

**Montpelier Planning Commission  
December 12, 2005  
City Council Chambers, City Hall**

*Subject to Review and Approval*

**Present:** Marjorie Power, Chair; Carolyn Grodinsky, Vice-Chair; David Borgendale; Anne Campbell; Craig Graham  
Staff: Valerie Capels, Planning & Community Development Director

**Call to Order**

The meeting was called to order at 6:30 by Ms. Power.

**Minutes of November 7, 2005 and November 28, 2005**

The commission deferred action on the minutes of the November 7, 2005 meeting. Ms. Campbell made a motion that the minutes of the November 28, 2005 meeting be approved. Mr. Borgendale seconded the motion. Ms. Grodinsky said that she wanted to correct the second paragraph on page 2 of the minutes. She said the minutes correctly state that the reference was Woodstock, but it should have been Stowe. The Commission unanimously approved the minutes with that change.

**Review of agenda**

Ms. Capels said that the draft Planning Commission report in agenda item #8 had not yet been completed.

**Public Appearances**

There were no public appearances.

**Continued Discussion of Community Resource Overlay Zone and Planned Development**

Ms. Grodinsky said the subcommittee members had done a tremendous amount of research and work on the drafts. She referred to her e-mail message of December 12 and said that the subcommittee wanted to start the discussion by seeing if there was a consensus within the Commission of some broad concepts. She said the first question was whether the Planning Commission agrees that the Community Resource Inventory concept would provide information that is useful for planning. The Commission members agreed that it would.

Ms. Grodinsky said that the second question was whether the Planning Commission agrees with the overlay process to evaluate locations for development in conservation areas. Mr. Borgendale asked for clarification of whether the intent is for the community resource overlay to apply wherever the Master Plan has designated a Conservation Area. Ms. Power said she understood that there can be a distinction between the community resource overlay district and the Conservation Areas in the Master Plan because inventories are not available for all of the Conservation Areas. Mr. Beyer said there is presently no guidance for the DRB to use in determining what to do in a Conservation Area. An inventory would give them more information.

Ms. Campbell said that inventories would inform the Planning Commission of where lines should be placed on areas designated as Conservation Areas on the land use map. Ms. Power said it seemed that the zoning would give direction as a first step in determining what to do in these areas, but would not prevent the Commission from creating more specific conservation overlay districts when the needed information was available. She said the Commission cannot wait until it knows everything to bring in zoning regulations that address issues. Mr. Borgendale said he understood the discussion to be saying that a community resource inventory would be required wherever the Master Plan designates a Conservation Area and that the land use map would be

redrawn based upon information obtained in the inventory or a community resource overlay would be applied. Mr. Beyer said that was his understanding. Mr. Borgendale said the Planning Commission must be very careful about the use of the terms community resource overlay and conservation area because they are not synonymous.

Ms. Campbell said that a community resource overlay was presently defined as any area identified as a conservation area on the future land use map. Ms. Power said that "or delineated on a zoning map" could be added to the definition. Mr. Borgendale said that the definition was not consistent with Mr. Beyer's description. The whole point of doing the inventory was to get information to draw boundaries correctly based on the criteria. If the community resource overlay was defined as the same as a conservation area, there would be no need to do the inventories or draw lines. Ms. Grodinsky noted that one reason for the inventory was also to allow the DRB to determine whether a proposal protects and enhances resources.

Mr. Graham and Ms. Grodinsky said they agreed with the use of the overlay process to evaluate locations for development in conservation areas (concept 2 from Ms. Grodinsky's e-mail). Mr. Borgendale said that he agreed provided that there is a satisfactory definition of conservation areas. Ms. Campbell said she agreed with the concept and, for the purposes of the rezoning, would be content to have it apply simply to conservation areas. Mr. Borgendale said that to be clear, the reference should be to land conservation areas. Ms. Power noted that Sabin's Pasture included a transition zoning within the Conservation Area.

Ms. Grodinsky said the third concept was whether the Planning Commission agreed with the use of supplemental overlay standards. She said that Mr. Jones document expanded on the reasons why supplemental standards are needed. Mr. Beyer said he understood that the supplemental standards would be extra hoops that would apply to conservation lands. Ms. Grodinsky said she understood that the supplemental standards would protect community resources. Ms. Power agreed and added that there would be bonuses if the resources were protected. Mr. Graham noted that the supplemental standards would apply to the Land Conservation Areas, but not necessarily to other areas. Ms. Power said that would be the case unless the inventory discovers a resource. Mr. Beyer said the conservation land could enlarge or shrink based on new information. Mr. Borgendale added that community circumstances and values might also change. Mr. Graham asked whether the existing design review process used supplemental standards. Ms. Capels said that it did. The Commission members conducted a poll and all found the concept acceptable.

Ms. Grodinsky said the fourth concept was whether the Planning Commission agreed with the additional recommendations and incentives for clustering. Ms. Power said she agreed with the concept. Ms. Campbell referred to page 15 of 19 of the document transmitted with the December 9 memo from Ken Matzner. Mr. Matzner said that cluster development allows the DRB to change the rules to provide flexibility for more creative designs that would protect resources. The Commission members agreed with the concept.

Ms. Grodinsky asked commissioners to consider some of the more detailed questions raised by concept 1. She asked whether the Commission agreed to require community resource inventories for land that is in a conservation area. The Commission members agreed with the clarification that the conservation area would be defined as the Land Conservation Area on the future land use map. Ms. Grodinsky asked whether there was agreement to require community resource inventories for parcels of greater than 10 acres. Ms. Capels said that she presumed

that would mean that a single family dwelling on 12 acres would have to do a community resource inventory. Ms. Grodinsky said that was correct. Ms. Campbell asked whether it would be necessary to inventory the entire 12 acres or just the house site. Mr. Beyer said that it would be necessary to look at the entire parcel in order to determine that the house was in the right location. He said the grant will allow the City to do the inventories for the land owners unless they decide that they will not participate. Mr. Graham asked how a subdivision with no development would be dealt with. Ms. Capels said the current draft requires an inventory for those situations. Mr. Graham said he agreed with the idea of addressing land outside of the conservation areas and thought that the 10-acre threshold was a reasonable place to start the discussion. Mr. Borgendale said that, since Act 250 was triggered at 10 acres, the threshold was acceptable to him.

Ms. Grodinsky asked whether there was agreement to require community resource inventories for PUDs. Ms. Power said that a PUD could involve the creation of a new unit within a multi-unit building without any outside development. There could be an exemption for anything that did not require external development. Mr. Borgendale suggested changing the PUD provisions so that type of development was not defined as a PUD. Ms. Capels said she would have to refresh her memory as to the reason why that the definition was adopted. She said it was the result of a great deal of community input and discussion. Mr. Graham suggested that the inventory be required for any expansion of the footprint of the PUD. Ms. Grodinsky suggested setting a threshold for an area of expansion. Mr. Borgendale asked what the fact that the development was a PUD had to do with the requirement for an inventory. Ms. Grodinsky replied that the PUDs could be left out of the provision if it set the threshold at "greater than 10 acres unless otherwise required by the DRB." Ms. Campbell said she had serious concerns about that idea because there could be a PUD on a parcel of less than 10 acres that contains many community resources. Ms. Grodinsky said the requirement could apply to PUDs unless the DRB issues an exemption. Ms. Capels suggested that the inclusion of parcels of greater than 10 acres and land conservation areas might be adequate for now. She said the Commission might otherwise get sidetracked from its original goals. The commissioners generally agreed. Ms. Grodinsky summarized the conclusion that the provision would apply to parcels of greater than 10 acres and to land conservation areas with the understanding that the Commission might revisit the question.

Ms. Grodinsky referred the Commission to the document entitled "Community Resource Overlay, Questions and Answers" and asked if there were any questions or issues. Ms. Power said she thought that cultural resources were not adequately addressed. Ms. Grodinsky offered to talk to Margot George, Nancy Boone, and the State archaeologist. Mr. Borgendale referred to section V, paragraph A of the document regarding visual resources. He said the background to a view should be considered. He gave the example of a residential development that might be more visually acceptable if it were considered that an existing residential development is in the background. Mr. Beyer said the document is really a rough draft that lists possibilities. He did not want the Commission to get bogged down in the details at this point. Ms. Campbell noted that the Commission did need to get to the details prior to the public hearing. Ms. Capels said that she had a general concern about the purpose and expectations for this section and whether the Commission is ready to apply the standards at this point. Ms. Campbell said the current Master Plan has a recommendation to develop standards for ridge lines. Ms. Power said she agreed with the concept of protecting ridge lines. Ms. Capels said she did not know if the Commission will have the information necessary to go to a public hearing on these provisions. She noted that communities she's aware of that adopted ridge line protection ordinances did

extensive study and public involvement beforehand. It is unclear to her how some provisions that contain very broad terms are intended to be applied. Mr. Matzner said section 204.C.9.f on page 6 of 19 gives the DRB the discretion to evaluate visibility. Ms. Capels asked how the evaluation would be done. Ms. Power said that a balloon test could be done. Ms. Capels noted that this inventory is being asked at the sketch plan review stage and a project might not be far enough along to conduct a balloon test. Ms. Campbell asked whether there was agreement on the criteria. Mr. Borgendale said he agreed that ridge line protection was important. Ms. Capels said there were references to maps and documents that do not yet exist. Mr. Matzner agreed and said that those references would have to be eliminated. Ms. Capels said she needs to have a better understanding of how the criteria would be applied. Ms. Power said she thought that there was a consensus that the Planning Commission wants to protect ridge lines. Ms. Capels said that the language would have to be ready for a public hearing. Ms. Campbell asked Ms. Capels whether she could work on the language for the next meeting. Ms. Capels said that she did not think she would have time, but would try.

Ms. Capels said she was unclear with how the paragraph on major viewpoints (paragraph B of section V in the Question and Answer document) would be applied. She noted that all but Sabin's Pasture were public locations. Mr. Matzner said the paragraph lists the five major viewpoints that came up the highest in the Views and Vistas study. Mr. Borgendale said he thought there would be trouble with any criteria that does consider the fact that some of the view points are on private land. Ms. Capels asked what was intended by the list of view points. Ms. Campbell said that development could not disrupt a view. Ms. Power said that, if the development is visible from any of the viewpoints, it is an issue that the DRB would have to consider. Mr. Borgendale noted that there are measures available to mitigate visual impacts.

Mr. Borgendale referred to section VI regarding historical, cultural, archaeological and other recreational uses. He said paragraph B which required a landowner to identify any community assets such as "village greens" or other open space sometimes used for community events. He was concerned that the provision would be applied to private lands that the owners have allowed the public to use. That could have the effect of penalizing land owners for allowing access to their land. Mr. Borgendale said the elimination of public use of private land should not be counted as a negative, but the permanent creation of a public right to use private land should be counted as a positive. Ms. Power agreed that the creation of a right for the public to use land should be a positive. She was also concerned about pieces of land that have become "beloved" because the public was allowed to use it. An example would be the college green. Ms. Grodinsky said she would be happy if the provision was deleted. She thought that it was vague and could be very controversial in a document that will already produce controversy.

Ms. Capels suggested describing, on page 12 of 19, the physical features that have cultural resource value. She also had a question with the reference to future uses under other recreational values.

Ms. Grodinsky said she wanted to stay on track and asked the Commission for any comments on the Supplemental Overlay Standards at section 204.C.8 on page 3 of 19. Ms. Capels said she needed to check on agricultural practices that may be exempt by statute. She believed the threshold for clearcutting is 40 acres. Ms. Capels said the second sentence in paragraph d on page 5 of 19 states that "to the extent practical . . . structures should not be visible from town streets, roads and/or state highways . . ." She said that this statement might be too broad. Ms. Power agreed, saying that Montpelier is a town and that provision could not be met. Ms. Campbell asked if the suggestions were to strike that provision. Mr. Matzner noted that the

provision did say "to the extent practical." Mr. Borgendale said he did not think the provision should be included. Ms. Campbell said the provision could be noted for deletion and the subcommittee could bring back any issues next week.

Ms. Capels asked about the provision creating the ad hoc committee. Ms. Campbell noted the Mayor advised her that the Council was averse to any procedure that adds an extra complication or delay to the process. Ms. Campbell suggested that the TRC might review the inventories. Ms. Capels said that another approach would be to allow the DRB to decide under section 407.D. whether specific professional expertise is needed at the applicants' expense as part of the review process. She said that, if the DRB was satisfied with the applicant's report, it might decide that expert review was not required. Ms. Campbell said that the subcommittee was concerned with whether the DRB would have the expertise to undertake such reviews. Ms. Power said she was interested in getting good quality design in development that would not result in law suits. She said that, in order to do that, issues need to be identified early in the process before a great deal of money is spent. Ms. Grodinsky suggested identifying a group of people with a range of different expertise for an ad hoc committee, but calling upon the individuals based upon the area of expertise required. Ms. Power said that the neighbors should always be involved early in the process. Mr. Borgendale said that was the purpose of the public hearing. Ms. Power said the public hearing would be too late to initiate public involvement as the developer would have already spent considerable money and be committed to a design. Mr. Graham said there did not need to be a standing committee. He said a list of people and areas of expertise would suffice. Mr. Beyer said he liked the idea of maintaining a list of qualified persons who would be available to assist. Ms. Campbell asked Ms. Capels to draft language for the next meeting reflecting the concerns that were discussed.

Ms. Capels asked what conditions would determine when the supplemental standards would be applied. Mr. Matzner said they would be applied whenever a parcel was within a land conservation area. Ms. Power asked what would happen if a resource was discovered in the inventory for the single family home on a parcel that is greater than 10 acres and not in a community resource overlay. Ms. Grodinsky said something should be done at the building permit stage. Mr. Borgendale said the discussion related back to his questions of the differentiation between the community resource overlay and the conservation area. Mr. Beyer recommended avoiding a lot of conditions but providing language to give the DRB flexibility. Ms. Grodinsky noted that these types of development projects would not go to the DRB so the Planning Commission would need to address the issue. Ms. Campbell said the subcommittee would revisit the question.

Ms. Power said she felt that the provisions did not provide adequate incentives. Ms. Capels suggestion that clustering be encouraged or be made an option rather than a requirement. Ms. Power said she felt that clustering should be required. Ms. Grodinsky said she did not think it should be required. She said it could be an incentive for getting more units by protecting resources. Ms. Power noted that the Master Plan says that the City does not want more "McMansions." Mr. Graham said he liked the idea of having incentives for clustering, but was leery of prohibiting certain types of structures. Mr. Borgendale said he was in favor of clustering, but did not want to require it. Mr. Beyer said that clustering was required in the conservation area, but not for lots of more than 10 acres outside of the conservation areas.

Ms. Capels said she had intended to put all of these documents and ideas together into a full draft by Wednesday in order to send them out for the meeting on December 19. Mr. Matzner said he would send a consolidated draft on or before then.

### **Building Form Review**

Ms. Grodinsky asked why more of the SmartCode was not used in the draft. Ms. Capels said the SmartCode was far more specific than people appeared to be comfortable with. Ms. Campbell said that she thought this section could go forward as written. Ms. Grodinsky questioned the fact that accessibility was encouraged for residential uses. Ms. Power said that it was not required, just encouraged. Ms. Grodinsky and Mr. Borgendale said that was acceptable.

### **Scheduling**

Ms. Grodinsky said she did not think that holding the open house at the next meeting was appropriate based on the work the Planning Commission needs to accomplish at that meeting. Ms. Power said the Commission could talk about putting it on the January 9 agenda. Ms. Capels noted that there are five Mondays in January. She asked whether the Commission wanted to schedule the second public hearing for the 30<sup>th</sup>. Ms. Grodinsky said that she thought that would be too soon after the first hearing on January 23. Commissioners agreed. Ms. Capels said the Commission might want to use January 30 to process the input from the first hearing. Commissioners agreed.

### **Other**

Mr. Borgendale said he made a motion on November 7 regarding the map for the underlying zoning. He said that must be dealt with. Ms. Power agreed and said that it should be on the next agenda.

### **Adjournment**

Mr. Borgendale made a motion to adjourn the meeting at 10:10 p.m. Ms. Campbell seconded the motion. The motion was approved unanimously.

Respectfully submitted,

Valerie Capels

*Transcribed by Kathleen Swigon.*

*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.*