



Burlington City Council Ordinance Committee

8/9/2016

City Council Ordinance Committee

Tuesday, August 9, 2016

Contois Auditorium, City Hall

MINUTES

Attendance

Present: Acting Chair Sharon Bushor (SB), Councilor Max Tracy (MT), Councilor Kurt Wright (KW), specially assigned

Absent: Chair Chip Mason, recused

Other City staff: Meagan Tuttle (Meagan T), Planning & Zoning staff; Eileen Blackwood (EB), City Attorney, Committee staff

Public: Richard Hillyard, Lorre Tucker, Eric Morrow, Tony Redington, Ibnar Avilix Stratibus, Carolyn Bates, Caryn Long, Ann Taylor, Rick Bragg, Genese Grill

SB called the meeting to order at 5:38 pm.

1. **Agenda:** KW moved and MT seconded to adopt the agenda. Unanimous.

The model is here and shows the height of the proposed BTC project, not the height of the whole overlay district. This is the Ordinance Committee's last meeting on this issue. The Council will meet Aug. 15, 18, 22, and 24. The Committee is going to try to be done by 6:30 or 7 pm tonight.

2. **Public Forum:** Richard Hillyard: Will there be a retroactive reconciliation with the Planning Commission, as there seemed to be some disagreements? Where can we find a transcript of Megan Moir's stormwater testimony? This is spot zoning. He hasn't seen changes from the public's comments, but has seen changes based on the developer's. Where is the due diligence on Don Sinex? There hasn't been any reference site that we can go look at and see Sinex's previous developments or find out about his company that is in bankruptcy. Where are the jobs? We need to know the net number of jobs. We should have an organization chart and a project chart. If there's anything in this project you can't condone, you must postpone. Eric Morrow: He is an architect. He wants to comment about the importance of the LEED certification. The fees are \$22-27,000. The developer put a LEED Gold project on the table, so we should leave it there and use the City's existing performance bond. There will already be a \$2.5M bond. He encourages retaining the 2030 challenge. Lorre Tucker: She had a women's clothing store on Church St. for 40 years, and she supports the ordinance. Mixed use works in the downtown. People want to work, live, and play downtown. Genese Grill: She wants to speak for common sense with outrage. The citizens are outraged that we are discussing this at the Ordinance Committee level. We can develop 7 more stories within the current zoning. The people have spoken that 105 is the limit; we don't want this. The ordinance should be sent back to the Planning Commission and not changed. Carolyn Bates: I've never seen a runaway freight train like this, totally ruining our city. Please say no to this entire agreement and go back to bonuses and underground parking, reasonable housing and stay with what we know. She was at the design charrette and there was no building higher than 6-7 stories. Please go back to what we all know. Sinex has no funding for this; he has to go to Boston for money. We can give him more if he stays within our zoning. Alex Lavin: Odd that the model is on display at the ordinance meeting. This process has been rushed since January 2016. The end result has morphed so much, people can't keep up. In a small, concentrated downtown like ours, this type of project would transform our community. This needs to be put before the people. The money will be there even if we delay. If you go forward, this will get uglier. Amey Radcliffe:



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Everything we need to know about zoning changes is in PlanBTV. There's nothing in there about height. Do we like the details of this ordinance, and does it fit with what people want? She heard that David White in some correspondence said that people want higher buildings. But she saw what people had contributed, and they wanted 10 stories, which fits within the current zoning. Perhaps we just take out the height requirement because it's not preferred. We don't need to compromise our zoning ordinance; it's not broken. Human scale is what people want. Andy Montroll said if we make this project within the current zoning, people will want it. He's right. Michael Long: There's too much bending over backwards to please or lure developers and too little attention to the interest of the city. If you ask the city attorney about spot zoning, you'll get the answer you want, but if you ask another attorney, you'll get another answer. Don Sinex conceded that if it weren't for his development, we would not be looking at this change. He thinks that educational uses should remain conditional. 160 feet is incongruous; even Boulder, CO and Washington, DC have limits, although parts of DC do go to 160 feet.

SB recessed the public forum at 6:07 pm, noting that Meagan T has a Planning Commission meeting at 6:30 and they need her for comments.

3. CDO Zoning Amendment 16-14, Downtown Mixed Use Core Overlay: SB thanked people for coming, and she said she knows how hard it is to stay up with all of the information. A member of the public yelled, Wait until next week. MT said we should finish the public forum before we go into deliberation. SB said she appreciates that and if there weren't conflicts she would, but she feels she needs staff guidance to finalize what the Committee passes on. SB said she will be here to listen, and all the comments will be passed on. MT said this isn't our timeline; it's Sinex's. SB, as chair, decided to go ahead with the work.

SB asked Meagan T to point out the changes. Meagan T explained the changes to the draft communication to the Council from the version that the Committee saw yesterday. SB wants to amend the recommendation to eliminate the 2 garages or a second alternative to eliminate Macy's and the 2 garages; this would allow tapering on both sides. This would keep the maximum height concentrated where the plan says it should be. MT agrees that the overlay should be amended.

Meagan T further explained the changes to the second part of the communication. SB asked who will answer stormwater questions? Meagan T noted that probably a combination of David White, City Attorney's Office and Megan Moir. SB asked if the Committee wanted to say that they were interested in a maximum height that includes mechanicals. KW said the Committee did not decide that. MT said that allowing the roof to go 20% higher than the 160 feet with mechanicals is clearly against the public's wishes. SB asked if the Committee can agree that there should be a discussion of a maximum height that includes mechanicals and ornamentals, or should there be an inhabitable height with a percentage for mechanicals. KW agreed there needs to be discussion of a variety of proposals around that issue. SB said it's important to say that the majority of people who have come have spoken in favor of keeping the zoning as is. SB asked that this be on the consent agenda to have formal action by the council on the communication.

EB noted that the Committee should finish public forum before voting on a final communication to the Council.

SB reconvened the public forum at 6:27 pm. Tony Redington: We're now on day 100. Our Planning Director in June was saying that the maximum limit was 105 feet, but that isn't true. Those of us who are committed citizens are looking for what this project is all about. There was one shining moment in early Jan 2016 or Dec 2015 when there was a public involvement project. But that door was shut as soon as anyone varied from the party line. We don't know what happened. There is no housing demand that this project appeals to. Instead, we're having a problem of too many vacancies. What does this really look like? It's installing Jabba the Hut on top of downtown. Everyone wants mixed use within this area. Mr. Sinex told Vermont Digger he probably won't get all he wants. Ibnar Stratibus: He would think there would be at least a week to think about the public's comments, although he hasn't attended any of the other Ordinance Committee meetings. Early on he went to the form based code discussions, and it was odd the overlay district was kept out of those discussions. He does not like having 14 stories come right up to the pedestrian street; they should step back. If this process were longer, maybe he could understand, but everything is going too fast for him. Caryn Long: It seems insulting that the city



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would plan this meeting at the same time as the Planning Commission. Where will the stormwater be, now that it's been removed? LEED certification was promised. You've heard us for months. Look at the little tiny buildings on Bank St. next to that monstrosity. Everyone can see that; that's why we wanted to see the model. That's really hideous. She is frustrated that at every meeting, there's not time. Will the street connection really work? She wants clear-cut engineer plans before she votes on TIF. Can we afford this? She'd rather borrow \$23M for something else. Rick Bragg: He feels this is being rushed. The model shows it towers over everything. This is spot zoning. This isn't for Burlington. Paul Schnabel?: He wants the Committee to slow down. This misinformation is part of the breakdown. The Committee is not listening to the people. It feels like everything has been a done deal. The administration has decided and is going to do whatever it wants no matter what the people think. Please don't support the zoning change and put this before the people. Ann Taylor: She thinks the model looks great, and she doesn't know why her colleagues and contemporaries are against this. She doesn't see young people here. Burlington needs this. She has been out there since January and people do want this, but the average person doesn't know a thing about it. She is really disappointed by the Coalition because they have put out a lot of misinformation. She thinks people need to see the photos from the Planning Commission, which show that you don't see the taller buildings from the ground. This won't ruin any views. Burlington businesses needs this. Jenny Morse: Works for the Marketplace Commission, and the majority of businesses are in favor of this development. As a 24 year old in this community, she moved to Williston out of lack of finding housing here. she'd love to see this project move forward. Carolyn Bates: She wants the mall to be spectacular. She thought the model was to show us what the zoning is supposed to do, so it's confusing. [KW had to leave during public forum.]

SB said the City Council asked for a model of the proposed mall development, so that's what we have. This doesn't encompass all of the overlay district proposed in the ordinance. That's why she's asked to have the structure scaled back. There will be information about what it represents at the display at the library.

Public forum concluded at 7:52 pm.

SB assured people she is listening and trying to translate what everyone thinks. The Committee had trouble finding 6 times it could all get together. This is a time that the whole council needs to collectively weigh in. She gets how important this is for Burlington.

MT said it's important to understand what the Committee is doing, which is different than what it usually does (refer a revised ordinance back to the council for second reading). Instead, the Committee is just voting on a communication back to the council. Usually it works through compromises and votes on them, like the taxi ordinance. This time it is really forwarding comments and it hasn't really tried to build any compromises. That's where his frustration comes from. He hasn't been able to synthesize the comments from the public and decide what to do or how to change the ordinance. The Planning Commission did a lot of work, but didn't make many changes. He's frustrated that the Committee is meeting at the same time as the Planning Commission on a primary night. This has been driven by the needs of the developer, not the citizens. He emerges frustrated, as he thinks we won't see substantive changes from the council.

SB is more hopeful. She has stated that she doesn't support 160 feet and hopes we will see changes at the council level. This Committee has three different approaches with MT at one end, KW at the other, and SB in the middle because she sees opportunity and obstacles. The Committee did a service for the Council going through the ordinance line by line. SB is satisfied with her observation about transition zones, and that's something that's not inconsistent with the PDA, so she's more hopeful. She also walks up and down Church St. and has many people come up to her who support the zoning change. They just haven't come to meetings as much. SB has no sense of how many people are in each camp. She is trying to get information out to people, so they can make their own decision. She hopes to see a lot of people at the work sessions. The dates and documents will be up on boarddocs.

Caryn Long asked: Is there a City Attorney opinion on spot zoning? EB responded that it is on boarddocs. Will the public vote on the zoning overlay? SB responded no, zoning ordinances don't go to the public. Carolyn Bates noted that the Coalition has had 5000 visitors on their Stop the 14 Story Mall Facebook page.



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The Committee waited for KW to return to vote so took a break for about 5 minutes.

When KW returned, SB asked for a motion to accept the communication and send it on to the council as modified tonight. KW moved, SB seconded. Unanimous

5. MT moved and KW seconded to adjourn. The meeting was adjourned at 8:15 pm.