



# Burlington City Council Ordinance Committee 7/31/2019

**City Council Ordinance Committee – Wednesday July 31, 2019,**

**Community Room, Fletcher Free Library**

## **MINUTES**

**Members Present:** Councilor Chip Mason (Chair), Councilor Sharon Bushor, Councilor Adam Roof

**Staff Present:** Kim Sturtevant (Assistant City Attorney), David White (Planning), Scott Gustin (DPI), VJ Comai (Parks), Cindi Wight (Parks)

**Others in Attendance:** Colin Hilliard

**Councilor Mason delayed, meeting called to order by Councilor Bushor at 5:39 PM.**

### **1. Agenda**

1.01 Motion to adopt/amend agenda

Motion to adopt agenda as written.

Add 3.015 regarding minutes/form based code and the review process that occurs—Councilor Roof moved agenda as amended.

Motion by Councilor Roof, seconded by Councilor Bushor.

Final Resolution: Motion Passes

Yes: Councilor Adam Roof and Councilor Sharon Bushor, Councilor Mason absent

### **1. Public Forum**

i. Public Forum



## Burlington City Council Ordinance Committee 7/31/2019

No speakers.

Closed public forum at 5:42 PM

### 1. **Minutes**

- i. Approval of Minutes of 6/6/19

Action on minutes delayed until Councilor Mason arrived.

SB indicated she had a question on Form Based Code (FBC), because FBC set of criteria and only certain things go to DRB review, does it trigger technical review? Heard that technical review is not as thorough as it could be because how busy the City is, concern that put all eggs in one basket.

DW responded that FBC and TRC are two interrelated but separate things, MA project go to TRC and DRB anyway. Hotel go to DRB for tech. issues, but will also go to TRC because large.

SG added that there is a discretionary ability to add projects. Whether could be better subjective, consistent attendance a factor.

SB suggested to pursue in a way to see that everyone at table.

SB noted that the minutes did not reflect her concern about eliminating the winter parking ban and front yard parking reference.

Councilor Mason arrived.

Motion to approve with minutes modified to reflect Councilor Bushor's concern about eliminating the reference to the winter parking ban and front yard parking by Councilor Bushor, seconded by Councilor Roof.

Final Resolution: Motion Passes



## Burlington City Council Ordinance Committee 7/31/2019

Yes: Councilor Mason, Councilor Bushor, Councilor Roof.

### 1. **Committee Discussion/Possible Action**

- i. COMPREHENSIVE DEVELOPMENT ORDINANCE- Parking Changes (Article 8) ZA #19-03

SB Introduces the amendment, seen before and back because of concerns raised at City Council level. Spoke with SG earlier to express concerns. Most of focus was on front yard parking.

CM follow-up introduction, noting SG's revisions.

SG indicated that the front yard parking standard has been there since at least 1994 and through the 2008 rewrite. Has been administered so you can't have parking in front yard driveway unless beyond setback. More recently, in the past few years, DRB have approved projects that interpret the section differently than staff's interpretation. So, came to adjust language to DRB interpretation. That was modified and now have clarification.

AR indicated that a quick look makes it look like allowing parking on front yard.

SB doesn't like revised language, still seems to suggest it is okay to park in front yard.

CM don't want to have to make longer driveway, if want to park in setback as only area. Understand that would be the concern trying to fix, allowing parking areas in front, not prevent parking in driveways. Don't believe enforce parking in driveway now.

SB discussing notwithstanding sentence, need to be more specific? This tells us that?

KS suggested adding "in a driveway."

SB initiated discussion of pre-existing driveway.



## **Burlington City Council Ordinance Committee 7/31/2019**

AR noted that it becomes a discussion of policy not allow conversion versus parking requirements.

SB hear concerns about parking and impact of lake.

CM asked if do nothing than have current DRB interpretation?

SG responded that the current interpretation allow anywhere in 18 feet. Cleaner.

AR asked how many properties it applies to?

SG responded that, specifically to garage conversion, a couple dozen in the last few years, front yard parking routinely comes up.

AR indicated it was a perpetual debate—only so much space on lot, prefer to allow people to do conversion.

CM noted that a car has to go somewhere, go on street if not in driveway.

AR responded that that assumes a property has 2 cars.

DW added that this case is about where car goes, now how much parking, but where it can go.

AR requested a clarity point—can one use a 40 foot long driveway for parking?

SG responded yes, because 40 foot long, have access space.

SB asked if you could consider a parking waiver?

SG replied that one can ask for waiver, allowed now, discretionary, DRB, need a parking management plan, need to convince DRB actually only need half of requirement.



## Burlington City Council Ordinance Committee 7/31/2019

SB stated that it is a problem that it goes with the person not the property. Better organized if says "parking in all res...." first? Also questioned if better language for title would be: "[f]ront yard parking restricted and residential driveways."

CM asked if there was a motion to reverse order of first two paragraphs and keep in "restricted"? He also noted that he can report Councilor Shannon vetted the proposal.

AR indicated that he was having trouble visualizing the landscaping part.

SG explained that in rare instances, the yard is large enough to have parking beyond front yard setback, in those instances landscaping is needed.

Motion to add back in the heading the word "restricted", to swap the order of paragraphs 1 and 2, and to add "in a driveway" after parking in the sentence beginning with, "[n]otwithstanding..."

Final Resolution: Motion Passes

Yes: Councilor Mason, Councilor Bushor, Councilor Roof.

Councilor Bushor moved to approve amendment as revised and refer back it back to the full Council for second reading, public hearing with a recommendation for approval. Motion seconded by Councilor Roof.

Final Resolution: Motion Passes

Yes: Councilor Mason, Councilor Bushor, Councilor Roof.

1.
  - i. COMPREHENSIVE DEVELOPMENT ORDINANCE- Trees, Junkyards, and Cross Reference Correction ZA #19-04

SG introduced amendment proposal. Spurred by the cutting in front of the Courthouse. Ordinance as written did not connect all provisions.



## **Burlington City Council Ordinance Committee**

### **7/31/2019**

SB indicated concerns with the language, grappled with tree size and number of how many could be removed in a 12 month period. Concern with climate issues and whether this needs another look. Most has to do with zoning permit and development. Not sure now if still right number of trees and cycle. Sometimes people clear without thinking about it. Not sure if in parks, the city should have some proposal what doing that is brought to someone. Environmental concerns. Is there a process currently? Does City parks go to parks commission?

CW responded that the City operates from a position that we have canopy goals, we have goals to keep canopy coverage. Many times work on an emergency basis, looking at it from a perspective of taking care of trees in city. Our job to make sure the trees are safe and providing a canopy.

VJ added that removal is only on health basis. Do not take it lightly when remove trees. Removed one from Battery Park last night because of health, planted 8 this year. Cannot have hands tied and have committee to have a public process. Need to put weight in experience and process.

SB noted that ordinance says regular tree maintenance, not emergency.

CM noted that there has been conversation over policies, and asked if this tree removal is development or tree removal as a prerequisite.

DW indicated that tree regulation is a conversation over next year that will evolve.

SB noted that the statement doesn't make sense because sounds like you are talking about development.

CM conveyed his understanding that if you are the owner and want to take down 7 trees on your lot then you need a zoning permit—that stays, this is moving an exception. Not related to City Hall Park, although some may see it as that, but this is just a reorganization.

AR had a question on striking of 15 & 16, also anxiety with resolution on policy already coming to council, may want to wait for this unless needs to go quicker.

SG responded that the intent is to be cleaner, not go to article 6, go to article 5. Striking 15 & 16 does not change anything.



## **Burlington City Council Ordinance Committee**

### **7/31/2019**

CM indicated that he had not seen the tree policy and asked if this will impact it?

SB asked if they were in sync with concerns? Being serious, not to delay but to alert us to issues.

CM asked if we knew when the criteria was discussed?

SG replied that it was approximately 2006-2007.

AR mentioned a proposed resolution. Don't think it will go against resolution.

CM noted that they can add to the recommendation that the City Arborist look at standards.

VJ indicated that the current tree ordinance was old, work done before by Warren Spinner, he has worked on it. Need a comprehensive tree ordinance to deal with this.

CW working on it with urban forest master plan. Connected. Year/year and half process.

VJ designated Tree City for 25 years, need to attach ordinance, not up to date.

SB okay to stand as written, put in place because unfortunate incident that happened. Not supposed to be tree ordinance.

CM asked about junkyard component?

SG explained that currently zoning ordinance has two similar but not identical definitions so tossing one. Previously, junkyard in older ordinance, removed. Put back in and clarify that not allowed. Sec. 18-111 provided for reference.

SB stated that she doesn't understand what Sec. 18-111 allows, one says can allow one says can't. Need to make sure that the 2 documents work together.



## Burlington City Council Ordinance Committee 7/31/2019

SG noted that putting in definition to enforce.

Councilor Roof moved to approve the amendment with language modification from City Attorney and refer it back to the full Council for second reading, public hearing with a recommendation for approval. Motion seconded by Councilor Bushor.

Final Resolution: Motion Passes

Yes: Councilor Mason, Councilor Bushor, Councilor Roof.

1.
  - i. COMPREHENSIVE DEVELOPMENT ORDINANCE- Inclusionary Zoning ZA #19-10

SG introduced the amendment. Planning Commission (PC) given charge to change ordinance to reflect changes. Institutional language still at PC, changes, rental IZ unit can float.

SB noted that one thing that didn't happen at PC was the smoothing, they were not aware. Where hard number, looking at 3 years. CM, SB seen a lot. AR set of fresh eyes. Advantageous to invite another CC member as a set of fresh eyes?

CM asked whether it had been shared out?

DW responded that he had not heard from anyone, but had others from council involved in process.

AR indicated that he was not really new set of eyes, have been tracking it from beginning. Asked whether, from what was recommended from working group task force, has there been any deviation?

SG replied that there had not really been any deviation, only thing comes to mind is how parking was handled. Draft nuanced. Parking in projects with inclusionary number, all in project need to have access.

DW added that that is the way it was given to look at.

AR noted that sense from task force, work is already done, throughout prior process a lot of balance put into proposal.



## **Burlington City Council Ordinance Committee 7/31/2019**

Like to go through to see where we are at.

CM indicated that it was an interesting philosophical point of what role is given to ad hoc committee. Suggested walking through language.

SB suggested taking grid sent to P&Z and make sure questions raised were answered and recommendations. I think looks really good. Missed smoothing. Nuances added, discussed. Would like to go through each section and make sure clear. Grid from Dec. 11.

DW clarified that it is organized by topic, not necessary same as way ordinance is.

CM felt easier to be able to say took grid and they met points. Use grid and reference to sections changed.

SG noted Frank Von Turkovich requested a numeric alternate at PC for Section 9.1.14. PC thought had merit to consider, but didn't give specific numeric.

SB that was problematic if large project.

CM don't we play on probabilities?

DW if they are, then shouldn't inclusionary units be just as large.

SB couldn't afford to heat it.

CM disinclined to rehash that out at this point in time, one slice of part.

AR don't want to incentivize larger units.

CM questioned #3 regarding, monitoring.



## **Burlington City Council Ordinance Committee 7/31/2019**

SG replied it was on page 16, line 472, "or designee."

CM noted that the proposed language makes it discretionary, policy says transfer mandatory.

DW replied it is mandatory do it, not who does it.

CM indicated that he can live with it.

CM moved to #4.

SG new language 9.1.12 to make by right, max. lot coverage, density/intensity, and where applicable height; table is not as changed as looks, mostly moving around. 12 feet instead of 10 with setback of front façade. Presently discretionary bonus has been plugged into a by right inclusionary bonus. Only used once, decided good enough to keep in these standards.

CM moved to 4.2 regarding parking.

SG referred to page 3.

CM questioned parking waiver under Art. 3 (#4.3).

SG referenced page 1, Sec. 3.3.3(c).

CM questioned #5 lower payment in lieu of fee.

SG referred to payment in lieu page 10, sect. 9.1.13.

CM questioned #5.1 diction request.

SB asked if it should be definition?



## Burlington City Council Ordinance Committee 7/31/2019

SG replied, no on map.

CM noted #5.2 line 289, in 9.1.2 (b).

CM noted #6 – Section 9.1.13.

CM noted #6.1 in Sec. 9.1.13, line 271

CM noted #7-- 70 % AMI, line 208 consistent pg. 13; line 353

CM noted 8 and 9 sent to CDNR.

CM indicated 10 was no zoning change; 65 % in lines 203-204.

CM indicated his recommendation to skip Institutional (#12) for now and not take up again until hear back from PC on institution section and ask Todd Rawlings to come respond to 10.1. He will also take back to committee and report on 2 policies that haven't heard back from.

### 1. **Any Other Business**

- i. Next Meeting and Items to review

Mtg. next Wed. with full agenda already:

-BCO 8-28—Fees

-BCO Ch 27—Streets and Sidewalks

-Trespass Ordinance

-Library Trespass Ordinance



## Burlington City Council Ordinance Committee 7/31/2019

Future meetings:

-ZA 19-06 Art. 7 Signs

### 1. **Adjournment**

6.01 Motion to Adjourn

Motion by Councilor Roof, seconded by Councilor Bushor.

Final Resolution: Motion Passes.

Yes: Councilor Chip Mason, Councilor Adam Roof, Councilor Sharon Bushor.

The Ordinance Committee meeting adjourned at approximately 7:39 pm.