Agenda

for the Meeting of the

Development Review Board

City Council Chambers, City Hall
Monday, October 7, 2019 at 7:00 PM

Members: Daniel Richardson (Chair), Kate McCarthy (Vice Chair), Kevin O'Connell, Ryan Kane, Robert Goodwin, Michael Lazorchak, and Clare Rock (alternate).

Please note: Changes in the agenda may occur

1) Call to Order by the Chair
2) Approval of the Agenda
3) Comments from the Chair
4) Review and approve meeting minutes of September 16th, 2019.
5) 242 Elm St. (MUR)
   Owner/Applicant: Matt & Olga Benoit
   Review Conditional Use, Minor Site Plan and Demolition of part of a historic structure, rear wall, to create an additional dwelling unit.
6) 5 West Street (MUR/DCD)
   Owner: Johnathan Herz
   Applicant: Sean Sheehan
   Addition of a second driveway, for the creation of an ADU, that doesn't meet the minimum distance requirements.
7) 60 Main St.(UC-1/DCD/HD/RHA)
   Owner: 60 Main Street Associates, LLC
   Applicant: Tolya Stonorov, Stonorov Workshop
   Appeal DRC recommendation of sign lettering size
8) Other Business:

   Next meeting is October 21st, 2019.

9) Adjournment

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Montpelier Development Review Board Meeting
September 16, 2019

Subject to review and approval

This public meeting was recorded, and the video will be available for viewing at this link:
https://www.montpelier-vt.org/1094/CivicClerk

Present: Daniel Richardson, Kate McCarthy, Ryan Kane, Robert Goodwin, Clare Rock (alternate), Michael Lazorchak, Meredith Crandall – staff.

Absent: Kevin O'Connell.

Call to order: The meeting was called to order by the Chair, Dan Richardson.

Approval of the agenda: Ryan moved to approve the agenda as printed, Rob seconded. The motion passed on a 6-0 vote with no recusals.

Comments from the Chair: There were no comments from the Chair.

Approval of minutes from September 3, 2019: Dan, Kate, Rob, and Michael were in attendance at that meeting and eligible to vote on approval of the minutes. Rob made a motion to approve the minutes as presented, Kate seconded. The motion passed on a 4-0 vote, with Clare and Ryan abstaining.

260 Elm Street
Owner: West Little Applicant: Sarah Hoffmeier, Ecolibrium, LLC
Applicant seeks a variance from the 4.5 feet maximum height limit for front yard fences.

The applicant, Sarah Hoffmeier was in attendance. She is the landscape designer for the project.

The parcel is 12,632.4 SF, with approximately 90 feet of frontage on Elm Street and 138+ feet on Vine Street. The application is for a 6 feet fence along the Elm Street frontage, with a gate on one section lower down on that side, and a 5 feet tall step-down section proposed along the corner between the Elm Street and Vine Street lengths of fence.

The zoning bylaw states that fences in the front yard shall not exceed a height of 4 ½ feet and the applicant must demonstrate that the fence will not interfere with line of sight. The applicant may request a waiver of the fence height maximum of not more than 10%. Since this property is a corner lot, it is considered to have two front yards.

The applicant attests that the waiver or variance is necessary for privacy – to shield the glassed in sunroom on the Elm Street side from the Birchgrove Bakery customers and pedestrian traffic. It is also to be used as a dust and noise screen. The top 12" of the fence will be broken up with latticework.

The criteria for a waiver was reviewed and determined to be in compliance – but for the 10% waiver only, not the complete 6 foot height requested. This allows a nearly 5-foot high fence (4 feet, 11 and 13/32 inches) along the Elm Street frontage.

Ryan made a motion to approve a 10% waiver of the 4 ½ foot height requirement for the front yard at 260 Elm Street along the Elm Street road frontage for the fence design as proposed in the application. Rob seconded. The motion passed on a 6-0 vote, with no abstentions.

A written decision will be issued as soon as Meredith can issue it.

Other Business: The next regular meeting will be Monday, October 7, 2019.

Adjournment: Rob made a motion to adjourn, Clare seconded.

Respectfully submitted,

Tami Furry
Recording Secretary

MONTPELIER DEVELOPMENT REVIEW BOARD REPORT
Prepared by Meredith Strobridge Crandall, Planning and Zoning Administrator
Date: October 3, 2019
For the meeting of October 7, 2019

CONDITIONAL USE REVIEW; MINOR SITE PLAN; DEMOLITION OF HISTORIC STRUCTURE
Applicant: Matt and Olga Benoit
Owner: Same
Address: 242 Elm Street
Application # Z-2019-0126
Zone: Mixed Use Residential

Guiding Ordinance Sections: (I) Montpelier Unified Development Regulations, Adopted by Montpelier City Council January 3, 2018, As Amended March 27, 2019 (the "March 2019 Regulations"); and **(II)** Montpelier Unified Development Regulations, Adopted by Montpelier City Council January 3, 2018, As Amended September 25, 2019 (the "Adopted Regulations" – effective October 16, 2019).[1]

Chapter 200. General Provisions
Chapter 210. Base Zoning Districts & Neighborhoods
- Section 2107. Mixed Use Residential (MUR) Zoning District & Neighborhoods

Chapter 300. General Standards
- Section 3001. Use Standards
- Section 3002. Dimensional Standards
- Section 3003. Accessory Structures and Uses
- Section 3004. Demolition
- Section 3005. Riparian Areas
- Section 3006. Wetlands and Vernal Pools
- Section 3007. Steep Slopes
- Section 3008. Erosion Control
- Section 3009. Stormwater Management

[1] The ZA must review Development Applications submitted within 150 days after the August 24, 2019, public notice for first public hearing of the Adopted Regulations under both the March 2019 Regulations and the Adopted Regulations. See 24 V.S.A. § 4449(d). However, differences between the two sets of regulations are not called out herein, as the amendments were adopted on September 25th, and there are no substantive differences between the March 2019 and Adopted Regulation provisions applicable to this Application.

- Section 3010. Access and Circulation
- Section 3011. Parking and Loading Areas
- Section 3012. Signs

Chapter 320. Site Plan Standards

- Section 3201. Major/Minor Site Plan Determination
- Section 3202. Access and Circulation
- Section 3203. Landscaping and Screening
- Section 3204. Outdoor Lighting
- Section 3205. Outdoor Seating, Display or Storage
- Section 3206. Solar Access and Shading and Energy Conservation
- Section 3207. Design and Compatibility

Chapter 330. Conditional Use Standards

- Section 3301. Applicability
- Section 3302. Capacity of Community Facilities and Utilities
- Section 3003. Traffic
- Section 3004. Character of the Neighborhood

Chapter 430. Development Review Procedures

Materials Submitted:

a) Development Application, dated September 12, 2019;
b) Zoning Permit Attachment, dated September 12, 2019;
c) Request for a Conditional Use Review, received by the Department of Planning and Economic Development September 12, 2019;
d) Description of Project by Mr. Benoit, dated September 12, 2019 (the "Narrative");
e) Existing Site Plan, received by the Department of Planning and Economic Development September 13, 2019;
f) Proposed Site Plan, received by the Department of Planning and Economic Development September 13, 2019;
g) Email from Mr. Benoit to Ms. Crandall re: 242 Elm – Site Plan, dated September 25, 2019, including:
    a. 242 Elm Parking Area.jpg (the "Parking Expansion Details");
h) Photographs detailing current conditions—both interior and exterior–and proposed renovations:
    a. Northwest quadrant of home, showing location for new dormer and proposed entrance for 5th apartment;
    b. Rear of building, showing wall/doors to be removed, location for new windows into 5th unit;
    c. Western and Eastern exterior views of the rear portion of the building to contain 5th unit, including notes on wall push-back;
    d. Twenty-four (24) photographs documenting interior conditions of rear portion of building, including instances of historic quality, inferior construction materials, water damage and rot;
    e. View of western covered porch annotated with location of proposed deck;
    f. View of western side of building annotated with location of proposed new walkway;
    g. Four (4) photographs of current conditions at covered porch-deck location: floor of porch removed, and 8 foot by 10 foot deck constructed;

Materials Provided by Staff:

i) Email correspondence from Eric Gilbertson, Chair of the Montpelier Historic Preservation Commission, re: 242 Elm Street Project – opining on historic nature of building and determining that the work is compatible with the Secretary of Interior's Standards for preservation projects ("Historic Demolition Opinion"); and

j) Email correspondence from Kurt Motyka, Deputy Director of Public Works, to Ms. Crandall re: Applications for Review for 10/7 Meeting, dated October 2, 2019 ("DPW Comments").

Project Scope & Applicant Request

Applicant seeks: (1) conditional use approval to add a fifth dwelling unit to what is currently a four dwelling unit building; (2) approval of the demolition of the rear wall of a structure listed as a contributing structure on the National Register of Historic Places; and (3) minor site plan approval for parking and coverage changes.

The subject parcel is located in the Mixed Use Residential ("MUR") Zoning District. The Application will first be reviewed by the Board on October 7, 2019.

STAFF REVIEW & COMMENTS

1. Existing Conditions: 242 Elm Street is an existing .47 acre (20,473.2 SF) parcel containing four dwelling units within an approximately 4,500 SF historic structure. The parcel also contains a five (5)-bay garage and a driveway that extends from the southeast corner of the parcel to the rear of the primary building, opening into a parking area between the garage and residence.

   The primary structure is listed as a contributing historic structure on the National Register of Historic Places, listed having a "*wood frame, aluminum clapboard siding, 2 ½ stories, and gabled roof, brick chimney. This Greek Revival style house, c. 1840, has a monumental two-story Doric portico with a triangular louver in the heavily pedimented gable. The front door, in the right bay, has plain pilasters, an entablature, and is flanked by three-quarter length leaded and stained glass sidelights. The aluminum siding has not obscured any of the details of this house. The first floor windows have full entablatures matching the door surround and the second floor windows abut to the plain frieze under the cornice. The windows have one-over-one light sash. There is a one-story as well as a two-story rear addition.*" The listing contains no description of the rear wall of the building with the carriage/barn doors or the garage.

   Applicant has already removed the floor of the covered porch and built the proposed deck detailed below.

2. Proposal Details: Applicant seeks to convert 900 SF of unfinished space in the rear of the main building into a two-story 5th dwelling unit. Proposed changes to the main building include: (i) demolition of the rear wall on the first floor, and building a new solid wall that is inset by four feet—resulting in a cantilevered overhang from the second floor; (ii) a new first-floor entrance to the 5th unit where a window is currently; (iii) addition of an approximately 14-foot long dormer; and (iv) enlargement of a window.

Exterior/site plan changes include: (a) removing the floor of a covered porch on the western side of the building, replacing it with an 8 foot by 10 foot, 4 inch deck and a walkway to the parking area; (b) widening the current uncovered parking area by approximately 8 feet.

3. Location: The subject parcel is in the Meadow–Elm Street Neighborhood in the MUR Zoning District. 242 Elm Street lies roughly equidistant between the intersections of Elm Street with Winter and Vine Streets.

4. Permit/Parcel History: Prior zoning permits included addition of privacy fencing in 2017 and 2019 by Applicant (Permits #Z-2019-0072 and Z-2017-0073). Earlier building permits included the addition of rooftop solar by Applicant (Permit #B-2016-044), and bathroom and kitchen updates by a prior owner in 2009 (Permit #B-411).

5. Procedural Status: The Board must apply the following standards to this application: (i) General; (ii) Minor Site Plan – as the application includes coverage and parking changes to a residential building with more than two units; and (iii) Conditional Use – see below.

CHAPTER 300 GENERAL STANDARDS

6. Section 3001. Use Standards
   - A. Applicability. The land development shall conform to the use standards for the applicable zoning district. Per the Use Table at Figure 2-15:
     - i. Four dwelling units are a permitted use in the MUR Zoning District.
     - ii. Five dwelling units is a conditional use.
   - B. Mixed uses. *Not applicable.*
   - C. Prohibited uses. *Not applicable.*
   - D. Materially similar uses. *Not applicable.*
     - i. The current use of the subject property is as a four-unit residence, with approximately 1000 SF of unfinished space in a two-story rear section of the building (used for minimal storage). Applicant is requesting to remodel and convert 900 SF of the unfinished space into a fifth dwelling unit.

Staff Findings: The addition of a fifth dwelling unit at the subject property requires Conditional Use Review. See ##25–27, below, for further analysis.

7. Section 3002. Dimensional Standards
   - A. Applicability. Land development shall conform to the dimensional standards for the applicable zoning district, as set in Chapter 200. Figure 2-07 establishes the dimensional standards for development in the MUR District as follows:

Figure 2-07. Mixed Use Residential District Dimensional Standards

LOTS	SETBACKS	DENSITY	BUILDINGS
Lot size: 3,000 sf min **Frontage:** 45 ft min **Coverage:** 70% max	**Front:** 5 ft min **Side:** 5 ft min **Rear:** 10 ft min **Water:** 25 ft min	**Residential:** 1 du/1,500 sf max **Floor Area Ratio:** 1.0 FAR max	**Footprint:** 3,000 sf max **Height:** 24 ft min, 40 ft max

Note 1 See Section 3002 for specific information and any exceptions regarding dimensional standards. Accessory structures may have reduced dimensional standards (see Section 3003 for specific details regarding accessory structures).

   - B. Driveways are accessory structures allowed up to the property line, per Fig. 3-07 and

§ 3303.C.

C. Per § 3003.C(1), and Fig. 3-07, parking areas are required to meet side and rear-yard setbacks, specifically, the smaller of the Fig. 3-07 and MUR setbacks. Here, that's 5 feet.
    i. The existing parcel is .47 acre (20,473.2 SF), has more than 90 feet of frontage on Elm St., and approximately 8,700 SF of impermeable surfaces (42.5% coverage).
    ii. The primary structure will not get closer to any property boundaries, and the building footprint will be reduced.
    iii. The new deck will add approximately 100 square feet of impermeable surface area (the uncovered portion of the deck), while the expanded parking area will add approximately 450 SF of impermeable surface (44.7% coverage). The parking area impacts are based on the measurements in the Parking Area Details and that the new gravel area will be contiguous with the driveway to the rear (versus a bump out);
    iv. Regarding setbacks:
        a. The western most edge of the new deck will be more than 30 feet from the western property boundary.
        b. The parking area is currently more than 5 feet from the western property line, and the proposed changes will not make it closer.

D. Principal building:§ 3002.B. *Not applicable.*

E. Calculating Density: § 3002.D.
    i. In MUR, residential density is calculated as 1 dwelling unit per each 1,500 SF of parcel area. § 3002.C.
        a. Here, the 20,473.2 SF parcel size is sufficient for up 13 dwelling units of density.

F. Height. *Not applicable, no changes to building height are proposed.*

Staff Findings: The subject parcel and proposed changes meet the minimum lot size, frontage, setback, and coverage requirements for the MUR District. Further, the proposed fifth dwelling unit complies with the MUR District's density requirements.

The height and building footprint standards are not implicated here, where no relevant changes are proposed.

8. Section 3003. Accessory Structures and Uses: *See above regarding the driveway setbacks. No changes proposed for the garage.*
9. Section 3004. Demolition:
    A. Per § 3004.D, "[t]he demolition or replacement of any structure, or portion thereof, listed as a contributing structure on the Vermont Historic Sites and Structures Survey and the National Register for Historic Places, or any application for development which involves the demolition of such structures, shall be reviewed by the [Board] under the following provisions: (1) for historic structures, the application shall include "documentation that the rehabilitation of the structure would cause undue financial hardship to the owner, or that the demolition is part of a site development plan that would provide clear and substantial benefit to the municipality."

B. Demolition is defined as "the intentional destruction and physical removal of a structure or portion of a structure from a parcel." § 5101.D.
C. Per § 3004.D(4), a determination of undue financial hardship for income producing properties may be granted only if the "the building, site or object cannot be feasibly used or rented at a reasonable rate of return in its present condition or if rehabilitated, and denial of the application would deprive the owner of all reasonable use of the property."
D. Per § 3004.D(3), the Board must consider the following factors in making its determination regarding whether undue financial hardship exists:
    i. The applicant's knowledge of the property's historical significance at the time of acquisition, or of its status subsequent to acquisition;
    ii. The structural soundness of the building, or any structures on the property and their suitability for rehabilitation;
    iii. The economic feasibility of rehabilitation or reuse of the existing property in the case of a proposed demolition;
    iv. The current level of economic return on the property as considered in relation to the following:
        a. amount paid for the property, the date of purchase, and party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant, and the person from whom the property was purchased;
        b. a substantial decrease in the fair market value of the property as a result of the denial of the permit;
        c. the fair market value of the property at the time the application is filed;
        d. real estate taxes for the previous three (3) years;
        e. annual gross and net income, if any, from the property for the previous three (3) years; itemized operating and maintenance expenses for the previous three (3) years; and a depreciation deduction and annual cash flow before and after debt service, if any, for the previous three (3) years;
        f. remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, during the previous three (3) years;
        g. all appraisals obtained within the previous three (3) years by the owner or applicant in connection with the purchase, financing or ownership of the property;
        h. any state or federal income tax returns on or relating to the property for the previous three (3) years.
    v. The marketability of the property for sale or lease, considered in relation to any listing of the property for sale or lease, and the price asked and offers received, if any, within the previous two (2) years. This determination can include testimony and relevant documents regarding:
        a. any real estate broker or firm engaged to sell or lease the property;
        b. reasonableness of the price or rent sought by the applicant; and

c. any advertisements placed for the sale or rent of the property by the owner or applicant.

vi. The feasibility of alternative uses that can earn a reasonable economic return for the property as considered in relation to the following:
   a. a report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any buildings/structures on the property and their suitability for rehabilitation;
   b. testimony from a licensed engineer or architect with experience in rehabilitation as to the economic feasibility of rehabilitation or reuse of existing buildings/structures on the property.

vii. Studies and evaluations conducted at the owner's expense shall identify impact of economic incentives and funding available to the applicant through federal, state, city, or private programs, including tax credits, in relation to a ten (10) year pro forma of projected revenues and expenses for the reasonable uses or revenues that takes into consideration the utilization of incentives programs available.

viii. Input from community organizations, preservation groups, other associations, and private citizens who may wish to evaluate and comment on a submission made under the financial hardship provision.

Staff Comment: The removal of the existing rear wall at 242 Elm Street fits within the definition of demolition of a portion of a structure listed as a contributing structure on the National Register for Historic Places. However, Staff questions whether the § 3004.D(4) analysis is applicable here, where removal of the wall in question is part of the rehabilitation of rear portion of the structure—particularly where the rear wall of the building is no mentioned in the historic listing, and expert testimony has been provided supporting the removal. See Historic Demolition Opinion.

The Board will have to make a determination under § 3004, and may need to request more information from the Applicant regarding the § 3004.D(3) factors.

10. Section 3005. Riparian Areas – *Not applicable. No regulated water bodies or water setbacks on property, or within more than 150 feet of the property, per the Montpelier Natural Resource Inventory Map.*
11. Section 3006. Wetlands and Vernal Pools – *Not applicable.* The standards in § 3006 only apply to wetlands or vernal pools documented on the Montpelier Natural Resources Inventory Map. Staff confirmed that there are no such wetlands within 500 feet of the parcel boundary and no vernal pools within 500 feet of the parcel through a visual inspection of the Map.
12. Section 3007. Steep Slopes – Section 3007 applies to land development that proposes to disturb or clear land on steep slopes that exceeds the threshold amounts specified in Figure 3-08, all of which are 15% or greater. *Not applicable, no such slopes impacted by the proposal.*

13. Section 3008. Erosion Control
    A. This section is intended to "promote construction practices on development and redevelopment sites that limit soil disturbance and compaction, and minimize erosion and sedimentation of downstream water bodies." § 3008.A.
    B. Per subsection B, all construction activities that will disturb soil must "implement appropriate measures to prevent erosion and sedimentation from adversely impacting nearby properties, public infrastructure or downstream water bodies" through following the practices outlined in § 3008.D.
    C. Professionally prepared erosion control plan not required, as project will impact less than 6,000 SF of soil, all of which is less than 5% slopes per the ANR Natural Resources Atlas.

Staff Findings: Applicant's project will need to comply with the best practices listed in § 3008.D, but a professionally prepared erosion control plan isn't required, given the lack of slopes impacted.

14. Section 3009. Stormwater Management – Section 3009 outlines the requirements for stormwater management and requires that storm sewer system and other drainage improvements shall be in accordance with plans approved by the Director of Public Works. In no case shall stormwater discharge into a city sewer system if a separate system exists.
    A. Per subsection B, a "stormwater management plan shall be submitted for review and approval" by the Board when "required by the Director of Public Works."
        i. Per the DPW Comments, no stormwater management plan is required.
        ii. As noted above, the site is nearly flat, with stormwater infiltrating on site, or flowing down the existing driveway to Elm Street. See stormwater infrastructure layers on GIS map below.

Staff Findings: Given that the Department of Public Works hasn't requested a stormwater management plan, that municipal stormwater infrastructure exists in the area, and the small increase in impermeable surface proposed, Staff finds that this proposal meets the requirements of § 3009.

15. Section 3010. Access and Circulation – The purpose of this section is to promote safe and efficient access to and circulation within a property for vehicular, bicycle, and pedestrian traffic.
    A. Vehicular access. Section 3010(B) requires that all lots being developed or redeveloped provide vehicular access from the street in accordance with any city public works specifications, VTrans' B-71 Standard, and the standards listed in § 3010. Those standards include:
        i. General. All proposed land development shall be designed with adequate access and circulation to prevent traffic congestion on the street and traffic conflicts (including service vehicles, passenger vehicles, parking, drive through lanes, bicyclists and pedestrians) within the site.
        ii. State or Class 1 highways. *Not applicable, no new access proposed, and no options for access to alternative streets available.*
        iii. Number. *Not applicable, only one access point and no additional proposed.*
        iv. Spacing. *Not applicable, no changes proposed.*
        v. Cross access. *Not applicable to strictly residential development.*
        vi. Length. § 3010.B(6) requires sufficient driveway length and circulation patterns adequate to prevent queuing in the street.
            a. Per the DPW comments, the addition of one or two more cars to the parking area on the subject parcel is not a concern.
        vii. Emergency access. *Not applicable. No changes proposed appear to impact emergency access.*
        viii. Street improvements. "[A]pplicant may need to fully or partially fund or to construct a turn lane, traffic signal, intersection redesign or other street improvements if necessary to accommodate anticipated traffic and minimize congestion as warranted by a traffic study."
            a. The additional unit could add up to 2 additional trips per peak travel hour a day.
            b. No traffic study requested by Public Works.
        ix. Nonconformities. Nonconformities must come into conformance when changes are proposed to the site layout, access, or circulation.
            a. No known nonconformities that can be remedied.

Staff Findings: Per the above, the proposal includes one, existing access point, which meets the number, spacing, cross access, and emergency access requirements of § 3010, and minor changes to site layout that are not sufficient to require changes to the access point (which is severely restricted as to optional locations given the closeness of nearby buildings) and the parcel layout in the Neighborhood. Therefore, Staff Finds that the proposal meets the requirements of § 3010.

16. Section 3011. Parking and Loading Areas – Section 3011 is intended to ensure that development provides adequate off-street parking and loading areas to avoid congestion on surrounding streets while also avoiding excessive parking that results in increased flooding, decreased water quality, increased land consumption and sprawl, and a less attractive and pedestrian friendly environment.

A. Amount of Parking and Dimensional Standards (§ 3011.C, D, & H) Per the Figure 3-13 requirements, residential uses require at least one off-street parking space per each dwelling unit. No more than twice that may be created without the Board's approval following a parking study. Section 3011.H(1) requires that parking spaces be 18 feet long by 8.5 feet wide.
   i. With a proposed five dwelling units, the subject parcel must have a minimum of five off-street parking spaces that meet the minimum dimensional standards, and may have up to ten.
   ii. The current parking area is approximately twenty-eight (28) feet wide and at least 18.5 feet deep. See image below. This provides for a maximum of three standard uncovered parking spaces.
   iii. Applicant proposes to create one more uncovered parking space that will measure 8 feet wide by at least 18.5 feet deep between the current spots and the rear of the primary building.
   iv. Applicant also has a five (5) bay garage on the parcel.
   v. The driveway is directly behind the uncovered parking spaces, and measures approximately 12 feet wide, the minimum width for a residential driveway under the B-71 standards.

B. Locational Standards. Per § 3011.G, parking areas: (1) must be on the same lot, unless compliant with the shared parking provision; (2) must be located behind the frontline of the building; and (3) are encouraged to be behind buildings.
   i. All current and proposed parking spaces are on the same parcel, and behind the building.

C. Design, Construction, and Maintenance Standards. Per § 3011.I, parking areas should provide firm, level surfaces; 90-degree parking is encouraged, and angled parking should be avoided; run-off and eroded surface materials shouldn't flow onto adjacent streets or properties; snow storage areas should be clearly marked and stored on site; and parking areas need to be maintained. The marking and edging, and electric vehicle charging requirements don't apply to a parking area with 10 or fewer spaces.

i. The current driveway and parking area is gravel, and the new parking area will be the same.
ii. Snow storage isn't marked on the Site Plan, but there is ample space for snow storage between the parking area and the western property boundary.
iii. There are no good alternatives to the current stormwater flows from the existing driveway and parking areas given the adjacent property boundaries and existing municipal stormwater infrastructure. However, the slopes and new impermeable surfaces are minimal, and significant stormwater (including snowmelt) likely infiltrates on the property.

Staff Findings: The proposal includes four uncovered off-street parking spaces, each parking space located behind the building and on the subject parcel. The uncovered parking spaces are oriented 90-degrees from the driveway, on level gravel, and are each at least eight (8) feet wide by eighteen and a half (18.5) feet deep. There are also five (5) parking spaces within a covered garage; however Applicant has not provided the dimensions for those spaces.

Applicant does not need to mark the parking spaces or provide EV charging stations, as there are not more than ten spaces.

Prior to obtaining Board approval, Applicant should confirm: (1) that at least one of the garage parking spaces is a minimum of 8.5 feet wide and 18.5 feet deep; and (2) the location of the snow storage area.

17. Section 3012. Signs – *Not applicable. No signs being proposed in this application.*

Chapter 320 Site Plan Standards: *The purpose of Chapter 320 is to establish additional standards for proposed land development subject to site plan review (land development other than one- and two-family dwellings).*

18. Section 3201. Major/Minor Site Plan Determination: Section 3201 classifies site plans as follows:
    (1) The following shall require major site plan review:
        (a) Construction of new principal buildings.
        (b) Major renovations of existing principal buildings.
        (c) Construction of more than 10 new parking spaces or 2,000 square feet of impervious surface.
        (d) Construction of an accessory structure with a footprint of more than 2,000 square feet or a height of more than 24 feet.
        (e) Construction of an addition of more than 2,000 square feet to an existing building.
    (2) All other applications shall require minor site plan review.
        i. Less than 2,000 SF of impervious surface will be added, and no new structures or additions are being built.

Staff Finding: This application is for Minor site plan approval.

19. Section 3202. Access and Circulation
    A. Bicycle access. Bicycle access and storage may be required by the Board.
        i. No information on bicycle storage provided.

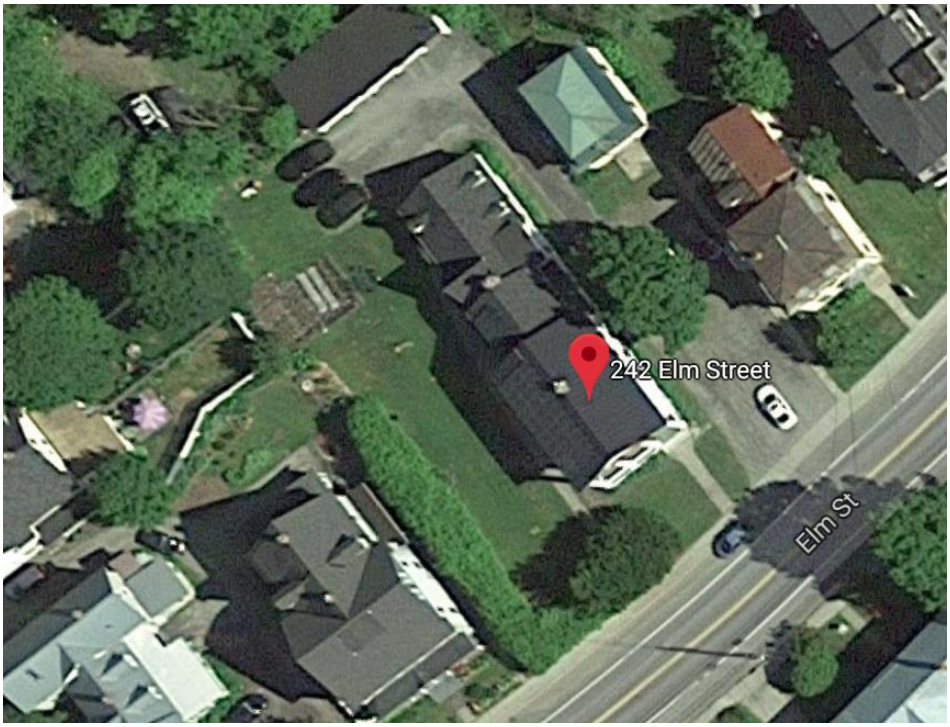
B. Pedestrian access. All development [must] provide safe and convenient pedestrian access including (1) public sidewalks; (2) continuous internal pedestrian walkways are required as follows… (3) walkways be provided between the parking area(s) and building entrance(s); and (4) the proposed development enables energy efficient modes of transportation such as walking, biking, transit, electric vehicles, carpooling, car sharing as feasible given the location and use.
    i. Applicant is proposing to extend the current rear walkway to provide access to the new entry for the 5th dwelling unit.
    ii. Both sides of Elm Street contain public sidewalks. No additional public sidewalk is required for this proposal. § 3202.B(1).
    iii. Walkways connect the rear and front of the building to the public sidewalk.

Staff Findings: The proposal complies with the required provisions of § 3202. The Board may wish to request information regarding bike storage, but such is not a requirement.

C. Alternative Transportation. § 3202.C requires a demonstration that the proposal enables energy-efficient modes of transportation such as walking, biking, transit, electric vehicles, and carpooling or car sharing as feasible and appropriate given the location and use.
    i. Applicant hasn't addressed this provision directly, but the parcel is located on Elm Street, which is close to downtown Montpelier, has public sidewalks on both sides, and is a major travel route for commuters to and from the north of the City (making the location good for carpooling). Further, there is easy access to public transportation.

Staff Findings: Pedestrian facilities are fully developed, with sufficient sidewalks and internal walkways, as well as access to public and alternate transportation.

20. Section 3203. Landscaping and Screening – The purpose of this section is to protect quality of life and community character by: (1) Enhancing the appearance of the built environment as viewed from public vantage points; (2) Creating shade along sidewalks and walkways, and within parking lots; (3) Providing a landscaped buffer between residential and nonresidential land uses; and (4) Screening land uses and development that create visual clutter and distraction.
    A. Section 3203.B. Applicability: Requires a landscaping and screening plan for all site plan applications except for "changes of use where sites have previously been developed in accordance with an approved site plan and where the proposed development will not change, or be required to change, any landscaping or screening."
        i. Subject parcel has prior site plans filed in conjunction with the 2017 and 2019 zoning permits for fences.
        ii. Fencing extends roughly 32 feet along the property boundary to the northeast, separating the driveway and parking areas from 248 Elm Street.
        iii. Additional fencing and bushes extend along the western boundary, separating the portion of the house that will be renovated (including the new deck) from the property 228 Elm Street to the west.



Staff Comments: Staff suggests that the Board find that this site has previously been developed in accordance with an approved site plan, and none of the changes proposed require additional landscaping or screening, so no new landscaping plan is required.

21. Section 3204. Outdoor Lighting – *Not applicable, no outdoor lighting changes proposed.*
22. Section 3205. Outdoor Seating, Display or Storage – *Applicant is not proposing any outdoor seating, display or storage therefore the provisions do not apply.*
23. Section 3206. Solar Access and Shading and Energy Conservation (Major) – The standards of this section apply to any land development requiring major site plan review not located within the Urban Center 1, Urban Center 2, Urban Center 3 or Riverfront districts.
    A. *The provisions do not apply, as this is a minor site plan.*
24. Section 3207. Design and Compatibility – Section 3207 requires architectural standards for all projects requiring major site plan approval.
    A. *As a minor site plan, the provisions do not apply. Further inapplicable, as no structures being built.*

Chapter 330 Conditional Use Standards: *All land development listed as a conditional use in Part 2 of these regulations shall conform to the standards of this chapter.*

25. Section 3302. Capacity of Community Facilities and Utilities – The applicant shall demonstrate that the proposed development shall not cause a disproportionate or unreasonable burden on the city's ability to provide community facilities and utilities including: (1) local schools; (2) police, fire protection, and ambulance service; (3) street infrastructure and maintenance; (4) parks and recreation facilities; (5) water supply, sewage disposal and stormwater systems and infrastructure.
    A. Applicant proposes one additional dwelling unit on the parcel.
    B. Minimal anticipated impact on local schools, emergency services, street infrastructure, or parks and recreation facilities.

C. As noted on the Request for Conditional Use Review, the proposed two-bedroom apartment will require approximately 5,000 additional gallons of water annually.
D. Per the DPW Comments, with regard to water supply and sewage disposal capacity, the new unit will need to confirm the water and sewer allocations for state permitting exemptions, and obtain an indirect connection permit from the Department of Public Works for both the water and sewer connections.
E. Stormwater – The increase in impermeable surface will place a slightly higher demand on the stormwater infrastructure, but the increase appears negligible.

Staff Finding: Applicant's requested change of use from four dwelling units to five will not cause a disproportionate or unreasonable burden on the city's ability to provide community facilities and utilities.

26. Section 3303. Traffic. The applicant shall demonstrate that the proposed development will not have an undue adverse effect upon the traffic in the area including:
    A. That the volume, type and timing of traffic generated by the proposed development shall not be substantially greater than what would normally occur at nearby uses or other uses permitted in the neighborhood.
    B. That the traffic generated by the proposed development shall not unreasonably and disproportionately contribute to a reduced level of service for affected streets, intersections, and for all modes of travel.
    C. That reasonable measures have been taken to minimize or mitigate the amount of vehicular traffic generated by the proposed development.
    D. Section 3303.B requires a professional traffic impact study when proposed development is expected to generate 75 or more new trips during the am or pm peak hour on Class 1 roads, and 50 or more new trips during the am or pm peak hours on Class 2 and 3 roads.
        i. Applicant proposes allowing two vehicles for the new unit, resulting in a minimal increase in traffic to the intersection at Spring and Elm Street.

Staff Comments: Given the minimal increase in traffic associated with the change in use, Staff suggests that the Board find that the additional dwelling unit will not have an undue adverse effect upon the traffic in the area.

27. Section 3304 Character of the Neighborhood standards. The applicant shall demonstrate that the proposed development shall not have an undue adverse effect upon the character of the neighborhood.
    A. The subject parcel is in the Meadow- Elm Street Neighborhood, described as a: "traditional residential neighborhood along Elm Street is densely developed with historic homes close to the sidewalk on tree-lined streets. While many large homes have been converted to multi-unit buildings, the neighborhood continues to have historic appeal. These regulations are intended to protect the residential scale and character of the neighborhood created by the primarily residential use, historic building stock, front yards, porches, and walkable, tree-lined streets."
    B. Architectural compatibility; § 3304.A(1). New development shall be architecturally compatible with the neighborhood through relationships of scale, massing, siting,

detail, and materials.

i. As noted in the Request for Conditional Use Review, Applicant is not proposing any changes to the front of the historic building, or changes to the siting, materials, or roofline.

ii. Per Mr. Gilbertson's site visit, the proposed new dormer will look generally like the existing dormers, and the renovations are generally consistent with the Secretary of Interior Standards for preservation projects.

C. Yards, Lot coverage, and Landscaping; § 3304.A(2). New development shall maintain a sense of open space that is appropriate to the neighborhood by balancing the size of the building's footprint with the mass of the structure and the size of the lot. This does not mean that new development cannot reduce the total amount of greenspace within the neighborhood. Rather, the balance of building area to open space shall be typical of the neighborhood and the structure shall be sized and located on the site to maintain the pattern of greenspace existing in the neighborhood. …

i. Applicant proposes no increases to the size of the building footprint or changes to the roofline. The minimal changes to impermeable surface area will maintain the general balance of building area to open space, and will not impact the front of the building or the open space viewable from the public rights of way.

Staff Findings: Staff suggests finding that the proposed addition of a single dwelling unit at 242 Elm Street does not have an undue adverse effect on the character of the Meadow – Elm Street Neighborhood, as the project does not propose significant changes to the architecture or greenspace on the parcel.

28. Section 3305. Conditions of Approval (Performance Standards). Per § 3305.A, the Board may impose conditions deemed necessary to further the purposes of Chapter 330, including, performance standards under Subsection 4505.E.

i. Applicant proposes no changes to exterior lighting.

ii. The addition of a single dwelling unit should have little to no effect on area noise, odors, glare, vibration, or other potential impacts dealt with through performance standards.

Staff Findings: Given the other residential uses in the immediate neighborhood, and that the proposal makes no significant changes to the site plan, Staff finds that the proposal does not require additional performance standards as conditions of approval.

Staff Suggested Motion Options:

- Motion to approve the request for: (1) conditional use approval for the addition of one dwelling unit at 242 Elm Street; (2) demolition of a portion of a historic structure; (3) and minor site plan approval for parking and coverage changes, as presented in Application #Z-2019-0088 dated 6/9/2019, and supporting and supplemental materials, subject to the following conditions of approval:

I. Prior to issuance of the zoning permit, Applicant shall file an updated site plan with the Zoning Administrator showing: (a) the location of snow storage; and (b) confirming the internal measurements of the garage parking spaces.

II. [Additional conditions pending Board's determinations noted above.]

MONTPELIER DEVELOPMENT REVIEW BOARD REPORT
Prepared by Meredith Strobridge Crandall, Planning and Zoning Administrator
Date: October 3, 2019
For the meeting of October 7, 2019

REQUEST FOR DECREASED ACCESS SPACING; CHANGE OF USE; DESIGN REVIEW
Applicant: Seán and Jenny Sheehan
Owner: Carolyn and Jonathan Herz
Address: 5 West St.
Application # Z-2019-0129
Zone: Mixed Use Residential/Design Control District

Guiding Ordinance Sections: (I) Montpelier Unified Development Regulations, Adopted by Montpelier City Council January 3, 2018, As Amended March 27, 2019 (the "March 2019 Regulations"); and **(II)** Montpelier Unified Development Regulations, Adopted by Montpelier City Council January 3, 2018, As Amended September 25, 2019 (the "Adopted Regulations" – effective October 16, 2019).[1]
Chapter 200. General Provisions
Chapter 210. Base Zoning Districts & Neighborhoods
- Section 2107. Mixed Use Residential (MUR) Zoning District & Neighborhoods

Chapter 220. Overlay Zoning Districts
- Section 2201. Design Control Overlay District

[1] The ZA must review Development Applications submitted within 150 days after the August 24, 2019, public notice for first public hearing of the Adopted Regulations under both the March 2019 Regulations and the Adopted Regulations. See 24 V.S.A. § 4449(d). However, differences between the two sets of regulations are not called out herein, as the amendments were adopted on September 25th, and there are no substantive differences between the March 2019 and Adopted Regulation provisions applicable to this Application.

Chapter 300. General Standards
- Section 3001. Use Standards
- Section 3002. Dimensional Standards
- Section 3003. Accessory Structures and Uses
- Section 3004. Demolition
- Section 3005. Riparian Areas
- Section 3006. Wetlands and Vernal Pools
- Section 3007. Steep Slopes
- Section 3008. Erosion Control
- Section 3009. Stormwater Management
- Section 3010. Access and Circulation
- Section 3011. Parking and Loading Areas
- Section 3012. Signs

Chapter 310. Special Use Standards
- Section 3104. Accessory Dwelling Unit

Chapter 430. Development Review Procedures

Materials Submitted:

a) Development Application, Applicant signed 9/12/19;
b) Zoning Permit Attachment, dated 9/4/19;
c) Site Plan including nearest intersection, and proposed water and sewer connections, dated September 13, 2019;
d) Email from Ms. Sheehan to Ms. Crandall, Audra Brown, Planning Assistant, and Mr. Sheehan, re: Proposed Driveway Location at 5 West Street Montpelier, dated September 16, 2019;
e) Photograph of current driveway off First Avenue;
f) Email from Mr. Sheehan to Ms. Crandall re: trim and shingle color trim, dated September 14, 2019 – physical color swatches also provided;
g) Photographs 1–5 detailing trim and shingle color choices;

Materials Provided By Staff:

h) Email correspondence from Zach Blodgett, Department of Public Works Operations Manager/City Engineer, to Ms. Crandall re: Applications for Review for 10/7 Meeting ("DPW Comments").

Project Scope & Applicant Request

Applicant seeks the Board's approval to install a second driveway for access to 5 West Street that is less than the generally allowed distance from the intersection of West Street and First Avenue. Applicant is also proposing to add an Accessory Dwelling Unit to the second floor of an existing garage, add new asphalt shingles to both buildings, and paint the two buildings with a new color scheme. The exterior building changes require review by the Design Review Committee.

The subject parcel is located in the Mixed Use Residential ("MUR") Zoning District, and is serviced by municipal water and sewer. The Application will first be reviewed by the Board on October 7, 2019.

STAFF REVIEW & COMMENTS

1. Existing Conditions: 5 West Street is a roughly 0.32 acre (roughly 13,939 SF) corner parcel that contains a single-family home, and a two-story garage. Applicant is proposing to renovate the second floor of the garage into a 700 SF efficiency apartment under the Accessory Dwelling Unit provisions.

   There is currently one, short driveway connecting the garage's vehicle entrance to First Avenue. In addition to the change of use and some external finish upgrades, Applicant is requesting authorization to install a second driveway on the West Street frontage for access to the primary structure and additional off-street parking. The parcel is serviced by municipal water and sewer.

2. Location: The subject parcel is in the College Hill- East State Street Neighborhood in the MUR Zoning District. The parcel is located on the corner of West Street and First Avenue, across from the Vermont College of Fine Arts green. The proposed additional driveway would be 40 feet from the intersection of West St. and First Ave.

3. Permit/Parcel History
   Other than a 2008 building permit to upgrade the electrical system, this is the first permit request for this parcel in more than a decade.

4. Procedural Status: As Applicant is merely requesting to the change the current single-family use by adding an ADU, none of the Chapter 320 Site Plan provisions apply here. A second curb cut for a two-dwelling unit corner parcel would normally be only an administrative zoning permit and a construction and access permit from the Department of Public Works. However, the Board is the only entity authorized to grant permission for a reduction in the residential access spacing requirements of § 3010.B(4). **See ##15 & 16 below for full analysis.**

   As 5 West Street lies within the Design Control Overlay District (the "DCD"), the Board is also charged with reviewing the recommendations made by the Design Review Committee with regard to changes to the exterior of the structure (new shingles and color scheme changes).

CHAPTER 220 OVERLAY ZONING DISTRICTS

5. Section 2201. Design Control Overlay District
   A. 5 West Street falls within the DCD, and therefore is subject to review by the Design Review Committee (the "DRC").
      i. Applicant proposes replacing the current asphalt shingles on both structures with new ones in estate grey.
      ii. Exterior shakes will be replaced and/or repainted – going from brown to grey.
      iii. Shutters will be repainted, from dark green to black.
      iv. Trim color will change from yellow to white.
      v. Exact colors not yet chosen, but different swatch options provided for DRC input.

B. Applicable design review criteria:
   i. Preservation or reconstruction of the appropriate historic style if the proposed project is in the historic district or involves an historic structure.
      a. 5 West Street is not listed on the National Register of Historic Places.
   ii. Harmony of exterior design with other properties in the district.
   iii. Compatibility of proposed exterior materials with other properties in the district.
   iv. Compatibility of the proposed landscaping with the district. – *No landscaping proposed, not applicable.*
   v. Prevention of the use of incompatible designs, buildings, color schemes, or exterior materials.
      a. See materials supplied by Applicant.
   vi. Location and appearance of all utilities. – *No new utilities/lights proposed.*
   vii. Recognition of and respect for view corridors and significant vistas including gateway views of the city and State House.
   viii. The design standards established in Section 2201.E for development that is also within the Western Gateway district and in Section 2201.F for development that is also within the Riverfront district. – *Project is in MUR, not applicable.*

Staff Comment: Staff to report on the DRC's review of the project during hearing, scheduled for the DRC's October 7th meeting.

CHAPTER 300 GENERAL STANDARDS

6. Section 3001. Use Standards
   A. Applicability. The land development shall conform to the use standards for the applicable zoning district. Per the Use Table at Figure 2-15:
      i. A single-family home is a "permitted" use in the MUR District.
   B. Mixed uses. *Not applicable.*

Staff Findings: As a single-family homes is a permitted use at this address, and no changes are proposed, the proposal complies with § 3001.

7. Section 3002. Dimensional Standards
   A. Applicability. Land development shall conform to the dimensional standards for the applicable zoning district, as set in Chapter 200. Figure 2-07 establishes the dimensional standards for development in the MUR District as follows:

Figure 2-07. Mixed Use Residential District Dimensional Standards

LOTS	SETBACKS	DENSITY	BUILDINGS
Lot size: 3,000 sf min **Frontage:** 45 ft min **Coverage:** 70% max	**Front:** 5 ft min **Side:** 5 ft min **Rear:** 10 ft min **Water:** 25 ft min	**Residential:** 1 du/1,500 sf max **Floor Area Ratio:** 1.0 FAR max	**Footprint:** 3,000 sf max **Height:** 24 ft min, 40 ft max

Note 1 See Section 3002 for specific information and any exceptions regarding dimensional standards. Accessory structures may have reduced dimensional standards (see Section 3003 for specific details regarding accessory structures).

   B. For setback purposes, corner lots have two fronts and two sides. § 3002.G(1).
      i. The parcel is approximately 13,939 SF, with roughly 100+ feet of frontage

on West Street, and approx. 155 feet of frontage on First Avenue.

ii. The larger structure has a building footprint of approximately 1,300 SF, and neither building footprint will change.

iii. Current coverage is estimated as 3,020 SF (or 21.67%), consisting of:
   a. House, including porches - Approx. 2,200 SF
   b. Garage and current driveway – Approx. 740 SF
   c. Front walkway – Approx. 80 SF
   d. Other stone or gravel walkways and stone walls – Approx. 480 SF

iv. With the addition of a 12-foot wide by 30-foot deep second driveway, coverage will increase by 360 SF to approximately 24.25%.

v. Current primary structure setbacks are roughly as follows, with no changes proposed other than the new driveway, which per § 3003 and Fig. 3-07 may be up to any boundary line:
   a. West St. – 28.5 feet
   b. First Ave. – 43 feet to the house
      - 8 feet to the garage
   c. North Side – 12+ feet
   d. West Side – 50+ feet to the house
      - 3–5 feet to the garage

Staff Comments: The garage may be encroaching into the 5-foot setback on the western side of the parcel. However, this would be a pre-existing nonconformity that could remain unchanged per § 1203, as Applicant proposes no changes to the exterior dimensions of the garage. The language of § 1203 has changed between the March 2019 Regulations and the Adopted Regulations, but the effect for these purposes is the same.

C. Principal building:§ 3002.B. *No new buildings proposed. Not applicable.*

D. Calculating Density: § 3002.D.
   i. A 13,939 SF parcel in the MUR District is allowed up to 9 dwelling units.
   ii. Applicant proposes one primary and one Accessory Dwelling Unit.

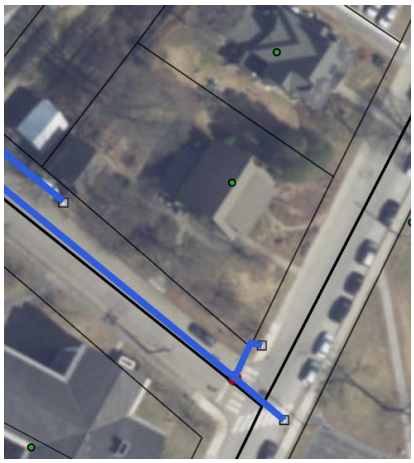
E. Height. *No changes in height proposed, not applicable.*

Staff Findings: As detailed above, the proposed new driveway and ADU comply with the dimensional requirements of § 3002.

8. Section 3003. Accessory Structures and Uses: See notes re: accessory structure setbacks above.
9. Section 3004. Demolition – *Not applicable. No demolition is proposed.*
10. Section 3005. Riparian Areas – *Not applicable. No riparian areas within over 200 feet of the parcels in question.*
11. Section 3006. Wetlands and Vernal Pools – *Not applicable.* The standards in § 3006 only apply to wetlands or vernal pools documented on the Montpelier Natural Resources Inventory Map. Staff verified that no wetlands are vernal pools on or abutting the parcel involved, and no vernal pools within 500 feet of it.
12. Section 3007. Steep Slopes – *Not applicable, no slopes impacted.*

13. Section 3008. Erosion Control – The general erosion control practices of § 3008.D apply to any development that disturbs soil. The additional requirement for a professionally prepared Erosion Control Plan ("EPSC Plan") are only triggered by development that proposes to disturb or clear land on slopes that exceed the threshold amounts specified in Figure 3-08.
    A. *Professionally prepared EPSC Plan not triggered. Staff has consulted the Vermont Agency of Natural Resource's Natural Resource Atlas, and no slopes of ≥20% impacted, and area of disturbance will be less than 1,000 SF.*

14. Section 3009. Stormwater Management – Section 3009 outlines the requirements for stormwater management and requires that storm sewer system and other drainage improvements shall be in accordance with plans approved by the Director of Public Works. In no case shall stormwater discharge into a city sewer system if a separate system exists.
    A. Per subsection B, "[w]here required by the Director of Public Works, a stormwater management plan shall be submitted for review and approval by the Development Review Board. Stormwater control facilities shall be designed to accommodate the 25-year storm event frequency or as required."
    B. Per subsection C, "[t]he best available technology shall be used to minimize stormwater runoff, increase on-site infiltration, encourage natural filtration functions, simulate natural drainage systems, and minimize discharge of pollutants to ground and surface water. Best available technology may include measures such as retention basins, recharge trenches, swales and minimal use of impervious surfaces."
        i. The Department of Public Works has reviewed the application, and no stormwater management plan has been requested.
        ii. Stormwater flows from the new driveway that do not infiltrate on site, will likely flow into West Street, and enter catchbasins on the corner of West Street and First Avenue.



Staff Findings: In reliance on the expertise of the Department of Public Works, and given the small increase in impermeable surface and the existing municipal stormwater infrastructure along the street, Staff concludes that this project meets the requirements of § 3009.

15. Section 3010. Access and Circulation – The purpose of this section is to promote safe and efficient access to and circulation within a property for vehicular, bicycle, and pedestrian traffic.
    A. Vehicular access. Section 3010(B) requires that all lots being developed or redeveloped to provide vehicular access from the street in accordance with any city

public works specifications, VTrans' B-71 Standard, and the standards listed in § 3010. Those standards include:

i. General. All proposed land development shall be designed with adequate access and circulation to prevent traffic congestion on the street and traffic conflicts (including service vehicles, passenger vehicles, parking, drive through lanes, bicyclists and pedestrians) within the site.

ii. State or Class 1 highways. *Not applicable. West Street and First Avenue are Class 3 roads.*

iii. Number. Per Subsection 3010.B(3), "A lot may be served by only one access point except … A corner lot not fronting on a state or Class 1 highway may have one access point on each street provided that the spacing requirements specified below shall be met." Emphasis added.

iv. Spacing. Per Subsection 3010.B(4), access points shall be spaced as specified in figure 3-11, which for MUR is a minimum of 50 feet to any intersection and 30 feet between driveways.
However, the Board "may: (a) Reduce the spacing for residential driveways based on the site and street conditions."

   a. The proposed West Street curb cut will be only 40 feet from the intersection of West St. and First Avenue. However, per the DPW Comments, the proposed location is preferred over other options—including expanding the existing driveway–given the stop sign control at the nearby intersection.
   b. Distances to other driveways are not at issue, as it is more than 100 feet to the nearest driveway.
   c. The access will also require a construction and access permit from DPW.

v. Cross access. § 3010.B(5). *Not applicable to residential development.*

vi. Length. Per subsection B.(6), "Driveway length and internal circulation patterns shall be adequate to prevent vehicles entering and exiting the site from causing queuing on the street."

   a. New driveway appears to be of sufficient length and width to avoid queuing, as it is deep enough for a single car.
   b. Current driveway/parking area has no known queuing issues for current uses, and additional vehicles due to the new ADU will be accommodated because of the new driveway.

vii. Emergency access. *Not an issue with a corner parcel in this neighborhood.*

viii. Street improvements. *Not applicable, no improvements to streets necessary.*

ix. Non-conformities. Any non-compliances with requirements for spacing of current access points are non-conformities that may remain, unchanged.

Staff Findings: The Board will need to determine:

1. **Whether Applicant has provided sufficient evidence for the Board to find that the site and street conditions at 5 West Street warrant a reduction in the typical spacing minimums under Subsection 3010.B(3).**

Staff Comment: Given the conversion of the parcel to two dwelling units, and that the existing garage and driveway provide parking for up to two cars (depending on vehicle size), an additional access is not absolutely necessary. However, per the DPW Comments, the proposed second driveway will be in a safer location than the current access. Further, Applicant notes that retaining the gardens and stone pathways in front of the residence is important to the current Owner, and may be a condition of closing on the property.

Further, given the extreme proximity to the VCFA campus, there are times that on-street parking will be at a premium, so providing for off-street parking that will not be as apt to be impacted by winter plowing would be beneficial.

16. Section 3011. Parking and Loading Areas
    A. Residential uses in MUR are required to have a minimum of 1 off-street parking space for each unit. § 3011.C and Figure 3-11.
    B. Per § 3011.D. creating more than 2x the minimum amount of parking requires Board approval.
    C. Off-street parking shall be behind the front line of the building (inclusive of vehicle overhang) – except that personal vehicles may be parked within any lawful residential driveway. § 3011.G(2).
    D. Parking spaces must be 8.5 feet wide by 18 feet deep, except for compact car spaces approved by the DRB. § 3011.H(1).
    E. Parking spaces must be accessible from a driveway or access aisle, except for "tandem parking (a double-depth parking space with one vehicle parking the other in) for residential or employee parking." § 3011.H(1)(b).
    F. Off-street parking must have a "firm, level surface appropriate for the anticipated level of use in all seasons." § 3011.I(1).
    G. Snow storage areas should be identified for compliance with § 3011.I(4) – requiring adequate space for snow storage on site without obstructing vehicle or pedestrian visibility or circulation to the maximum extent feasible given the physical characteristics of the property. Further, "[u]se of low impact development techniques to filter and infiltrate snowmelt is strongly encouraged."
        i. Applicant's proposed new driveway is 12 feet wide and 30 feet deep.
        ii. As this is a residential driveway, personal vehicles may park in it between the West Street "frontline" of the home and the street.
        iii. The application doesn't detail the driveway surface or snow storage areas. However, there appears to be ample snow storage areas to the sides and rear of the driveway.

Staff Comments: The two driveways and garage meet the majority of the Section 3011 requirements. The only questions are with regard to snow storage issues, and exactly what surface is proposed for the new parking area.

17. Section 3012. Signs – *Not applicable. No signs being proposed.*

CHAPTER 310. SPECIAL USE STANDARDS

18. Section 3104. Accessory Dwelling Unit
    A. Defined as "a secondary dwelling unit established in conjunction with and clearly subordinate to a primary dwelling unit, whether a part of the same structure as the primary dwelling unit or within an accessory structure on the same parcel." Adopted Regulations § 5101.D(13) [*de minimis* changes from March 2019 Regulations].
    B. Per § 3104.A, to qualify as an ADU the improvement must meet all of the following:
        i. Be an "efficiency or one-bedroom apartment that is clearly subordinate to the primary dwelling and has facilities and provisions for independent living, including sleeping, food preparation and sanitation."
        ii. Not exceed 900 SF or 30% of the total habitable floor area of the primary dwelling (prior to creation of the ADU), whichever is greater.
        iii. Meet all applicable dimensional standards and parking requirements.
    C. The proposed ADU is an efficiency apartment on the second floor of a garage, consisting of 700 SF of GFA;
        i. See #7, above for confirmation of dimensional standards;
        ii. See #16 above for parking requirements.

Staff Findings: This proposal meets the basic definition of an ADU, doesn't exceed 900 SF, and meets all dimensional requirements of the MUR District.

Staff Suggested Motion Options:

- Motion to approve the request to: (1) add an Accessory Dwelling Unit as a new use at; (2) grant design review approval for the exterior changes at; and (3) install a second driveway for access to 5 West Street that is less than the generally allowed distance from an intersection, as presented in the application dated 9/12/2019 and supporting materials [subject to the following conditions of approval:]

  [Board to Suggest any Conditions]

MONTPELIER DEVELOPMENT REVIEW BOARD REPORT
Prepared by Meredith Strobridge Crandall, Planning and Zoning Administrator
Date: October 3, 2019
For the meeting of October 7, 2019

REVIEW OF DESIGN REVIEW COMMITTEE RECOMMENDATION FOR SIGN
Applicant: Stonorov Workshop, Tolya Stonorov
Owner: 60 Main St. Associates LLC
Address: 60 Main Street
Application # Z-2019-0131
Zone: Urban Center 1/DCD/Designated Downtown/Historic District

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Guiding Ordinance Sections: (I) Montpelier Unified Development Regulations, Adopted by Montpelier City Council January 3, 2018, As Amended March 27, 2019 (the "March 2019 Regulations"); and **(II)** Montpelier Unified Development Regulations, Adopted by Montpelier City Council January 3, 2018, As Amended September 25, 2019 (the "Adopted Regulations" – effective October 16, 2019).[1]

Chapter 220. Overlay Zoning Districts
- Section 2201. Design Control Overlay District

Chapter 300. General Standards
- Section 3012. Signs

Chapter 430. Development Review Procedures
- Section 4301. Design Review

Chapter 460. Appeal Procedures

Application Materials Submitted:

a) Development Application, dated 8/28/19;
b) Sign Permit Attachment for Main Street Sign, dated 8/27/19;
c) Nutty Stephs Main Street Sign Drawing, Sheet No. SK2, by Stonorov Workshop, dated 08/27/19;
d) Sign Permit Attachment for Alley Sign, dated 8/27/19;
e) Nutty Stephs Alley Sign Drawing, Sheet No. SK1, by Stonorov Workshop, dated 08/27/19;
f) Plat of Leased Lands of the City of Montpelier, Back of Main and State Streets, dated January 2019;
g) Nutty Stephs Street Sign Elevation, Sheet No. A3.3, by Stonorov Workshop, received by Dept. of Planning and Economic Development 08/28/19;

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[1] The ZA must review Development Applications submitted within 150 days after the August 24, 2019, public notice for first public hearing of the Adopted Regulations under both the March 2019 Regulations and the Adopted Regulations. See 24 V.S.A. § 4449(d). However, differences between the two sets of regulations are not called out herein, as the amendments were adopted on September 25th, and there are no substantive differences between the March 2019 and Adopted Regulation provisions applicable to this Application.

h) Nutty Stephs Alley Elevation, Sheet No. A3.4, by Stonorov Workshop, received by Dept. of Planning and Economic Development 08/28/19;

Additional Materials Submitted by Applicant for Appeal:

i) Request for Appeal of Design Review Recommendation, from Tolya Stonorov, dated 9/17/19;
j) Presentation for Sign Permit Appeal for the Development Review Board, by Stonorov Workshop, Architects for Rabble Rouser and Bill Kaplan:
   i. Cover Sheet;
   ii. Previous Sign at One More Time, 60 Main St.;
   iii. Proposed Sign at Rabble Rouser, 60 Main St.;
   iv. Existing Approved Signage 24" or Larger, Montpelier (3 photographs within Historic District: Walgreens, Cool Jewels, Transit Center);
   v. Narrative;
   vi. Details of Rabble Rouser Sign Approved by DRC and administratively approved in Permit #Z-2019-0120;
   vii. Mock Up Letters at Rabble Rouser: 24" and 18";
   viii. Closing Page with Proposed Sign;

Materials Provided by Staff:

k) Design Review Recommendation Form, dated September 3, 2019;
l) The Montpelier Cityscape Workbook: Signs Standards Excerpt, dated January 30, 1976 ("Cityscape I Excerpt");
m) Signage 101 – Letter Height Visibility, pp. 1–8, available from Signs.com Blog at https://www.signs.com/blog/singage-101-letter-height-visibility/ (last viewed on 10/3/2019);
n) Sign Letter Height Visibility Chart, pp.1–2, available at https://www.signazon.com/help-center/sign-letter-height-visibility-chart.aspx (last viewed on 10/3/2019); and
o) Text of 24 V.S.A. § 4460. Appropriate municipal panels.

Project Scope & Applicant Request

Per § 4301.F of the March 2019 and the Adopted Regulations, Applicant, on behalf of the 60 Main Street tenant Rabble Rouser, is appealing the Design Review Committee's July 30, 2019, review and recommendations related to the maximum letter height of a proposed sign along the Main Street frontage of 60 Main Street. Applicant requests to be allowed a sign with 24-inch tall letters.

The subject parcel is located in the Urban Center 1 ("UC-1") Zoning District. The request will first be reviewed by the Development Review Board (the "Board") on October 7, 2019.

STAFF REVIEW & COMMENTS

1. Existing Conditions: 60 Main Street is currently the E-911 address for two three-story historic buildings (both listed as a contributing structures on the National Register of Historic Places) that formerly housed the second-hand clothing store "One More Time" on the first floor. After being vacant for several years, the building was sold to the current owner, Bill Kaplan, who is leasing at least the first floor to Rabble Rouser. See Permit/Parcel History for more information regarding outdoor signage.

2. Location: The subject parcel is in the Downtown Business Neighborhood in the UC-1 Zoning District, across from the City of Montpelier's Fire Station, and adjacent to the alley that provides access to the rear, riverside parking lot owned by Overlake Park, LLC (i.e., Jeff Jacobs).

3. Permit/Parcel History: Applicant obtained a zoning permit (#Z-2019-0120) to change the use of the former clothing retail space, add outdoor seating, paint the exterior of the building, and install a sign on the existing Main Street sign-band of 60 Main Street on August 28, 2019. The Design Review Committee approved the external aspects of the project, including a sign with maximum 24-inch lettering and a total sign area of 40 SF, by a 3-0 vote on August 5, 2019. Committee members in attendance and voting were: Stephen Everett, Hannah Smith, and Ben Cheney. During the August 5th hearing, Applicant indicated that a different Main Street sign might be requested with a fresh application.

   Applicant filed the pending Application for a different sign package on August 27, 2019. During a September 3, 2019, hearing, the Design Review Committee: (A) voiced no concerns with the proposed painted signage along the alley wall that has a maximum lettering height of roughly 6 inches and a total sign area of just less than 27 SF; and (B) ultimately voted 2 in favor (Seth Mitchell and Liz Pritchett) and 2 against (Stephen Everett and Eric Gilbertson) a Main Street sign with 24-inch tall letters, and a total area of 78.67 SF. The Committee took a second vote, on a Main Street sign with lettering limited to 18 inches tall – resulting in 3 in favor (Everett, Mitchell, and Pritchett) and 1 against (Gilbertson). Ben Cheney recused himself from voting on the application. See DRC Recommendation Form for design review standards review details.

   The Administrative Officer ("ZA") has not issued a permit following the September 3rd hearing.

4. Procedural Status: There are two key issues here: (A) the type of review; and (B) the constitutional limits on review of signs.
   A. Although Described as an Appeal, this is Actually a Referral of a Portion of an Application
      i. Applicant disagrees with the Design Review Committee's September 3rd recommendation to limit the height of the Main Street signage, and has requested an "appeal" of that aspect of the Committee's review of the project per § 4301.F, which states that when an Applicant disagrees "with the recommendations of the Design Review Committee, the applicant may … appeal the recommendation to the [Board]."
      ii. Per § 4003.A(2), the Design Review Committee's recommendations "provide general direction to the applicant, [ZA] and Development Review Board, but shall not be deemed binding on the applicant unless they are incorporated into the permit or decision." The ZA is bound to "enforce the provisions of these regulations literally" and typically is not authorized to make judgement calls regarding highly subjective criteria under the Regulations—such as conditional use standards, which are the prerogative of the Board. The design review criteria of § 2201.D and those specific to signs in § 2201.G(2)(b)–(e) are generally subjective. Therefore, the ZA did not issue a zoning permit

allowing Applicant to install the 24-inch tall sign requested in the subject application, and Applicant has "appealed" the DRC's 18-inch height limit recommendation prior to permit issuance.

iii. Even though § 4301.F allows for an appeal of a DRC recommendation prior to Administrative Action (i.e., issuance of a permit), there are no specific appeal procedures listed in Chapter 460. Further, the Vermont Planning and Development Act, provides for only two types of appeal processes: (1) Appeals of actions taken by the Administrative Officer (Zoning Administrator)—§§4465, 4469; and (2) Appeals of decisions of an "appropriate municipal panel" to the Environmental Division of the Civil Court–§4471.

Staff Comments: Staff recommends that the Board treat this as a referral of a particular question from the Administrative Officer versus a referral of the full permit application or an appeal of Administrative Action, and that the Board follow the hearing and decision procedures outlined in Sections 4503–4505. This outcome is consistent with the requirements of 24 V.S.A. § 4460(e), which states "[t]he following review functions shall be performed by the appropriate municipal panel authorized by a municipality as specified in the municipal bylaws and in accordance with this chapter … (12) any other reviews required by the bylaws." Subsection (e) further states that, "[u]nless the matter is an appeal from the decision of the administrative officer" all such reviews "shall come before the panel by referral from the administrative officer." See full text of 24 V.S.A. § 4460 in the Board packets.

Given the advisory nature of the Design Review Committee, Staff recommends that the Board review this issue de novo (i.e., beginning again), but within the bounds of Applicants' request. For example, the signs along the alley way are not in contention, therefore Staff has only detailed the dimensions herein for purposes of confirming that the Main Street sign complies with relevant dimensional restrictions.

Should the Board disagree with this recommendation, the entire application is included in the Members' packets.

B. Constitutional Limits on Review of Signs

i. Per *Clyde Reed, et al, v. Town of Gilbert, Arizona*, 135 S.Ct. 2218 (2015), sign ordinances must be content neutral, and that neutrality must be determined on the face of an ordinance. See full decision here: https://www.supremecourt.gov/opinions/14pdf/13-502_9olb.pdf

ii. For more detailed discussion, see pp.13 through 19 of Free Speech Law for on Premise Signs by Daniel R. Mandelker, 2016 Revised Edition, available here: http://landuselaw.wustl.edu/BookFSL/Handbook2016Clean.pdf

Staff Comment: For review of the Main Street sign at issue, approval or denial of the requested sign cannot be based on the content of the words proposed, but may only take into consideration non-content-based factors—such as size, location on the building, material types, etc.

CHAPTER 300 GENERAL STANDARDS

5. Section 3012. Signs
    A. Per, subsection E. Dimensional Standards, and Figure 3-17, buildings within the UC-1 Zoning District are allowed a total wall sign area of 2.0 SF multiplied by the width of the building façade, plus an additional 12 SF for each level or story of building above the ground floor level.
    B. Building façade is defined as "the front of a building or any of its sides facing a street or other public space."
    C. Wall signs may be mounted on any building façade, but the width of a wall sign may not exceed 80% of the width of the building façade associated with the office, space, or unit occupied by the use or business. § 3012.G(1)(b) and (d).
    D. "Wall signs that project more than 6 inches from the wall shall have a minimum clearance of 8 feet from the bottom of the sign to the grade below." § 3012.G(1)(f).
    E. Signs on the inside of windows and inside buildings are exempt from § 3012 requirements. § 3012.D(11).
        i. The subject properties' façade on Main Street measures 60 feet, 6 inches. Per § 3012.E and Fig. 3-17, this allows 121 SF of wall mounted signs on the building based on façade alone, plus an additional 24 SF because it's a three story building = 145 SF of wall sign area allowed.
        ii. 80% of the Main Street façade = 48 feet, 3 inches of width allowed.
        iii. The total width of the Main Street sign is 39 feet, 4 inches.
        iv. Applicant proposes wall signs totaling an area of less than 106 SF.
        v. The bottom of the affixed letter Main Street sign is proposed to be 10 feet, 2 inches from grade.
        vi. The top of the painted on alley signs are proposed to be 8 feet, 2 inches from grade.

Staff Finding: The Main Street sign that is the subject of this appeal does not place 60 Main Street over its total wall sign allowance, is the appropriate height from grade, and does not exceed 80% of the width of the building façade. Therefore, the proposal meets the requirements of § 3012.

CHAPTER 220. OVERLAY ZONING DISTRICTS

6. Section 2201. Design Control Overlay District
    A. Signs proposed within the Design Control Overlay District must be evaluated by the Design Review Committee per the general design standards of § 2201.D as well as the sign standards of § 2201.G(2), specified below.
    B. General Design Standards:
        i. Preservation or reconstruction of the appropriate historic style if the proposed project is in the historic district or involves an historic structure
            a. DRC failed to find the sign acceptable under this standard with the 24-inch letter height.
            b. Project is within the historic district, and involves a contributing historic structure. This application is keyed to the E-911 address of 60 Main Street, but historically the building involved was two addresses: 60 and 64 Main Street. Both buildings are listed on the National

Register of Historic Places.

c. Description of 64 Main Street in the National Register of Historic Places, per the Montpelier Historic District Amended Inventory from 2017:
Brick, three stories, flat roof. The building is presently three bays wide; originally it was five bays with rectangular shaped lintels but it was remodeled and modernized with larger, tri-partite picture windows. The building's corbelled frieze is similar to #70 except that it has a horizontal corbelled band at its lowest point, instead of segmental arches and above this band are projecting rectangular brick panels, instead of recessed panels. It is connected to #70 and a single commercial sign unites both street level facades because the street level spaces in each building are rented to one store. The sign and storefront are of a modern design including modern brick wall between modern fixed glass store windows.

This Italianate style building, built 1875 was a good example of late 19th century commercial block architecture and even with the window modification contributes to the continuous brick commercial block street facade. Like its neighbors, this block was built after the fires of 1875 destroyed much of Main Street.

d. Description of 54 (formerly 60) Main Street, Sabins Block, in the National Register of Historic Places, per the Montpelier Historic District Amended Inventory from 2017:
Brick, three stories, flat roof. This building is four bays wide with segmental corbelled brick lintels above the windows. The windows have two-over-two light sash and may be original with arch tops but these are masked by modern exterior storm units. Its corbelled frieze is similar to #69 except that there are segmental corbelled arches instead of a horizontal band and above this are recessed rectangular panels. The cornice is an arched corbelled band. The building is connected to both #69 and #71. A single commercial sign unites both street level facades of this building and #[69] because the street level spaces in each building are rented to one store. The sign and storefront are of a modern design including modern brick wall between modern fixed glass store windows.

This Italianate style building, built 1875 is a good example of late 19th century commercial block architecture. Like its neighbors, this block was built after the fires of 1875 destroyed much of Main Street.

ii. Harmony of exterior design with other properties in the district
    a. DRC failed to find the sign acceptable under this standard with the 24-inch letter height.
    b. See appeal materials supplied by Applicant, including photographs of other signs on Main Street.

iii. Compatibility of proposed exterior materials with other properties in the district
    a. See appeal materials supplied by Applicant, including photographs of other signs on Main Street.

iv. Compatibility of the proposed landscaping with the district – *No landscaping proposed, not applicable.*

v. Prevention of the use of incompatible designs, buildings, color schemes, or exterior materials
    a. DRC failed to find the sign acceptable under with the design aspects of this standard with the 24-inch letter height.
    b. See appeal materials supplied by Applicant, including photographs of select signs on Main Street.
    c. Street views from Google Maps showing adjacent and roughly opposite wall signs on Main Street are below:

    d. Readability of the sign given the distances from which it would be viewed were raised as incompatibility factors during the DRC hearing.
        1) The distance from the front of 60 Main Street to the pedestrian areas across the street is 80-100 feet (accounting for the

courtyard in front of City Hall). The furthest potential reading distance may be the opposite side of Main Street at the intersection of State and Main Streets, approximately 230 feet away.

2) See the following professional sign websites for information regarding ideal and maximum readable distance for signs, as well as other sign design guidance:
   - https://www.signs.com/blog/signage-101-letter-height-visibility/ *(also printed for Members' packets)*
   - https://www.signazon.com/help-center/sign-letter-height-visibility-chart.aspx *(also printed for Members' packets)*
   - https://www.thesignchef.com/letter-sizing-calculator *(interactive website, not printable)*

vi. Location and appearance of all utilities – *No new utilities/lights proposed for Main Street sign, retaining current lights.*

vii. Recognition of and respect for view corridors and significant vistas including gateway views of the city and State House
   a. See appeal materials supplied by Applicant, including photographs of other signs on Main Street.

viii. The design standards established in Section 2201.E for development that is also within the Western Gateway district and in Section 2201.F for development that is also within the Riverfront district. – *Sign is in UC-1, not applicable.*

C. Sign Standards:

i. The sign shall satisfy the design review standards in § 2201 – See above.

ii. The sign shall conform, to the extent possible and desirable, to any recommendations provided for sign placement and design in the Montpelier —Cityscape studies
   a. DRC failed to find the sign acceptable with the design aspects of this standard with the 24-inch letter height.
   b. See the excerpted Sign Standards from the Cityscape I enclosed in the Board packets. The first paragraph on p. 58 of the excerpt discusses compatibility and design.

iii. The proposed sign design, dimensions, color scheme, and materials shall be compatible with the subject property and other properties in the district
   a. DRC failed to find the sign acceptable under this standard with the 24-inch letter height.
   b. See appeal materials supplied by Applicant, including photographs of other signs on Main Street.

iv. The proposed sign shall not obscure significant architectural detail
   a. The proposed Main Street sign is within the existing sign band, and therefore doesn't obscure significant architectural details.

v. In the Urban Center-2, Urban Center-3 and Western Gateway Districts, if there are more than one sign per building, the signs shall have a uniform and

consistent appearance, and all such signs shall be located uniformly and consistently – *Sign in UC-1, doesn't apply.*

vi. Internally illuminated signs are not permitted
    a. Sign isn't internally illuminated.

vii. Pennants and banners, except as provided for in Section 3012.D, are not permitted in the Design Control District.
    a. Not a pennant or banner.

viii. Building signs which consist of solely individual letters affixed directly to the building or structure, or painted onto or engraved into the building or structure are encouraged.
    a. All signs proposed consist of individual letters affixed directly to the building or painted onto the building.

Staff Comment: The Board will need to make determinations regarding each of the general design and sign standards prior to making a motion.

Staff Suggested Motion:

- Motion to approve the request for a wall sign on the Main Street façade of 60 Main Street, with 24-inch tall letters, as presented in the application dated 8/28/2019 and supporting materials.