan in conjunction with the conditional use.

Mr. Richardson said why don't they review the site plan criteria and vote on them both at the same time.

Mr. O'Connell said he would take three different votes because it is just cleaner. They will review the site plan criteria.

**Site Plan Criteria - § 306:**

§ 702 – Streets:

No adverse impacts expected. There is a traffic impact study which suggests there will not be adverse impacts, and the Technical Review Committee's opinion is that people will not be adversely affected.

§ 703 – Pedestrian Access & Circulation:

When is the bike path due to be built? Is there a date certain, or is that some time in the distant future? Mr. DeSmet said they just submitted some findings to the state. It is in the legal process. They have to negotiate a lot of right-of-ways. Visitors will have access via a gravel drive; employees have access from the parking area in the rear. Does he plan on having 15 employees in total or 15 employees in addition to the 4? Currently, there are 4 employees and it says proposed 15. Mr. Kemple said it is 15 in total. He said there would be 15 full-time and there will be seasonal employees. There are seasonal farm workers and summer programs with outdoor camps for kids.

Mr. O'Connell asked who their target audience for this is.

Mr. Keifer replied it is a variety of schools and young kids for summer camps. They do a farm to table program where they are working with 15 congregate senior meal sites. It is a wide range of audience. It is really down to people who want to learn how to grow more of their food locally, who want to access more local food, and it is going to be a hub for those resources.

Mr. O'Connell asked how much land is actually under cultivation, or planned to be under cultivation.

Mr. Keifer replied about 5 acres with about 2 ½ flip flopping between cultivation and in green manure covered property.

Mr. Lindley asked Mr. DeSmet if they exceed 15 employees what are you going to do them, shut them down? Is it easier for the Board to accept a higher number at this point in time so we don't have to see these guys back here?

Mr. DeSmet said they can amend the application during Phase II.

Mr. Richardson asked to what extent these people are involved in the agricultural portion of it that wouldn't be subject to zoning.

Mr. O'Connell said he believes the mechanism exists. At the worst, it could be a consent agenda item.

Mr. Cranse said there is a cushion built in here. Given the 15 employees and the restaurant and all of the requirements, 36 spaces are required and they are planning for approximately 43.

Mr. DeWolfe said when they are back here with Phase II this has evolved over 20 years, but this is not their only forum. They have Act 250 review, waste water review and water supply review and they all want to know if they have adequate facilities and they need to be permitted through the state. As with any project this site is probably less limited when it comes to issues like parking because they have land.

Mr. O'Connell inquired what the total acreage was.

Mr. DeWolfe replied it was 19.6 acres. One of the benefits of the site is it is on public water, public sewer and they have plenty of land. The only negative thing about this is that it is located in the flood plain, so that limits the buildings they can build. They are looking to grow vegetables and not pouring concrete.

Mr. Lindley inquired what happened in Burlington where the water goes through the greenhouses and they stopped it because it was located in the floodplain.

Mr. Keifer said their issue was the Intervale and the compost system. Mr. DeWolfe said the green houses were part of the composting facility.

Mr. Lindley asked if the Board had given them permits for green houses. Mr. Kemple said there is an agricultural exemption for green houses on an existing farm.

§ 704 – Vehicular Access & Circulation:

There is a 12 foot paved path at the site currently.

A new drive will be constructed that will be graded and widened to 18 feet with 20 feet of clearance.

A traffic circle will also be constructed near the building at the terminus of the drive; signage – e.g. “One Way” – will be necessary for access management.

Mr. DeWolfe said the design of the traffic circle is basically set up for many local reasons, but essentially you need to have a place where you can have handicapped parking as close to the entrances to the building as possible. You need to have a bus drop off place for not only school buses but a tourist bus that has adequate radiuses for turning them around. It also gave them a way to splay out the normal parking spaces to the northeast corner of the side of the circle, plus just have a centerpiece that drew you to the building. The front of the building faces Agway, so they are coming up to the side of the building and having to do fill which is requiring changing the landscaping on that side.

They have had to elevate the building for the floodplain. They have had to create an entrance which is coming in the back door, which is pretty normal in Vermont. That was all part of creating this centerpiece so as you came in it was obvious where you needed to be to park.

Mr. Cranse asked if they anticipated getting school buses with kids.

Mr. Kemple replied yes.

Mr. Cranse asked where the buses would park.

Mr. DeWolfe said they could park within the circle. It is 22 feet wide which allows the passage of two vehicles. Depending upon the rest of the parking they could park out where the 7 further spaces are.

Mr. O'Connell said that would enhance the emergency access.

Mr. DeWolfe replied that everything is sized for the largest single unit vehicle to be able to turn. That was also reviewed at the Technical Review Committee.

Mr. Lindley asked if the Fire Chief feels comfortable about moving his equipment around if there is a bus parked there.

Mr. DeWolfe replied yes.

Mr. O'Connell asked if the entire building was going to be sprinklered.

Mr. Kemple said the entire building will be sprinklered.

Mr. Blakeman asked if there was any possibility they will be building too close to the Cabot Creamery property.

Mr. DeSmet replied no.

Mr. DeWolfe said the setbacks are about 50 feet on that property line, and a required setback is 20 feet. They far exceed the minimum setbacks, side, rear and front.

Mr. O'Connell inquired if the circle would be paved as well.

Mr. DeWolfe replied that at this point it is intended to be gravel.

Mr. O'Connell said the concern from the dust perspective is as you cross Connor's property and that will be paved.

Mr. DeWolfe replied yes.

§ 707 – Siting of Parking & Loading Spaces:  
No adverse impacts.

Mr. O'Connell said with regard to parking and loading they have gone through that. There is going to be a total of 43 spaces.

Mr. DeWolfe said they didn't mention there is a truck access into the lower level root cellar. At the southern end of the circle you will see a pad and shed. That is located on map C1.02.

On Mr. Connor's property you will see a note that says concrete pad with retaining walls just above the mechanical room addition. That will provide access to the basement root cellar area for loading using a single axle truck.

§ 708 – Landscaping and Screening:

A majority of the surrounding wooded area will be preserved. The existing trees will provide screening. Three (3) new Sugar Maple trees will be planted.

Mr. Kemple said that is on Map A1.1.0, the landscaping and lighting plan.

Mr. O'Connell said basically they are not doing a whole lot. It says existing brush and woods and they are adding a few Sugar Maples and some lighting. There is minimal impact.

Mr. O'Connell said they had talked about the lighting. He asked if any of the members had any further questions or issues.

Mr. Lindley asked if there were any bike racks on the site.

Mr. Kemple said they would probably would put some bike racks because it is a perfect place for people to park their car and get on the bike path in the future. With the old Pioneer Street Bridge it is going to be great to head down towards Barre.

Mr. DeWolfe said that makes issues because they would need more parking then. He said there is not a bike rack shown on the plan. If required to they will.

Mr. Lindley said he assumes that some of their clients will ride a bike there.

Mr. DeWolfe said they do right now. They park them up against a tree.

Mr. O'Connell asked Jack if he wanted to see a bike rack.

Mr. Lindley said somewhere somebody needs to account for it. It seems like it is normal procedure to have one. He isn't going to design their project. Mr. Kemple said it is reasonable to include a bike rack.

Mr. Richardson asked if this was something they needed to cover in site plan review.

Mr. O'Connell said it is in the record and will be in the minutes.

Mr. DeSmet said they wouldn't even need a permit to do this.

Mr. DeWolfe said it is not uncommon to be required to add them. It's not an issue. They will install a bike rack in the project.

Mr. Cranse asked if bicycles are mentioned in the zoning regulations.

Mr. Lindley said it obviously is in the River Front District.

Mr. DeSmet said the objective of the Industrial District is a little bit different, but they are going to put one in.

§ 711 – Signs:

No signs are proposed at this time. Article 5 governs the sign placement. Applicant will apply for a sign permit separately.

Mr. O’Connell asked if there was going to be a sign proposed for the entrance.

Mr. DeWolfe said there is an existing sign there on Route 2 just before the railroad tracks as you are heading towards East Montpelier.

Mr. O’Connell inquired how the roundabout will impact this project.

Mr. DeWolfe said it will actually help. The only nice thing now about the left turns going into Cabot Creamery is there are definite breaks that are set up by the signal, but since you can make that right turn coming up the Barre/Montpelier Road to head out to East Montpelier those breaks right now get filled with occasional cars. If you look at the traffic split at that intersection it is probably 60/40.

Mr. O’Connell said it is a little confusing because as you are coming back into Montpelier you have the left turn that goes into Cabot and also the left turn going down Route 302.

Mr. DeWolfe said that will be ended.

Mr. Lindley said he assumes the roundabout project is shovel ready and will start this year.

Mr. DeWolfe said he has had enough phone calls today only on that project to know that it is happening.

Mr. DeWolfe said there will be directional signs around the circle and handicapped signs, but no new billboards.

§ 716 – Floodplain Development:

The applicant has provided an Elevation Certificate.

The addition will have a concrete foundation, and the surrounding soil will anchor the building to prevent lateral movement during a flood event. The addition and existing basement will allow flow-through during a flood event.

5 Home Farm Way is located below the 100 year flood elevation (Base Flood Elevation (BFE)).

Flood resistant materials (concrete and/or masonry block). All utility equipment, within the addition, will be placed above the BFE.

The 6” waterline will be Class 52 Ductile Iron, which is resistant to flood damage. Infiltration will be prevented because the pipe will maintain an internal pressure greater than that of flood waters. Pipes will be buried at a minimum 6’ below grade reducing the likelihood of flood damage.

The 6" sewer line will be flood resistant because all joints within the building and below the BFE will be solvent welded and water tight. Outside of the building the sewer lines will be buried 5' below grade.

The basement cooler has a compressor and electric supply that will be located above the BFE.

The lowest floor of the addition is below BFE, but cannot be raised above the BFE. The addition will also have one exterior door. The addition will be designed to allow flood waters to flow-through as the waters rise and recede. There is a drain outside of the exterior door that allows receding flood waters to drain from the low area and out from the basement.

Mr. O'Connell inquired where that review stands. Normally, the Board would have something from DEC on that.

Mr. DeSmet said they haven't received any comments yet. That is pending. From what they have provided the applicant is complying with § 716 of the site plan.

Mr. O'Connell asked what the review requirement was for that, or is that just a process that has evolved over time.

Mr. DeSmet said it has a statutory derivative. It has evolved over time since the community of Montpelier became involved with a community rating system. Our regulations have substantially gotten stronger over the years. We have the minimum compliance for the National Flood Insurance Program, but we also provide additional outreach and our regulations allow for a 5 percent discount for flood insurance.

Mr. O'Connell said any site plan approval that the Board makes this evening would be contingent upon favorable review from the state.

Mr. DeWolfe said that is correct.

Mr. DeSmet said he doesn't see a problem with the Board moving ahead on this project.

Mr. DeWolfe said these days with insurance companies they are stricter than the DRB is.

Mr. O'Connell said he just wanted it to be part of the record that the Board has not received the state's approval.

Mr. DeWolfe said they submitted information that answers the seven criteria on the floodplain development.

§ 717 – Excavation and Filling:

Mr. DeWolfe said the house has been jacked up, a foundation has been put in and the house has been reset on the new foundation at a higher elevation than it was originally. It is close to 4 feet higher than what it was. In the grading plan what they plan on doing is around the base of the house is tailing the fill out so it looks a little more natural and gets rid of the elevated look. Once you are out by the parking area in the center of the circle they will be maintaining existing grades. It is basically just the fill around the main building that will be noticed.

§ 721 – Water Supply & § 722 Sewage Disposals:

A sprinkler system is proposed for the renovated building.

A request for an additional allocation has been requested from DPW.

A new 6” PVC line is being installed to serve the building for sewage and wastewater.

Mr. O’Connell said a new sewer line is going on and that will be flood resistant.

§ 725 – Utilities:

No new overhead utilities are required for this project.

Mr. O’Connell asked if the current power is above ground or below ground.

Mr. DeWolfe said the current power is above ground. They will be relocating one pole. Currently, there is a main transmission line that runs down the south side of Route 2. There is a large pole with a pair of guys coming off it right at the front of this property on Route 2. That currently goes into a utility pole and a guy that actually has a transformer mounted on it that provides the secondary power to the building. That pole will be relocated outside of the parking area and rerouted back to the house. The actual pole is in a parking space. It is right dead center in front of the property so they are pulling it off to the side a little bit. That line extends all the way out to the green houses currently.

Mr. O’Connell said in looking at the site plan, C1.02, at the rear of the lot he sees two sheds and three green houses. Those are all existing. Mr. DeWolfe replied yes. Mr. O’Connell said those don’t require review because they are agricultural use.

Mr. Richardson moved that the DRB grant conditional use approval for Foodworks at Two Rivers Center’s application at 5 Home Farm Way, with Mr. Blakeman seconding the motion. The motion passed on a vote of 7 to 0 and conditional use was granted.

Mr. Cranse moved to approve the site plan review at 5 Home Farm Way, with Mr. Lindley seconding the motion. The motion passed unanimously on a vote of 7 to 0. Both site plan review and conditional use review were granted.

Mr. Kemple said they wanted to put in a special note of appreciation of thanks to the city government, the Mayor, the Planning and Development Office, and a special appreciation to the Zoning Administrator Clancy DeSmet who has been very helpful in ushering the application in.

**Other Business:**

Mr. Lindley inquired if Clancy had issued the findings on Baldwin Street yet.

Mr. DeSmet replied yes and he would send copies to the DRB. They were issued last week.

**Adjournment:**

Upon motion by Mr. Richardson, seconded by Mr. Hoff, to adjourn, the Development Review Board adjourned on a vote of 7 to 0.

Respectfully submitted,

Clancy DeSmet  
Planning and Zoning Administrator

Transcribed by: Joan Clack