

**Montpelier Planning Commission**  
**Wednesday, December 22, 2004**  
**Police Department Community Room, Pitkin Court**

*Subject to Review and Approval*

**Present:** David Borgendale, Chair; Carolyn Grodinsky, Vice Chair; Anne Campbell, Marjorie Power, Richard Sedano, Irene Facciolo  
Staff: Valerie Capels, Planning & Community Development Director

**Call to Order**

The meeting was called to order at 5:15 p.m. by Mr. Borgendale.

**Comments from the Chair**

Mr. Borgendale explained that there would be a break for public comment on agenda items at 6:20. The meeting was to be a working session of the Planning Commission. The Commission would be breaking at 7:00 to meet with the City Council and would reconvene after that meeting.

**General Appearances**

Nancy Wasserman said that if the memo dated December 14, 2004 on the proposed Master Plan amendment memo went out in that form, she would be embarrassed for the Planning Commission. Mr. Sedano said the memo was revised on December 19. Ms. Wasserman said that, based on her experience with Master Plan processes, they are not generally completed in one meeting. She will look at the updated memo on the Web site.

**Review of Agenda**

Ms. Capels suggested that the Commission review its schedule before meeting with the Council. Commissioners agreed and took the matter up next.

**Schedule for Master Plan Amendment and Zoning Proposal**

Ms. Capels said she met briefly with the City Manager and looked at whether it was possible to have the zoning amendment to the Council to act on in time for Town Meeting Day. Technically, it would be possible. The Master Plan amendment hearing is scheduled for January 19, 2005. If the draft amendment was finalized after the hearing, it could be turned over to the Council the next day. The Council could then have its first public hearing on February 23 and the second hearing after that.

Ms. Capels added that if the draft zoning amendment was finalized on January 10, the Planning Commission could have a hearing on January 31 and turn the zoning amendment over to the Council that week. The Council could then have their hearing coincide with the February 23 hearing, because the bylaw amendment no longer requires the 30-day period in between.

Ms. Power asked whether, under that schedule, the last day to for the Commission to make changes to the amendment would be around February 4. Ms. Capels said that was correct. Mr. Borgendale said that, unless the Commission assumed that it will not be responding to any public comment after the January 19 hearing, it could not transmit the Master Plan amendment to the Council the next day. Ms. Power said that it was possible to meet the schedule. The Commission would have a day to make changes. She said that, as long as the Commission knows what it wants to do, it is not rocket science. Mr. Borgendale said it is not rocket science, but it is not a good public process either. Ms. Power asked how many days the Commission needs to consider public comment and process what it has heard. Mr. Borgendale posed the question of what the Planning Commission would do if the public states that it has no use for traditional neighborhood

design. Ms. Power said the public may say that and the Planning Commission can listen, but it has also heard that the public does not like the current zoning. Mr. Sedano said he thought that Mr. Borgendale's example was a good one. There are many areas of interpretation and details to be addressed and it may not be so clear that the Commission can address them in one day. Ms. Power said the Commission does not need to prejudge its ability to respond until it hears from the public. Mr. Borgendale said he was concerned that the Commission is working on a breakneck schedule without hearing a compelling public interest in sticking to the schedule. The Council may explain the reason when they meet.

### **Draft Zoning Proposal**

Mr. Borgendale said the Commission left off at section 6.4.2. Mr. Sedano expressed concern on the limitation on the length of stay at a Bed and Breakfast (B&B). Many B & B visitors stay for more than 10 days and that 30 days should be a minimum. Ms. Capels noted the current regulations contain no limit. She added a limit would be difficult to enforce. Ms. Power said she presumed that the issue would be with motels that turn into lodging houses. Ms. Capels said the impact on City facilities would be the same for either type of lodging. Ms. Campbell suggested deleting the limit.

Mr. Borgendale asked the Commissioners for their reaction to the limitation that there be no more than two B&Bs within 1,000 feet of each other. He did not really see the point. Ms. Facciolo said the limit would prevent B&Bs from concentrating on a street. Ms. Campbell said the limit could be raised to three. Mr. Borgendale said he did not see why the limit was needed. Ms. Facciolo said the subcommittee was trying to view the issue from the standpoint of residents and how the neighborhood would be affected by a concentration of these businesses. Ms. Grodinsky noted that the zone is intended to be primarily residential. Other uses are being allowed, but a limitation would avoid having too many of such uses in a neighborhood. Mr. Borgendale said that traditional zoning promotes mixed uses, but the zoning proposal seems to incorporate restrictions that will limit those uses. A traditional Vermont village has a mix of uses in close proximity. The limitations seem to be more like traditional zoning. Ms. Facciolo said the downtown will remain the center of the town, but the downtown should not extend to areas a mile from the center of the city.

Ms. Campbell asked whether it would help to say that no more than three B&Bs may be within 1,000 feet in the T4A zone and have no restriction in the T4B zone. Mr. Borgendale said the whole purpose in dividing the T4 zone is that the T4A zone is intended to be entirely residential. Mr. Sedano said the question is what uses are residential. He felt uncomfortable with limiting the number of B&Bs to three. Mr. Borgendale said his preference was to strike the limit entirely. Mr. Sedano said that was also his preference. Ms. Campbell said that Ms. Facciolo's point is well taken, but she did not see the need for this restriction. Ms. Power said that, in Montpelier, the result may be the loss of residential rental units through conversion. She said B&Bs may detract from the number of residential units in the city.

Ms. Facciolo made a motion to strike the limit on the proximity on B&Bs. Mr. Sedano seconded the motion. The motion was approved unanimously.

Mr. Borgendale suggested the Commission consider section 6.4.3. The section requires three parking spaces per office unit. He asked Commissioners to consider what would happen in a situation where there was a large office space that could accommodate one large office or two smaller offices. Ms. Power said that situation would be governed by the 1,000 foot restriction. Mr. Borgendale said that parking demand really depends on the activities in the office. Ms. Capels said the current regulations require one parking space per 250 square feet. Ms. Campbell asked whether the current ordinance works. Ms. Capels gave

examples of Stone Cutters Way and Court Street, but noted that parking replacement may be used in those areas. Mr. Sedano said the provisions are difficult to compare because traditional neighborhood design is intended to be like Montpelier presently looks, but will mix up uses and will be a little different. Mr. Borgendale noted that the proposal includes a definition of “office,” but does not define an “office building.” Ms. Power said the definition should be added. Ms. Campbell expressed concern about the exclusion of artisan uses in the definition of office. Ms. Facciolo said the idea was to keep commercial traffic in one area. Ms. Power said many people with studios around town may sell their products on occasions like open studio weeks. Mr. Sedano said the language could be modified to allow “incidental” sales. Mr. Borgendale said he had made a note that the Commission needed to define “office building” and to consider whether the existing definition of “office” is sufficient. Ms. Power asked whether Ms. Capels could draft proposed text.

Mr. Borgendale asked whether the Commission wants to have restrictions on the proximity of offices. Ms. Power noted these are offices that do not qualify as home occupations. Ms. Campbell said it seemed reasonable to allow a 2,000 square foot office to subdivide into two smaller offices. Mr. Sedano said the 1,000 foot minimum separation seemed too great. Ms. Power said the City wants to avoid excessive conversion of residential units to office uses. Offices that do not meet the separation could be considered under conditional use provisions. Mr. Borgendale said he understood that the Commission wanted to cluster small commercial service areas to promote walkable neighborhoods. The limitation seemed counter to that goal. Ms. Campbell asked why the conditional use provisions would not satisfy the issue.

### **Public Comment**

Rachel Castle said she believed that February 23 falls within a school vacation week which would not be a good time for people to attend the public hearing. She asked why there is no black line version of the current zoning to allow a comparison between the existing and proposed zoning provisions. She also asked why the schedule has to coincide with Town Meeting Day. Ms. Capels said that is something that may be discussed later tonight. Mr. Borgendale said the schedule was originally set by the zoning committee. Ms. Facciolo noted there was also a schedule set one and a half years ago with the interim zoning. The Commission is behind on that schedule.

Richard Hansen asked what happens to the existing PUDs in the zoning proposal. Ms. Capels said that the subject area would be the Academic Institution PUD (AI-PUD). The zoning currently being discussed would apply only to a specific part of the City. It is her understanding that the existing AI-PUD designation would continue as an overlay to whatever underlying zoning is adopted. The College’s Master Plan would continue to guide the College, but, if any part of the future College Master Plan is revised, it would have to acknowledge the underlying zoning. The College’s Master Plan currently allows a mix of uses that are not otherwise permitted and that would continue to be the case if the underlying zoning changed.

Nancy Wasserman said that she would clarify that any new changes to the College’s Master Plan would have to comply. Ms. Capels agreed.

Mr. Borgendale said he wanted to clarify that the proposal under consideration is a section that would be added to the City’s regulations and what is already in the regulations would remain. That is why it is difficult to do a black line revision. Ms. Capels noted that some changes to definitions would have citywide effects. Ms. Power said the definitions could be limited to the new sections.

Jim Libby said that his preference is to limit the number of B&Bs in the community due to the conversion issue and the desire to have those uses downtown. The density issue is a big one and it would be good if the Commission had a meeting on just the density issue since it is so controversial. There is also a lot of misinformation on inclusionary zoning and density bonuses. Some Council members seem to believe that inclusionary zoning will solve all of the affordable housing issues, but he did not think that was correct.

Tim Heney cautioned the Commission to be careful about the actual effect of restrictions like the 1,000 foot limit on B&Bs. He noted an example of two existing B&Bs that are within 1,000 feet of each other. He asked the Commission not to make the zoning too restrictive because restrictive zoning would cause the city to become to suburban.

Another member of the public said that the map of the area affected by the zoning showed 150 acres, but the Commission mentioned 100 acres. He asked if the zone was reduced or whether the acreage was just approximated. Mr. Borgendale said that the Commission was just approximating.

Fred Connor said he understood that the City Attorney advised the Commission that it had to do the Master Plan amendment for all similar lands rather than choosing 100 acres out of 6,000 acres. He also understood the Attorney to say that the City could not have two zoning codes.

Ms. Power asked Mr. Libby to describe his experience with housing replacement requirements. Mr. Libby said the City of Burlington requires a fee for a housing trust fund. He did not think that type of requirement has a chance of passing in Montpelier. It works in Burlington because they have inclusionary zoning, density bonuses, and restrictions that apply citywide. It would be hard to say that could work in Montpelier. Ms. Power said the Commission intends that the zoning will apply to the rest of the city. The member of the public said that, in theory, with the right mix of restrictions and incentives, the issue could be addressed.

Nancy Wasserman said she was distressed to hear the Commission speak of how it wants to apply the zoning to the whole city when the Commission has not yet done the map. The Commission is not using SmartCode the way it was designed to be used. The Commission is taking some of the worst parts of the code, which will result in restricting development.

Fred Connor said he was concerned that the Commission is not following Chapter 117 and working on the map. The Commission is continuing to move ahead in spite of public comment that the process is not following the law.

### **Meeting Break**

Commission temporarily adjourned the meeting in order to meet with the City Council and then reconvened at 8:10.

### **Draft Master Plan Amendment and Zoning Proposal Schedule**

Ms. Power said that public comment could be enormously helpful to the Commission, but the problem is the public comment that has been offered has not been helpful. Mr. Borgendale said he sees three issues that concern the public: first, the openness of the process; second, the concept of traditional neighborhood design zoning; and third, the concept of adopting a zoning district that totally restricts development. Ms. Grodinsky suggested the Commission have a specific meeting on the density question or on the T1 zone. Ms. Capels said it would be worthwhile to have as much information available on existing densities in the city for such a

meeting. She has started to gather that information. Ms. Grodinsky said that she thought that a workshop meeting would be more helpful than a public hearing. She would like to have a professional facilitator help.

Ms. Power said the timeline for the smaller Master Plan amendment seems to be achievable, depending on the outcome of the public hearing. That amendment will push back the date for the larger Master Plan amendment.

Mr. Borgendale said the fact that the Commission does not have a realistic land use plan for the community is really damaging. That plan would put the Commission in a much better position to support the Sabin's Pasture issue. Focusing on that aspect of the Master Plan might help. Ms. Power said it is very difficult to do something that is different. She said that the controversy will be greater when the Commission addresses the rest of the city and addressing land use in a major Master Plan revision will stop progress on everything. Ms. Campbell asked if the Commissioners thought it was appropriate to schedule time for a land use workshop. Ms. Power said she thought that the zoning timeline will be thrown out if the Planning Commission pursues that now.

Ms. Grodinsky suggested the Commission move ahead with the zoning and look to set up a workshop on density or T1 zoning. Mr. Borgendale said he would like to put aside the T1 zoning for the present. He thought the Commission should move forward on the parts of the zoning that are not T1 and do the background work to resolve the conservation issues. Mr. Sedano asked whether Ms. Power's concept of a Reserve did that. Mr. Borgendale said it did not because the Reserve designation was saying that the Commission did not know what it wanted to do with the area. Ms. Power agreed that was an accurate description. Ms. Campbell said the Reserve designation says that the area deserves careful consideration and that the Commission will take the time to do it well. Mr. Sedano said he felt there is some urgency in designating a Reserve and then going to work. He thought that was what the Commission was trying to do. Mr. Borgendale said the concept of a Reserve as a land use designation really does not give any guidance on how to zone the area. It is really similar to the interim zoning because the Commission is saying that it has to gather information in order to do the zoning. Mr. Borgendale said that the problem was that the Planning Commission has not done enough work to gather the information.

Mr. Sedano said one approach would be to use the Reserve structure and get to work on the zoning and land use plan so that it is done within the calendar of the interim zoning. Mr. Borgendale agreed that is what the Commission should do. He did not think that the Commission could get it done by the end of February, but would like to get it done in the spring. Mr. Sedano asked Ms. Capels if she could develop a schedule that adds the land use planning process and allows the Commission to finish with a comfortable margin before the end of the interim zoning. Mr. Borgendale said the Commission could then get input from owners of large tracts of land so that the work can be done properly.

Rachel Castle said the public is upset because the affected landowners have not been asked to participate. Many landowners are actually conservation-minded and will have good ideas. She asked the Commission to please invite the landowners to the meetings. Mr. Sedano said the Commission has talked about setting up forums where Commission members could meet with interested persons. That would require more time, but would improve the quality of the process. Mr. Borgendale said he knew from personal experience that many families desire to preserve their land. Ms. Power said people are worried about Sabin's Pasture because it has been in play for more than 20 years.

Ms. Campbell suggested discussing the agenda for the January 3 meeting. Ms. Grodinsky said the focus should be on a particular item. Mr. Sedano asked whether the Commission wanted to stay on schedule with the Master Plan amendment. He said Ms. Power suggested that the Commission try to stay on schedule and reconsider at the point that it becomes necessary. Ms. Grodinsky said she wanted to have workshops as the work goes forward. Mr. Sedano said as soon as the Commission stops to talk about density, it is really saying that it is changing the schedule. Ms. Grodinsky said she was willing to take more time to get a better chance of getting public buy-in. Ms. Campbell suggested the Commission proceed in good faith to do what it can do and find ways to get as much constructive input as possible. Time should be allowed for public input, but the public should be requested to give input on what they would like to see happen. Mr. Sedano said the Commission could list the issues that are going to come up on the agendas and have a public comment period on each of them.

Mr. Borgendale said he did not see the question being simply sticking to the schedule. He would like to maintain parts of the schedule, but would abandon ideas about getting this to the Council by Town Meeting Day. He would still like to schedule the public hearing, but never thought that it was appropriate to adopt the amendment immediately after the hearing. Ms. Power said if the comment at the public hearing was no different from what the Commission has already heard, there will be no reason to delay acting on the proposal.

Ms. Power said that she did not want to spend another meeting discussing the schedule. Ms. Campbell suggested the next meeting be used to continue work on the zoning. Mr. Borgendale said that was fine, but he would like the agenda of the meeting after that to include a new work plan.

### **Other**

Ms. Campbell said Commission members should be extremely conscientious in supporting the process by avoiding making negative comments to the press. She said that the December 9 article was inflammatory. Mr. Borgendale said that he would not apologize for anything that he said as he had expressed his personal opinions.

Ms. Capels said that the department purchased two training CD on form-based zoning. She distributed a copy of a transcript from one of the sessions for the Commissioners to review.

### **Adjournment**

Ms. Grodinsky made a motion that the meeting be adjourned. Ms. Power seconded the motion. The motion was approved unanimously. The meeting adjourned at approximately 9:45 p.m..

Respectfully submitted,

Valerie Capels

*These minutes are subject to approval by the Planning Commission. Changes, if any, will be recorded in the minutes of the meeting at which they were acted upon.*

*Transcribed by Kathleen Swigon*