



Burlington City Council Ordinance Committee 10/24/2017

BURLINGTON CITY COUNCIL ORDINANCE COMMITTEE

Tuesday, October 24, 2017

City Hall, Contois Auditorium

149 Church St., Burlington, Vt.

5:30 p.m. – 7:30 p.m.

****MINUTES ****

Present: Chair Chip Mason (CM), Sharon Bushor (SB), Ali Dieng (AD)

Absent: None

Other City Staff: Gene Bergman (GB) (Staff Attorney), Marcy Esbjerg (CEDO), Scott Gustin (SG) (Planning & Zoning (PZ)), Kim Sturtevant (KS) (Staff Attorney)

Public: Joel Rippa, Erin Ahearn, Gail Henderson King, Michael Monte

CM called the meeting to order at 5:36 p.m.

1.

- i. **Agenda:** SB moved the agenda, AD seconded and it was adopted unanimously.

2.01 Public Forum: Joel Rippa, re 15 year statute of limitations zoning amendment that was tabled last meeting: he knows it was tabled at last meeting, he has communicated with the chair by email, he is waiting to hear from Bill Ward for information on open permits, the current version is watered down from what the Planning Commission (PC) passed, there is something wrong with it as written and there must be a way to draft it to eliminate the problems. He disagrees with the public comment that was given at the last meeting. Kim Sturtevant was asked and answered that the ordinance has "died" per statute and the adoption process would have to be reinitiated.

3.01 Approval of OC Minutes of 6/7/17: SB moved the June 7, 2017 minutes with one amendment: correct the name of the seconder of the agenda from MT to CM. 2-0-1 (AD abstained).

4.01 Proposed Amendments to Comprehensive Development Ordinance re ZA #17-14, Preschool Technical Corrections

CM asked SG to walk through the amendment. SG said it is a technical amendment: when a prior amendment was enacted in the use table, PZ missed the parking requirement that parallels the day care requirement. Also the Cambrian Rise change missed this too.



Burlington City Council Ordinance Committee

10/24/2017

SB asked about the "small pre-school" impact. SG said the requirement is 1 parking space per 2 employees. As to drop off of kids, it is addressed elsewhere, in the special use standards. The CDO treats small and not small spaces differently in many places. CM asked that the special use standard for small day cares be reexamined by PZ and the PC for possible future amendments. SB & AD agree.

Action: On SB motion and CM second, the committee approved the amendments as proposed and referred ZA 17-14 to the City Council for second reading, Public Hearing, and adoption.

4.02 Proposed Amendments to Comprehensive Development Ordinance re ZA #17-15, Article 4 Development Bonuses

CM asked SG to explain the amendment. SG said Art. 4 contains bonus provisions. The goal is to address duplicity and contradictions between Art. 4 and 9 on development bonuses in the NMU and R zones. It clarifies the maximum bonus and eliminates contradictory language. CM asked and SG agreed that no substantive changes are being requested.

SB sought clarification on its application to inclusionary zoning and senior housing which SG gave.

Action: On AD motion and SB second, the committee approved the amendments as proposed and referred ZA 17-15 to the City Council for second reading, Public Hearing, and adoption.

4.03. Proposed Amendments to Comprehensive Development Ordinance re ZA #17-16-Replacement Mobile Home

CM asked SG to explain the amendments. SG said it clarifies that the law applies to new or expanded parks and not the rehab of existing homes. CM and SB sought to make the language clearer and closer to the PZ memo in support. GB suggested moving it forward while seeing if it can be clarified by staff and raise any changes in the Public Hearing so a clarifying amendment can be made after the hearing that is based on what is said at the hearing.

Action: On SB motion and AD second, the committee approved the amendments as proposed and referred ZA 17-16 to the City Council for second reading, Public Hearing, and adoption.

4.04. Proposed Amendments to Comprehensive Development Ordinance re ZA #17-10-Green Roofs & Lot Coverage





Burlington City Council Ordinance Committee 10/24/2017

SG said the PC wants incentives for green roofs and it adds a new exception for lot coverage for green roofs. It distinguishes between types of green roofs. SB asked for an explanation of the meaning of an "at partial grade" green roof. SG explained the example of the UVMCC radiation-oncology building and the permitting experience of that development that led to this amendment. CM asked about the use of the words "typically" and "generally" in the definition and said it invites ambiguity. SB agreed. Gail Henderson-King said that the medical center has pushed for this amendment in light of the issues on the radiation-oncology building and issues of clarity on lot coverage. She said deleting the words "typically" and "generally" would not be objectionable.

Action: On SB motion and AD second, the committee unanimously approved the proposal as amended (delete "typically" and "generally") and referred ZA 17-10 to the Planning Commission for statutory comments and the City Council for second reading, Public Hearing, and adoption.

4.05. Proposed Amendments to Comprehensive Development Ordinance re ZA #17-11-Emergency Shelters

CM said this is a continuation of the discussion from last meeting. SG said the amendment creates a new emergency shelter category, thereby eliminating the need to force this use into the non-exacting existing definition of community house. New standards are set. In its adoption the PC was more permissive than restrictive.

Marcy Esbjerg, Asst. Dir. Of CEDO, said this amendment has been in the works for several years. The current law is not sufficient. The process to create new shelters is onerous. The PC had public comment that changed the criteria based on homeless persons' comments. Support of this amendment will show support for the creation of shelters. AD asked where a shelter will go. Marcy said the purpose is to create shelters as a "use as of right" and not a conditional use; the amendment does not actually site any actual shelter but only creates the rules under which siting occurs.

CM asked about the use as right. SG said the downtown is an area where it would be a use as of right.

SB said they got bogged down last meeting on the relation with community home requirements. Her initial fear that a street could become a street full of shelters was a concern but she doesn't have it anymore. SB noted an issue with lines 31 and 55 and said the number in 55 should be the one in 31 (180). SG and ME agreed.

SB asked about the elimination of the parking requirement for staff. SG said the PC thought that these would be run by neighborhood groups and no space will be needed. SB said our issue in Burlington is not taking care of parking adequately.

Michael Monte said the number of barriers to create a warming shelter is enormous and parking can be a real barrier for



Burlington City Council Ordinance Committee 10/24/2017

the development of warming shelters. The PC recognized that. SB noted that the lack of parking can be more problematic with some organizations. MM said the context is different with shelters.

SB asked if in a Conditional Use (CU) district parking could be addressed. SG said no. SG asked that the NAC-Cambrian Rise be a CU.

CM asked, in relation to CU and neighborhood impacts, what the problem would be in the downtown if there is a distance requirement. AD asked if the Cambrian Rise can be used for a shelter. SG said yes it could. AD said the distance requirement in the current law is an impediment to siting a shelter. SG agreed. AD questioned the staffing requirement and the Community Health Center representative. Erin Ahearn said the numbers are based on the number needed for overnight staffing.

SB said that part of the DT zone is in ward 8. She asked if there are residential streets there. SG said yes. SB said she supports this amendment but she thinks it will need more work as time goes on. She'd like the public information to be framed in light of the Form Based Code so the public understands how this change fits with that change. SG agreed. SG noted that the Form Based zoning districts should be reflected in this amendment. KS said that it has to but it depends on the timing of the Form Based Code change in relationship to the timing of the Public Hearing of this amendment.

Action: On SB motion and AD second, the committee approved the proposal as amended (Line 55, change "60" to "180", and add "CU" in the Use Table for NAC-CR) and referred it to the Planning Commission for statutory comments and the City Council for second reading, Public Hearing, and adoption with the express recognition that if the Form Based Code is passed that this change must be reflected in it or the Form Based Code change must be reflected in this change.

5.01 Any Other Business—Next Meeting (Downtown Quality of Life (DTQL), 11/20/17 @ 6:30 pm & 12/5/17 @ 530 for DTQL follow up.

6.01 Adjournment: 7:20

Committee Members: Councilor Chip Mason, Chair
Councilor Sharon Bushor



Burlington City Council Ordinance Committee

10/24/2017

Council Pres. Jane Knodell

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