

Montpelier Planning Commission
March 16, 2006
Memorial Room, City Hall

Subject to Review and Approval

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

Call to Order

The meeting was called to order at 6:45 p.m. by Ms. Grodinsky who was serving as Chair until Ms. Power arrived.

Public Appearances

There were no public appearances.

Continued deliberation on March 13, 2006 proposed zoning and subdivision amendments

MOTION: Mr. Borgendale made a motion that the Commission adopt the document and then deal with changes to it. Mr. Graham seconded the motion.

Ms. Grodinsky said that Geoff Beyer had provided comments on the sections related to planned development and natural resource inventories. She said Mr. Jones had commented that the reference to the Views and Vistas study be deleted since it is not an approved study. She said Mr. Jones also suggested that the natural resource inventory be eliminated. Ms. Grodinsky said she felt that the natural resource inventory should definitely be included because it is in the Master Plan. She was interested in hearing other members opinions on the Views and Vistas study. Mr. Graham suggested deleting the specific reference to the study but keeping the reference to views and vistas. Ms. Power said she agreed with Mr. Graham on the reference to the report. The natural resource inventory provisions should remain since the City has received a grant to do the inventory. Mr. Graham said he objected to the language about "planned trails". He said there was a great deal of public concern about trails on private property. Ms. Power said there are specific plans for public trails. Given the length of the planning horizon, she would not want to do anything that might preclude those trails. Mr. Sedano said the reference was acceptable if it was to a trail included in the Master Plan. Mr. Borgendale said the Master Plan should be the sole source for the planned trails.

Ms. Grodinsky described the language for incentives she had suggested. Ms. Power said the incentives will be effective only on those parcels where the topography and site conditions do not limit the number of building sites and units that are possible. Mr. Borgendale said he did not think the lot size reductions would be an effective way to achieve the type of clustering the Commission would like to see. He gave an example of a 50% lot size reduction in a one acre zone yielding a development of half-acre lots. He said that clustering should be expressed in terms of how large an area is to be developed and how large an area is left open. Ms. Power said the proposal would create an HDR zone on the portion of Sabin's Pasture where the Commission would like to see development occur. The zoning will enable the developer to get the number of units they want without any clustering. The entitlement to 93 houses in the LDR portion of the site, would provide no inducement to move the development down the slope.

Mr. Borgendale said that he thought the discussion was to focus on the language, not the Sabin's Pasture zoning map. Ms. Power said that the map allows the Commission to see how the language would work. Mr. Borgendale said the Commission seemed to be unable to identify incentives that will work and seemed to gravitate toward mandates. Ms. Power said that was because the property was zoned HDR. Ms. Grodinsky suggested that clustering be required and the natural resource inventory be used as a tool to determine where clustering is appropriate. Mr. Graham said the Commission was getting too involved in using one property to guide it in how to write zoning that will apply citywide. Ms. Capels said that clustering is not required under the existing rules. Mr. Graham asked whether it was required anywhere else in the state. Ms. Capels said she did not know. She added that she was not sure that clustering should be required in all of the LDR and was not prepared to answer that question that night.

Mr. Borgendale said he would vote against mandatory clustering. He supported the idea of promoting clustering, but it should not be required. He said that, as an incentive, the Commission could consider providing a density bonus of 25% in the LDR zone if it was built like the HDR. Ms. Grodinsky said that the Master Plan is all about finding ways to maintain open space. She did not think developers should be given a choice about using clustering, but that there should be benefits for clustering. Mr. Borgendale said that would be essentially using zoning to prohibit development on a large portion of the property. He said that concept was not acceptable to him and would not get through the Council. Ms. Power said Mr. Borgendale's position was saying that, short of purchase, there is no realistic way to stop the city from being built out in McMansions even if that is not what the community desires. Mr. Borgendale said that was correct. Ms. Power said she disagreed. Mr. Graham said this proposal would be a step toward the goal, but he was not ready to make clustering mandatory at this time.

Ms. Capels noted that there were only five Planning Commission members present and four affirmative votes were needed to pass a motion.

Mr. Borgendale said he believed in developing at higher density, but that public taste could not be dictated and people want to live in houses on larger lots. Ms. Grodinsky said that Montpelier's Master Plan recommends these types of changes and that the community must plan for the type of development that it wants to have or it will not achieve its goals. Development has huge impacts on the community. Mr. Borgendale said that incentives and guidance should be provided, but he did not think that the City could do the detailed site planning for exactly what the community will look like. Ms. Power said that, in Montpelier, if people are opposed to a development project, it will not get built due to legal challenges. It would be good to have acceptable planning in place so that developers do not run into that opposition after they have spent considerable amounts of money having plans drawn up.

Mr. Sedano said the group seemed to be at an impasse on this subject and should recognize that. Ms. Power suggested they move on to work on another subject. Ms. Grodinsky said there was the additional issue of the criteria. The idea was that a developer would get bonuses if certain resources were protected. Mr. Borgendale said that dimensional standards and density must be addressed at the same time and this language did not do that. If someone did a PUD and cluster development on reduced size lots, a bonus for a number of additional units could be granted. Mr. Sedano said he thought the device had promise, but, if it is not useful for Sabin's Pasture, it can be taken up in the next round of amendments. Ms. Grodinsky said she would like to include a requirement for mandatory clustering if there were no effective incentives to include.

Mr. Borgendale said that is what he objected to. Ms. Power said that there were not enough votes to add the proposed language that night.

MOTION: Mr. Borgendale made a motion to table the open the previous motion. Mr. Sedano seconded. The motion was approved unanimously.

Map. Mr. Graham said the map will not be acceptable to some because the zoning line runs along the Union Institute property line. Ms. Power said the area in question should just be squared off. She said it was not a real issue. Mr. Graham suggested that some type of MDR zoning could be added between the HDR and the conservation zone. Ms. Power said that part of the HDR zone could be changed to MDR but she would not want to change the LDR to MDR. Mr. Graham asked why the HDR had been limited to a distance of 300 feet from Barre Street. Ms. Power said that was the line from the earlier T-4 zoning proposal. Mr. Borgendale added that it was the line that the Friends of Sabin's Pasture had proposed. Ms. Power said that changing a portion of the LDR zone to MDR would increase the by-right number of units on the property. Mr. Sedano said one way of thinking about the situation is that, if part of the upper pasture cannot be protected and the whole site ends up developed, why not develop it to the maximum extent. He would not want to go in that direction if he knew that part of the property could be preserved, but it would not be satisfying if the entire upper pasture was developed in an enclave of 90 houses on large lots. Mr. Borgendale said the worst thing that could happen would be to have the upper pasture look just like Spring Hollow Lane.

Ms. Capels asked whether the Commissioners had a chance to look at the proposal from the Friends of Sabin's Pasture regarding the creation of a special district. Mr. Borgendale said he would oppose that. Mr. Graham said he objected to the idea of a special district. Mr. Sedano said he would consider it. Ms. Power said that she would also consider it if a concept that applied to the whole city could be developed.

Ms. Power asked whether anyone was interested in adding an MDR zone up to the green line. Mr. Borgendale and Mr. Graham said they were interested. Ms. Power and Ms. Grodinsky said that would not. Mr. Graham asked about the idea of squaring the zoning line near the Union Institute. Mr. Sedano reminded the Commission that he would not vote on Union Institute-related map issues. Mr. Borgendale pointed out that Sabin Street was zoned HDR, but does not look like an HDR zone. Ms. Power said that the HDR zone could extend from Barre Street up to Sabin Street and the Sabin Street neighborhood could be changed to MDR since the area is basically developed in 1/4 acre lots.

MOTION: Mr. Borgendale made a motion to amend the zoning map to change the underlying zoning in a portion of the Sabin Street and Kemp Street Area and to adjust the northeast portion of the line as shown on the sketch map. Mr. Graham seconded the motion. The motion was approved by a vote of 4-0 with Mr. Sedano abstaining.

Telecommunications. The Commission agreed to discuss the telecommunications proposal in section 825.C. Ed Flanagan said he works for WSKI and manages the rooftop telecommunications at National Life. There are three freestanding communication towers in Montpelier. He was concerned that the proposed rules would prevent WSKI from rebuilding its existing tower since there was no place on the four-acre lot that would meet the required setbacks to the property lines and the river. He said that he understood that the rules were

intended to address falling towers, but towers do not fall that way. Ms. Capels said the regulation did contain a grandfather clause. Mr. Flanagan said that provision addressed a tower that fell down, but would not allow an owner to remove an aging tower and replace it with a new structure. Ms. Power asked how the State dealt with towers in wetlands. Mr. Flanagan said existing towers were grandfathered in those rules if they are rebuilt without substantial changes.

Mr. Flanagan said the rules do not promote co-location strongly enough. The rules should require that an existing tower be used if possible. Ms. Capels said she had questions about how a requirement for co-location would be administered. Mr. Flanagan said that Berlin has an ordinance that includes bench marks for co-location that might be used for ideas. Mr. Borgendale asked who would control what fees the owner of the tower could charge the potential co-locator. Mr. Flanagan said there would be no controls, but the applicant could propose that the DRB approve a new tower if the owner of the existing tower requires excessive fees. The Planning Commission discussed the issue and language from other existing rules that dealt with the issue. Ms. Power said that she wondered how to create an incentive for the owner of the existing tower to make the tower available to co-locators for a reasonable rent.

Mr. Flanagan said the proposed rule contained no provision for consideration of aesthetics. He said that antennas could be located on building roofs in a way that degraded the view of people in neighboring buildings. Ms. Power said she thought that it would be good to provide an opportunity for a review of aesthetic issues. Mr. Sedano said he was not sure that the Planning Commission could deal with this regulation that night. Ms. Power said she would like Mr. Sedano and Mr. Flanagan to take a look at the model from the League of Municipalities and make suggestions.

MOTION: Mr. Borgendale made a motion that 825.C be stricken from the currently proposed amendments and take the matter up as a separate proposal. Mr. Graham seconded the motion. Ms. Power asked whether this action would cause any problems. Ms. Capels said the current rules do not address these facilities at all and the staff is unsure how to deal with them when they come in. Mr. Sedano said that he was uncomfortable moving forward until the Commission has an opportunity to read and fully digest the proposed language. He said that the matter should go back onto the Commission's agenda promptly. Ms. Power asked Mr. Sedano and Mr. Flanagan whether they would be willing to work as a subcommittee on this issue. They agreed. The Commission approved the motion by a vote of 5-0.

Projecting signs. Ms. Power said that the question regarding projecting signs should go on the list of things to take up in the next round of amendments. Mr. Sedano said that he was not ready to go ahead with the proposed language at this point. Mr. Borgendale agreed.

Accessory Apartments. Ms. Grodinsky said the housing task force recommended that the size limit for accessory apartments be increased from 40% of the principal use to 50%. Mr. Sedano said the Commission had discussed this issue and determined that the increase to 40% was an appropriate compromise to protect the quality of single family neighborhoods. Ms. Grodinsky said that she would still like to consider the 50% limit. Mr. Borgendale said he agreed, but that it should not be taken up now. Ms. Power suggested adding this topic to the list to be considered in the next round.

Sheds and shelter structures for animals. Ms. Capels said the language was proposed because the current regulations do not allow a dog house.

MOTION: Mr. Sedano made a motion that the Planning Commission adopt the language on shelters for animals. Mr. Graham seconded the motion. The motion was approved unanimously.

Demolition by neglect. Ms. Power said Commissioners had all received copies of a new proposal on demolition by neglect. Mr. Sedano asked who would designate a structure to have "unique architectural or historic value." Ms. Capels said she was drafting a definition of the term. Ms. Grodinsky asked about a situation where a historic building must be removed to meet an important public need. Ms. Capels said that other jurisdictions had some language addressing the situation, however demolition by neglect is more of a building code issue than a zoning issue. The zoning code is limited in its ability to address this issue. The fact that the provision only relates to the design review district when we are also losing structures elsewhere should also be considered. Ms. Power said that the provision should apply city wide. Ms. Capels said that there is no vehicle to do that.

MOTION: Ms. Grodinsky made a motion that the language be adopted and that the matter also be placed on the list of topics to take up soon. Mr. Graham asked how the unique architectural value would be quantified. Ms. Capels read a definition that she was working on. Ms. Power said that the definition could be added in the next round. Ms. Capels said she did not understand paragraph 3. Ms. Power said the applicant would have to explain what compelling use will be placed there. She said the next sentence said that the presumption would be that tearing down a historic building is not consistent with the Master Plan, but the presumption could be rebutted by the applicant. Mr. Borgendale proposed a friendly amendment that the wording say "in accordance with the municipal plan." Ms. Grodinsky and Mr. Sedano accepted the amendment to the motion. The motion was approved unanimously.

Additional Meeting. Ms. Power suggested that the Commission schedule an additional meeting to finish work on the proposed amendments. Ms. Capels said the earliest a noticed meeting could occur would be Monday, March 20, 2006. Ms. Grodinsky said she could not attend, but would vote tonight for adding the language requiring mandatory clustering in the LDR and conservation lands and for everything that had been agreed to that night. The Commission agreed to meet on March 20, 2006.

Adjournment

MOTION: Mr. Graham made a motion to adjourn the meeting at 10:25 p.m. Ms. Grodinsky seconded the motion. The motion was approved unanimously.

Respectfully submitted,

Valerie Capels

Transcribed by Kathy 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.