

**Montpelier Development Review Board**  
**March 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 and Roger Cranse.  
Staff: Clancy DeSmet, Planning and Zoning Administrator

**Call to Order:**

The Montpelier Development Review Board March 2, 2009 meeting was called to order by Philip Zalinger, Chair.

**Review of February 17, 2009 Minutes:**

Upon motion by Alan Blakeman, seconded by Daniel Richardson, the minutes of the February 17, 2009 Montpelier Development Review Board were adopted on a vote of 5 to 0.

**I. Recycling Bins in Multiple Downtown Locations – CB-I/CB-II/RIV/DCD/FP**

Applicant: MDCA – Montpelier Downtown Community Association

Owner: City of Montpelier

Placement of recycling bins adjacent to existing trash bins

No one appeared before the DRB on behalf of the applicant.

Mr. Zalinger said the Board could take the application under consideration without a representative of the MDCA being present and continue discussion if necessary.

Mr. O'Connell said he wouldn't want to hold the application up, but it would be nice if someone was present to answer questions.

Mr. Blakeman inquired if the recycle bins were going to be out during the winter also. Who is going to clean them?

Mr. DeSmet responded that Public Works would be.

Mr. Zalinger said the Design Review Committee reviewed the application on February 24<sup>th</sup> and recommended approval with an optional change that the applicant may pursue at its discretion placing additional matching receptacles to be added to the downtown as needed or required. Is that a grant of carte blanche for the city to install these wherever they want?

Mr. DeSmet replied that a number of years ago a similar style was approved and they just never replaced the old plastic ones.

Mr. O'Connell said they had DRC approval. Was there a member from the MDCA at that meeting?

Mr. DeSmet said yes.

Mr. Lindley asked if these were plastic containers or metal.

Mr. DeSmet replied they were metal.

Mr. O'Connell asked what the recycling items would be. Would they all be recyclable items or just returnable containers?

Mr. Cranse said the picture says bottles, cans, newspapers, and plastics 1-7.

Mr. Richardson said the Central Vermont Solid Waste Management District does single stream recycling.

Mr. O'Connell said that is what has made recycling feasible today.

Mr. Blakeman said because of the economy you can't recycle much of it any more.

Mr. Lindley said in a letter to Clancy they are talking about the "Whirling Dervishes."

Mr. Richardson said this is item #3 on the letter.

Mr. Lindley asked if the MDCA were going to come in later for approval of #1 and #2.

Mr. DeSmet replied no. He determined that the SculptCycles were sidewalk improvements.

Mr. Lindley asked why wouldn't the recycle bins not be sidewalk improvements.

Mr. DeSmet said he thought it was a little more difficult to evaluate art through the historical criteria. If the Board prefers the SculptCycles to come before them as well he can accommodate that.

Mr. Richardson moved approval for the designated downtown area trash and recycling receptacles approved by the DRC. Mr. Cranse seconded the motion. The motion was approved on a vote of 5 to 1. Mr. Lindley said he wasn't in favor of the additional work of the Design Review Committee's addition.

**II. Site Plan and Conditional Use Review**  
**174 Elm Street – CB-II/DCD/FP**

Applicant: Bernie Noe

Owner: Bernie Noe & Maureen Davis

Convert storage space on second floor to office use.

Mr. Zalinger administered the oath to the applicant, Bernie Noe.

Mr. DeSmet said 174 Elm Street is in High Density Residential and it is currently being used as a medical office. Mr. Noe would like to convert an additional 500 square feet into office space. There are approximately 10 parking spaces at the site. Office uses are conditional in high density residential zones.

Mr. O'Connell inquired if this was the same building that houses the Mental Health Association.

Mr. Noe replied no. It is Dr. Carolyn Murphy, Dentist.

Mr. Noe said there is a second floor storage space that is being used for storage. He would like to convert it into office use. His office is not currently in the building, but he is a physician and intends to move his practice in there around June. He would like to convert that storage space into more treatment rooms. The plan is to divide that storage space into three rooms.

Mr. O'Connell asked if there was going to be an increase in people actually using the building, or just his practice.

Mr. Noe said this will be for his practice. There will be an increase in the number of people using the building.

Mr. Richardson asked if the first floor was currently being occupied by others.

Mr. Noe replied there is a dental office and a shared room for massage therapy on the first floor.

Mr. Richardson asked if those uses would remain in the building.

Mr. Noe replied that was correct. There is also another tenant on the second floor that will remain there as well. He will be using approximately a quarter of the building.

Mr. Lindley asked if his offices were going to be on the second floor.

Mr. Noe replied that was correct.

Mr. Lindley asked how he complied with the ADA requirements.

Mr. Noe said he doesn't.

Mr. Lindley asked if that was a problem with public buildings. Is this not a public building?

Mr. DeSmet said he assumes it is a public building, but he doesn't have jurisdiction over ADA compliance.

Mr. O'Connell said he could speak about his dentist's office which is just down the street. There is no access except for walking up a set of back door steps so he would assume it wouldn't apply.

Mr. Zalinger asked if there were any suggested changes to the exterior of the building.

Mr. Noe replied no.

The DRB reviewed the conditional use criteria. Mr. Zalinger said the conditional use criteria they have to apply to an application such as this requires the DRB to make findings that the proposed project does not adversely affect the following:

**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;  
The testimony is that there is already a professional office and medical and dental facilities in the building. It would be easy for him to conclude that the addition of 200 more square feet of like kind office space in this building would not create an untoward burden on existing or planned community facilities.

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;

His statement to the first criteria is applicable to this as well because it is consistent with other uses in the same building and elsewhere in that area of Elm Street.

c. Traffic on roads and highways in the vicinity;

Although there will be more traffic because of the more intensive use of the second floor, the parking requirements don't change and they are in compliance with the city's zoning requirements as to the number of parking spaces. Thus, it is hard to conclude that if you are in compliance with the parking ordinance that traffic on roads and highways in the vicinity will be dramatically increased and adversely affect Elm Street's safety and security.

d. Zoning and Subdivision Regulations in effect;

Mr. Zalinger suggested that was not applicable because there is no substantive change.

e. The utilization of renewable energy resources.

That is not applicable.

Under the Site Plan Criteria there are a variety of different considerations. As the staff report indicates, very few of them appear to have any adverse impacts.

Since he is initiating this office use in the building, is it true that he is not going to have a sign indicating the location of the business?

Mr. Noe said there is existing signage above the front door. There are plaques with different names on them. He plans to remove the names that are currently there because a tenant will be leaving and he will be taking over the space in his replacement.

Mr. Zalinger said he thought the space was storage.

Mr. Noe said the storage is behind an existing office. The space is going to be divided up into four offices. He is asking one of the tenants to leave and he will take over that space, and that space has access to the storage. He will be using the existing space and adding more to it.

Mr. Lindley asked if the garage space was open or closed to the tenants.

Mr. Noe said they are closed garages and people do drive into them.

Mr. Lindley said the existing tenants would be in the closed garages rather than people coming to make an office visit.

Mr. Noe said the parking lot is not for customer or client uses for employees.

Mr. Lindley inquired if they were increasing the demand on Elm Street. This is fairly close to the corner of Elm and Spring Streets.

Mr. DeSmet said he did the math on the total square footage so it was one parking space per 250 square feet.

Mr. Zalinger told Mr. Lindley that it's not unusual, whether it is professional office space or an insurance agency, law office, etc.

Mr. DeSmet said it is a mix of personal services and professional.

Mr. Richardson said it appears §705 really only discusses the number of spaces per square footage. It doesn't differentiate as to who uses what or how.

Mr. DeSmet said it would be different if it was a brand new structure.

Mr. O'Connell said this is entirely for professional use. There are not residents in the building.

Mr. Noe said there were no residents or retail. It is just professional offices.

Mr. Richardson asked currently what kind of hours do the businesses occupy the space.

Mr. Noe said the dentist starts at 7:30 A.M. to 6:00 P.M.

Mr. O'Connell moved to approve the project for the conversion of storage space to office use at 174 Elm Street. Mr. Blakeman seconded the motion.

Mr. Zalinger said he would like to offer a friendly amendment that the DRB grant conditional use and site plan approval for the conversion. Mr. O'Connell said he would agree. Conditional Use and Site Plan Approval for 174 Elm Street was adopted on a vote of 6 to 0.

**Other Business:**

Mr. O'Connell said the last City Council agenda had an appointment to the alternate position. Were there any applicants and was someone appointed?

Mr. DeSmet said Win Turner was appointed. He was the only applicant. There are still DRC vacancies and two Planning Commission vacancies.

Mr. Zalinger said on March 16<sup>th</sup> he is going to have to recuse himself from a matter that is coming before the DRB for sketch plan review at the Elks Club. There is a new project at the Elks.

**Adjournment:**

Upon motion by Council Members Jack Lindley and Daniel Richardson, the Development Review Board adjourned.

Respectfully submitted,

Clancy DeSmet  
Planning and Zoning Administrator