



Burlington City Council Ordinance Committee

8/8/2016

City Council Ordinance Committee

Monday, August 8, 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: Meaghan Tuttle (Meaghan T), Planning & Zoning staff; Eileen Blackwood (EB), City Attorney, Committee staff

Public: Lynn Martin; Steve Goodkind; Barbara Winroth, Caryn Long, Tony Redington, Genese Grill, Michael Long, Richard Hillyard, Charlie Messing, Suki Rubin

SB called the meeting to order at 5:33 pm.

1. **Agenda:** MT moved and KW seconded to adopt the agenda. Unanimous.
2. **Public Forum:** Lynn Martin: Is Pine St. going through for vehicles and on two levels? How will the 7 degree grade on St. Paul St. be addressed, as violates ADA? She submitted questions in writing. Steve Goodkind: What is the availability of the model? Barbara Winroth: We have been waiting for months for this model. Everything Sinex wants gets pushed through, and nothing the public wants.

Meaghan T gave an update that we are expecting the model perhaps tomorrow, but by the end of the week at the latest. It will be located at the Fletcher Free Library, and once we see the size and weight, we will see if it can move around. MT asked that if possible, it would be important for it to be at the City Council work sessions.

Caryn Long: read certain information from 2009 PlanBTV materials that said 105 feet was all that was needed in the downtown area. She made copies and handed them out. This has been pushed through. She thinks they're hiding the model because they don't want us to see it. Tony Redington: commented on a document entitled Myths Busted, especially as to housing. He was able to get information from CEDO on the number of affordable housing units in the City, and about 1/3 of all rental units, 9000, non-student, are affordable, so we're already providing a lot. Building an additional 54 is not needed. We also have 1400 units of housing currently under construction, and we have a 2 1/2-3% vacancy rate, so there is no housing need in Burlington. Genese Grill: She hasn't been to an Ordinance Committee meeting before. Several councilors said that the idea of the predevelopment agreement was to get more information, which seemed backwards to her and others. We don't have clear answers on many questions, even though it has been 98 days. She handed out a copy of the Myths Busted document. Michael Long: Is the project feasible, and we don't have that answer yet? The Ordinance Committee is rushing this along, yet we aren't getting answers in as timely a way. We need a commitment to democracy so the citizens can be heard. It's not democracy to listen to the developer's lawyer in the middle of the meeting; it's oligarchy. This process has all the hallmarks of wink-and-nod politics. Richard Hillyard: If we don't know the height and weight of the model, that doesn't speak well to the process. If the model is that important, then this is spot zoning. If it's spot zoning, then why are we jumping through hoops for this developer? Please let us have a public report of our due



Burlington City Council Ordinance Committee 8/8/2016

diligence. Charlie Messing: He wants to repeat everything everyone just said. The bus station prohibits St. Paul St. from going through. We want to keep this project to the height in the zoning. There seems to be a lot of terribbersaying. He's been hearing a lot of it from the mayor and David White. Steve Goodkind: What's the model of? Suki Rubin: If the parking can't be in the wrap-around and goes to the third level, surface parking, no. If there's surface parking, add green space, plan for water runoff.

Concluded at 6:01 pm.

SB asked Meaghan T to describe model. Meaghan T noted that we asked for two separate inserts. One will show existing downtown today, one will show overlay district, and that can be replaced with the actual proposal. SB asked EB about the Sinex organizational chart and about the feasibility study. EB apologized that we have the organizational chart and will get it up on boarddocs. She did not know about the status of the feasibility study but will find out.

3. Minutes: KW moved to adopt July 25 minutes as amended and July 26. MT seconded. Unanimous. KW moved to adopt August 1, SB seconded. Unanimous (MT abstained, as he was not present).

4. CDO Zoning Amendment 16-14, Downtown Mixed Use Core Overlay: MT asked about committee vote on p. 11, #3 Use, and SB and Meaghan T reviewed. He agrees that it should remain a conditional use. He is concerned that Champlain College should keep college uses up on the hill, not move classroom use downtown. The Committee would like to recommend that this remain as a conditional use. KW asked for a caveat that if there were a modified proposal, he would be open to that. Meaghan T explained that the staff note about limiting the size was made in response to the Planning Commission's feeling that they could see some limited or satellite educational uses, if they are the right scale, but the Commission was not in favor of an unlimited permitted use. Staff has then suggested "up to 10,000 square feet" for the size of use. SB is not in support of that. SB asked Meaghan T to highlight for Council that KW said limiting size is another option. MT said maybe it should be conditional and limited in size. Meaghan T said that she might not recommend adding the size limit to every conditional use, since the DRB can already decide what's the appropriate size. There are no planned academic facilities for the development, according to Jesse Beck. Brian Dunkiel explained that including educational uses as permitted came up because if you read the purposes of the zoning overlay, there are some uses one would think should be permitted that aren't (two types of labs are currently conditional, but a computer lab or innovation center use should be permitted). SB said this really raises a red flag for her. She doesn't want this to be an expansion of Champlain's classroom and college into downtown. She understands the innovation portion and believes the community will embrace and allow it as a conditional use, but it's key that we be careful about what we put in here.

SB asked EB about the proposed provision about underground parking being strongly preferred and whether any legal research had found how a municipality can incentivize an applicant to provide underground parking. EB explained that the City Attorney's Office and P&Z looked at other communities and one option was the use of bonuses. Meaghan T noted that another option was to incentive underground parking by making each underground space count as 1.5 spaces, so that the developer did not have to provide as much parking as might be required above ground. Other than those options, most communities that had tried to define feasibility had found that it was not a workable approach.

MT asked whether a zoning ordinance should require or strongly prefer underground parking if it's not going to be feasible because of soils issues. MT also asked about the Parking Demand Management strategy and wondered how this provision fits with the results of that study and the parking demand management strategy? Meaghan T responded that it would fit—for example, the study recommended looking at new requirements for offsite parking. SB said she'd like to see the ordinance incentivize underground parking by allowing one underground space to represent 1.5 parking spaces. It's not a bonus, but could work for other areas of the city too. Meaghan T also directed folks to the questions on parking that are up on the website. KW asked Jesse Beck to speak about underground parking. Jesse Beck said his firm has worked on parking structures for many years. Taking urban soils out of the mix, the airport structure cost about \$12,000 per space,



Burlington City Council Ordinance Committee 8/8/2016

while UVMMC underground parking was about \$42,000 per space (without contaminated soils). He recently worked on a State project in Waterbury, and it was going to cost them an extra \$300,000 to move the soils to Coventry, so they spread them out on the grounds, but the City doesn't have that option.

Meaghan T reported that she has tried to revise section 4 i a,b,c and presented the language on the screen. Subsection c was changed to read "a mixed-use building, where parking is set back from the façade a minimum of 20 ft. in depth on the ground and second floor and may be located out to the façade of a building above the second floor." MT does not agree with c; he wants all parking wrapped. SB and KW agree the new language is clearer and should go to the Council. Meaghan T showed a photo of a parking structure similar to c. Meaghan T also reported back about not changing the language of v. d. (discussed at prior meeting) to "indistinguishable," as the City Attorney and P&Z are concerned that it does not mean exactly the same as "not clearly distinguishable from." SB was fine with not changing that word.

5. Signs: The Committee had no issues with this section until iii. Marquee Signs, and unanimously recommended the change to 8 square feet in ii a., which is consistent with Church St. Marketplace. SB asked why we want to have a minimum of 6 feet projection of a sign? Meaghan T said that this is from form-based code. SB asked where else than the Flynn do we have marquee signs, and why do we want them? Meaghan T they're characteristic of certain uses; this provision has been pulled from the form-based code committee's work. SB would like to restrict their uses. MT said maybe one marquee on a block, but not these things projecting out on all of these streets. All three Committee members are interested in hearing more about this and would consider limiting the number of marquee signs.

iv c. SB asked if we can just say "the top of the first story?" Meaghan T thought perhaps so.

6. Green Buildings: SB asked where stormwater management is to be addressed. Meaghan reported that the city's stormwater engineer was concerned that the expressed standards were not achievable, but David White has been working with her. What does LEED Gold say about stormwater management, MT asked, because perhaps it addresses the standard we need? Meaghan T will look into that. MT would like to remove "substantial" so that any new redevelopment of this area must meet LEED Gold, not just a substantial redevelopment. Meaghan T said "substantial" is defined elsewhere in the ordinance, but we do need to say "new development and redevelopment." She also suggested that if someone just wants to do, say, a façade repair, we might not want to require them to do a full retrofit to meet LEED standards. SB asked that the last sentence of ii say "will" enforce, instead of may, and wants to add "at the cost of the applicant." SB asked the City Attorney's Office to make sure there would be no problem with that language. MT asked whether posting the security was enough, or whether the developer would think it more cost-effective to forfeit the security than to meet the LEED standards. Meaghan T checked with others in her department and they estimated that based on projections, the bond could be as high as \$10 million. Some Planning Commissioners did question whether a number as high as this might discourage development. SB asked if we could check other communities to see whether there is a standard for how much of a security to require. Meaghan T found many green building requirements didn't apply to all buildings, but mostly to municipal buildings, and most don't require security. MT said this might be the trade-off needed for getting height; \$10M doesn't seem onerous to him on a \$200M project. SB needs to know what other communities will do; \$10M seems a lot to her. This section needs some work.

Final section: Exceptions to Building Height Limits: SB asked about (b) 3, which lists a lot of different structures that will not



Burlington City Council Ordinance Committee 8/8/2016

count toward the height limit, and how they interact with the mechanicals. Meaghan T noted that we would not see mechanicals on top of these ornamental features. They don't define the height. One Planning Commissioner noted that it might make sense to have a limit on inhabitable height and then a maximum for ornamental features. SB agreed with this approach. KW asked how this would look. Meaghan T said the suggestion was from the three form-based code trio who recommended 146 feet for habitable, plus 14 feet for mechanicals, for a total of 160 feet. MT agreed with SB. MT thinks the problem with this is that to have 160 foot building, plus 15 feet for mechanicals, means 175 feet high. SB is inclined to recommend a total height, including mechanicals and ornamental, and her height limit is lower than others think. She wants to ensure predictability. KW asked about SB's limit, and she said 130 feet would be ok, but she'd compromise: If we decide on a maximum height, then we can discuss inhabitable space.

When done with the ordinance specifics, she wants to say where she is. KW asked if part of SB's thinking is to have the greater mass that was previously discussed? SB said she'd like to come back to that. KW asked how many units were lost if a floor were taken away? Jesse Beck said the design includes 32 units per floor, and 15 feet would mean two floors. Meaghan noted that she checked and we currently have measurements of mechanicals around town ranging from 5-11 feet high. A maximum height might give the developer some choices. MT said that 1, 2, 5, 6 seem fine. His question is whether we need exceptions at all if we establish a maximum height. SB asked whether the Committee could agree that 1, 2, 5 stand, and the rest depend on whether the Council adopts a maximum height overall, inclusive of ornamentals and mechanicals? MT and KW agreed. SB asked if the Committee were willing to go along with the Planning Commission's recommendation to remove 6, as she doesn't think that should be decided administratively? MT agreed. SB asked if staff agreed with the Planning Commission? Meaghan T said no; staff would recommend that there be consideration of a total limit, if not 10%--maybe 5 ft. variation—to deal with unusual scenarios, but that staff feels administrative flexibility is needed. Meaghan T said she will check on whether 6 refers to all of 1-5.

SB said this Committee has now gone line by line through the draft and has one more meeting to prepare their final communication to the council. Meaghan T handed out draft documents that she had put together based on the agreements from prior meetings. One document is a list of Changes to Proposed DMUC, which are the areas of agreement, and the second is a list identifying the elements for council discussion. SB asked that the Committee review the drafts and be prepared to discuss them tomorrow. SB asked that all minutes of meetings go to the council for review. Meaghan T suggested that if the binder was useful, they can do the same thing for the Council with the Ordinance Committee's comments and minutes added. She also said she could make the presentations available on the web. KW asked about the linkage of the opening of the ROW's, the TIF vote, and the increased height. MT asked if the model comes in tomorrow, he'd like to know. SB said she has been listening to members of the public and looking at how to achieve what we want and minimize the effects. She wants to suggest removing Macy's building from the overlay district, and this will allow the transition/step-up from one district to another.

5. **Next Meeting:** tomorrow, Tuesday, Aug. 9 in Contois at 5:30.
6. MT moved and KW seconded to adjourn. The meeting was adjourned at 7:47 pm.