



Burlington City Council Ordinance Committee

11/2/2016

City Council Ordinance Committee

Wednesday, November 2, 2016

Conference Room 12, City Hall

MINUTES

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

Absent: None

Other City Staff: Gene Bergman (GB) (Staff Attorney), David E. White (PZ director)

Public: Eva Wilton, Gil Livingston, Nina Safavi, Michael Monte, Eric Farrell, Owiso Makuku, Cindy Reid, Kathy Beyer, Matthew Doyle

CM called the meeting to order at 5:35 pm.

1.01 Agenda: CM proposed to take up 17-04 first and move 16-01 to 4.06. SB moved the amended agenda and MT seconded and it passed unanimously.

2.01 Public Forum: Cindy Reid, Cathedral Square spoke in favor of the Cambrian Rise ordinance amendment, stating the project is needed and giving some of the reasons for it.

3.01 Approval of OC Minutes of 7/20/16, 8/8/16 and 8/9/16: SB moved the 7/20/16 minutes as presented, MT 2d, and they were approved unanimously. On the 8/8/16 minutes, SB moved to amend them by correcting the spelling of Tony Redington's name throughout and change several "she" in the last paragraph of page 6 to "SB" and to approve the minutes as so amended. MT seconded, and the committee unanimously approved the 8/8/16 minutes as amended. On the 8/9 minutes, SB moved to amend the amended minutes by fixing the spelling of Redington again and the correcting the time of adjournment to 8:15 and approve. MT 2d. The 8/9/16 minutes were unanimously approved as amended.

4.01 (moved to 4.06)

CDO Zoning Amendment 16-01, Thresholds for Major Impact Review:

Action: Postponed to subsequent meeting.

4.02 CDO Zoning Amendment 17-04, Neighborhood Activity Center – Cambrian Rise:

DW said the Planning Commission ("PC") recommended this new mixed use district. It allows for largely residential uses but other uses too that are suitable to the residential use. It allows for the same intensity of uses as exist currently in order



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to preserve the 12 acres that are being set aside as park land. The change does not allow for greater lot coverage or height or decrease the inclusionary zoning requirement. It allows the new buildings to come closer to North Ave. than they could under the current ordinance. The outer perimeter of the district remains RM-W until the development agreement is satisfied and then it will become RCO. Under the development agreement, while the 12 acre parcel has been conveyed, there is an option to buy them back if the zoning amendment doesn't pass and the project is not permitted.

SB asked if there were members of the public who came and spoke to the PC and if so what happened to their input. DW said there was very little public comment; the conversation with the PC was about the big issues of whether this was a good idea at all. CM said the minutes confirm that; the public comment was about the project as a whole, not the zoning amendment. DW said most comments were on the amount of park space.

SB said one issue she recalled was the relation of the height of the new buildings to those existing on North Avenue. MT asked what changes the PC made from the original proposal. DW said that staff had included increased height but changed that when they factored in the current inclusionary project allotments.

MT asked if the PC discussed spot zoning. DW said they didn't. He said that going back to 1996, the city contemplated this area for housing. The CA has confirmed that. MT asked for an opinion on how this is not spot zoning. CM asked for that opinion to be distributed before the next council meeting takes it up. DW said ok.

CM asked what the reason was for moving the project closer to North Ave. DW said the thought is to place the new buildings closer to the existing building and take into account the slope of the land. Eric Farrell said he won't have a building that goes higher than 50' or so. Bob Duncan said it would be about 48' from the eaves to the ground.

The committee went through the proposal page by page. On page 2, CM asked why the PC used the word "should" instead of "shall" in the purpose section. DW said it was advisory.

SB asked, on footnote 7—setbacks, why there is a maximum setback? DW said it was to make sure the buildings are set in a line on the street and also are in line with the existing orphanage building. SB asked what the setback and zone is on the other side of the street. DW said the setback is the average of 2 adjacent lots on both sides plus or minus 5 feet. It is the RL zone with 35' height. CM said this has been a discussion at Form Based Codes. Eric said he thinks it's about 30'. MT asked about the orphanage set back. Eric said he wanted to honor the orphanage and keeping buildings closer to the street will showcase that building.

Action: DW added that footnote 3 in the table, to make it consistent with the explanation below, should be labeled footnote 4. The committee unanimously accepted this technical amendment.

On page 5, DW said the tables are amended to include this new district. SB asked why the inclusionary zoning allowances are different for this district. DW said that his understanding is that when the inclusionary zoning ordinance originally



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passed additional development was allowed to compensate for the cost of inclusionary units. When the zoning ordinance was amended later, the ordinance included the other ratios. SB asked if a lot of time was spent on the amount of inclusionary zoning to be required in this district. DW said no, the percentages were, and are, not proposed to be changed.

On page 6, DW said the off-site option for inclusionary zoning is not allowed for this district. Eric Farrell said that there is not a clear definition of "off-site." The permitting is for a Planned Unit Development ("PUD") on one of the lots and he doesn't want to have an argument that that is not considered on-site. DW said it is one project. Eric said that if it is a PUD, a development on the PUD is considered "one site." However, site is not defined. SB said the timing of development makes this tricky; she does agree that for all developments it needs to be addressed. SB added that the question is what to say about developments of scale with a lot of inclusionary units and several phases. DW said it would be worked out in permitting. Eric said this was discussed as part of the development agreement process but SB said that is separate from the ordinance. Eric asked that the amendment be warned so the permitting is not held up. Gil Livingston suggested dividing up section 9.1.13 and putting a definition of "site" in the article.

On App. A Use Table, SB said she doesn't understand why no boarding houses or bed and breakfast and composting uses are allowed. DW said these are principal uses and on the composting use it is to prevent a city-wide or regional facility. CSWD couldn't have facility, for example. He said that wouldn't preclude a central composting facility for the compost created by the people living there. SB said ok. SB asked why a garden store is not allowed. DW said those uses are generally much larger. SB said the table seems pretty restrictive and DW said that they had made changes based on discussions and this is where they ended up.

Action: The committee went back to the suggestion for a change to 9.1.13 to address the off-site option and the definition of site. The following proposed change in language was unanimously supported as an amendment to the proposal:

Sec. 9.1.13 Off-Site Option

The DRB, upon a finding that unique, difficult and/or challenging site conditions exist that prevent the inclusionary units from being constructed upon the same site as the market units, may allow any developer of a covered project ~~that is not located within a waterfront zoning district to comply with the requirements of Sec. 9.1.9 and 9.1.12~~ by constructing inclusionary units on a site within the City of Burlington other than that on which the covered project is located, subject to the following conditions:

1. *thru (c) unchanged*
1. All of the provisions of Sections 9.1.8 through 9.1.11 shall apply without exception to off-site inclusionary units under the provisions of this section;



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1. *and (f) unchanged*

The off-site option shall not apply to a project located within a waterfront zoning district or the NAC-CR district. For the purposes of this Sec. 9.1.13, "site" shall consist of all adjacent lands which are the subject of a PUD or other single development application.

All other pages were ok'd without comment.

Action: SB moved to approve the ordinance as amended (footnote number change and inclusionary zoning change) and refer it to the PC for the statutory comments and to the Council for second reading, Public Hearing, and adoption, with a recommendation to adopt. MT seconded and the motion passed unanimously.

4.03 CDO Zoning Amendment 17-01, Off-Site Parking

DW said this was recommended by the PC on 9/22/16 to clarify how off-site parking is allowed in order to set parameters on what is allowed. It resolves a conflict where a parcel can accommodate the parking but the ordinance does not allow parking. CM says it seems to be a clean-up. DW agreed. DW said the parcel must be in the district it serves. SB said it is part of moving to a parking management plan and so she supports it.

SB questioned language on the role of the City Attorney and what happens if the CA doesn't approve. **Action:** CM suggested deleting on line 28 of page 2 "may be", SB and MT agreed with this amendment.

Action: MT moved to approve the ordinance as amended and refer it to the PC for the statutory comments and the Council for second reading, Public Hearing, and adoption, with a recommendation to adopt. SB 2nd and the motion was adopted unanimously.

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

Action: Postponed to subsequent meeting.

4.05 CDO Zoning Amendment 17-03, Withhold Permit

Action: Postponed to subsequent meeting.

5.01 Other Business: Review of schedule for meetings on CDO 16-11, Enforcement Period of Limitations, CDO 16-



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12, Rezone Fletcher Place to Residential Medium, and other ordinances referred to the committee

The committee set another meeting to do ordinances 16-01, 17-02, 17-03, 16-11, and 16-12 on 11/29 from 5:30-7:30, with another meeting on 12/15 from 5:30 – 7:30 to finish if needed.

6.01 Adjournment: MT moved and SB seconded to adjourn. The meeting was adjourned at 7:02 pm.