



Burlington City Council Ordinance Committee

11/20/2018

Burlington City Council Ordinance Committee

Tuesday, November 20, 2018

Minutes

Members present

Chip Mason (CM); Sharon Bushor (SB); and Jane Knodell (JK)

City Staff Present

Planning & Zoning (P&Z): Meagan Tuttle (MT); David White (DW); Scott Gustin (SG)

Office of the City Attorney: Kimberlee Sturtevant (KS)

Public Present

Jacob Dawson (JD)

Meeting called to order at 5:34 PM

1. Agenda

1.01 Motion to adopt/amend agenda - Action, Procedural

MOTION: To adopt agenda.

Motion by Jane Knodell, second by Chip Mason

Final Resolution: Motion Carries

Yea: Chip Mason, Jane Knodell; Sharon Bushor

1. Public Forum

JD identified himself as a university student and indicated he was in attendance as he was required to cover a public meeting as part of his studies.



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Public Forum closed at 5:35 pm

1. Ordinance Committee Minutes

3.01 Approval of Ordinance Committee Minutes of 10/9/18 - Action, Minutes, Procedural

MOTION: To adopt minutes as written.

Motion by Sharon Bushor, second by Jane Knodell.

Final Resolution: Motion Carries

Yea: Chip Mason, Sharon Bushor, Jane Knodell

1. For Committee Discussion/Possible Action

4.01 ZA #18-08: Form District 5 Boundaries - Action, Discussion, Presentation

Presentation by MT identifying additional properties proposed for Form District 5 on 2 Maps (Proposed Changes to FD5 Boundaries--Map 1- Properties 1-5 North of Pearl St. and Map 2-Properties 6-33 South of Main St. Each property proposed is numbered, the ones outlined in blue are recommended to be included. MT explained side by side chart and discussed the digital map used to walk through the issue at Planning Commission meetings.

CM questioned why to revisit the FD5 now.

MT explained that at the time of the Joint Committee review the decision was not to change but understood that a number of areas may be appropriate for change. It was tabled to be brought back at another time. Timely now due to a request from a property owner (Advanced Music). Don't want to look at just one site, want to do larger review.

MT identified the different districts.

SB questioned the reasoning behind the irregular nature of FD5.

MT explained that the district boundaries follow property line boundaries.

MT discussed properties #1 and #2, noting that on Map 1, the pink area adjacent was the captured parcel, looking at whether more could be captured. Generally looking to follow boundary lines, but not always. Some changes to bring in part of parcel that is not already in for continuity.

MT continued with a street view tour, showing #3 on N. Winooski and #4, 8 Clarke St., noting for #4 the parking lot is in, but the building is not.

CM asked that if trying for continuity, why #4 fit within context?

MT responded that originally #3 and #4 and bring continuity, also with #4 relationship with parking lot and opportunity to provide greater lot depth. PC felt keeping 8 Clarke in was helpful. Raises question of Clarke, many properties may be non-conforming.

MT discussed height consideration. There are overlays in FBC, but do not go as far back to allow for transition.

JK asked if #4 was residential.





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MT replied that she believed so.

SB questioned whether the PC or others talk about when two zones intersect and need a buffer?

MT responded that, yes, transition is one of the purposes of FD5, that within itself it is flexible and looks to bridge areas.

SB indicated that she wanted housing integrated; concerned if parking lot and structure become commercial, then the rest will go to commercial which is a loss because older buildings lend to residential use.

DW responded that it was not mixed and that zoning does not encourage more to convert to commercial.

CM noted that it introduced potential.

DW replied that the FD5 difference is that it does not require shopfront but could have.

JK inquired as to the height.

MT explained that the minimum is 3 stories, maximum 4 and then there are special height areas. Parking lot areas could be up to 6 stories because of special height area—it fronts on Pearl St.

Consensus by Committee to go through each property PC recommends.

MT showed #5.

SB asked whether it was now a condo. What was the advantage to bring it in?

MT responded that the advantage was just to bring under the same zone. It is the same owner for 2 parcels.

JK indicated her support for including #5.

Regarding #4, SB not sure, JK leaning against, CM same.

MT discusses #9, 10 and 11, noting their location at the corner of King St. and Church St. #9 is a large multi-family, #10 is also a large multi-family structure and #11 is an anomaly on King Street. #12 is the Wilson on the other side of the street. #'s 13 and 14 are the only 2 residential structures on that side of the block between VHFA and the Wilson.

DW notes that it is about the use, mixed use versus residential.

MT states that #9 is currently non-conforming due to density. #10 is currently non-conforming due to density and setback. Would be allowed to continue in FD5.

JK asked that if change #'s 9, 10 and 11, whether it would realistically change to commercial use because of higher economic use?

MT responded potentially, but she was not sure if the change of district would prompt change, it would just make the properties conforming.

JK noted they may be demolished and rebuilt.

CM noted that the Wilson was historic and questioned whether that effected its ability to be taken down.

DW indicated that it would make a difference.

CM identified that #'s 9, 10, 11, 12, 13 and 14 were favorable to move. JK and SB agreed.





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MT described #'s 15 and 16 as fronting on King Street. #15 is a multi-family. #16 is the King St. Youth Center. MT continued to describe #17 and #18 as small areas in the center of the lot with no street access. One is parking and the other is part of the King Street playground. Separate lots, but physically used together, so makes sense with #'s 15 and 16.

CM asked why to push further in district for #'s 17 and 18?

SB noted use should go with parcel use.

CM replied that #17 is with King Street and #18 is with Stratos, an ancillary parking lot.

DW noted it has no function by itself and therefore should be kept with parcel for function.

MT mentioned that #17 was conditioned on #16 being included.

JK stated that people in the immediate area are not that affected because already impact.

MT noted that they are looking at those 2 parcels because what you could expect in FD5 today.

SB asked what happens if it grows to properties on Pine?

MT noted that #'s 17 and 18 could still be developed to 3 stories.

CM concluded that they may get 1 additional story.

CM stated that he saw no problem with #'s 15 and 16 and could be swayed on #'s 17 and 18.

SB noted that she was hearing that even if you say no to #'s 17 and 18, then still not providing buffer want for Pine and asked if the PC gave any rational for this?

MT responded no.

JK indicated her sense to include all, #'s 15, 16 17 and 18.

SB and CK agreed.

MT proceeded to describe #'s 20 and 21. Noting they are internal parking areas and building; a linear area between S. Champlain, Main and King. #21 is the large parking lot off of S. Champlain, #20 is off of Pine, before Skirack.

CM asked if in RH?

MT noted that currently 80%, could go up to 90%.

SB indicated that she understood #20, but was having trouble with #21, asking if it was the City's intent that all parking lots be buildable lots. Noting that she was not sure if she was there yet. Also not sure that it should go from 80% to 90 % as it is already dense area. Okay with #20, not sure #21.

DW replied that, yes, anytime you see a surface parking lot the City does want more contribution than just that, noting you could still have parking there.

MT added that the PC thought it was easy to consider because have the parking lot there, a blank slate.

CM noted that there was no commercial on S. Champlain, then it goes into residential.





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MT replied that it was all zoned FD5 now.

DW added that it would allow more continuity.

SB and CM both noted concern with scale and use.

DW replied that if there were different districts, there was a required building step down.

CM indicated that he was okay with #20, could go either way on #21.

JK suggested coming back to #21.

MT described #22, a large multi-use building on King, currently in RH and #23 also currently in RH on King. She noted that some buildings were recent infill, looking at context and blocks of continuity. Also with the lots behind Battery St., the PC found the continuity for scale and use appropriate. #32 was identified as Advance Music. #'s 30 and 31 were talked about by the PC, both single family, both non-conforming now and would be still if FD5. #29 is a large surface parking lot at the corner of Maple/So. Champlain. #28 is the lot of a house that burned down. #27 fits in both RH and FD5. The last on the street is the King Street Deli.

SB noted that it felt like sealing the fate of a couple of properties and that she did not want to do that. She described her concern with #'s 28, 29, 30 and 31, noting that they felt different, still residential and that she wasn't sure about them.

CM stated that #'s 28 and 29 were grossly underutilized, that they are in a nice part of the city to live in, a good location. Advance Music has insufficient use. He understood what SB was saying for #29, but noted that it was not likely to change.

CM recused from a vote on #25 as a family member owns it.

MT noted that the ICV building was on 2 separate lots; #24 is just an example of squaring off and bringing into same zone.

SB asked about the heights of lots #'s 28 and 29.

MT responded that from the parking lot it would become a special height area, therefor 35 feet to 55 feet, therefore potential of 1 to 2 stories added.

SB voiced that she was not in favor of the change because RH still allows 1 to 2 family, more in scale with others. While it looks nicer to round off the block, she was having trouble doing so.

MT noted that Advanced Music was kitty corner to the property. She also referenced the materials with examples of Advanced Music and other properties and described how the PC looked at what could be built under RH and FD5.

JK stated that she was a yes on #'s 28, 29, 30 and 31; she was not sure about 24-27.

MT further described those lots noting that #24 is a small area, #25 is the Gideon King House, #26 is the King Street Deli, #27 is the apartment structure around the corner. She noted that the PC found it difficult to isolate because they considered the block together between King and So. Champlain. The PC felt strongly to have FD4 because of form type.

JK asked whether the PC's target was for FD5 more than FD4.

MT replied that they did not get there.

MT moved to #'s 32 and 33, noting they would change from RM to FD5. #32 is Advance Music, #33 is Freeman French Freeman. PC is interested to incorporate because Advance Music is very limited today as to what it can do and is limited to what it can do in the future, therefore, it is a good candidate. This allows greater flexibility to stay.



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CM asked MT to confirm notice to abutters.

MT responded that all parcels in blue that are proposed to be changed were noticed.

CM replied that he believes that at least one adjacent property owner would be concerned.

MT indicated that direct notice to property owners was not typical for zoning amendment change, but that we can do it for City Council public hearing.

SB asked if Freeman French Freeman weighed in.

MT responded that they did not, but they were notified.

CM asked if there were any other concerns.

SB indicated that she did not support 24-31, noting that as committee member she felt that RH was fine there, okay with what they can do, visually see more RH use around. Concerned with putting FD5 in middle of RM, like to hear what neighbors and PC say/said.

MT gave some context and discussed how the lots are used today. She indicated that the PC wanted to see the corner remain a vibrant use. She also noted that while the corner encroached in the RM, they are not talking about going in.

CM noted that the proposal was much deeper.

SB asked if it could go down the street further, why limit it there?

MT replied that they didn't want to change the Bobbin Mill property.

JK noted that the PC is a solid balanced group and that she was talking herself into accepting the recommendation. FD5 has the possibility of more mixed use not sure that residential best for all; near core feel mixed fits; hesitant on #'s 24-27.

MT responded that #24 was grass, a separate parcel under the ICV development.

CM noted that #25 was historical and didn't see it changing. That #'s 26 and 27 were the deli and some rental, but there was some opportunity given the size of the building next door, a big multi-family property. Also, the other side of the street is underdeveloped, curious why underdeveloped?

SB inquired whether they could go with FD5 without the height, 3-4 stories instead of 55 feet.

MT directed the Committee to the existing map, identifying the FD5 district as pink and noting the specific height district south of Maple. PC proposal that if within FD5 then in specific height but could not apply there, could do the area in blue added on at the lower height.

SB responded that she was interested in that, liked the thought of variety, not sure if there is a flaw in her thinking.

CM noted that they could be flexible and not keep the height.

CM/SB/JK all agreed that it would make the transition better.

CM proposed amendment to remove height overlay for 25-31 on map #2.

Sharon Bushor moved #'s 25-31 with amendment to remove height overlay, second by Jane Knodell.





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Yea: Chip Mason, Jane Knodell; Sharon Bushor

CM recused on #25

CM and JK indicated they were both okay on 32 and 33.

SB questioned the height for 32 and 33.

CM indicated that it was in special height, 45 feet.

SG stated that the Freeman French Freeman building is historic, it could be torn down if it meets the bar of the community benefit is greater than what is there now.

SB indicated that she needed more community input before she could support it.

Chip Mason moved to advance #'s 32 and 33 consistent with the PC, second by Jane Knodell.

Yea: Chip Mason, Jane Knodell; nay: Sharon Bushor.

CM went back to #21, the parking lot on So. Champlain.

MT indicated that there was a height overlay, part of height maximum of 45 feet to 65 feet. Along Main Street it was 10 stories or 105 feet. Step back created to be consistent with others.

JK indicated that it made sense from long term evolution.

CM noted some consistency base on possibility across the street, corner building 55-60 feet.

SB Agreed with #21.

MT #4 abuts residential, requirement for step down and a deeper setback to provide physical space.

SB asked about the height of the colonial buildings.

MT responded that 45 was probably consistent with the peaks.

CM inquired about requiring first floor commercial.

MT responded that in FD5 areas shop fronts are required, but not there; it would only apply to the tattoo parlor on Pearl St.

CM indicated that he was not convinced on #4, JK and SB agreed to withhold #4.

MOTION: To approve the ordinance amendment as amended, withholding #4 and removing the specific height overlay for #'s 25-31, and refer to the City Council for second reading and adoption with a recommendation of adoption.

Motion by Chip Mason, second by Jane Knodell.

Final Resolution: Motion Carries

Yea: Chip Mason, Jane Knodell, Sharon Bushor

4.02 ZA #18-07: Conditional Use Exemptions - Action, Discussion





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SG explains that the amendment is general clean up; take out condition use from exemptions.

SB asks about temporary.

SG responded that the change makes Sec. 3.5.3 just about major impact.

MOTION: To approve the ordinance amendment as proposed and refer to the City Council for second reading and adoption with a recommendation of adoption.

Motion by Jane Knodell, second by Sharon Bushor.

Final Resolution: Motion Carries

Yea: Chip Mason, Jane Knodell, Sharon Bushor

4.03 ZA #19-02: Residential Density: Additional Unit to Multifamily - Action, Discussion

SG explained that this amendment proposes to remove a provision that is a carryover from the prior ordinance that allows an extra unit. He noted that the impact is minimal and that an analysis was provided in that packet. The request was from Councilor Paul.

SB indicated that people in her ward supported it.

JK indicated that she would vote no.

SG indicated that it was a small number of properties that we are talking about.

CM noted that he can appreciate the concern in the RL, but we are also trying to add density.

SG responded that in some places in the RL accessory dwellings are allowed.

SB voiced concern that it seems to circumvent the intent of the RL, feels there are other ways to address density in RL.

Motion: To approve the ordinance amendment as proposed and refer to the City Council for second reading and adoption with a recommendation of adoption.

Motion by Sharon Bushor, second by Chip Mason.

Final Resolution: Motion Carries

Yea: Chip Mason, Sharon Bushor, nay: Jane Knodell

4.04 ZA #19-03: Parking Amendments - Action, Discussion

SG described the proposed amendment, noting the first section was an easy change, just cleaning up daycare requirements to make them consistent.





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SB asks what it means, 1 per 2 employees.

SG responded yes.

SG described the next section regarding tandem parking, identifying that the amendment would open up tandem parking to more uses, for residential, it would just need to be per unit. A project example was given where the project had more than the required spaces if you counted tandem, but since you couldn't, the project had to get a parking waiver.

SB asked about tandem versus stacked and voiced a concern over expanding the parking width.

SG replied that once you have stacked you need valet.

CM noted that the amendment seems to get to development parking issues.

SG noted that residential driveway width is limited to 18 feet anyway.

SB indicated that she thought goal was to consolidate and limit parking; if work—okay, but don't want to see long width of parking.

SG replied that tandem normally leads to less space.

JK noted that not everyone would want tandem.

CM replied that it could work for long term spaces.

SB indicated she was okay with it.

SG explained the proposed changes to the front yard language, noting that since at least 1994 the code has been trying to limit front yard parking. The DRB's recent interpretations say code is not clear. Discussed at the PC whether to clarify the section or toss it. PC clarified that can't park in driveway's front yard setback unless it is a driveway that goes to a parking spot. For example, if a driveway accesses a garage or other parking space then you can park in the portion of the driveway that is in the front yard setback.

CM noted that it seems to be an inconsistent policy, many on Scarf pull in on side, many not in compliance in neighborhood, not sure how would comply, nowhere to go, no way to build.

SG appeals involve folks with single lane and push parking into front yard setback, DRB okayed. PC disagree and want to say okay.

JK asked why not okay with parking driveway.

SB added that they are older neighborhoods, established driveways, some not carved out. Want to encourage parking in driveway and not all over property, change amendment.

CM questioned that parking on street better than in own driveway.

SG understood and suggested that they could just strike the section and say 18 feet.

SB indicated she thought it was okay to increase living space in garage without change in use.

CM moved to strike subsection c, JK seconded, all.

MOTION to approve the ordinance as amended, striking subsection 8.1.12(c), and refer to the City Council for second reading





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and adoption with a recommendation of adoption.

Motion by Chip Mason, second by Sharon Bushor.

Final Resolution: Motion Carries

Yea: Chip Mason, Sharon Bushor, Jane Knodell

5. Any Other Business

5.01 Next Meeting(s) and Items to review - Action, Discussion

The Ordinance Committee discussed items for future meetings including a building code concern regarding sound in between units and the requirements in place to address that.

No future meeting was set.

6. Adjournment

6.01 Motion to Adjournment: Action, Procedural:

CM adjourned the meeting at 6:45 pm.