



Burlington City Council Ordinance Committee * IN-PERSON & REMOTE*** - Bushor Conference Room (Room 102) 5:30 PM 10/27/2021**

City Council Ordinance Committee

Wednesday, October 27, 2021

Via Zoom and In Person at Bushor Conference Room, City Hall

DRAFT MINUTES

Members Present: Councilor Mason (Chair), Councilor Hanson, Councilor Hightower

Staff Present: Kim Sturtevant (Assistant City Attorney), Meagan Tuttle (Office of City Planning), Scott Gustin (Department of Permitting and Inspections)

Others in Attendance: Amy Magyar, Sharon Bushor, Bill, David Ackerman, Ian Bleakney, Jamie Sharp, John Franco, Lakshmi, Andrew Shaw, Manny Capellan, Julia Marks, Laurie Kotorman, Shanta Eastman, Joanne Jastatt, Amanda Goossen, Abbott Stark, Deb Ward Lyons, Eric Hanley, Jim Grier, Petra Smejkal Winslow, Ellis McArdle

Meeting called to order at 5:36 PM.

1. Agenda

1.01 Motion to adopt/amend agenda

Motion to adopt agenda as written.

Motion by Councilor Hightower, Seconded by Councilor Hanson.

Final Resolution: Motion Passes

Yes: Councilor Mason, Councilor Hanson, Councilor Hightower

1. Public Forum

2.01 Public Forum



Burlington City Council Ordinance Committee * IN-PERSON & REMOTE*** - Bushor Conference Room (Room 102) 5:30 PM 10/27/2021**

Sharon Bushor: from direction the Committee is moving in, STRs will not be allowed when not owner occupied; understand but have concerns. Goal to provide as many housing units as possible. Testimony has changed, but fewer than four units with one STR allows them to maintain rents with having STR. Many consider apartments their homes, but like everyone else when get older have harder time generating income. Young people also in that position. Since under Ch. 18, would like Committee to entertain allowing tenant to have a STR if show documentation. Like FF, Uber, Lift, show documentation of finances.

John Franco: representing Vermont Short Term Rental Alliance, don't see where in any documentation that STR must be occupied by owner. Concern with definition. Zoning part of ordinance section, can't add in minimum housing ordinance by reference. If not fix, any ambiguity runs against city. Definition supplied STR rented whole in or part—30 days, 14 days overnight calendar days—change for/of.

Petra Smejkal Winslow: Airbnb host for last few years, think having more clarity and requirements for us would be wonderful but getting rid of STRs in Burlington is scary, would love to continue it.

Ellis McArdle: Model of Portland Maine. Strongly enforced, can find 14 hotels, many constructed in the last few years in the downtown. Become either pro-hotel or pro-STR, no showing of impact on housing. Just bring in commercialism, outside business. Burlington headed that way, more hotel plans. Is it worth railroading people's ability to afford housing? New housing continues to sky rocket. Not about availability, about affordability.

Closed public forum at 5:50 PM.

1. Minutes

3.01 Approval of Minutes of 10/20/21

Motion to approve minutes by Councilor Hightower, seconded by Councilor Hanson.

Final Resolution: Motion Passes

Yes: Councilor Hanson, Councilor Mason, Councilor Hightower

1. Committee Discussion/Possible Action

4.01 Ordinance: Short Term Rentals--ZA 20-05 and Chapter 18. Housing (Planning Department, Office of City Planning, Department of Permitting and Inspections)



Burlington City Council Ordinance Committee * IN-PERSON & REMOTE*** - Bushor Conference Room (Room 102) 5:30 PM 10/27/2021**

M. Tuttle described changes:

- Preference host occupancy, does not specify owner occupied, host's primary residence.
- Lowered number of bedrooms that can be used from 5 to 3
- Additional clarifications to reduce redundancy—remove bed and breakfast

Councilor Mason noted that now was the time to ask for changes. Opened for more public comment.

Abbott Stark: have done short term and long term rentals and able to create more units. Agree with goal of making more affordable housing in Burlington, but don't see this doing that. Don't think want hotels, someone owning 300 to 500 units, don't think we want that. Better City with tighter fabric. STRs provide economic mobility. Think there is a progressive vision.

Julie Marks: Director STR alliance. Lives off-site, Jericho, made request for exemptions, allow STR exist where not available, exempt when not live on site, want to see more housing and STR are good options to allow housing in market. If STR only host occupied than miss out on a lot of opportunities. No lake camps or vacation homes can be STRs. No office building could have rental because no one lives there, same with multi-use. Just some of opportunities that would be missed if move forward with STR. STRs make money for city not just host. People in Burlington cannot just quit now because based their life around it, pulling rug out from under them. Should not remove existing STRs from market, should allow to keep. Please consider allowing exemptions to prevent unintended consequences.

Amanda Goosen: the proposals may have some good parts but also have unintended consequences. Lived in Burlington, fixed garage up to allow space for relatives. Needed additional income, used space for STR. After moving out still use property for rental including STR space. When travelling, like to stay at a STR, alternative to hotel and price and have say where money goes. Proposals are extreme. Would like to see changes to allow to continue. May be unintended consequences.

Joanne Jastatt: Have two properties in town, one no STR, one STR. Increase taxes, rent out under market prices. Having an STR way for me to put in permanent supports in basement instead of temporary, redo roof, redo paving. Everything is expensive. In 3 years looked okay, but have concerns. May buy duplex from in-laws, but then can't do STR in one. Make changes and then need to increase rent to cover without STR income. A lot people looking to pay more. Never go to Portland because cannot find place to stay.

Laurie Kotorman: passionate about STR, bought single family home in 2013 in Burlington, converted to duplex, small unit, borderline size. Only 2 tenants from 2013. 1st one rented whole house and cycled through roommates because of cost \$2,400. Now tenants for last 5 years paying \$1,550 for 2 bedroom 1 bath. Able to keep rent down because have the STR. Also have disabled relative who is able to work because cleans STR. People love STRs in Burlington. Hotels in Burlington are very expensive. Very valuable resource to come and find housing. Plan for retirement, if not able to have STR will need to likely sell. Find process very confusing. From research done and studies, Harvard study for example, STR's are not



Burlington City Council Ordinance Committee * IN-PERSON & REMOTE*** - Bushor Conference Room (Room 102) 5:30 PM 10/27/2021**

part of problem. From what understand 1% of housing STR in this area. If that is the base of the changes may be barking up wrong tree. Hope you consider non-owner occupied.

Deb Lyons: supportive of proposed ordinance that came out of PC and CCOC joint process. Agree with concern of loss of wholesale housing. Look forward to this committee coming up with balanced regulations including registrations and safety regulations. Everything in moderation, balance. Concern over notice. Didn't realize proposal had changed. Not sure what talking about.

Shanta Eastman: supports need for more affordable housing in Burlington. Causal relationship established yet between restricting STRs and increasing long term housing? In our case it will not, have season home on Starr Farm and have to turn off water for winter so does not affect goal of long term housing.

Eric Hanley: been at most of these meetings, STR host, not owner occupied, 9 other rentals. On STR have one bedroom that can keep really under market because have STR there. If get rid of STRs just benefit hotels. Thought PC/CCOC good resolution. People going to Williston because can't find spaces during big events. During big events get a lot of people out of town, not spending money in Burlington, make more parking issue.

Jim Grier: has 40 units give or take. Work with City to take on dilapidated properties and try to improve. Totally go through property. In Burlington a lot of older stock and very code specific fixes that have to do without even getting to the finishers, dropping \$30,000 to \$50,000 on each unit. In Burlington people want it all—stainless steel appliances, dogs, granite counters, wood floors. Can make it affordable if have more options. Currently have 2 units out of 40 that are Airbnb. Great to meet people from out of town, hotels expensive and difficult for pet owners. Live in new north end, very few Airbnb's out there, bring to visitors new perspective of Burlington. Like Airbnb, but don't like running it, a lot of work. Like to build, don't like rating on-line but Airbnb brings in enough to off-set another unit to make affordable. We only Airbnb one bedroom units. Have tenant run Airbnb. Agree need registry and need to meet code. Only question on limitation is number of units, shouldn't be limited to 4. Not talking large ones. If have 10 can only have one. Not living there—I live in Burlington, don't like doing other communities. Know inspectors and codes here. Like the permitting process here, know what you are getting. Boston and New York are harder, Burlington is easier. No problem with permitting here. Have some assurance that when you buy a property the City tells you changes needed. If you do Airbnb live and invest in Burlington should be concession. Should not say have to live at the property.

Jamie Sharpe: Nurse at UVMMC, struggle this year, patient sleeping in recliner in wife's room, couldn't find hotel in Burlington, offered STR to him at fraction of price. UVMMC looking for 140 travelers, can't come because nowhere to go. Airbnb option to help that.

John Franco: rejoinder about what have in front of you. STR definition does not have owner required in definition. Ch. 18 may be, not must. Not in language. If want to have owner-occupy than legally pre-existing. Litigation with city takes years and end up in court, better use of time and money.





Burlington City Council Ordinance Committee * IN-PERSON & REMOTE*** - Bushor Conference Room (Room 102) 5:30 PM 10/27/2021**

Councilor Mason summarized the process, noting the housing summit in September 2019 and that there were 5 main ideas that had come from it, STR's was the last—the other 4 have passed. The Joint Committee was formed with the Planning Commission and City Council Ordinance Committee starting in January 2020. City Council has authority to change ordinance still. There has been a lot of work done already, work session at City Council and then referred to this committee, changes consistent with majority. What is on boarddocs has been in chart itself, just not explicit language. Another reason need to move forward is that STR is not currently allowed under ordinances, either bed and breakfast or hotel. Have been actions brought by City. Need to move it out of committee.

M. Tuttle referred to line 86 of the Ch. 18 documents for STR table with standards.

Councilor Mason asked about the Committee's preferences.

Councilor Hightower questioned whether it was owner occupied or host's permanent residence. M. Tuttle responded that it was type of dwelling unit or host's permanent residence. Councilor

Hightower noted if assume not changing anything, there is still a possibility for STR in multi-unit if close with tenant. She also noted that they should talk about seasonal rentals. Love idea of one STR for one affordable unit. Hear STR allows for renting below market rate, if folks passionate about that can implement in future. Still limit to no more than 4? S. Gustin replied yes, unless your own unit. Councilor Hightower noted that she appreciates the point of views expressed. Upper middle class making policies for upper middle class. Very clear how feel about Burlington. Haven't heard from tenants/renters. At one point as many STRs as vacancies. Don't think we compare to Portland. Thanks to all who spoke.

Councilor Mason asked about host or tenant and tenant in property or unit? M. Tuttle responded that it connected back to Chapter 18, host in building or on lot could be in building or unit. Relationship with long term tenant that allows it to happen. Could borrow from Portland attestation who is there. Counselor Mason responded that was great, but didn't read that way. He asked what the policy was for it to not work for single family home. S. Gustin responded that there are some oddities where have more than one single family home on site. Councilor Mason indicated that he did not understand why.

Councilor Hightower noted that when they were at Planning Commission and limited to 1, was limited to 3 and 4; even when only owner still exclude single family home. M. Tuttle responded that it was originally off site for 3 and 4 for single family home. Host primary residence, may have different goals, housing primary driver. Bring STR into realm of housing solutions into ADU. Owner occupancy often referred to as "gold standard" of ADU. Councilor Hightower questioned the policy for owner versus host occupancy? Examples? S. Gustin responded that the point was to ensure not allowing wholesale conversion of unit to STR. M. Tuttle replied that use host because heard concern over only using owner as 60% rental in Burlington.

Councilor Mason asked how to define host? Just person that open doors because live next door. S. Gustin responded that it was intentionally simple. They have learned from and borrowed from other communities. Take money, coordinate



Burlington City Council Ordinance Committee * IN-PERSON & REMOTE*** - Bushor Conference Room (Room 102) 5:30 PM 10/27/2021**

guests, basic bread and butter of STR. Councilor Mason noted a concern for enforcement, very different than owner occupied. S. Gustin replied, intent to allow tenant not owner—in Chapter 18 it can be changed quickly.

Councilor Hanson noted that he was still wondering about seasonal properties. S. Gustin replied that it was not addressed now, but can put in, defined by Assessor's office, believes using that definition makes sense. M. Tuttle added that seasonal camps are not currently in the ordinance. During current fiscal year about 45 properties listed as seasonal—not weatherized or have ground lease that indicates they are not allowed all year. Councilor Hanson indicated that he supported that.

Councilor Hanson noted that in terms of whether a tenant of a different unit can be host of another unit, he was concerned that owner just say sign it and hard for tenant to say no. S. Gustin replied that they can say that tenant host have to be in their unit. Councilor Hanson agreed with that. Noting that it can unlock tenant of unit or condo, etc. but unless set up so can't be loop hole don't think tenant should be hosting out on behalf of another.

M. Tuttle noted as written can do in whole or bedrooms in unit. Charts walked through number of units. S. Gustin added that they can articulate the distinction then simple host definition becomes less subject to misuse if specify. Councilor Mason questioned if it was in chart. S. Gustin responded it was but specify in unit. M. Tuttle noted would need to be specific on host in unit.

Councilor Hightower indicated that she did not like the 3 year proposal, but willing to take host compromise, most logical compromise. Easier to amend in a year if not working. M. Tuttle asked if she wanted it narrowed or way written. Councilor Hightower replied the way it was written.

Councilor Mason indicated that he would go Andy Montroll's compromise. Agree this is a compromise, need to put in more language if go this route to define host.

Councilor Hanson indicated that he was potentially open to it, but want to avoid a glaring loophole. Feel for a long time important to get process to City Council, have been dealing with it for a year and half now. Are we able to have debate at full council?

Councilor Mason noted he was fine with message delivered and to get it back to the full council. He questioned what does allowing tenant to host accomplish? Councilor Hightower responded that it depends on how we end up defining what it means to be a host, but to her, about affordability. Main reason care about Airbnb is affordability for people coming to Burlington and people staying in unit, owner and host. Councilor Mason replied that it was a different conversation than what is host. Host means host, on rental, cleaning, etc. Policy bigger lift than what is in language. Councilor Hightower responded that she is hoping that will be reality. M. Tuttle questioned what they would be trying to achieve having host? Councilor Mason responded that having host/owner limits conversion. Not sure understanding how.





Burlington City Council Ordinance Committee * IN-PERSON & REMOTE*** - Bushor Conference Room (Room 102) 5:30 PM 10/27/2021**

Councilor Hanson noted that he was thinking host should be in unit. Benefits true for all people who live in unit. Still get economic benefit. Logic to policy, cost and benefit to community, benefit host and visitors. Harms people who want to live and rent in Burlington even if 1%, large amount in Burlington. Clearly huge deal as it is what Mayor has tried to increase for over a decade. Making positive impact to people in Burlington. Support a more clear cut approach than this which may seem like a loophole. M. Tuttle indicated that from a policy outcome perspective, not much to add, how to make host not become abusive, there is a lot to that relationship, most likely a long term tenant that has relationship. Recognize that need to fix way written.

Councilor Mason noted to 2 potential paths, as is to Council with clarity way to go or remove tenant host if not their unit. Struggle, we have system as it exists, allowed to exist up to this point. Had hoped given numbers that existing would be okay, heard colleagues, tighter than more open. Supportive of this as looser.

Councilor Hanson indicated his preference for the former.

Councilor Hightower noted that she liked proving inclusionary zoning, if convert one IZ than can have one STR unit? M. Tuttle responded that you do that if opt in for IZ. S. Gustin added that you can opt in to IZ on unit by unit. M. Tuttle noted that a couple of years ago, councilor interested to do opt in. S. Gustin added that no one opted in, community garden incentive also had no one down. Can make say anything want as long as constitutional. May be a little clunky as provision in Ch. 18 and STR. M. Tuttle noted that it would be going from zoning to Ch. 18, back to zoning. Also clunky because not always STR. S. Gustin indicated that there was no down side, that both items can be addressed in language.

Councilor Mason noted that he felt time to send to City Council, without warned public hearing yet.

M. Tuttle asked whether concept was that STR that voluntarily use IZ intent to be offsite too—allow one offsite in IZ? S. Gustin responded no more than one STR now. Councilor Mason noted plus one STR if IZ. Councilor Hightower indicated her trust for M. Tuttle and S. Gustin to come up with policy. Councilor Hanson deferred to M. Tuttle and S. Gustin on IZ, noting one to one, in addition to standard. Support that and seasonal as option. Don't think need to come back to this committee.

M. Tuttle asked about buildings greater than 4. Councilor Hightower indicated she was open to it either way. Councilor Mason agreed if incentivize. D. Lyons asked about what IZ was. Councilor Mason responded that it was permanently affordable units. M. Tuttle clarified perpetually affordable is equivalent to 99 years. Councilor Mason noted it may negate some of the carrot, but still a carrot.

Councilor Mason suggested to refer the ordinance with amendments back to full council for further discussion. May make sense to have work session. Councilor Hanson agreed that a council work session made sense.



Burlington City Council Ordinance Committee * IN-PERSON & REMOTE*** - Bushor Conference Room (Room 102) 5:30 PM 10/27/2021**

Councilor Hightower moved to refer the ordinances with amendments back to the full City Council for further discussion, likely a work session. Councilor Mason seconded the motion.

Final Resolution: Motion Passes

Yes: Councilor Hanson, Councilor Mason, Councilor Hightower

1. Any Other Business

Next meetings: TBD

1. Adjournment

The meeting was adjourned at 7:38 pm.