



Burlington City Council Ordinance Committee

12/15/2016

City Council Ordinance Committee

Thursday, December 15, 2016

Community Room, FFL

MINUTES

Present: Chair Chip Mason (CM), Sharon Bushor (SB), Max Tracy (MT)

Absent: None

Other City Staff: Gene Bergman (GB) (Staff Attorney), Scott Gustin (SG) (PZ), Kim Sturtevant (KS) (Staff Attorney), Bill Ward

Public: Joel Rippa, Peter Potts, Jeremy Farkes, Liam Murphy, Sandy Wynne, Judy Zullo

CM called the meeting to order at 5:36 pm.

1.01 Agenda: SB moved to approve. MT seconded. The agenda was adopted as amended unanimously.

2.01 Public Forum: none

3.01 Approval of OC Minutes of 11/29/16: SB moved the minutes as amended (page 3, 4th paragraph, 4th line, change "MH" to "Minimum Housing"). MT 2d and they were approved unanimously as amended.

4.01 CDO Zoning Amendment 16-11, Enforcement Period of Limitations:

CM said this item was a continuation of last meeting's discussion. KS passed out staff comments and proposal on the proposal by Jeremy Farkas (JF) and walked through them (see file).

On the first proposed change, CM asked how the 15 year Statute of Limitations would work with the changes and KS explained. SB is concerned about people who have been in violation getting rewarded and asked what the word "formal" really does. KS says it requires a NOV or ticket, not just a warning, verbal or a letter, stating that a violation is alleged.

On the second proposed change, staff was ok with JF's proposed amendment. On the third proposed change, KS explained the staff position. CM asked about verification and KS said that staff has to verify for it to be effective.

On the next proposed change, KS said that allowing maintenance should not allow for an expansion of a stabilized



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violation. On the next proposed change, staff proposes just a clarification, not a substantive change to what JF proposed. On the next JF proposal, staff is concerned with the placement of the good faith exception. SB said that if a person was just dealing with safety and health, they should be able to do that and no other expansion of the illegality should be allowed. KS said that is what is being proposed by staff.

On the next proposed change, the staff fear is that it would allow too much to be permitted. SB agreed.

On the final proposed change, staff is concerned that the proposed change would also allow an expansion of the illegal use. SB asked, if such a unit exists and it is put into full compliance, then what is the problem? KS said the intent is to simply allow a building to be made safe.

CM asked for public comments on the staff proposal. Jeremy Farkas asked if the NOV process is different from the complaint process; he's had clients with neighbor disputes and is concerned with complaints being the trigger. KS said the word "formal" eliminates that; the filing of complaints are not sufficient to be a formal action.

On the next staff proposal, he thinks that a written findings requirement will gut the intent of the entire amendment. CM asked what a "produced document" is. JF said his proposal is just to list the type of documents. KS said that some of the listed documents may not be relevant but if they are listed then they might be used by the owner to wrongfully support a stabilized status.

Liam Murphy said that from a practical standpoint this is the essence of the problem. If the assessor's card had a number of units that the property has been taxed on or a rental registration form has been filled out with a number of units, then there needs to be reliance on the forms. There needs to be a period after which a condition is allowed to exist. He reads the staff proposal as saying that if any health and safety violations exist, then you can never get a stabilized status. He asked that some types of documents be listed to give some certainty.

CM pointed to the rental housing COC and asked why this is not sufficient. KS said the COC does not necessarily address the problem that led to the underlying zoning violation. Liam asked to add the word "and applicable" or "relevant" after "accurate". SB asked why the document list is needed; Liam said the lack of listed documents means there is no direction for the parties. CM asked staff and the proposers to try to bridge the gap.

Jeremy Farkas also pointed to the staff's removal of the advertising of a unit as a problem. CM asked the same bridging of the gap for this issue be tried by staff and the private attorneys. MT asked that the requirement be for the property to be actively marketed and the marketing be documented.

CM pointed to the last item, the health and safety issue—and said the concern is that every building has some health and





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safety problem. Jeremy said that if there's a health and safety violation and you can get a permit to fix it, then the changes staff proposes takes that away. Numbers 4 and 7 seem to be in contradiction. SB said if you have an illegal unit in a zone that doesn't allow the unit, then you can never be in compliance. SB said that there are 3 scenarios when this comes into play and asked that they be written out so people can understand how this will all work. Liam said he thinks language can be drafted to allow health and safety violations can be fixed.

SB said she has an interest in providing neighbors with notice. KS said with administrative review, a card is posted in the window and notice is posted on the city's website. Notice is not published in a newspaper. SB asked how often this problem happens and, assuming it is not overly burdensome based on the number of times this problem occurs, SB asked for adequate notice for abutters, to be in writing and mailed, in order to include inform the neighborhood. She supports stabilizing in some cases but not all. SB asked if mailing is reasonable. MT said he is ok with it but said that if there's been a problem that's been a long standing neighborhood concern, then the city would have been notified about it. Liam suggests that there be a different color card for just stabilization decisions in order to inform neighbors. MT asked to what end the notice is for. SB said it allows the neighbors to appeal.

CM asked staff to propose alternative language and share it with Jeremy and Liam to work out these issues before the next committee meeting, knowing the committee may not agree.

Joel Rippa acknowledged that it will never be perfect so he asked that we come up with something that all can be live with. Sandy Wynne said that as a Ward 1 resident and a real estate broker she likes brokers to understand how this would work and supported SB's request that the scenarios be written out.

Action: no action was taken; deferred to next meeting.

4.02 CDO Zoning Amendment 17-02, Family Daycare Exceptions & Preschools:

CM asked to defer this item till next meeting. MT agreed.

Action: no action was taken; deferred to next meeting.

4.03 CDO Zoning Amendment 17-05, Permit Conversion of Former Single-Family Use back to Single-Family Use

SG said the purpose is if an owner can prove that a building was built as a single family home then you can turn it back to that use. The PC referred it with it not applying to the downtown district. PZ staff had disagreed. The PC felt that single family uses don't belong in the downtown. PZ thinks that it won't happen often but it should be allowed.



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Liam Murphy explained that the current rules don't allow people to take a formerly single family house that was converted to a higher intensity use back to a single family uses in all zones. SB agrees that all the zones would benefit from the lower intensity uses. CM said that this is just for existing buildings and would like to allow it in all zones. MT agreed, as a point of neighborhood stabilization.

Action: SB asked what to amend. SG said to make the footnote 29 apply within the DT and Downtown districts. SB so moved. MT 2d. The amendment passed unanimously.

Action: MT moved and SB 2nd to approve the ordinance as amended and send it to the PC for statutory comments, and also and refer it back to the CC for a Public Hearing and 2nd reading with a recommendation for adoption. The motion passed unanimously.

5.01 Other Business: Next Meeting & Items to Review

The committee set January 4, 2017 at 5:30 p.m., hopefully in CH, to discuss ZA 16-11 and ZA 17-02.

6.01 Adjournment: MT moved and SB seconded to adjourn. The meeting was unanimously adjourned at 7:20 pm.

