



Burlington City Council Ordinance Committee 10/9/2018

Burlington City Council Ordinance Committee (Tuesday, October 9, 2018)

Generated by Anthea Dexter-Cooper on Wednesday, October 10, 2018

Members present

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

City staff present

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

Office of the City Attorney: Kimberlee Sturtevant (KS); and Anthea Dexter-Cooper (ADC)

Meeting called to order at 5:34 PM

1. Agenda

Action, Procedural: 1.01 Motion to adopt/amend agenda

MOTION: To amend the agenda to address current item 4.02 before current item 4.01 and amend the remainder of the agenda accordingly; and to adopt the agenda as amended.

Motion by Sharon Bushor, second by Jane Knodell.

Final Resolution: Motion Carries

Yea: Chip Mason, Sharon Bushor, Jane Knodell

2. Public Forum

No one speaks at the public forum.

3. Ordinance Committee Minutes

Action, Minutes, Procedural: 3.01 Approval of Ordinance Committee Minutes of 6/12/18

MOTION: To amend the minutes as follows and adopt:

- Line 21: Strike "(unanimous);"
- Line 50: Replace "CM" with "BFD;" and
- Line 54: Insert "BFD explained language on funds for relief; and" before "CM" and strike "explained and" after "CM."





Burlington City Council Ordinance Committee 10/9/2018

Motion by Sharon Bushor, second by Jane Knodell.

Final Resolution: Motion Carries

Yea: Chip Mason, Sharon Bushor, Jane Knodell

4. For Committee Discussion/Possible Action

Action, Discussion: 4.01 ZA #18-08: Form District 5 Boundaries **PREVIOUSLY ITEM 4.02**

****Written comments from Israel Smith added to the agenda****

- MT presents the proposed amendment and explains that it picks up on work that was done by the Joint Form Based Code Committee, but is focused on the edges of Form District 5 (FD5) because property owners on the edge of FD5 wanted this addressed.
- MT explains that this was raised at the Joint Form Based Code Committee but action was deferred.
- MT walks through a slide deck that was presented to the Planning Commission (added to agenda) and the process involved in P&Z staff identifying and evaluating dozens of properties along the edge of FD5.
- MT specifically explains the considerations P&Z staff had when looking at the example properties.
- MT notes that changing zoning does not immediately change the feel of a neighborhood and that the goal is to have desired non-conforming uses be made legal and replicable.
- CM asks for an explanation of the maps.
- MT provides an explanation for three properties north of Pearl Street.
- MT explains that a goal was to avoid having parcels spit between districts.
- SB asks why this is not spot zoning.
- JK asks why these requests were driven by property owners.
- MT explains that some requests come directly from property owners and their desires for future development.
- DW explains that P&Z staff looked at property similarities along the edges of FD5 so as to regularize, whereas spot zoning creates anomalies and there is a specific multi-part test to determine if spot zoning.
- SB explains that she is concerned about the effect institutions have on the residential nature of neighborhoods and asks about community involvement and past experiences with applying form based code downtown and in FD5.
- SG discusses the City's experience with form based code in the downtown area and the fact that there have been less than two dozen applications, with all of them being changes to existing properties and not new development.
- CM explains that he is ok with expanding FD5 to parking lots and portions of parcels already partially in FD5 but that he is reluctant to expand FD5 otherwise without more public input and an explanation on what the Planning Commission (PC) considered.
- MT explains that the PC went parcel-by-parcel and looked at both conformity today and goals for the future; continuity along block faces; and the specifics of both single and combined parcels.
- DW explains that it is very typical for zoning amendment requests to come from property owners; raises the question of why the use is not allowed.
- SB explains that she is worried about squeezing out neighborhoods and activities.
- JK explains that she is open to this but that she needs to look at the buildings one at a time and would like to propose that as a next step.
- CM explains that he has some of the same concerns.
- MT explains that she gave the PC a virtual tour.
- CM explains that he is interested in tabling this item and having some sort of tour of the properties in question.
- JK explains that she would also like to have more community/public involvement, including from property neighbors.
- SB asks about who came to the PC meeting.
- MT explains that P&Z staff sent mailings to all neighboring property owners but that only one person came to speak.



Burlington City Council Ordinance Committee 10/9/2018

MOTION: To table to a time certain of next Ordinance Committee meeting.

Motion by Jane Knodell, second by Sharon Bushor.

Final Resolution: Motion Carries

Yea: Chip Mason, Sharon Bushor, Jane Knodell

Action, Discussion: 4.02 ZA #18-04: Density Calculations **PREVIOUSLY ITEM 4.01**

- KS explains why this item has an unusual recommended action item and the process behind this needing to go back to the PC, but then going straight to the full City Council for the two readings and public hearing.
- SG walks through the formula for calculating density and the fact that this proposed amendment just clarifies what is already being done and swaps defined terms for undefined terms; and the basis for the residential density equivalencies for non-residential uses in residential zones, which do not get used much.
- SB asks about line 10 and the language of "split by a zoning district boundary."
- SG explains that it is not common for a lot to be split by a zoning district boundary.
- JK asks if a "lot" and a "parcel" are the same thing and what is defined.
- SG says that they are the same.
- JK asks about the difference between "gross" and "net."
- SG explains that gross lot areas include property under public streets but that net does not.
- JK asks about non-buildable area.
- SG explains that it is included in gross by not net.
- JK asks about whether this would apply in mixed-use zones.
- SG explains that it would not apply as the density calculations are just applicable to low, medium, and high density residential plus institutional zones and provides the example of the new YMCA.
- SG explains that this proposal strikes some common area spaces and that the intent is to, for example, limit the size of a lawyer's office in a residential zone and has the effect of limiting the intensity of non-residential uses in residential zones because it needs to fit in the equivalency.
- CM notes that this is not materially changing anything that is being done now.
- SB notes that it is just clarifying the details involved.
- KS explains that lot is defined, not parcel, but that it uses "parcel" in the definition.

MOTION: To (1) approve the ordinance amendment as proposed and refer to the Planning Commission to have a public hearing on a new and identical proposed amendment and (2) recommend that if such a proposed new and identical amendment is recommended by the Planning Commission to suspend the rules and have a first and second reading and public hearing at City Council with a recommendation of adoption.

Motion by Chip Mason, second by Sharon Bushor.

Final Resolution: Motion Carries

Yea: Chip Mason, Sharon Bushor

Nay: Jane Knodell

Action, Discussion: 4.03 ZA #18-06: Bike Parking

- SG introduces the proposed amendment and explains that it comes from PlanBTV Walk/Bike and that many of these proposed amendments are tethered to specific metrics.
- SG explains that a payment in lieu option is proposed and was vetted by the Department of Public Works (DPW).
- CM asks about the payment in lieu option.
- SG explains that the payment in lieu option is only available when a property cannot provide everything that is required on site and that it is not a payment instead of, but a payment in addition to providing what is possible on site.



Burlington City Council Ordinance Committee 10/9/2018

- SG explains that the proposed amendment also introduces some flexibility on short term bike parking (inside v. outside); makes certain corrections to language; and links the ordinance to certain standards suggested by DPW.
- CM asks if the DPW the department or commission worked on this.
- SG explains that it was the department that worked on this.
- SB addresses line 23 and notes that she thinks bikes are rested "against" something.
- SB asks about why there are so many spaces required for schools, grades 2-5 because she would have thought that not as many young children would bike to school.
- DW and CM note that there are lots of bikes outside elementary schools and DW notes that some parents bike to school with their children.
- SB asks about where the space requirement for places of worship came from.
- SG explains that those numbers came from Local Motion and are tethered to a standard.
- SB asks about lines 105-106 and why this is not addressed through P&Z or by the Development Review Board (DRB).
- DW explains that DPW is responsible for the right of way and what is acceptable in the right of way; and that DPW is responsible for using the payment in lieu funds.
- SB asks about how this would play out with the DRB and with documentation.
- DW explains that it would be part of the permit.
- SG notes that DPW would also need to give a thumbs up.
- SB notes that the requirement for bike parking would need to be documented somewhere.
- JK and CM raise concerns about dockless transportation but note that it might be better addressed somewhere else.
- DW States that this was unanimously approved by the PC on April 10, 2018.

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

Motion by Jane Knodell, second by Sharon Bushor.

Final Resolution: Motion Carries

Yea: Chip Mason, Sharon Bushor, Jane Knodell

Action, Discussion: 4.04 ZA #19-01: Grocery Stores in E-LM

- SG presents the proposed amendment and explains that City Market set aside office space to lease out at the new location but now wants to use the space and if it does then it will be larger than the allotted square footage.

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

Motion by Jane Knodell, second by Sharon Bushor.

Final Resolution: Motion Carries

Yea: Chip Mason, Sharon Bushor, Jane Knodell

Action, Discussion: 4.05 ZA #18-05: Article 3 Amendments

- SG introduces the proposed amendment and explains the process behind an applicant requesting a deferral.
- CM asks if these sorts of deferrals are discretionary or a matter of right.
- KS explains that P&Z wants projects to move along but has no recollection of an extension or deferral being denied.
- SB asks about what the process would be if there was a delay on the state level.
- KS explains that the period to act is tolled ("paused") while state permits go through.
- SG explains that the appeal periods are not being changed in the proposed amendment, just that the applicable language is being consolidated.
- SG explains that larger projects need more time to be shovel ready and that the proposed amendment extends the time



Burlington City Council Ordinance Committee 10/9/2018

to be shovel ready by a year.

- CM remarks on how smaller projects can annoy neighbors when something is built in dribs and drabs and asks if this is a real issue.
- SG explains that it is a real issue and that up to three one-year extensions are currently routinely granted, but that there is no limit.
- CM notes that the proposal caps out at six years and notes that there is not currently a ceiling.
- SG confirms.
- CM asks about the timing of the extensions and the additional year to be shovel ready.
- SG explains that most extensions are requested and granted on the front-end, before any construction starts.
- SB asks about keeping the initial year in the beginning, so three years total, but then only having two one-year extensions.
- JK notes that she would support up to two one-year extensions.
- CM notes that this provides for a ceiling and that larger projects can be phased.
- KS explains the procedural process of an amendment to the proposed ordinance going back to the PC while simultaneously going to City Council.

MOTION: To amend by replacing "three (3)" with "two (2)" on line 69; approve the ordinance amendment as proposed with amendment; and refer to the City Council for second reading, public hearing, and adoption with a recommendation of adoption.

Motion by Sharon Bushor, second by Jane Knodell.

Final Resolution: Motion Carries

Yea: Chip Mason, Sharon Bushor, Jane Knodell

Action, Discussion: 4.06 Encroachment of Private Property into the City's Public Right-of-Way

- ADC explains why and how this was referred to the Ordinance Committee.
- CM indicates that he has no issues with DPW's approach.
- JK endorses DPW's proposed approach and requests that DPW work with the Office of the City Attorney to draft a proposed ordinance amendment to go to City Council.

MOTION: To endorse DPW's approach and refer back to DPW to work with the Office of the City Attorney to effectuate the recommendation as a proposed ordinance change.

Motion by Jane Knodell, second by Sharon Bushor.

Final Resolution: Motion Carries

Yea: Chip Mason, Sharon Bushor, Jane Knodell

5. Any Other Business

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



Burlington City Council Ordinance Committee 10/9/2018

- The Ordinance Committee discusses items to be discussed at the next meeting(s) and schedules the next meeting for November 20, 2018 at 5:30 pm.

6. Adjournment

Action, Procedural: 6.01 Motion to Adjournment

CM adjourns the meeting at 6:45 pm

7. Informational Statement

Information: 7.01 Members of the public may speak when recognized by the Chair, during the Public Forum or during Discussion of an Item