

Montpelier Planning Commission
April 10, 2006
City Council Chambers, City Hall

Subject to Review and Approval

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

Call to Order

The meeting was called to order by Ms. Power at 7:10 p.m.

Public Appearances

There were no public appearances.

Minutes

MOTION: Mr. Graham made a motion that the Commission adopt the minutes of the February 13, 2006 meeting. Mr. Borgendale seconded the motion. The motion was approved with five affirmative votes and one abstention (Ms. Grodinsky).

MOTION: Mr. Borgendale made a motion that the Commission adopt the minutes of the February 27, 2006 meeting. Mr. Sedano seconded the motion. The motion was approved by a vote of 6-0.

MOTION: Mr. Borgendale made a motion that the Commission adopt the minutes of the March 16, 2006 meeting. Ms. Grodinsky seconded. Mr. Borgendale said that the first motion on page 3 should be clarified to state that "Mr. Borgendale made a motion to table the previous motion." The Commission voted 6-0 to approve the minutes with that change.

MOTION: Ms. Grodinsky made a motion that the minutes of the March 20, 2006 meeting be adopted. Mr. Graham seconded the motion. Mr. Borgendale said the first motion on page 1 should be clarified to state that "Mr. Borgendale made a motion that the previously tabled motion to adopt the proposed amendments to the zoning and subdivision regulations be considered." Ms. Campbell said the sixth sentence of the last complete paragraph on page 1 should state that "Ms. Campbell said she would need to participate by phone and left the meeting." She said the last sentence of the fifth complete paragraph on page two should be clarified to state that she wanted to protect conservation areas without jeopardizing them politically by including LDR areas and that she questions whether the inclusion of the LDR zone was necessary to protect the resources. Mr. Graham had a correction on the fourth line on page two where the word "no" should have been "not." The Commission voted 6-0 to approve the minutes with those changes.

Review of HDR to MDR district change in Sabin Street Neighborhood

Ms. Power said that the Sabin Street neighborhood is proposed to be rezoned from HDR to MDR. Some questions had been raised about the impacts of that change and Ms. Capels had some responses to the questions. Ms. Capels referred to Mr. Carnahan's e-mailed questions and explained her responses.

The first question was whether there were any practical differences for the current residents in being zoned MDR instead of HDR. Ms. Capels said that there are practical differences. She

described the differences in the dimensional requirements between the two districts under the existing and proposed regulations. She also discussed maps that showed nonconforming lots under existing and proposed regulations for the MDR and HDR zones. Mr. Borgendale noted that it appeared the combination of proposed changes in the dimensional requirements and the proposed zoning change left the situation roughly the same in terms on nonconformance. Ms. Capels said that the largely correct. Ms. Power noted that there would be fewer nonconforming lots if the dimensional requirements were changes, but the zoning was not changed.

Mr. Carnahan asked what the effect was of living on a nonconforming lot. Ms. Capels said that tied into the next question, which asked whether a building that was destroyed by fire in the MDR zone could be rebuilt if it did not conform to the requirements of the zone. A structure on a pre-existing nonconforming lot would have to be rebuilt within six months of destruction. She added that in other more everyday circumstances, variances might be needed for additions and garages for homes on existing nonconforming lots.

The third question asked, "Will zoning the 300 foot strip of land parallel to Sabin Street MDR mean that apartment blocks such as is now being built on Barre Street cannot be built in that zone? In the LDR portion of Sabin's Pasture? What if it is part of a PUD?" Ms. Capels said that 19 units could be built on the 4.4 acre portion of the Union Institute land that is proposed to be rezoned LDR. She said that 93 units could be built without density bonuses on the part of Sabin's Pasture that is proposed to be zoned LDR. Ms. Power said it was conceivable that relatively large, unattractive apartment blocks could be proposed, the regulations require that the DRB apply the PUD criteria including compatibility with the existing neighborhood.

Ms. Capels responded to the question relating to the minimum lot area per unit for multi-unit residential buildings. She said that the minimum area per family in the HDR district is 1,500 square feet and between 8,000 to 10,000 square feet in the MDR. Those minimums would determine how many units could be developed. It is one of the significant differences remaining between the HDR and MDR districts. Ms. Power noted that accessory apartments would not be subject to those requirements.

The next question asked whether 29 units could be built on one acre in the portion of Sabin's Pasture that would be zoned HDR. Ms. Capels said she calculated that 1 acre in the HDR with a minimum lot size of 8,700 square feet could yield five lots, but 1 acre at 1,500 s.f. per family would yield 29 units (and potential 7.26 more with density bonuses). She said it has been her experience that lots are rarely ever built out to the maximum allowable number of units. She noted that the lot size and density figures in a district did not necessarily guarantee the maximum number of units could actually be built on a particular site. A lot of other factors must be applied, but they help define the minimum standards for the development pattern appropriate for that part of the city.

A member of the audience asked what the implication would be of the conservation land on the Union Institute property. Ms. Power said the conservation lands were defined on the Future Land Use map in the Master Plan. She said the LDR or conservation area designation would require that development be clustered. In response to a question about where the access road for Union Institute would be located, Ms. Capels said that there were no specific proposals for the development of the Union Institute or the Aja-Zorzi land. Information about traffic impacts and any measures to mitigate them would need to be provided as part of a development

application. Mr. Sedano said that he presumed the access issue will be determined by the specific proposal.

Preparation for the City Council Public Hearing

Ms. Capels said that the Council's public hearing would be at 7:30 p.m. on April 12, 2006. Anyone unable to attend was encouraged to submit written comments. She believed the Council intended to have another public hearing on May 3. Ms. Capels said that since the Council has warned a proposed amendment to the zoning, any application submitted on or after March 28 will have to comply with both the existing regulations and the proposed regulations for a certain period of time.

The Planning Commission discussed the comments on the proposal that were provided by Joseph McLean of Stitzel, Page and Fletcher, P.C. Ms. Power said he seemed to have concerns about the lack of definition of some terms like "clustering." Ms. Capels said she had been looking into that and found that clustering is another way to define planned development. Mr. Jones asked whether planned development is similar to clustering in terms of permanent protection of open space. Ms. Capels said she was working on that issue. The draft includes specific ways that the open space can be held, but there could also be another way where the open space remains in private ownership with some legal instrument in place to keep it open. Ms. Power said that the draft does allow for easements. She said that the comments suggested that the easements be enforceable by the City.

Mr. Graham said there was also a comment referring to adding map references for scenic features on page 8-41. Mr. Jones said those maps will have to be developed in the next round of work. Ms. Grodinsky said she wanted to make sure that the Commission took up that work. Mr. Graham referred to the comment regarding section 402.A.3.I. He said it was not the Commission's intent that the City should have to obtain permits to work in the right of way, but private developers would not. Mr. Sedano said the Commission should clarify that its intent was to say that everyone must apply. Ms. Power said the section says that no zoning permit is needed for roads, sidewalks and infrastructure, but everyone should abide by the standards. Ms. Capels said that the section could be revised to add "However, the standards of this ordinance shall apply." The Commission agreed.

Mr. Jones said he would like to have some focus on form issues and wondered what the Commission's role would be in that. He also felt the Commission should remind the Council that the Commission tried, but has not accomplished the protection of the upper pasture. Ms. Power said that she read a report of the DRB's first reactions to the Fecteau development and was concerned that the DRB did not seem to feel that their role was to look at the environmental issues or the Master Plan. She thought the proposal will, at least, make it clear that those things have to be considered. Mr. Jones said he was concerned that the proposal may not be adequate to get the DRB to focus on the environmental issues. They seemed to be satisfied to leave the environmental review to the State, but he felt a better job could be done locally. Ms. Power said the rules were to be changed so that the DRB must review specific environmental criteria. Mr. Jones said it was not clear that the DRB will do that, even with the new language. Ms. Grodinsky said that once the natural resource inventory of the City was done, the projects could be overlain on that information for review. Mr. Jones said he did not think the DRB would do that.

Ms. Capels said there will likely be a lot of discussion about the protection of natural resources when the ordinance is before the Council. The Council appoints the DRB members and can communicate how it believes the DRB should conduct its reviews. Ms. Power noted that the quality of the regulations is only as strong as the will of the body that uses them. Ms. Capels said, in defense of the DRB, some of the members had served on the former Zoning Board of Adjustment and were not involved in the same types of review as they are now because the former Planning Commission dealt with that. Mr. Jones said he would like to hear the City Council communicate clearly that the role of the DRB is to be connected more directly to the Master Plan. Ms. Grodinsky asked whether there was role for the Conservation Commission in this. Mr. Jones said that would not be the case unless the Council defines that role for the Conservation Commission. Ms. Capels noted that the TRC does have a representative from the Conservation Commission on it. The TRC provides a forum for the Conservation Commission to influence the staff's guidance to the DRB. Ms. Power said that a review checklist might be appropriate with the new regulations. Ms. Capels said that the was one purpose of the staff report.

Mr. Jones said that he was willing to make some statement on Wednesday about how the zoning revisions do or do not address the concerns for Sabin's Pasture. Ms. Power said that members of the Commission were free to speak their minds as individuals. She believed the City has the power to achieve the goals for Sabin's Pasture through regulation, but did not have the will to do so. Mr. Sedano said the question was whether the Planning Commission wants to plan to give a unified message that the City can buy the upper pasture and ensure its preservation. Mr. Borgendale said that he intended to say just that.

Mr. Sedano said the attorney seemed to believe that section 204.D.4.b may cross a legal line by saying that a third unit cannot be accessory. Ms. Capels said that the comment seemed to be concerned that the addition of a third unit would cause an accessory apartment to no longer be considered to be accessory. Mr. Jones said he did not think this situation would occur very often and suggested allowing the Council to deal with it.

Mr. Jones said the comment regarding section 204.D.4.d.ii did not seem to be a legal issue. Ms. Capels said she understood the issue to be that the DRB's authority should not be conveyed to a neighbor. She noted there is another long-standing provision that allows sheds in the setback as long as neighbors agree. Mr. Jones said he did not see this as taking authority from the DRB as the applicant would have to go through the DRB review if the neighbors have issues. Ms. Power said that she did not see this as a big problem.

Ms. Capels said that the comments recommended specifying a period of time for the subdivision threshold under section 402.D.1-3. Ms. Power said that the trigger is whatever action brings the number of lots to five. Mr. Sedano said that he agreed with Ms. Power. Mr. Jones said that meant that, if you had four existing units and added one, you would be subject to planned development. Ms. Capels said that was correct and was how the current regulations were applied. Ms. Grodinsky said she would like to have a discussion in the future about impediments to adding units and increasing density in the built environment.

Other

Ms. Power asked Valerie to e-mail the Commissioners a list of supplemental topics that had been identified to take up after this amendment. Mr. Borgendale said that the work on redoing the Master Plan was supposed to be a major focus of the Commission's work. He said that should be a regular agenda item.

Ms. Grodinsky said she thought that the Commission should schedule regular meetings with Montpelier's representative to the Regional Planning Commission. Mr. Jones added that the Commission should also communicate regularly with the DRB.

Ms. Capels pointed out that Commissioners may interested in the article that was included in their meeting packages, which relates to tying zoning and master plans together.

Adjournment

MOTION: Mr. Sedano made a motion to adjourn the meeting at 9:25 p.m. Mr. Borgendale 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.